



2021

**ANNUAL  
REPORT**

SEYCHELLES HUMAN RIGHTS COMMISSION

Human Dignity Bedrock Humanity

## Foreword



It gives me great pleasure to once again introduce this year's Annual Report, which illustrates the Seychelles Human Rights Commission's achievements and performance for the year 2021.

Last year, we highlighted how the Commission accomplished its goals despite the challenges posed by the Covid-19 Pandemic, coupled with difficulties to secure adequate funding for operational purposes. This year has not been an exception. I am proud of the Commission's achievements under the dedicated leadership of the Chief Executive Officer and devoted administrative staff as well as his Legal Director and his technical team and humbled by the resilience of these employees who continued to deliver during the unprecedented period.

Being mindful of budgetary constraints, we remain committed to maintaining negotiations with the Ministry of Finance to secure funds for the continuous growth of the Commission.

Once again, we reinforced our engagement with key state institutions through various meetings and discussion sessions, educating them about the importance of the integration of their human rights obligations within their structures. Thus, creating a more pragmatic approach to address human rights systemically and influence progressive human rights-based reform in policies and legislation.

We published specific reports as part of our investigation, monitoring, advisory and legislative, and government policy review processes. Those reports outlined significant human rights inconsistencies within various sectors, which may highlight potential human rights violations. The Commission wishes to stress that some of those reports have yet to go through the Commission's full process and may require the intervention of the Constitutional Court, should the relevant government body, without due reason, not agree with the recommendations of the Commission.

The monitoring of international human rights obligations and the investigation of alleged human rights violations remain at the forefront of ensuring compliance with domestic and international human rights standards.

I am particularly pleased to report that we launched the "Human Rights Promotion Project" in Seychelles and we are grateful to the European Union ('EU'). EU donated a grant to the Seychelles Human Rights Commission (SHRC) for the promotion of human rights in the country. The money is being used by the Commission to fund projects, aimed at educating and sensitising duty bearers and the public at large on human rights.

In closing, I want to thank all Commissioners and all SHRC staff. Their unwavering commitment and readiness to respond to challenges are what made the Commission's success possible.

On behalf of the Commissioners, I convey to all of you my unreserved gratitude for your continued devotion.

A handwritten signature in blue ink, appearing to read 'Bernard Renaud', written in a cursive style.

Justice Bernardin Renaud (Retd)  
Chairperson  
Seychelles Human Rights Commission

## **Acknowledgements**

The Seychelles Human Rights Commission would like to once again thank the following persons for their contribution to this report. The Commission is

### **Members of the Seychelles Human Rights Commission**

Justice Bernardin Renaud (Retd)	Chairperson
Ms. Michelle de Lacoudraye- Harter	Deputy Chairperson
Mrs. Barbara Carolus-Andre	Commissioner
Ms. Michelle Marguerite	Commissioner
Mr. Roger Toussaint	Commissioner

### **The staff of the Seychelles Human Rights Commission**

Mr. Elvis Julie	-	Chief Executive Officer
Mr. George Robert	-	Legal Director
Ms. Beth Gertrude	-	Senior Finance and Administration Officer
Ms. Sheila Vidot	-	Administrative Officer
Mrs. Nicole Larsen	-	Senior Monitoring, Inspection and Compliance Officer
Mrs. Meryl Esparon	-	Public Relations Officer
Ms. Monique Adonis	-	Senior Education Officer
Mr. Winsley Cedras	-	Senior Investigations Officer
Ms. Colvine Julienne	-	Complaints/Registration Officer
Ms. Marie-Cecile Francoise	-	Investigations Officer
Ms. Gina Come	-	Communications Officer
Ms. Xenia Pantazopoulou	-	Human Rights Analyst
Mr. Andy Jean-Louis	-	Project Coordinator for the EU Project
Mr. Norman Lucas	-	Finance Technician
Ms. Sophie Lagrenade	-	Senior Education Officer
Mr. Kenny Perrault	-	Driver/Messenger

<b>Table of Contents</b>		<b>Page</b>
1.0	Introduction	5
	1.1.About the Commission	6
	1.2.Organizational Structure	7
	1.3.Our Legislation, Functions & Powers	8
	1.4.The Commissioners	10
2.0	The Year in Review	11
3.0	Commission’s Activity	14
4.0	Corporate Services	15
	4.1. Human Resources & Administration	15
	4.2. Finance	17
5.0	Legal	23
6.0	Complaints & Investigations	30
7.0	Monitoring Unit	37
8.0	Monitoring Visits	41
9.0	Public Relations & Education	45
10.0	Challenges	49
11.0	Recommendation	50
12.0	Appendices	40
	SHRC Act 2018	
	SHRC’s Masterplan 2020 and Beyond	
	Seychellois Charter of Fundamental Human Rights and Freedoms	
	The Paris Principles	

## **1.0.Introduction**

As another year passes, the Seychelles Human Rights Commission (hereinafter referred to as “the Commission”) is delighted to share its Annual Report, showcasing its results and annual performance from January to December 2021. As per the mandate of the Commission, which can be found under the *Seychelles Human Rights Commission Act, 2018* (hereinafter referred to as “the Act”), the Commission is effectively exercising its functions and powers, within its limited available resources, to promote and protect the human rights of all persons in Seychelles. The year 2021 has brought about many milestones and achievements, as well as challenges, in respect to the Commission fulfilling its mandate.

This report will highlight the above by briefly, in the first instance, detailing the history, structure, functions and powers of the Commission, and the Commissioners and its Staff Members.

Secondly, this report will briefly detail the Commission’s year in review. It will then detail the specific activities of each of its units, which includes its Corporate Services, its Legal Unit, its Complaints and Investigations Unit, its Monitoring Unit, its Public Relations Unit and the Education Unit.

Finally, the report will conclude with the challenges the Commission faced during the year and the Commission’s recommendations for its way forward in the ensuing year to come.

## **1.2. About the Commission**

The Commission operates under the Act, as a self-governing, neutral and independent body, and is not subject to the direction or control of any person or authority.

The Commission has a broad mandate, functions and powers to ensure that human rights are respected, protected and promoted in Seychelles.

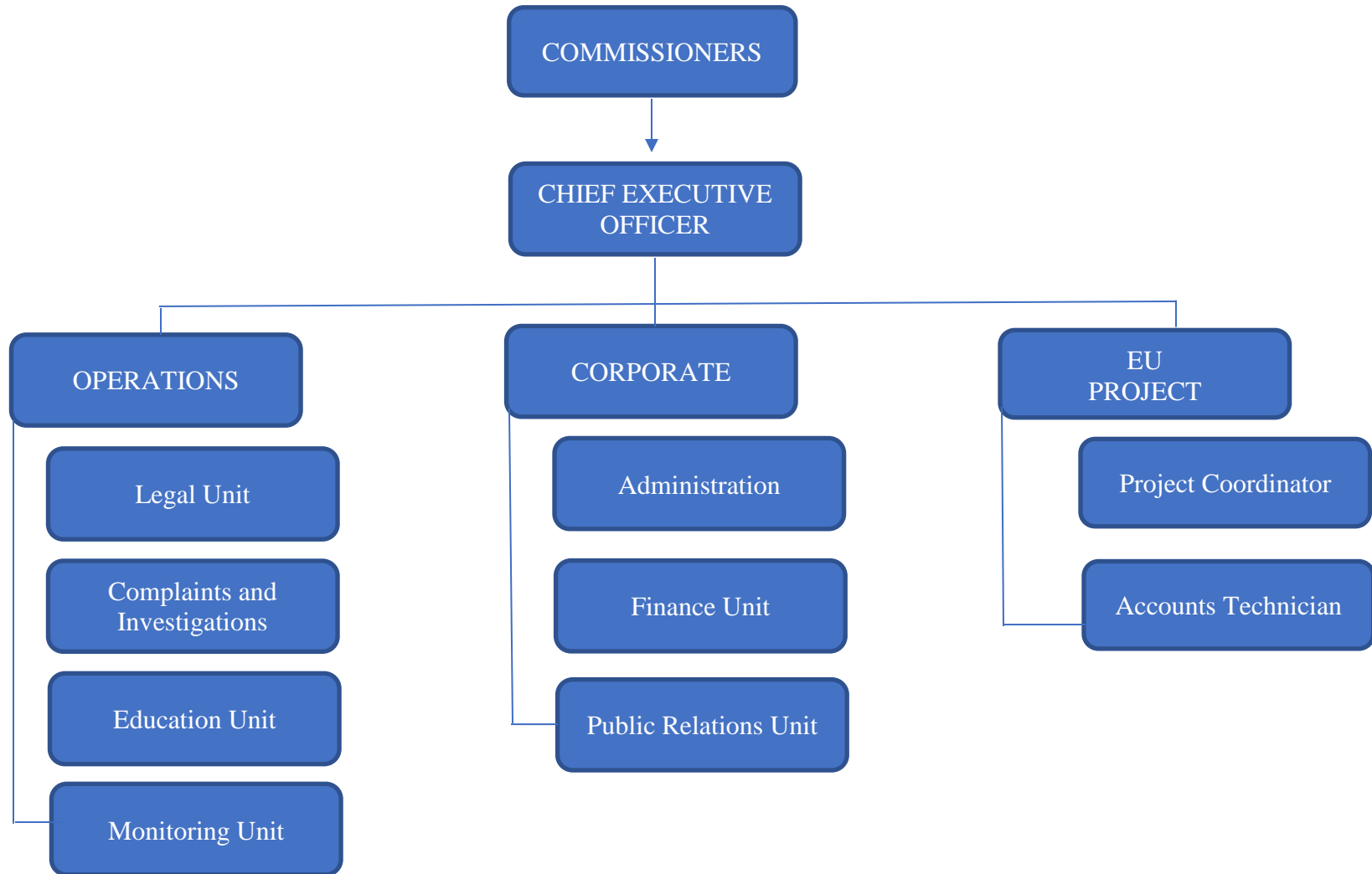
## **1.5. The Functions and Powers of the Commission**

The functions and powers of the Commission are established by the Act.

In 2021, the Commission, within its limited resources, amongst other things, performed the functions and exercised the powers under its mandate, which are listed below:

- to investigate on its own initiative or on receipt of a complaint, any alleged violation of human rights, and if, after due investigation, the Commission is of the opinion that there is substance in any complaint made to it, it shall, in so far as it is able to do so, assist the complainant and other persons adversely affected thereby, to secure redress;
- to review government policies and any written law concerning human rights and make recommendations;
- to monitor international human rights conventions and treaties, and domestic human rights standards; and
- to develop, conduct and manage information and education programmes to foster public understanding and awareness of Chapter III of the Constitution, the Act, and the role and activities of the Commission.

### 1.3. Organizational Structure



### 1.3.1. Our Staff



**Mr. Elvis Julie – Chief Executive Officer**  
**Mr. George Robert – Legal Director**  
**Ms. Beth Gertrude – Senior Finance and Administration Officer**  
**Ms. Sheila Vidot – Administrative Officer**  
**Ms. Jona Ernesta – Office/Client Assistant**  
**Mrs. Nicole Larsen – Senior Monitoring, Compliance and Inspection Officer**  
**Ms. Monique Adonis – Senior Education Officer**

**Ms. Xenia Pantazopoulou – Human Rights Analyst**  
**Mr. Winsley Cedras – Senior Investigations Officer**  
**Ms. Marie-Cecile Francoise – Investigations Officer**  
**Ms. Colvine Julienne – Complaints /Registration Officer**  
**Mrs. Meryl Esparon – Public Relations Officer**  
**Mr. Andy Jean-Louis – Project Coordinator**



## 1.5. The Commissioners



**Justice Bernardin Renaud (Retd) – Chairperson**  
**Ms. Michelle Harter De Lacoudraye – Deputy Chairperson**  
**Mrs. Barbara Carolus-Andre – Commissioner**  
**Mr. Roger Toussaint – Commissioner**  
**Ms. Michelle Marguerite - Commissioner**

## **2.0. The Year in Review**

2021 has been a year of record results and encouraging progress despite the many challenges.

### **COVID-19**

As the Pandemic progressed, the Commission had to ensure the safety and well-being of its staff, complainants, visitors and all the people it engaged with as part of its functions, and to ensure that it was able to continue its operations.

In light of the above, the Commission accelerated its digital innovation efforts in many areas to ensure that it was able to remain accessible and connected. For instance, the Commission digitalised its complaints and investigations process, which allowed it to continue performing its functions despite the public health restrictions.

### **CORPORATE SERVICES**

The year 2021 saw the recruitment of some key staff members including the Chief Executive Officer and the Human Rights Analyst.

## **LEGAL UNIT**

The year was also significant for the Legal Unit as it assisted the Commission in drafting the Commission's first Advisory Reports, Review of Legislation and Government Policies Reports, and Investigations and Analysis Reports.

These reports contained the Commission's opinions and recommendations in respect of the following human rights issues:

- *The System of Pardon;*
- *Contributions to the position of the State concerning outstanding recommendations received through the Universal Periodic Review process;*
- *The right to work in respect to employees who have been declared a close contact of a COVID-19 positive person;*
- *Arrest, Detention and Deportation under Part V of the Immigration Decree (Cap. 93);*
- *Conditions of Places of Detention (Central Police Station);*

- *Conditions of Places of Detention (Perseverance Police Station);*
- *Suspension of the Thirteenth-Month Pay under the Employment Act (Cap. 69); and*
- *Restrictions on Entry to Seychelles for Seychellois Citizens.*

### **Procedures**

The year 2021 also saw the finalisation of the Commission’s latest Procedures, which will be circulated to the Executive, Legislature and Judiciary for consultation, before issuing and publishing the same in the *Official Gazette*.

### **COMPLAINTS AND INVESTIGATIONS UNIT**

In 2021, notwithstanding the resource constraints of the Commission, the Complaints and Investigations Unit saw a progression in its capacity to process complaints and conduct the investigation functions of the Commission.

This progression was achieved through a thorough review of its processes in consideration of the legal framework and institutional systems of Seychelles.

The aim of this exercise was to ensure that the processing of complaints and the conduct of investigations were performed in the most professional, transparent, effective and accountable manner.

This exercise culminated in the drafting of the Commission’s latest Complaints Handling and Investigations Procedures, which will also be circulated to the Executive, Legislature and Judiciary for consultation, before issuing and publishing the same in the *Official Gazette*.

### **MONITORING UNIT**

In 2021, the Commission commenced its critical monitoring exercise of places of detention within the remit of the Seychelles Police Force, which was led by its Monitoring Unit.

The three police stations that the Commission visited were the Central, Perseverance and the Beau Vallon Police Stations.

These visits also led to the Commission issuing the abovementioned Investigations and Analysis Reports concerning places of detention.

## **PUBLIC RELATIONS UNIT & EDUCATION UNIT**

In 2021, the Commission further enhanced its visibility by creating an online presence through social media. The Commission also launched an online human rights outreach program.

The Commission continues to play a role in bridging the gaps within the Public Services when it comes to human rights issues. A series of training were conducted to address issues surrounding insufficient cooperation from the public sector and their human rights obligations.

### ***The “Human Rights Promotion in Seychelles” Project***

Another milestone of the Commission was the launching of the “Human Rights Promotion in Seychelles” Project in October 2021; a three-year project funded by the European Union. As per its mandate, the Commission promotes and protects human rights in Seychelles, and this project will complement the programmes of the Commission.

Additionally, the project will include the setting up of a Human Rights Information and Legal Centre. The Commission will work in synergy with legal professionals and law students to disseminate information to those who have reason to suspect that their human rights may have been violated.

### ***International Human Rights Day***

The Commission once again commemorated International Human Rights Day on the 11<sup>th</sup> of December 2021. A roadshow was organized at the STC Hypermarket aimed at enhancing the Commission’s visibility.

Activities comprised of dissemination of information on the Commission’s functions and Complaints Procedures, sharing of brochures, educational games and activities, followed by the signing of the Human Rights Pledge.

The event also saw the participation of the Commission on various talk shows. The Chief Executive Officer also

attended the “*Tete-a-Tete*” television program on SBC,

The Senior Investigations Officer along with the Senior Monitoring Officer attended the Paradise FM Talk Show.

The aim of these events were to provide an understanding of the Commission’s functions, educate the public about human rights, and an overview of its activities and daily operations.

### *The Way Forward*

The Commission, in 2022, anticipates to build on its achievements from the past year by:

- Ensuring that the recommendations proposed in the aforementioned series of human rights reports are duly monitored.
- Continuously working on innovative ways to promote and protect human rights;
- Ensuring that continued response to the Pandemic does not affect the human rights of the people of Seychelles;

- Human rights are institutionalized within the processes of government decision-making to uphold the human rights provisions stipulated under the *Constitution*.

### 3.0. Commission's Activity

The following provides an overview of the Commission's monitored activity for 2021:

<i>Public Participation</i>	1 Debate
	1 Roundtable Talk
	1 Television Talk Show
	1 Radio Talk Show
<i>Digital Engagements</i>	653 Facebook Page Likes
	677 Facebook Page Followers
	11,133 Facebook Profiles Reached
<i>Reports &amp; Publications</i>	1 Annual Report
	1 Mid-Year Review
	4 Review of Legislation & Government Policies Reports
	2 Investigations & Analysis Reports
	2 Advisory Reports
	1 Shadow Report for the Universal Periodic Review
<i>Visits</i>	4 Monitoring Visits to places of detention within the remit of the Seychelles Police Force
<i>Trainings, Outreach, Education &amp; Promotional Materials</i>	40 Educational Facebook Posts
	9 Commemorative Messages
	24 Human Rights Trainings
	1 Outreach Activity
<i>Complaints &amp; Investigations</i>	51 Complaints Received
	36 Active
	15 Closed
<i>Projects</i>	1 National Project – Human Rights Promotion in Seychelles funded by the European Union

## 4.0. Corporate Services

### 4.1. Administration Unit

#### 4.1.1. Introduction

The Administration Unit is responsible for the day-to-day operations that keep the Commission running smoothly and efficiently. The Administration Unit provides valuable services, enabling work processes to operate seamlessly and decision-makers to focus on value-added tasks and responsibilities.

Due to resource constraints, the daily tasks of the unit were relatively routine, which included the recruitment of employees, procurement of equipment, supplies and consumables, as per the allocated budget.

#### 4.1.2. COVID – 19

As a result of the Pandemic, the Commission ensured that measures were enforced, as per the guidelines from the Public Health Authority, to safeguard the health of its staff, complainants, visitors and all the people it engaged with as part of its functions.

The Commission took a systemic approach to equip employees with the necessary and adequate resources to perform their duties remotely.

#### 4.1.3. Relocation

In November 2021, the Commission announced that it would be moving from the Bel Air Complex to a new

location with a larger space to accommodate the Commission's incrementally growing units. The Commission views this as an important step for the institution, which will better enable the Commission to meet its mandate going forward.

#### 4.1.4. Other related duties

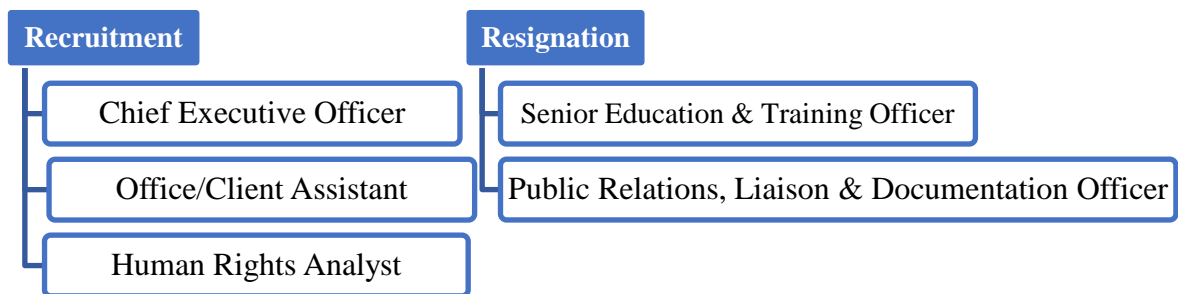
- *Submission of Reports (Annual, Semi-Annual and Monthly Plan)*
- *Serve as Secretary to the Board of Commissioners*
- *Assist with reception operations and visitor management*
- *Update Asset Register*

- *Maintain Personal files/Administration documents*

#### **4.1.5. Recruitment and Retention**

During the year 2021, due to its continuous development, the Commission proceeded to make the necessary recruitments in terms of leadership and operations. Due to budgetary constraints and resources, certain recruitments were not possible.

The diagram below illustrates the staff recruitment and turnover for the year 2021. The Commission has already started the necessary recruitment process to ensure that vacant posts are promptly filled.



#### **4.1.6. Training**

The Commission aims to promote a learning culture by investing in staff professional development and growth. However, the Commission is tapping into more specialised training opportunities for its employees. With the ongoing COVID-19 situation, the Commission had to adapt to virtual learning platforms to ensure continuous learning and growth.



#### **4.1.7. The Way forward**

The Commission will work towards creating a stimulating working environment by putting in place effective rewarding strategies to retain employees, as well as attract future employees. The Commission will continue to foster a working culture with good ethics and standards. Furthermore, there is a need to develop and implement effective human resource procedures as per the Paris Principles, as well as create opportunities to progress through professional training in respective fields.

## 4.2. Finance

### 4.2.1. Introduction

The Finance Unit is one of the Commission's most pertinent support services that oversees the financial matters of the Commission, and ensures that the organisation honours its financial obligations and upholds transparency, accountability and good governance.

The Finance Unit is responsible for the following

- *Budget preparation, management and control*
- *Budgeting and cost control*
- *Cash flow*
- *Financial reporting*
- *Payments of expenditures*
- *Payroll*
- *End-of-year financial reporting*
- *Reconciliation*
- *Financial analysis*
- *Inventory*
- *Asset registration*
- *Medium-term expenditure strategy*

### 4.2.2. Disbursements

The below table depicts quarterly disbursements of the SHRC budget for goods and services, along with the date that funds were transferred to the SHRC's account. A total of SCR599,780.25 was transferred to the Treasury Department and a balance of SCR 827,565.24 was brought forward from the 2020 budget, which was used for procurement purposes.

	<b>Date Disbursed</b>	<b>Disbursement (SCR)</b>
<b>Balance b/f 2020</b>	01.01.2021	827,565.24
<b>Quarter 1</b>	08.06.2021	1,065,646.83
<b>Quarter 2</b>	08.06.2021	1,295,743.70
<b>Quarter 3</b>	11.10.2021	429,689.20
<b>Quarter 4</b>	15.12.2021	874,848.51
		<b>4,493,493.48</b>

#### 4.2.4. Reviews and Submissions

Monthly submissions

- *Updating of payroll on the Treasury Information System (TIS)*
- *Updating of cash records;*
- *Bank reconciliations; cash records against the bank statement*
- *Reconciliation of wages & salaries; general ledger listing against reconcile list in TIS*
- *Submissions of bank reconciliation to CEO & Treasury*
- *Submission of TIS reconciliation to CEO & Treasury*
- *Petty cash analysis*
- *Compiling and submission of financial information as required by the Ministry of Finance, Economic Planning and Trade ('MFEPT')*
- *Compiling and submission of financial information, as required by the CEO*

##### Quarter 1

- *Finalizing 2021-2023 Programme Performance-Based Budget ('PPBB') as per MFEPT issued ceiling*
- *Drafting and submission of Section 31 report to CEO/Board*
- *Submission of Section 31 report to MFEPT*
- *Amending performance information; teams meeting*

*with staff for the input of each A physicality count of assets against asset register*

##### Quarter 2

- *Drafting of 2022-2024 medium-term expenditure strategy as per SHRC requirements*
- *Finalising performance information for submission*
- *Submission of 2022-2024 medium-term expenditure strategy to CEO/Board for approval*
- *Adjustment of 2022-2024 medium-term expenditure strategy as per CEO/Board recommendations*
- *Submission of 2022-2024 medium-term expenditure strategy to MFEPT*

##### Quarter 3

- *Compiling financial information for the mid-year report;*
  - *January to June actual figures*
  - *Revised budget figures; virements*
  - *January to June actual figures for performance indicators*
- *Submission of mid-year review report to CEO/Board*
- *Adjustment of mid-year review report based on CEO/Board recommendations*
- *Submission of mid-year review report to MFEPT*

- *Drafting 2022-2024 Programme Performance-Based Budget as per SHRC priorities and MFEPT issued ceiling*
- *Submission of 2022-2024 Programme Performance-Based Budget to CEO for Board approval*
- *Submission of 2022-2024 Programme Performance-Based Budget to MFEPT*

#### **Quarter 4**

- *Review of strategic priorities, challenges and major achievements for inclusion in 2022-2024 PPBB statement*
- *Drafting of 2022-2024 final PPBB statement*
- *Submission of final PPBB statement to CEO for Board approval*
- *Submission of final PPBB statement to MFEPT*
- *Drafting of budget write-up for National Assembly session*
- *Processing of final payments before the closure of 2021 accounts*



## 4.2. Performance Measures for Programmes

The purpose of the programmes is to help create a national culture of human rights where tolerance, equality and mutual respect thrive, through:

- Research;
- Creating awareness and making recommendations which promotes and protects human rights;
- Fostering understanding and respect for the rights of others;
- Serving as a national repository or archive for human rights documentation and other documents that have major implications for human rights; and
- Supporting compliance with the domestic and international human rights standard.

Programme:	P1: Protection of Human Rights				
Outcome:	1. Progress in the understanding of and respect for human rights by duty bearers and rights holders 2. Compliance with the national and international human rights standards and improvement in accessible mechanisms for addressing human rights violations				
Outcome indicator	2020	2021		Explanation of Difference between Targets and Outturn	
	Outturn	Target	Revised Target		Outturn
1. Level of understanding of and respect for human rights by duty holders as evidenced in their professional practice Extent to which rights holders are informed of and exercise their rights	-	95%	0%	1%	SHRC had expected to work with various Ministries and community groups but was not able to because of Covid-19 restrictions and their own priorities. New strategy for 2022 with new procedures and complemented education programme to drastically increase target.
2. Level of compliance in meeting human rights reporting obligations, and national and international standards	-	90%	0%	1% for domestic reporting for 55% regarding international reporting	UPR 3 <sup>rd</sup> Cycle Review was successful with the Commission issuing Shadow Report. However, better cooperation by the Foreign Affairs Department is required. Meeting was held with Elderly & Disabled Division-Family Department to discuss the Convention on the Rights of People with Disabilities (CRPD) concluding observations' follow-up and the upcoming report to the CRPD committee which is due in 2023 Meeting was conducted on Teams with Ministry of Internal Affairs to discuss the drafting of the initial report on the UN Convention for the Protection of all Persons Against Enforced Disappearances (CED).

					Ministry of Internal Affairs has still not submitted the initial report.
Contributing indicators	2020	2021			Explanation of Difference between Targets and Outturn
	Outturn	Target	Revised Target	Outturn	
Protection of Human Rights					
1. Number of public outreach engagements conducted	1	4	3	3	CEPS, public video screenings
2. Number of key stakeholder engagements conducted	1	2	5	5	Police, Family Affairs, Immigration, Employment Prison
3. Number of media and communication activities conducted	1	4	3	12	Monthly website and Facebook communications
4. Number of public information/awareness campaigns conducted on raising awareness of the Commission's Complaints Handling and Investigations Procedures	2	2	2	2	Human Rights Day awareness activities and press conference
5. % of user satisfaction with the Commission's Complaints Handling and Investigations Procedures (as measured by user surveys)	-	80%	-	-	With the new Procedures for Complaints Handling and Investigations to be rolled out in 2022, surveys will now be undertaken
6. % of complaints resolved by conciliation (of total number of complaints finalised during the year)	-	40%	-	-	With the new Procedures for complaints handling and investigations to be rolled out in 2022, conciliation will now be commenced

## **5.0. THE LEGAL UNIT**

### **Overview**

The focus of the Legal Unit in 2021 was to develop the system for the work of the Commission based on clear, efficient and effective Procedures. Further, with this system in mind, the Legal Unit also focused on assisting the Education Unit in its work to provide training to the public sector in order to alleviate the issues surrounding insufficient cooperation from the public sector, as detailed in previous reports.

Moreover, the Legal Unit assisted the Chairperson and Commissioners in meetings with various stakeholders from the public sector, with a focus on building awareness concerning their human rights obligations. Further, the Legal Unit has delivered in-house training to ensure that the Commissioners and Staff Members can undertake their various duties in the most efficient way possible, given the Commission's limited resources.

In addition, the Legal Unit assisted in the drafting of the Commission's first human rights reports. Finally, the Legal Unit assisted each unit to ensure that they worked synergistically in the most effective and efficient manner possible given the Commission's resource constraints.

Given the above, the following part of this Annual Report will provide the Legal Unit's activities in 2021 and their results.

### **1. Activities**

#### **1.1. Meetings**

The Legal Unit assisted the Commission in meetings with the following persons:

1. The President of the Republic of Seychelles;
2. The Chief Justice of the Supreme Court;
3. The President of the Court of Appeal;
4. The Minister of Transport;
5. The Principal Secretary of Immigration;
6. The Principal Secretary of Internal Affairs;

7. The Principal Secretary of Family Affairs;
8. The Principal Secretary of Social Affairs;
9. The Advisory Committee on the Power of Pardon; and
10. The Ombudsman.

## 1.2. Legal Unit

- a) The Legal Unit assisted in the drafting of the following reports:

Report Type and Number	Report Issue	Date of Report	Applicable Human Rights	Report Brief	Response by Responsible Body
Advisory 1 of 2021	Review of the System of Pardon		<ol style="list-style-type: none"> <li>1. Right to life;</li> <li>2. Right to dignity;</li> <li>3. Right to liberty;</li> <li>4. Right to equal protection of the law;</li> <li>5. Right to fair hearing and;</li> <li>6. Right to access official information</li> </ol>	The Report reviewed the current system of Pardon in Seychelles and provided recommendations for necessary reform to bring the system in line with domestic and international human rights norms and standards	<ol style="list-style-type: none"> <li>1. The Advisory Committee on the Power of Pardon, in a meeting with the Commission, agreed in principle to the recommendation made by the Commission for statutory reform in the area of Pardon in Seychelles;</li> <li>2. No response from the President</li> </ol>
Request and Advisory 1 of 2021	Contributions to the position of the State concerning outstanding recommendations received through the Universal Periodic Review process	20 <sup>th</sup> August 2021	Chapter 3 of the <i>Constitution</i> and international human rights treaties ratified by Seychelles	Provided the President and the Cabinet of Ministers with human rights guidance concerning the domestic and international human rights obligations of Seychelles with respect to the outstanding recommendations received through the Universal Periodic Review process	N/A



Review of Legislation and Government Policy 1 of 2021	Whether allowing employers to oblige their employees to take leave in cases where they have been declared close contacts of a COVID-19 positive person may be a violation of their right to work under article 35 (d) of the <i>Constitution</i>	10 <sup>th</sup> August 2021	Right to work	Found that the issue raised may, <i>prima facie</i> , infringe the human right in question	The Ministry of Employment accepted the findings of the Commission and its recommendations, which were: <ul style="list-style-type: none"> <li>a. For the Ministry of Employment to withdraw the proposal to Cabinet;</li> <li>b. For the Ministry of Employment to undertake human rights, rule of law and administrative law training conducted by the Commission;</li> <li>c. For the Ministry of Employment to consult the Commission before making future proposals to Cabinet that may affect human rights</li> </ul>
Investigations and Analysis 1 of 2021	Whether the cells and facilities at the Central Police Station are appropriate for detention in accordance with Seychelles' domestic and international obligations	11 <sup>th</sup> October 2021	1. Right to dignity; and 2. Right to liberty	Found that the issue raised may be, <i>prima facie</i> , contrary to the human rights in question	No response from the Ministry of Internal Affairs or from the Seychelles Police Force
Review of Legislation and Government Policy 2 of 2021	(a) Whether the arrest and detention powers conferred under the <i>Immigration Decree (Cap. 93)</i> are in conformity with the right to liberty under Article 18 (1), read with Article 18 (2) (e), 18 (3) and 18 (5); and the right to freedom of movement	11 <sup>th</sup> October 2021	1. Right to liberty; 2. Right to a fair hearing; 3. Right to privacy; and 4. Right to freedom of movement	Found that the issue raised may, <i>prima facie</i> , be contrary to the human rights in question	No response from the Ministry of Internal Affairs

	<p>under Article 25 (1) read with Article 25 (3), of the <i>Constitution</i>; and</p> <p>(b) Whether the administrative process provided in the Decree is consistent with the right to freedom of movement under Article 25 (1), (3) and (5), read with the right to privacy under Article 20 (1) and (2), and the right to a fair hearing under Article 19 (7), of the <i>Constitution</i>.</p>				
Investigations and Analysis 2 of 2021	<p>(a) Whether the cells and facilities at the Perseverance Police Station are appropriate for the detention of persons for a period longer than twenty-four (24) hours; and</p> <p>(b) Whether the cells and facilities at the Perseverance Police Station are appropriate for the detention of vulnerable groups, such as women and children,</p> <p>- In accordance with Seychelles' domestic and international obligations</p>	3 <sup>rd</sup> December 2021	1. Right to dignity; and 2. Right to liberty	Found that the issue raised may be, <i>prima facie</i> , contrary to the human rights in question	No response from the Ministry of Internal Affairs or from the Seychelles Police Force except for an email acknowledging receipt of the Report from the Seychelles Police Force

Review of Legislation and Government Policy 3 of 2021	Whether the Government's decision to suspend the thirteenth month pay for the years 2020 and 2021 is permissible under both domestic and international human rights law	3 <sup>rd</sup> December 2021	Right to work	Found that the issue raised may be, <i>prima facie</i> , a permissible retrogressive measure, conditional on the Government meeting the domestic and international human rights standards	No response from the Government (Ministry of Employment)
Review of Legislation and Government Policy 4 of 2021	Whether the Government, through a private contract, can restrict a Seychellois citizen from entering Seychelles by means of an electronic travel process that occurs outside of Seychelles	3 <sup>rd</sup> December 2021	Freedom of Movement	Found that the issue raised may be, <i>prima facie</i> , contrary to the human rights in question	No response from the Ministry of Internal Affairs

b) The Legal Unit assisted in the drafting of the following Procedures:

1. Complaints Handling and Investigations;
2. Systemic Review of Legislation and Government Policy;
3. Opinion on Bills;
4. Monitoring; and
5. Advisory Reports

The Commission is in the final approval stages of the latest Procedures and is aiming to have the same finalised by the first quarter of 2022. The Commission also aims, in the first quarter of 2022, to have the latest Procedures circulated with the Executive, Legislature, and Judiciary for consultation, prior to issuing and publishing the same in the *Official Gazette*.

## **Results**

Through the above activities and its contributions to the other units of the Commission, the Legal Unit has assisted the Commission in achieving some core objectives in 2021.

### **Procedures**

The first is the drafting of the latest core Procedures for the work of the Commission. These latest Procedures will reinforce the operating system of the Commission, allowing it to pursue its mandate in an effective, efficient and transparent manner, consistent with the rule of law, and the domestic and international human rights standards. It is the aim of the Commission that these Procedures can also serve as a guide to public bodies who exercise statutory authority, incentivizing them to establish or reinforce their procedures, which should ultimately be promulgated by the publication of the same in the *Official Gazette*.

### **Human Rights Report**

Secondly, the Legal Unit assisted the Commission in drafting the Commission's first human rights reports. These reports will play an important role in both the promotion and protection of human rights in Seychelles. It is the aim of the Commission that its reporting function will become institutionalised into the system of governance in Seychelles, playing an important guiding role concerning the human rights issues under review. Moreover, this reporting role will also reinforce the existing accountability mechanisms within the system of governance in Seychelles, leading to better rule of law and human rights outcomes for the people of Seychelles.

### **Institutionalising Human Rights into the system of governance.**

Thirdly, by conducting the various meetings with the abovementioned persons, the Commission has commenced the critical task of institutionalising its function and, ultimately, human rights into the system of governance of Seychelles through awareness building. It is the aim of the Commission that the abovementioned Procedures will assist in this task by allowing the various public bodies that are required to participate in the Commission's statutory processes to identify their roles and responsibilities so that they can effectively and efficiently meet their statutory and human rights obligations.

### **In-house Trainings**

Finally, by providing in-house training and support to the Commissioners and Staff Members, the Legal Unit was able to support the units in working synergistically, improving the efficiency and effectiveness of the Commission's work.

## **6.0. COMPLAINTS & INVESTIGATIONS**

The first key function of the Complaints and Investigations Unit is to receive persons who believe that their human rights have been violated. At this stage of the complaints process, it is important that people who are seeking the assistance of the Commission are received in a timely and professional manner.

Moreover, it is important for the staff member receiving the person to attentively and professionally listen to the person's grievance, so that the receiving officer can advise them as to the most effective legal route possible to seek a resolution for the person. It is important to note that, as human rights are institutionalised into the framework of governance and society, some grievances that come before the Commission, in the first instance, are more effectively dealt with by a specific mechanism that is already in existence. Such mechanisms are established to fulfil the State's human rights obligations.

Therefore, the first aim of the Complaints and Investigations Unit in 2021 was to develop an effective information system so that people could become aware of the relevant mechanisms and have timely access to the same.

The second key function of the Complaints and Investigations Unit is to evaluate a person's grievance through initial discussions with the person to determine whether the grievance meets the Commission's investigations criteria and, if so, to assist the person with lodging a formal complaint.

Thus, the second key aim of the Complaints and Investigations Unit in 2021 was to develop a system to receive and assist persons who meet the Commission's investigations criteria, so that they may lodge a formal complaint before the Commission, in the most timely and professional manner possible.

The last key function of the Complaints and Investigations Unit is to investigate complaints that have been admitted for investigation by the Commission.

Therefore, the last key aim of the Complaints and Investigations Unit for 2021 was to ensure that investigations were done in the most professional, transparent, effective and accountable manner possible.

### **Activities**

In order to meet the three aims detailed above, the Complaints and Investigations Unit worked with the Legal Unit to develop procedures that aim to establish an appropriate system.

As part of this process, staff members of the Complaints and Investigations Unit undertook in-house training to become more proficient in the various mechanisms available and the procedures necessary to ensure that the Complaints and Investigations Unit could meet its first aim. During this process the Complaints and Investigations Unit established the enquiries section of the Unit, which is responsible for receiving people in the first instance in order to meet the first aim of the Complaints and Investigations Unit.

Also, during the process, several standard operating procedures were developed, which included in-house training on their use to provide investigators in the Complaints and Investigations Unit with guidance on evaluating complaints for possible investigations and the investigative process, which was essential for the Complaints and Investigations Unit to meet its second, third and final aim.

It is important to note that the Complaints and Investigations Unit is under-resourced with only one Registration Officer and two Investigators.

During the year 2021, the Complaints and Investigations Unit received 51 new complaints, which brought the total number of complaints registered before the Commission to 237. The human rights related to these complaints, which is depicted in Figure 1, are as follows:

<i>Human Right</i>	<i>Total number of complaints</i>
<i>The Right to Work</i>	16
<i>The Right to Liberty</i>	11
<i>Right to Property</i>	7
<i>Freedom of Movement</i>	9
<i>Right to Shelter</i>	1
<i>Right to Life</i>	1
<i>Right to Social Security</i>	2
<i>Right to Dignity</i>	2
<i>Right to Information</i>	1
<i>Freedom from Slavery and Forced or Compulsory Labour</i>	1
	51

The Complaints and Investigations Unit also notes that 48 of the 51 registered complaints of alleged human violations are against a public body, whereas 3 of the 51 registered complaints of alleged human violations are against a private individual. This is depicted in Figure 2 below.

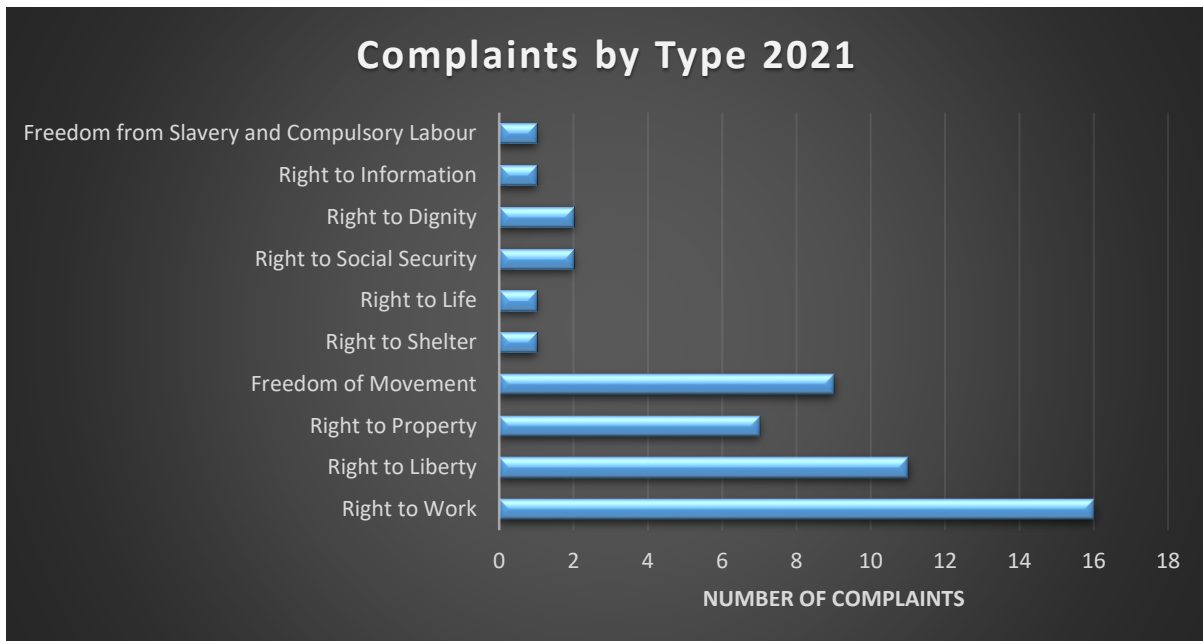
The Seychelles Police Force and the Department of Immigration constituted the highest proportion of alleged human rights violations from the public sector, with 17 complaints and 9 complaints respectively, representing 54% of the total complaints of alleged human rights violations against a public body. The full distribution of complaints of alleged human rights violations against public bodies is depicted in Figure 3 below.

The Complaints and Investigations Unit also received a total of 250 phone calls and 212 visits in the year 2021 which is depicted in Figure 4 below.

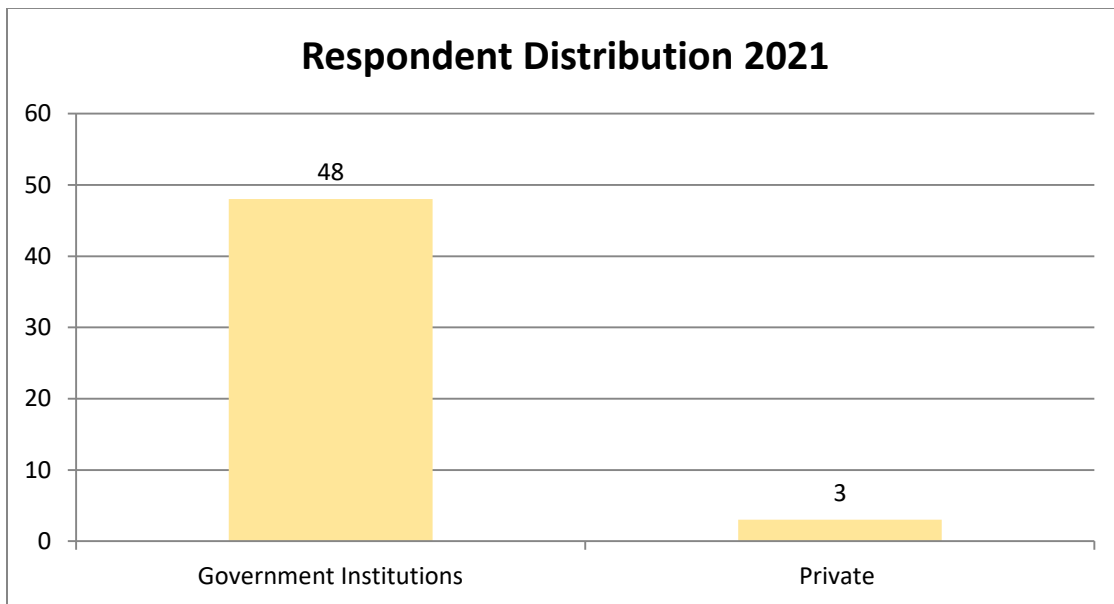
Finally, the Complaints and Investigations Unit assisted the Monitoring Unit in conducting the Commission’s first monitoring exercise of places of detention.



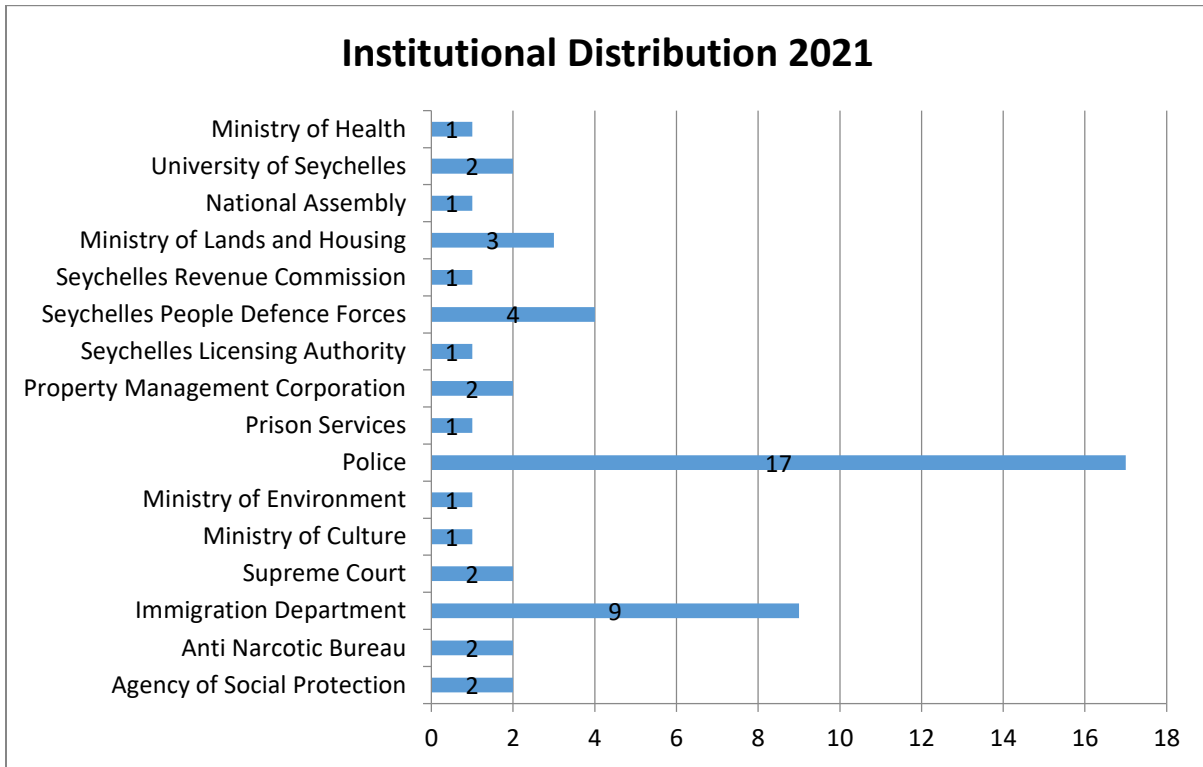
**Figure 1**



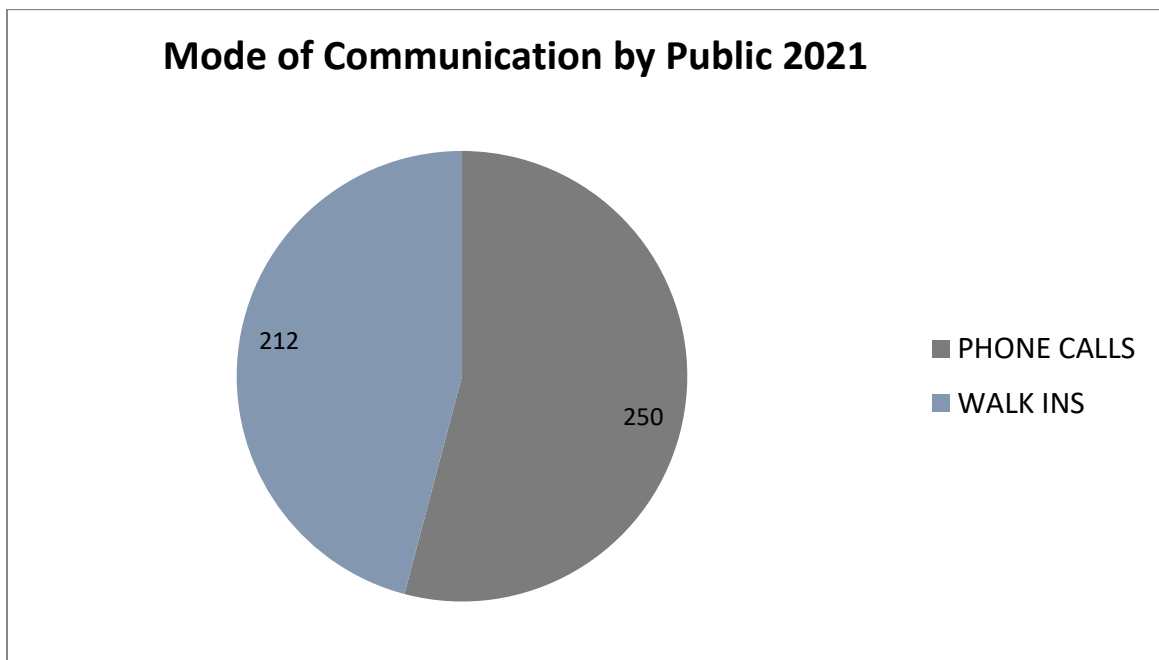
**Figure 2**



**Figure 3**



**Figure 4**



## **Results**

As per the above-stated, despite the lack of human resources and the issues surrounding the COVID-19 Pandemic, the Complaints and Investigations Unit was successful in meeting all three of its aims. A key contributor to this was the Commission ensuring that the Complaints and Investigations Unit could operate electronically, which included people being able to fill in the necessary forms digitally. The Complaints Handling and Investigations Procedures will be elaborated on further under the Legal Unit's section of this Annual Report.

Connected to the above results, the Complaints and Investigations Unit was able to register and process an additional 51 complaints under its Complaints Procedures. Moreover, the Complaints and Investigations Unit was able to attend to 250 phone calls and 212 walk-in visits to the Commission.

Moreover, notwithstanding its considerable workload, the Complaints and Investigations Unit was able to work with the Legal Unit to develop the necessary procedures and systems to meet its aims, and participate in all the necessary training to ensure that the Complaints and Investigations Unit could undertake efficient and effective complaints handling and investigations.

Finally, as stated above, the Complaints and Investigations Unit was able to assist the Monitoring Unit in the monitoring of places of detention within the remit of the Seychelles Police Force.

## 7.0. MONITORING UNIT

One of the functions of the Commission is to monitor compliance with human rights treaties as per Section 14 (1) b (vi) of the Act, which is executed by the Monitoring Unit. The Monitoring Unit is currently comprised of one Senior Monitoring Officer who is responsible for the unit.

### ACTIVITIES

#### **Monitoring Implementation of UN Human Rights Treaties with Parent Ministries**

The Monitoring Unit reviewed the implementation of treaties with parent ministries through high-level meetings. Seychelles is party to all nine core United Nations (UN) human rights treaties.

##### **Ministry of Internal Affairs**

➤ *Optional Protocol to the UN Convention against Torture*

Notwithstanding that Seychelles has ratified all nine core Human Rights Conventions, Seychelles is not yet party to the Optional Protocol to the UN Convention against Torture. The Commission received a request from the Ministry of Internal Affairs to discuss the merits of Seychelles ratifying the said Optional Protocol. The Commission held a meeting with the Ministry regarding the same and also discussed the possibility of the Commission to function as a National Preventive Mechanism under the said Optional Protocol.

➤ *UN Convention for the Protection of all Persons from Enforced Disappearance*

The Ministry of Internal Affairs requested a meeting to discuss the outstanding initial report concerning the above Convention. The initial State Party report for the said Convention has been outstanding since February 2019. In the meeting, the Ministry highlighted the difficulties they were facing with collecting information from stakeholders for the drafting of the report. Given this discussion, the Commission made certain recommendations to assist the Ministry in overcoming its difficulties.

Specifically the Commission recommended that the Ministry liaise with the Office of the United Nations High Commissioner for Human Rights (OHCHR) for assistance.

#### **7.4.2. Family Department**

➤ *UN Convention on the Elimination of all Forms of Discrimination against Women.*

The Commission requested a meeting with the Research and Policy Planning Division of the Family Department to discuss the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Specifically, the Commission requested to discuss the upcoming follow-up report to the latest CEDAW Committee's Concluding Observations, which was due in November 2021.

Moreover, the Commission wished to discuss the implementation of the recent Concluding Observations. The department agreed to meet with the Commission. At the meeting, the Commission made recommendations to the department on how the follow-up could be done. Specifically, the Commission recommended the identification of CEDAW focal points to coordinate data collection in the respective departments and the development of a reporting matrix.

Following the discussion at the meeting, the Commission provided the reporting format matrix for the Convention on the Rights of the Child (CRC), developed by the Social Affairs Department, to be used as model. The Commission notes that the Family Department submitted its follow-up report to the CEDAW to the Foreign Affairs Department for transmission to the UN CEDAW Committee.

➤ ***Convention on the Rights of Persons with Disabilities***

The Commission requested a meeting with the Elderly and Disabled Division of the Family Department to discuss the Convention on the Rights of Persons with Disabilities (CRPD), the follow-up to the latest CRPD Committee's Concluding Observations and the upcoming report to the CRPD Committee, which is due in 2023.

Following the discussions at the meeting, the Commission provided the reporting format matrix for the Convention on the Rights of the Child (CRC), developed by the Social Affairs Department, to be used as a model.

Given the above meetings and discussions with various Ministries, the Commission observed that, in spite of very good progress in advancing human rights, the State needs to demonstrate greater commitment and action in relation to its international and regional human rights obligations. Reporting regularly to the treaty bodies is one of the main obligations that Seychelles has not been able to fully adhere to. The Commission is of the opinion that these difficulties that the State is encountering with its treaty obligations stem from the lack of a national mechanism for reporting and follow up.

**SHRC'S Position/Role vis-à-vis Conventions and Optional Protocol.**

***African Charter on the Rights and Welfare of Children***

The Commission provided the Social Affairs Department, upon their request, with its comments on the Initial & Combined 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, & 8<sup>th</sup> State Party Report African Charter on the Rights and Welfare of the Child.

***Optional Protocol on the Sale of Children, Prostitution and Pornography under the Convention on the Rights of the Child (CRC)***

The Commission provided the Social Affairs Department, upon their request, with its comments on the Optional Protocol on the Sale of Children, Prostitution and Pornography under the Convention on the Rights of the Child (CRC).

### 3<sup>rd</sup> Cycle Universal Periodic Review (UPR)

<b>1</b>	<b><i>UPR 3<sup>rd</sup> Cycle Shadow Report</i></b>	<p>On 19 March, a soft copy of the UPR 3<sup>rd</sup> Cycle Shadow report that the SHRC submitted to the OHCHR on 15 October 2020 was forwarded to the Foreign Affairs Department.</p>
<b>2</b>	<b><i>UPR 3<sup>rd</sup> Cycle State Party Report</i></b>	<p>The SHRC requested for a soft copy of the Government’s final report for the 3<sup>rd</sup> Cycle UPR from the Foreign Affairs Department. The document was received on 17 March 2021.</p> <p>The UPR 3<sup>rd</sup> Cycle State Party Report was discussed in Teams sessions held with the Senior Monitoring Officer, Legal Director and Deputy Chairperson. This review exercise was completed on 5 May 2021.</p>
<b>3</b>	<b><i>Request for UPR 3<sup>rd</sup> Cycle Advance Questions List</i></b>	<p>The SHRC made a request to the Foreign Affairs Department for the list of UPR advance questions that the Government had received from the OHCHR prior to the upcoming presentation of its State Party Report, which was scheduled for 10 May.</p> <p>Only the thematic areas of the advance questions were forwarded to the SHRC on 6 May. It was understood that the Foreign Affairs Department had not agreed to share the full list of advance questions with the SHRC despite the fact that this was already available on the OHCHR UPR website.</p> <p>This matter is to be taken up in future meetings and discussions with the Foreign Affairs Department to ensure better working cooperation and understanding of the SHRC’s role in the UPR process.</p>
<b>4</b>	<b><i>Request for UPR 3<sup>rd</sup> Cycle Recommendations</i></b>	<p>Another request was made to the Foreign Affairs Department for the list of the recommendations that Seychelles had received on 10 May under its 3<sup>rd</sup> Cycle UPR presentation.</p> <p>On 15 June, only the list of the recommendations that the Government had so far accepted was shared with the SHRC.</p> <p>Foreign Affairs Department was supposed to share the complete list once the outcome of the consultations for the remaining recommendations had been finalised.</p>

5	<b><i>Analysis for Cabinet</i></b>	<p>In August, the SHRC was requested to carry out an analysis for Cabinet’s acceptance of the UPR 3<sup>rd</sup> Cycle recommendations.</p> <p>The Senior Monitoring Officer carried out research on the Seychelles’ position for the previous UPR 1<sup>st</sup> &amp; 2<sup>nd</sup> Cycle recommendations, which was forwarded to the Legal Director, who was the lead person for this analysis.</p> <p>The SHRC’s final document was emailed to Minister Derjacques on 20 August by the CEO.</p>
6	<b><i>Seychelles Final Position on 3<sup>rd</sup> Cycle UPR Recommendations</i></b>	<p>As per its request, the SHRC received Seychelles’ final position on the recommendations received under its 3<sup>rd</sup> Cycle UPR from the Foreign Affairs Department on 13 September. Seychelles’ final report was adopted on 1 October by the OHCHR.</p> <p>The Senior Monitoring Officer is to now monitor the implementation of the UPR recommendations.</p>

*The Universal Periodic Review (‘UPR’) is a unique process that involves a periodic review of the human rights records of all 193 UN Member States. The UPR is a significant innovation of the Human Rights Council which is based on equal treatment for all countries.*

*It provides an opportunity for all States to declare what actions they have taken to improve the human rights situations in their countries and to overcome challenges to the enjoyment of human rights. The UPR also includes a sharing of best human rights practices around the globe. Currently, no other mechanism of this kind exists.<sup>1</sup>*

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<sup>1</sup> [ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx](http://ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx)



## **Preparation for Monitoring Visits at Bois De Rose Remand Centre**

In 2021, the Commission planned to undertake a monitoring visit at Bois De Rose Remand Centre. In preparation for this visit, the Commission met with the Seychelles Prison Services to discuss the logistics for the monitoring visits. At the meeting, the draft checklist for the monitoring visits was shared with the Seychelles Prison Services. It was agreed that the monitoring visits could commence by the first week of July or by mid-July, as the Seychelles Prison Services had to ensure the safety of the monitoring team. It was also agreed that the Seychelles Prison Services would inform the Commission of when the visits could start.

The Commission notes that, unfortunately, the visit at Bois De Rose Remand Centre did not materialise, as the Commission was informed that only a walk-through of the facility would be allowed. It is the Commission's opinion that a walk-through at the facility would not be sufficient for it to carry out its monitoring exercise efficiently and effectively.

As such, the Commission requested for the cooperation of the Seychelles Prison Services to organise for its monitoring team to conduct the necessary measurements/inspection of the cells, and interaction with inmates and staff. The Commission notes that it has not received a response to the above request and intends to follow up on this matter in 2022.



## **Preparation for Monitoring Visits at Police Stations**

The Commission conducted a meeting with the Regional and Station Commanders at the Police Headquarters at the Central Police Station. The aim of the meeting was to discuss the monitoring visits at the police stations of Seychelles. At the meeting, the draft visit schedule and the summary of the checklist topics were shared with the Police. The meeting was very fruitful and the attendees were very keen to learn more about this exercise. The Station Commanders agreed to give the Commission their full cooperation to conduct these visits.

In October 2021, the Commission started conducting its monitoring visits at places of detention within the remit of the Seychelles Police Force.

These visits were carried out in accordance with the following:

- Articles 18 & 16 of the *Constitution of the Republic of Seychelles*;
- Articles 10 & 11 of the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*; and
- Articles 9 & 10 of the *International Covenant on Civil and Political Rights*.

The monitoring visits' main focus was to observe and make recommendations to improve the conditions of detention and procedures relating to arrest and detention. The following interventions were used:

- 1) Quantitative analysis: through measurements of the cell; and
- 2) Qualitative analysis:
  - (a) Observations made vis-à-vis a pre-drafted checklist and photographic images;
  - (b) Interview with the Station Commander through the use of a questionnaire;
  - (c) Interview, where possible, with a detainee at the respective Police Station through the use of a questionnaire.

### **The following Police Stations were visited in 2021:**

- a. Central Police Station: 6<sup>th</sup> and 8<sup>th</sup> October
- b. Perseverance Police Station: 20<sup>th</sup> and 25<sup>th</sup> October
- c. Beau Vallon Police Station: 24<sup>th</sup> November and 15<sup>th</sup> December



*SHRC Monitoring Team at the Perseverance Police Station on 20 October 2021*



*SHRC Monitoring Team at the Beau-Vallon Police Station on 24 November 2021*

## **9.0. PUBLIC RELATIONS AND EDUCATION**

### **9.1. Introduction**

The Public Relations Unit ('PR Unit') is responsible for organising and coordinating the activities that promote the understanding of the functions of the Commission.

In 2021, the PR Unit organized and covered a wide range of activities and events for the Commission. The Unit posted regularly on the Commission's website and continued to grow the Commission's presence and followers on its social media platform.

### **9.2. Highlights**

- *Creation of Facebook Page*
- *Commemorative messages for human rights related UN days*
- *Seychelles Human Rights Commission Best Practices for UN High Commissioner's Report*
- *Launching of Human Rights Day*
- *Launching of first Human Rights Awareness ads*

### **9.3. Website**

The PR Unit took full responsibility for the website management in February 2021. The website was co-hosted by the PR Officer and Web Developer.

It was recommended that certain options, such as Google analytics, be added to effectively monitor the website traffic and to install plug-ins to enable the sharing of audio-visual media.

Other changes were made to enhance engagement of the website and suggested improvements are being considered to make the website accessible and user friendly.

## 9.4. Social Media

The PR Unit is also responsible for Social Media Management and Facebook is the main platform currently being used for the promotion, visibility and outreach of human rights education. The Commission formally joined the Facebook platform in January 2021 to disseminate information and engage with members of the public on current news and human rights education.

The presence of the Commission on social media has continued to increase our visibility by showcasing events and related activities, as well as providing vital information about our functions to the public.

### 9.4.1. Key Performance Indicators (KPIs)

Facebook Analytics uses various KPIs, which showcase the level of engagement on the page and, in turn, helps us determine our performance through postings.

Table 3 showcases the results of our performance for the year 2021. It is important to note that the page exceeded the forecasted result. Upon creation of the Facebook page, we targeted a total of 400 likes/followers and reached a total of 4000 people.

The content varied from events press releases, information on our functions, commemoration messages, human rights education and engaging posts.

It was noted that members of the public reached out to the Commission through the page's Direct Messaging (DM) option with their alleged human rights violations complaints/enquiries which were directed to the proper channels.

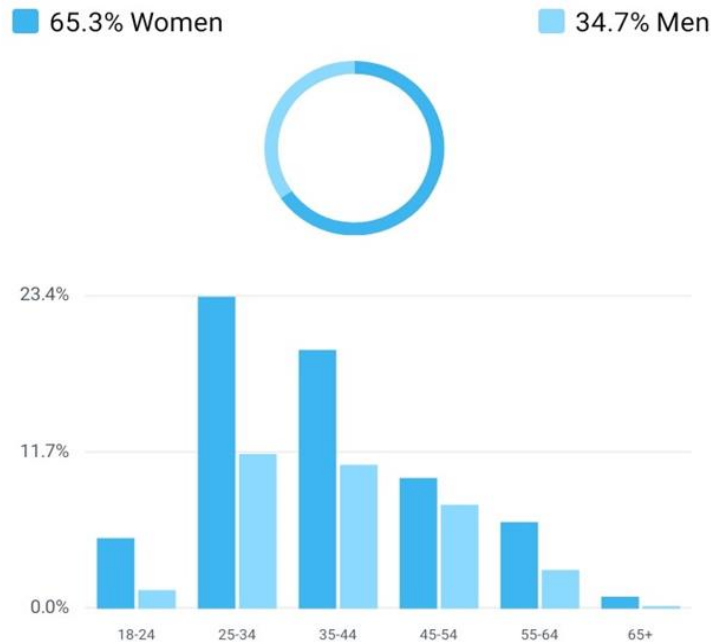
KPIs	Result
Like	653
Followers	677
Reach	11,133
Engagement	2,722
Link Clicks	17
Comments	289
Shares	61
Reactions	1,026
Views	47

*Table 3*

## 9.4.2. Current Audience

### Age and Gender

It was found that 65.3% of total followers were women between the ages of 18 and 65 years, representing the highest demographic compared to 34.7% of male users, as illustrated below.



*Figure 6*

## International Human Rights Day 2021

### 2021 Theme: EQUALITY - Reducing inequalities, advancing human rights

This year's Human Rights Day theme relates to 'Equality' and Article 1 of the Universal Declaration of Human Rights (UDHR) – “All human beings are born free and equal in dignity and rights.”

Equality, inclusion and non-discrimination, in other words - a Human Rights-Based Approach (HRBA) to development - is the best way to reduce inequalities and resume our path towards realising the 2030 Agenda.

The Seychelles Human Rights Commission commemorated this day through a series of events including a Road Show held at the STC Hypermarket on Saturday, 11<sup>th</sup> December 2021. The aim of the event was to enhance the Commission's visibility regarding its roles and functions, and its Complaints Procedures.

The following activities were conducted:

- Sharing of informative brochures and leaflets;
- Explanation of our Complaints Procedures;
- Educational Activities (e.g., quiz);
- Sharing of promotional material;
- Signing of the Human Rights Pledge; and
- Souvenir Photos.

Other activities to commemorate the day included:

- A Commemorative Message;
- CEO's participation at the “Tete-a-Tete” Television Talk Show on SBC; and
- Monitoring Officer's and Investigation Officer's participation on the Paradise FM Radio Talk Show.



# Highlights of the Day





## 9.0. Challenges

Besides the resource constraints facing the Commission, the overwhelming challenge facing the Commission has been the lack of understanding of the systemic role of the Commission within the governance structure of the State and the lack of effective participation by public authorities.

Firstly, the COVID-19 Pandemic had an impact on the function of the Complaints and Investigations Unit given the nature of the complaints and investigations process.

Secondly, the lack of human resources in the Complaints and Investigations Unit, as detailed above, has had a substantial impact on the Commission being able to effectively meet its investigations mandate. It is clear from the current number of complaints before the Commission, being 237 complaints, and the number of phone calls and office visits, as depicted in Figure 4 above, that the current human resources available to the Complaints and Investigations Unit are not sufficient. This situation will be compounded going forward, as it is forecasted that complaints will most likely increase as awareness concerning human rights increases in Seychelles.

The final challenge, which is interconnected with the second challenge above, has been the lack of full cooperation by public authorities, to whom the majority of the complaints before the Commission pertained. This lack of full cooperation inhibits the Complaints and Investigations Unit in their ability to investigate complaints in a timely and effective manner, causing substantial delays in conducting investigations and identifying potential resolutions of complaints before the Commission.

## 10.0 Recommendations

For the Commission to effectively meet its mandate, it requires sufficient resources, thus the first recommendation will be for the State to provide the Commission with sufficient resources.

Secondly, public authorities must understand the systemic role of the Commission within the governance structure of the State. Moreover, public authorities must understand and institutionalise domestic and international human rights obligations within their structures. For this to occur, the Commission recommends that all public authorities undertake the rule of law, human rights and administrative law training provided by the Commission.

Finally, for the Commission to effectively meet its mandate, it needs the full participation of public authorities. Thus, it reiterates its above recommendations and further recommends that all public authorities ensure that they engage fully with the Commission by ensuring that the public authorities have procedures for their interactions with the Commission within their respective structures.

In the coming year, the PR Unit will be at the centre of communication, promotion and education. It is of utmost importance that the Commission engages with the public through more engaging content, especially on our social media platforms. The Commission will review the strategies of the PR Unit, ensuring alignment with an ever-changing, dynamic and culturally diverse country.

Given the above, the first recommendation is that the Commission is provided with adequate resources so that the Complaints and Investigations Unit can have sufficient human resources to ensure that the Commission can meet its investigations mandate.

Also, given the above, the second recommendation is that all public authorities cooperate fully with the Commission to ensure that the Commission is able to complete its investigations and find potential resolutions for complaints before it, in a professional, transparent, effective and accountable manner.

“

*Where, after all, do universal human rights begin?*

*In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works.*

*Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.*

**- ELEANOR ROOSEVELT**

## APPENDIX I

## APPENDIX II

### SHRC MASTERPLAN 2020 AND BEYOND

<b>ADVISORY ROLE</b>			
<b>14. (1) (a) The Commission is competent and is obliged to-</b> <b>(i) make recommendations to the ministries at all levels of government where it considers such action advisable for the adoption of progressive measures for the promotion of human rights within the framework of the Constitution and this Act, as well as appropriate measures for the further observance of such rights;</b>			
<b>ACTIVITY</b>	<b>LEAD RESPONSIBILITY</b>	<b>DELIVERABLES</b>	<b>REMARKS</b>
Develop and implement methodology to study the following issues particularly examining legal and policy frameworks, identify lacunas and made recommendations <ul style="list-style-type: none"> <li>• Treatment &amp; determination of status of distressed seamen</li> <li>• Conditions of detention of persons in police cells</li> <li>• Remedial and custodial arrangements for children in contact with the law</li> <li>• Treatment and working conditions of migrant workers</li> <li>• Lack of access to judiciary officers after working hours and during</li> </ul>	Legal Affairs	Reports of findings and recommendations on each topic  Meetings with stakeholders  Mechanisms to implement specific treaties appropriately	

weekends (as well as access to medical staff etc.)			
<ul style="list-style-type: none"> <li>Procedures to be followed by asylum seekers and refugees</li> </ul>			

### RESEARCH & DATA COLLECTION

**14.(1)(a) (ii) Undertake such studies for reporting on or relating to human rights as it considers advisable in the performance of its functions or to further the objects of the Commission ;**

**14.(1)(a)(viii) shall carry out or cause to be carried out such studies concerning human rights as may be referred to it by the President, and the Commission shall include in a report setting out the results of each study together with such recommendations in relation thereto as it considers appropriate**

ACTIVITY	LEAD RESPONSIBILITY	DELIVERABLES	REMARKS
Identify , study and report on general issues, issues of common interest and make recommendations to all levels of government(1 main research topic each year & other research as required to address issues or as guided by Chair of Commission)	Monitoring lead , all sections join to brainstorm and implement	Research findings & reports	

### COMPLAINTS & INVESTIGATIONS

**14.(1)(a)(iii) request any head of the organization or institution or the principal secretary of any ministry or department to supply it with information on any legislative or executive measures adopted by it relating to human rights;**

**16.(1)(a) conduct or cause to be conducted any investigation that is necessary for that purpose( to exercise its powers and perform its functions)**

ACTIVITY	LEAD RESPONSIBILITY	DELIVERABLES	REMARKS
Establish complaints mechanism	Complaints & Investigation	SOP for handling of complaints	
Receive and verify complaints	Complaints & Investigation	Complaints investigated	
Evaluate admissibility of complaints and recommend actions	Legal affairs	Recommendations	

Implement ADR wherever possible	ADR Panel		
Present outcome of ADR to the Commissioners as relevant	Complaints & Investigation	Meetings of the commissioners for update	
Investigate cases as required	Complaints & Investigation	Investigation findings	
Follow up on cases and recommendations	Complaints & Investigation	Feedback	
Update Commission on status of cases	Complaints & Investigation	Meetings of the commissioners for update	
Establish networks with institutions to facilitate access to information	Complaints & Investigation	Letter of request to heads of organization MOUs on a needs basis	

### EDUCATION & COMMUNICATION

**14 1) ( b) (i) Shall develop, conduct or manage information programmes and education programmes to foster public understanding and awareness of Chapter 3 of the Constitution, this Act and the role and activities of the Commission;**

ACTIVITY	LEAD RESPONSIBILITY	DELIVERABLES	REMARKS
Sensitise institutions and the public on SHRC Act and role	Education	Press conference Press articles Statements Information sessions for Information materials	
Disseminate human rights based approach	Education	Sessions/ working groups Human rights based approach adopted	
Identify what is available and develop a structured basic human right curriculum	Education	Analysis on available human rights training Curriculum developed	
Create Awareness of Human Rights	Education	Establish calendar for Press articles Statements Information sessions Information materials	
Commemorate Human rights days and support	Education	Press statements included	

organisations in celebration of HR days			
Establish training calendar and implement	Education	links with institutions training sessions/workshops Online training	
Website development and management	Education lead content compilation All section contribute IT support B. Valmont	Functioning website	
Maintain a social media presence	Education	Social media page(s)	
Provide training on treaty related topics ( obligations, reporting, implementing recommendations)	Education	Training and professional development sessions	
<b>NETWORKING</b>			
<b>14 (1) ( b) (ii) Shall as far as far as practicable maintain close liaison with institutions, bodies and authorities with similar objectives to the Commission in order to foster common policies and practices and to promote co-operation in relation to the handling of complaints in cases of overlapping jurisdiction or other appropriate instances;</b>			
<b>(iii) shall liaise and interact with any organization which actively promotes respect for human rights and other sectors of civil society to further the objects of the Commission;</b>			
<b>ACTIVITY</b>	<b>LEAD RESPONSIBILITY</b>	<b>DELIVERABLES</b>	<b>REMARKS</b>
Establish networks and initiate dialogues on pertinent issues	National & International relations	Proposals MOU Networking calendar Position papers Outcome recommendations	
Establish and maintain links with organisations civil society	National & International relations	Meetings Joint activities	
Establish relationship with DFA	National & International relations	Meetings Joint activities	
Seek accreditation to GANRHI	National & International relations	Awareness raised within commission on procedure for accreditation  Letter to GANRHI to inform of intention	

		Session with GANRHI	
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### MONITORING

**14 1) (b) (iv) shall consider such recommendations, suggestions and requests concerning the promotion of respect for human rights as it may receive from any source;**

**(v) Shall review government policies relating to human rights and may make recommendations; see 14 (2) and (3)**

**(vii) Shall monitor the implementation of, and compliance with, international and regional conventions and treaties, international and regional covenants and international and regional charters relating to the objects of the Commission;**

**(vii) shall prepare and submit reports to the National Assembly pertaining to any such convention, treaty, covenant or charter relating to the objects of the Commission;**

ACTIVITY	LEAD RESPONSIBILITY	DELIVERABLES	REMARKS
Establish responsibilities for treaty implementation and submission of reports	Monitoring	Cabinet memorandum	
Establish focal points in Ministries for monitoring of implementation of treaty matters or revamp treaty affairs committee	Monitoring	Discussion with MFA Cabinet memorandum	
Develop work plan for Monitoring implementation of treaty obligations and recommendation	Monitoring	Plan of action	
Review, adopt and implement SNAP- HR	Monitoring	Review sessions Implementation and monitoring mechanism	
Prepare shadow treaty reports as and when necessary	Monitoring	Reports submitted to human rights committees	



Produce SOP for dealing with monitoring of general issues	Monitoring	SOP	
Set up and implement mechanism for monitoring of policies and plans for human rights compliance	Monitoring	plans and policies comply to HR	
Study human rights issues and Recommend systemic changes for the protection of human rights	Monitoring	Identify general issues Document case Develop and implement participatory methodology to study the issue particularly examining legal and policy frameworks, identify lacunas and make recommendations to address lacunas	
Develop monitoring plan on issues of interest and report on progress in implementation of recommendations	Monitoring	Plan Reports Recommendations	
Visits to places of interest to assess human rights compliance	Monitoring	Repots	

### LAW REVIEW

**14. (2). The Commission may recommend to the President for adoption of new legislation which will promote respect for human rights and a culture of human rights**

**14. (3). If the Commission is of the opinion that any proposed legislation or any written law is contrary to Chapter III of the Constitution or to norms of international human rights law, which forms part of the laws of the Republic, or to other relevant norms of international law, it shall immediately report the fact to the President.**

ACTIVITY	LEAD RESPONSIBILITY	DELIVERABLES	REMARKS
Review SHRC Act as required	Legal Affairs	Amended legislation	
Establish mechanism for systemic review of existing legislations and Bills to ensure human rights compliance	Legal Affairs	Cabinet memorandum Law Review Mechanism	

		Disseminate of procedures to all parties Committees Legislation review schedule	
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**JUDICIAL PROCEEDINGS**

**(b) to initiate proceedings in a competent court or tribunal in its own name, or on behalf of a person or a group or class of persons, including proceedings relating to**

- the constitutionality of a law or
- the provisions of a law

<b>ACTIVITY</b>	<b>LEAD RESPONSIBILITY</b>	<b>DELIVERABLES</b>	<b>REMARKS</b>
Take cases to court as recommended by the Commission	Legal Affairs	Case records	
Accessing legal aid mechanism	Legal Affairs	MoU with judiciary	

**REPORTS BY COMMISSION**

**19. (1) The Commission shall submit a report to the President and National Assembly every six months on its activities, the performance of its functions and the achievement of its objectives.**

**(2) (...)submit to the President reports on the findings in respect of functions and investigations of a serious nature, which were performed or conducted by it.**

<b>ACTIVITY</b>	<b>LEAD RESPONSIBILITY</b>	<b>DELIVERABLES</b>	<b>REMARKS</b>
Compile monthly report from each unit	All Units	Data collected and analyzed	
Using the monthly reports compile annual and midyear reports	National and International Relations	Reports	
Disseminate reports to President and key stakeholders	Commission	Printed reports Courtesy calls Meetings Press conferences	

**FINANCE, ACCOUNTS AND REPORTS**

**21. (1) The financial year of the Commission shall be a calendar year**

**(2) The Commission shall maintain proper accounts and other relevant records and prepare statements of accounts in the form and manner approved by the Auditor General**

**(3) The accounts of the Commission shall be audited by the Auditor general in accordance with Article 158 of the Constitution.**

**(4) Where the accounts and the statement of accounts of the Commission in respect of a financial year have been audited, the Commission shall furnish, not later than 3 months after the end of the financial year, to the Minister and the Minister responsible for Finance a copy of the statement together with a copy of any report by the Auditor general on the statement of accounts or on the accounts of the Commission**

**22. The Commission shall as soon as possible after the expiration of the financial year and in any event not later than the 31st March in any year, submit to the Minister, and the Minister responsible for finance, an annual report dealing generally with the administration and its activities during the preceding financial year and the Minister shall cause the report to be laid before the National Assembly.**

<b>ACTIVITY</b>	<b>LEAD RESPONSIBILITY</b>	<b>DELIVERABLES</b>	<b>REMARKS</b>
Establish SOP for Admin and Finance	Admin and Finance	SOP	
Set up relevant records system	Admin and Finance	Updated records	
Prepare reports	Admin and Finance	Auditors / Annual finance reports	
Submit reports to the Commission	Admin and Finance	Validated report	
Submit audit reports to Minister (President) and Minister for finance	Chair SHRC	Press release/ conference Meetings	

### **OTHERS**

<b>ACTIVITY</b>	<b>LEAD RESPONSIBILITY</b>	<b>DELIVERABLES</b>	<b>REMARKS</b>
Staff training on the SHRC Act, and procedures.	Legal Affairs		
Develop and implement COVID- 19 Preparations for the new normal guide	MM	Guidelines	
Business continuity plan	ALL	Emergency procedures in place Work from home plan Rotation plan IT systems	

**SEYCHELLES HUMAN RIGHTS COMMISSION ACT, 2018***(Act 7 of 2018)***ARRANGEMENT OF SECTIONS****PART I - PRELIMINARY****Sections**

1. Short title and commencement
2. Interpretation

**PART II - SEYCHELLES HUMAN RIGHTS COMMISSION.**

3. Establishment of the Commission
4. Powers and functions of Chairperson, Deputy Chairperson and Commissioners
5. Appointment of Chairperson, Deputy Chairperson and Commissioners
6. Eligibility of Chairperson, Deputy Chairperson and Commissioners of Commission
7. Resignation and vacancy in the office of Chairperson, Deputy Chairperson or Commissioner
8. Termination of Appointment
9. Independence and impartiality
10. Remuneration and allowances of Commissioners
11. Meetings of Commission
12. Committees of Commission
13. Conferment of powers and assignment of functions
14. Powers and functions of Commission
15. Mediation, conciliation or negotiation by Commission
16. Investigations by Commission
17. Entering and search of premises and attachment and removal of articles
18. Compensation for expenses
19. Reports by Commission

**PART III - FINANCE, ACCOUNTS AND REPORTS**

20. Funds of Commission
21. Accounts and Audit
22. Annual Report

**PART IV - OFFENCES AND PENALTIES****23. Offences and penalties****PART V - ADMINISTRATION AND MISCELLANEOUS PROVISIONS****24. Staff of Commission****25. Application of provisions of Penal Code****26. Protection of action taken in good faith****27. Regulations****28. Repeal and savings****29. Transitional provisions**



**SEYCHELLES HUMAN RIGHTS COMMISSION  
ACT, 2018**

*(Act 7 of 2018)*

*I assent*

Danny Faure  
President



*9th August, 2018*

**AN ACT to establish the Seychelles Human Rights Commission, to provide for its composition, powers, functions and to create a means by which it can engage in mediation, conciliation and negotiation; to enable it to investigate, detect and make recommendations to the government and to provide for matters connected therewith or incidental thereto.**

**ENACTED** by the President and the National Assembly.

**PART I - PRELIMINARY**

**1.** This Act may be cited as the Seychelles Human Rights Commission Act, 2018 and shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint.

Short title and commencement

## Interpretation

2. In this Act, unless the context otherwise requires —

“Chairperson” means the Chairperson of the Commission appointed under section 5(1);

“Commission” means the Seychelles Human Rights Commission established under sections 3(1);

“Commissioner” means a Commissioner appointed under section 5(1) and includes Chairperson and Deputy Chairperson;

“committee” means a committee established under section 13(1);

“Constitution” means the Constitution of the Republic of Seychelles;

“Deputy Chairperson” means the Deputy Chairperson of the Commission appointed under section 5(1);

“human rights” means the human rights and freedoms contained in Chapter III of the Constitution;

“investigation” means an investigation contemplated in section 17;

“member of staff” means the Chief Executive Officer and any person appointed under section 25;

“Minister” means the Minister responsible for Legal Affairs;

“premises” includes land, any building or structure,

or any vehicle, conveyance, ship, boat, vessel, aircraft or container;

“private dwelling” means any part of any building or structure which is occupied as a residence or any part of any building or structure or outdoor living area which is accessory to, and used wholly or principally for, the purposes of residence;

“public authority” means —

- (a) a Ministry or Government department;
- (b) a division or agency of the Government or a statutory corporation or a limited liability company which is directly or ultimately under the control of Government or any other body which is carrying out a governmental function or services; or
- (c) a person or body specified as a public authority by any written law;

“warrant” means a search warrant or an entry and search warrant, as the case may be, issued under section 18(5).

## **PART II - THE SEYCHELLES HUMAN RIGHTS COMMISSION**

3.(1) There is hereby established a Commission to be known as the Seychelles Human Rights Commission which shall be a body corporate having perpetual succession and a common seal and capable of suing and being sued in its own name.

(2) The Commission shall be a self-governing, neutral and independent body and shall not be subject to the direction or control of any person or authority.

Establishment of  
the Commission



Powers and  
functions of  
Chairperson,  
Deputy  
Chairperson and  
other  
Commissioners

4.(1) The Chairperson is vested with all the powers and functions conferred on or assigned to him or her by this Act or any other written law.

(2) The Deputy Chairperson and any other Commissioner are vested with all the powers and functions conferred on or assigned to him or her by the Commission or delegated to him or her by the Chairperson.

(3) The Chairperson shall be, in exercising the powers and performing the functions conferred on or assigned to him or her by this Act or any other law, accountable to the Commission.

(4) The Deputy Chairperson and any other Commissioner shall be, in exercising the powers and performing the functions

(a) conferred on or assigned to him or her by the Commission, accountable to the Commission; or

(b) delegated to him or her by the Chairperson, accountable to the Chairperson.

Appointment  
of Chairperson,  
Deputy  
Chairperson  
and  
Commissioners

5.(1) The President shall in consultation with the Speaker of the National Assembly appoint a Chairperson, a Deputy Chairperson and three Commissioners selected from a panel of 3 candidates for each post proposed by the Constitutional Appointments Authority and such appointments shall be published in the Gazette.

(2) The Constitutional Appointments Authority shall, before making recommendation under subsection (1), advertise the posts of Chairperson, Deputy Chairperson and Commissioners specifying the qualification for such posts.

(3) A person is qualified for appointment as

Chairperson, Deputy Chairperson or Commissioner if the Constitutional Appointments Authority is of the opinion that the person possesses demonstrated competence and experience and can effectively discharge the functions of the office of Chairperson, Deputy Chairperson or Commissioner.

(4) The Chairperson, Deputy Chairperson and the Commissioners shall hold office for a term of 5 years, and shall be eligible for reappointment.

(5) Whenever the Chairperson is absent or for any reason unable to, exercise the powers and perform the functions vested in the office of the Chairperson, or whenever the office of Chairperson is vacant, the Deputy Chairperson shall exercise all the powers and shall perform all the functions of the Chairperson.

(6) Whenever both the Chairperson and the Deputy Chairperson are absent or for any reason unable to exercise the powers and perform the functions vested in the office of Chairperson, or whenever both offices are vacant, the remaining Commissioners shall from among themselves elect an acting Chairperson.

(7) Any Commissioner acting as Chairperson of the Commission by virtue of the provisions of subsection (8) may, while so acting, exercise all the powers and shall, while so acting, perform all the functions of the Chairperson.

(8) Where a vacancy occurs in the office of the Chairperson by reason of death, resignation, or for any other reason stipulated in section 7, the President may authorise the Deputy Chairperson or in his or her absence or vacancy in the office of the Deputy Chairperson, a Commissioner to act as Chairperson until the vacancy is filled in accordance with this Act.

(9) Where a vacancy occurs in the office of the Deputy Chairperson by reason of death, resignation or for any other

reason stipulated in section 7, the President may authorise a Commissioner to act as the Deputy Chairperson.

(10) A person authorised under subsection (10) or (11) may hold the office for the unexpired term of the vacancy to which that person is authorised or till a person is appointed to the vacancy, whichever earlier, as the case may be.

(11) Subsection (12) shall mutatis mutandis apply to a vacancy caused in the office of a Commissioner also.

(12) The Chairperson, Deputy Chairperson and the Commissioners shall not enter upon the duties of their offices unless they have taken and subscribed before the President the Oath of Allegiance and the Judicial Oath.

Eligibility of  
Chairperson,  
Deputy  
Chairperson  
and  
Commissioners  
of Commission

6.(1) A person having the qualifications specified under section 5 is eligible to be appointed as the Chairperson, Deputy Chairperson or a Commissioner, as the case may be, if that person—

- (a) is a citizen of, and resides permanently in, the Republic;
- (b) is of proven integrity; and
- (c) is not an undischarged insolvent or bankrupt.

(2) A person shall not be appointed as the Chairperson, Deputy Chairperson or a Commissioner if that person—

- (a) holds office in, or is an employee of, a political party;
- (b) has ceased, to hold office in, or to be an employee of, a political party for a period of less than one year;
- (c) is a member of the National Assembly or District Council;

- (d) has been convicted and served a sentence of imprisonment for a term of six months or more for an offence involving fraud, dishonesty or moral turpitude, or any other offence under any other written law; or
- (e) has been adjudged as a violator of human rights by a competent Court or Authority.

7. (1) The Chairperson may resign upon giving at least 3 months' written notice, to the President.

(2) The office of the Chairperson shall become vacant—

- (a) on the expiration of the term of office of Chairperson;
- (b) if the Chairperson is absent from three consecutive meetings of the Commission, without reasonable excuse;
- (c) if the Chairperson is adjudged bankrupt;
- (d) if the Chairperson is convicted of an offence under any written law and sentenced therefor to imprisonment for a term of six months or more, without the option of fine;
- (e) if the Chairperson is declared to be of unsound mind or body;
- (f) upon Chairperson's death; or
- (g) as and when the Chairperson is removed from office in accordance with section 8.

(3) Subsection (1) and (2) shall mutatis mutandis apply to the Deputy Chairperson and Commissioners.

(4) A vacancy in the Commission shall not affect the validity of the proceedings or decision of the Commission.

Resignation  
and vacancy  
in the office  
of Chairperson,  
Deputy  
Chairperson or  
Commissioner

(5) The Commission shall, as soon as a vacancy occurs, inform the Constitutional Appointments Authority and the President, in writing, of such vacancy.

(6) A vacancy in the Commission shall, as soon as practicable after the Constitutional Appointments Authority and the President become aware thereof, be filled in accordance with the provisions of this Act.

Termination  
of  
Appointment

8.(1) Subject to the provisions of subsections (2), (3) and (4), the President may remove from office the Chairperson, Deputy Chairperson or a Commissioner on grounds of gross misbehavior or misconduct.

(2) Where a complaint, allegation or report of misbehaviour or misconduct against the Chairperson, Deputy Chairperson or a Commissioner is received and the President is prima facie satisfied that it shall be enquired into, the President shall refer the matter to the Chief Justice of Supreme Court for enquiry and report.

(3) Where a question of removing the Chairperson, Deputy Chairperson or a Commissioner is referred to the Chief Justice, the President may suspend the Chairperson, Deputy Chairperson or the Commissioner, as the case may be, from performing the functions of the Commission but the suspension shall cease to have effect if the Chief Justice recommends to the President that the Chairperson, Deputy Chairperson or the Commissioner, as the case may be, ought not be removed from office.

(4) The Chief Justice shall on a reference made under subsection (2) hold an enquiry and recommend to the President whether the Chairperson, Deputy Chairperson or the Commissioner ought to be removed on such ground or grounds and the President shall act accordingly.

Independence  
and impartiality

9.(1) A Commissioner or a member of staff —

(a) shall serve impartially and independently and

exercise or perform his or her powers and functions in good faith and without fear, favour, bias or prejudice and subject to the Constitution, this Act or any other written law;

- (b) may not use the position or privileges of a Commissioner or a member of staff for private gain or to benefit another person improperly; and
- (c) may not act in any manner that compromises the credibility, impartiality, independence or integrity of the Commission.

(2) Every public authority, organisation or institution shall afford the Commission such assistance as may be reasonably required for the protection of the independence, impartiality and dignity of the Commission in pursuit of its objects.

(3) A public authority, organisation or institution shall not interfere with, hinder or obstruct the Commission, any Commissioner, a member of staff or a person appointed under section 13(1) or authorised under section 18(1) in the exercise or performance of its or his or her powers and functions.

(4) A Commissioner or member of staff shall not conduct an investigation or render assistance with regard thereto in respect of a matter in which he or she has any pecuniary or any other interest which might preclude him or her from exercising or performing his or her powers and functions in a fair, unbiased and proper manner.

(5) If any Commissioner or member of staff fails to disclose an interest contemplated in subsection (4) and conducts or renders assistance with regard to an investigation, while having an interest so contemplated in the matter being investigated, the Commission may take such steps as it deems necessary to ensure a fair, unbiased and proper investigation.

(6) In the interest of transparency and accountability, a Commissioner shall, in the manner determined by the Commission, annually disclose his or her financial interests and any other interests determined by the Commission, which information shall be accessible to the public.

(7) A Commissioner or a member of staff who contravenes or fails to comply with subsections (1)(b) or (4) is guilty of misconduct.

Remuneration  
and allowances  
of  
Commissioners

**10.(1)** The salary and allowances of the Chairperson, Deputy Chairperson and the Commissioners shall be such as may be prescribed.

(2) The remuneration of the Commissioners shall not be reduced, nor the allowances and other conditions of office and service benefits be adversely altered, during their continuation in office.

Meetings of  
Commission

**11.(1)** The meetings of the Commission shall be held at the time and place determined by the Commission.

(2) If the Chairperson is absent from a meeting of the Commission, the Deputy Chairperson acts as Chairperson, and if both the Chairperson and Deputy Chairperson are absent from a meeting of the Commission, the Commissioners present shall elect one among themselves to preside at that meeting.

(3) The quorum for any meeting of the Commission is a majority of the total number of Commissioners.

(4) The decision of the Commission shall be based on the majority of the Commissioners present at a meeting and in the event of an equality of votes concerning any matter, the Commissioner presiding shall have a casting vote.

(5) The Commission shall —  
(a) determine its own procedure but due regard shall be given to the principles of

transparency, openness and public participation; and

(b) cause the minutes of its proceedings to be kept.

(6) The Commission may, from time to time, by notice in the Gazette, make known the particulars of the procedure which it has determined in terms of subsection (5)(a).

12.(1) The Commission may form one or more committees consisting of one or more Commissioners designated by the Commission and one or more other persons, if any, whom the Commission may appoint for that purpose and for the period determined by it for the purposes of advising the Commission, or making recommendations to it, in respect of the matter for which the committee has been formed.

Committees  
of  
Commission

(2) The Commission may extend the period of an appointment made by it under subsection (1) or withdraw such appointment during the period referred to in that subsection.

(3) The Commission shall designate a Chairperson, who shall be a Commissioner, for every committee and, if it deems it necessary, a Deputy Chairperson, who shall also be a Commissioner.

(4) Subject to the directions of the Commission, a committee—

(a) may exercise such powers of the Commission as the Commission may confer on it; and

(b) shall perform such functions of the Commission as the Commission may assign to it,

and shall follow such procedure during such exercise of powers and performance of functions as the Commission may direct.



(5) On completion of the functions assigned to it in terms of subsection (4), a committee shall submit a written report thereon, including recommendations, if any, for consideration by the Commission.

(6) The Commission may, at any time, dissolve any committee.

Conferment of powers and assignment of functions

13.(1) The Commission may, in writing, confer the exercise of any of its powers or assign the performance of any of its functions to—

- (a) a Commissioner;
- (b) a member of staff; or
- (c) a committee of the Commission.

(2) A conferment or assignment under subsection (1)—

- (a) is subject to such conditions and directions as the Commission may impose; and
- (b) does not divest the Commission of responsibility for the exercise of the power or the performance of the function.

(3) The Commission may confirm, vary or revoke any decision taken in consequence of a conferment or assignment under this section, but no variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

Powers and functions of Commission

14.(1) In addition to any other powers and functions conferred on or assigned to it by this Act or any other written law and in order to achieve its objects—

- (a) the Commission is competent and is obliged to—

- (i) make recommendations to the ministries at all levels of government where it considers such action advisable for the adoption of progressive measures for the promotion of human rights within the framework of the Constitution and this Act, as well as appropriate measures for the further observance of such rights;
  - (ii) undertake such studies for reporting on or relating to human rights as it considers advisable in the performance of its functions or to further the objects of the Commission; and
  - (iii) request any head of the organisation or institution or the principal secretary of any ministry or department to supply it with information on any legislative or executive measures adopted by it relating to human rights; and
- (b) the Commission —
- (i) shall develop, conduct or manage information programmes and education programmes to foster public understanding and awareness of Chapter III of the Constitution, this Act and the role and activities of the Commission;
  - (ii) shall as far as is practicable maintain close liaison with institutions, bodies or authorities with similar objectives to the Commission in order to foster common policies and practices and to promote co-operation in relation to the

- handling of complaints in cases of overlapping jurisdiction or other appropriate instances;
- (iii) shall liaise and interact with any organisation which actively promotes respect for human rights and other sectors of civil society to further the objects of the Commission;
- (iv) shall consider such recommendations, suggestions and requests concerning the promotion of respect for human rights as it may receive from any source;
- (v) shall review government policies relating to human rights and may make recommendations;
- (vi) shall monitor the implementation of, and compliance with, international and regional conventions and treaties, international and regional covenants and international and regional charters relating to the objects of the Commission;
- (vii) shall prepare and submit reports to the National Assembly pertaining to any such convention, treaty, covenant or charter relating to the objects of the Commission; and
- (viii) shall carry out or cause to be carried out such studies concerning human rights as may be referred to it by the President, and the Commission shall include in a report referred to in section 20(1) a report

setting out the results of each study together with such recommendations in relation thereto as it considers appropriate.

(2) The Commission may recommend to the President for adoption of new legislation which will promote respect for human rights and a culture of human rights.

(3) If the Commission is of the opinion that any proposed legislation or any written law is contrary to Chapter III of the Constitution or to norms of international human rights law which forms part of the laws of the Republic or to other relevant norms of international law, it shall immediately report that fact to the President.

(4) The Commission is competent —

(a) to investigate on its own initiative or on receipt of a complaint, any alleged violation of human rights, and if, after due investigation, the Commission is of the opinion that there is substance in any complaint made to it, it shall, in so far as it is able to do so, assist the complainant and other persons adversely affected thereby, to secure redress, and where it is necessary for that purpose to do so, it may arrange for or provide financial assistance to enable proceedings to be initiated in a competent court for necessary relief or may direct a complainant to an appropriate forum; and

(b) to initiate proceedings in a competent court or tribunal in its own name, or on behalf of a person or a group or class of persons, including proceedings relating to the constitutionality of a law or the provisions of a law.

(5) The Commission shall not investigate or may discontinue the investigation of a complaint where it appears to the Commission that the making of the complaint has, without reasonable cause, been delayed for more than five years; and

(6) Every head of the organisation or institution or principal secretary of any ministry or department shall afford the Commission such assistance as may be reasonably required for the effective exercising of its powers and performance of its functions.

**15.** The Commission may, by mediation, conciliation or negotiation endeavour —

(a) to resolve any dispute; or

(b) to rectify any act or omission,

emanating from or constituting a violation of or threat to any human right.

**16.(1)** The Commission may, in order to enable it to exercise its powers and perform its functions —

(a) conduct or cause to be conducted any investigation that is necessary for that purpose;

(b) through a Commissioner, or any member of staff duly authorised by a Commissioner, require from any person such particulars and information as may be reasonably necessary in connection with any investigation;

(c) require any person by notice in writing under the hand of a Commissioner, addressed and delivered by a member of staff or a police officer in relation to an investigation, to appear before it at a time and place specified in such notice and to produce to it all articles

Mediation,  
conciliation or  
negotiation by  
Commission

Investigations  
by  
Commission

or documents in the possession or custody or under the control of any such person and which may be necessary in connection with that investigation:

Provided that such notice shall contain the reasons why such person's presence is needed and why any such article or document should be produced; and

- (d) through a Commissioner, administer an oath to or take an affirmation from any person referred to in paragraph (c), or any person present at the place referred to in that paragraph, irrespective of whether or not such person has been required under the said paragraph to appear before it, and question him or her under oath or affirmation in connection with any matter which may be necessary in connection with that investigation.

(2) Any person questioned under subsection (1) shall, subject to the provisions of subsections (3), (4) and (5) —

- (i) be competent and compelled to answer all questions put to him or her regarding any fact or matter connected with the investigation of the Commission notwithstanding that the answer may incriminate him or her; and

- (ii) be compelled to produce to the Commission any article or document in his or her possession or custody or under his or her control which may be necessary in connection with that investigation.

(3) A person referred to in subsection (2) is only competent and compelled to answer a question or compelled to

produce any article or document contemplated in that subsection if —

- (a) the Commission is satisfied that to require such information from such person is reasonable, necessary and justifiable in an open and democratic society based on freedom and equality; and
- (b) in the Commission's judgement, such person has refused or is likely to refuse to answer a question or to produce any article or document on the basis of his or her privilege against self-incrimination.

(4) Any incriminating answer or information obtained or incriminating evidence directly or indirectly derived from a questioning under terms of subsection (1) is not admissible as evidence against the person concerned in criminal proceedings in a court of law or before anybody or institution established by or under any written law, except in criminal proceedings where the person is charged with the offence of perjury or with an offence under section 24(b) of this Act.

(5) Subject to the provisions of subsection (2)(i), the law regarding privilege as applicable to a witness summoned to give evidence in a criminal case in a court of law applies in relation to the questioning of a person under subsection (1).

(6) Any person appearing before the Commission by virtue of the provisions of subsection (1)(c) and (d) may be assisted at such examination by a legal representative and is entitled to peruse such of the documents referred to in subsection (1)(c) or any other relevant documents.

(7) If it appears to the Commission during the course of an investigation that any person is being implicated in the matter being investigated, the Commission shall afford such person an opportunity to be heard in connection therewith by

way of the giving of evidence or the making of submissions and such person or his or her legal representative is entitled, through the Commission, to question other witnesses, determined by the Commission, who have appeared before the Commission under this section.

(8) Subject to the provisions of this Act, the procedure to be followed in conducting an investigation shall be determined by the Commission with due regard to the circumstances of each case.

(9) The Commission shall make known publicly the particulars of the procedure which it has determined under subsection (8).

(10) If it is in the interests of justice or if harm to any person might otherwise ensue, the Commission or a Commissioner may direct that any person or category of persons or all persons the presence of whom is not desirable may not be present at the proceedings during the investigation or any part thereof.

(11) Notwithstanding anything to the contrary contained in any written law, no person may disclose to any other person the contents of any document in the possession of a Commissioner or a member of staff or the record of evidence given before the Commission during an investigation, unless the Commission determines otherwise.

(12) If the Chairperson, Deputy Chairperson or a Commissioner has any interest in any matter that the Commission is investigating, the Chairperson, Deputy Chairperson or the Commissioner, as the case may be, shall declare such interest as soon as practicable and shall, unless the Commission otherwise directs, recuse himself or herself from the investigation.

17.(1) Any Commissioner, or any member of staff or a police officer authorised thereto by the Commission, may, subject to the provisions of this section, for the purposes of

Entering and search of premises and attachment and removal of articles



exercising the powers and performing the functions mentioned in section 14 or conducting an investigation, search any person or enter and search any premises on or in<sup>7</sup> which anything connected with an investigation is or is suspected to be present.

(2) The entry and search of any person or premises under this section shall be conducted with strict regard to decency and order, including the protection of a person's right to—

- (a) respect for and protection of his or her dignity;
- (b) freedom and security; and
- (c) his or her personal privacy.

(3) A Commissioner or member of staff or police officer contemplated in subsection (1) may, subject to the provisions of this section—

- (a) inspect and search the person or premises referred to in that subsection, and make such enquiries as he or she may deem necessary;
- (b) examine any article or document found on the person or on or in the premises;
- (c) request information regarding such article or document from the owner or person in control of the premises or from any person in whose possession or control that article or document is, or who may reasonably be expected to have the necessary information;
- (d) make copies of or take extracts from any book or document found on the person or on or in the premises;
- (e) request from any person whom he or she suspects of having the necessary information,

an explanation regarding that article or document;

- (f) attach anything on the person or on or in the premises which in his or her opinion has a bearing on the investigation concerned; and
- (g) if he or she wishes to retain anything contemplated in paragraph (f) for further examination or for safe custody, against the issue of a receipt, remove it from the person or premises:

Provided that any article that has been so removed, shall be returned as soon as possible after the purpose for such removal has been accomplished:

Provided further that if there is no person present to receive the receipt when it is issued, it shall be affixed at a prominent visible place on the premises.

(4) Any person from whom information is required under subsection (3)(a), (c) and (e) may be assisted at such enquiry by a legal representative, and shall at the commencement of such enquiry be so informed.

(5) The person referred to in subsection (1) may be searched or the premises referred to in that subsection may be entered and searched, only by virtue of a search warrant or an entry and search warrant issued by a magistrate, or judge of a Supreme Court, if it appears to such magistrate or judge from information on oath that there are reasonable grounds for believing that any article or document, which has a bearing on the investigation concerned, is in the possession or under the control of any person or on or in any premises and cannot reasonably be obtained in any other manner.

(6) The functions referred to in subsection (3) may only be performed by virtue of a warrant issued by a magistrate, or

judge of a Supreme Court, if it appears to such magistrate or judge from information on oath that there are reasonable grounds for believing that an article or document referred to in subsection (5) is in the possession or under the control of any person or on or in any premises.

(7) A warrant shall authorise any Commissioner or any member of staff or a police officer to perform the functions referred to in subsection (3) and shall to that end authorise such person to search any person or to enter and search any premises identified in the warrant.

(8) A warrant shall be executed by day, unless the person issuing the warrant in writing authorises the execution thereof by night at times which are reasonable in the circumstances.

(9) A warrant may be issued on any day and is of force until—

- (a) it is executed; or
- (b) it is cancelled by the person who issued it or, if such person is not available, by any person with like authority; or
- (c) the expiry of one month from the day of its issue; or
- (d) the purpose for the issuing of the warrant has lapsed,

whichever may occur first.

(10) A person executing a warrant under this section shall, at the commencement of such execution, hand the person referred to in the warrant or the owner or the person in control of the premises, if such a person is present, a copy of the warrant:

Provided that if such person is not present, he or she

shall affix a copy of the warrant on the premises at a prominent and visible place.

(11) A person executing a warrant under this section or an entry or search under subsection (12) shall, at the commencement of such execution, identify himself or herself and if that person requires authorisation to execute a warrant under this section, the particulars of such authorisation shall also be furnished.

(12) Subject to the provisions of subsections (3), (4), (11), (13) and (14), any Commissioner, or any member of staff or a police officer upon request by a Commissioner, may, without a warrant, enter and search any premises, other than a private dwelling, for the purposes of attaching and removing, if necessary, any article or document —

(a) if the person or persons who may consent to the entering and search for an attachment and removal of an article or document consents or consent to such entering, search, attachment and removal of the article or document concerned; or

(b) if he or she, on reasonable grounds, believes —

- (i) that a warrant will be issued to him or her if he or she applies for such warrant; and
- (ii) that the delay in obtaining such a warrant would defeat the object of the entry and search.

(13) An entry and search in terms of subsection (12) shall be executed by day unless the execution thereof by night is justifiable and necessary.

(14) A person who may lawfully under this section enter and search any premises may use such force as may be

reasonably necessary to overcome any resistance against such entry and search of the premises, including the breaking of any door or window of such premises:

Provided that such person shall first audibly demand admission to the premises and notify the purpose for which he or she seeks to enter and search such premises.

(15) If during the execution of a warrant under subsections (5) to (11) or a search in terms of subsection (12), a person claims that an article or document found on the person or on or in the premises concerned contains privileged information and refuses the inspection or removal of such article or document, the person executing the warrant or search shall, if he or she is of the opinion that the article or document contains information that has a bearing on the investigation and that such information is necessary for the investigation, request the registrar of the Supreme Court which has jurisdiction or his or her delegate, to attach and remove that article or document for safe custody until a court of law has made a ruling on the question whether the information concerned is privileged or not.

Compensation  
for expenses

18. Any person appearing before the Commission in pursuance to section 17(1)(c) who is not in the public service, is entitled to receive from monies appropriated by law for such purpose, as witness fees, an amount equal to the amount which he or she would have received as witness fees had he or she been summoned to attend criminal proceedings in the Supreme Court held at the place mentioned in the written notice in question.

Reports by  
Commission

19.(1) The Commission shall submit a report to the President and National Assembly every six months on its activities, the performance of its functions and the achievement of its objectives.

(2) In addition to the report contemplated in subsection (1), the Commission shall, as soon as possible, submit to the

President reports on the findings in respect of functions and investigations of a serious nature which were performed or conducted by it.

(3) The Commission may, subject to the provisions of subsection (5), in the manner it deems fit, in writing, make known to the public authority, organisation or institution any finding, point of view or recommendation in respect of a matter investigated by it.

(4) If the Commission makes any finding or recommendation in respect of a matter investigated by it known to the public authority, organisation or institution concerned shall within 60 days after becoming aware of such finding or recommendation respond in writing to the Commission, indicating whether the public authority, organisation or institution, intends to take any steps to give effect to such finding or recommendation, if any such steps are required.

(5) The findings of an investigation by the Commission may be made available to the complainant and any person implicated thereby, if the Commission consider it necessary so to do, as early as practicable.

### **PART III - FINANCE, ACCOUNTS AND REPORTS**

**20. The funds of the Commission shall consist of —**

Funds of the  
Commission

- (a) such monies as may be appropriated by the National Assembly pursuant to an Appropriation Act for the purposes of the Commission;
- (b) any monies received by the Commission by way of donations, gifts or grants from any legal sources whether domestic or foreign; and
- (c) any proceeds from sale, lease or transfer of

movable or immovable property of the Commission.

Accounts  
and audit

21.(1) The financial year of the Commission shall be the calendar year.

(2) The Commission shall maintain proper accounts and other relevant records and prepare a statement of accounts in the form and manner approved by the Auditor-General.

(3) The accounts of the Commission shall be audited by the Auditor-General in accordance with Article 158 of the Constitution.

(4) Where the accounts and the statement of accounts of the Commission in respect of a financial year have been audited, the Commission shall furnish, not later than 3 months after the end of the financial year, to the Minister and the Minister responsible for finance, a copy of the statement together with a copy of any report by the Auditor-General on the statement of accounts or on the accounts of the Commission.

Annual  
report

22. The Commission shall, as soon as possible after the expiration of each financial year and in any event not later than the 31<sup>st</sup> day of March in any year, submit to the Minister, and the Minister responsible for finance, an annual report dealing generally with the administration and its activities during the preceding financial year and the Minister shall cause the report to be laid before the National Assembly.

#### PART IV - OFFENCES AND PENALTIES

Offences  
and  
penalties

23. A person who—

- (a) without just cause refuses or fails to comply with a notice under section 17(1)(c) or refuses to take the oath or to make an affirmation at

the request of the Commission in terms of section 17(1)(d) or refuses to answer any question put to him or her under section 17(1)(d) or refuses or fails to furnish particulars or information required from him or her under that section;

(b) after having been sworn or having made an affirmation contemplated in section 17(1)(d) gives false evidence before the Commission on any matter, knowing such evidence to be false or not knowing or believing it to be true;

(c) wilfully interrupts the proceedings at an investigation or misbehaves himself or herself in any manner in the place where such investigation is being held;

(d) in connection with any investigation does anything which, if such investigation were proceedings in a court of law, would have constituted contempt of court;

(e) anticipates any findings of the Commission regarding an investigation in a manner calculated to influence its proceedings or such findings;

(f) does anything calculated improperly to influence the Commission in respect of any matter being or to be considered by the Commission in connection with an investigation;

(g) contravenes any provision of section 9(3) or 17(11);

(h) fails to afford the Commission the necessary assistance referred to in section 9(2) or 15(5);  
or



- (i) acts contrary to the authority of a warrant or, without being authorised thereto under section 18, enters or searches any premises or attaches any article or document or performs any act contemplated in section 18(3),

is guilty of an offence and liable on conviction to a fine not exceeding SCR10,000 or to imprisonment for a period not exceeding six months.

#### **PART IV - ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS**

Staff of  
Commission

24.(1) The Commission shall employ such employees as may be reasonably necessary to assist the Commission in the performance of its functions.

(2) The employees shall be employed on such terms and conditions and receive such remuneration, allowances and other benefits as the Commission may, subject to the approval of the Minister, determine.

(3) The Commission may in the exercise of its powers or the performance of its functions by or under this Act or any other written law, for specific projects, enter into contracts for the services of persons having technical or specialised knowledge of any matter relating to the work of the Commission, and determine the remuneration, including reimbursement for travelling, subsistence and other expenses, of such persons.

(4) A member of staff shall exercise the powers and perform the functions—

- (a) conferred upon him or her by or under this Act or any other written law; and
- (b) conferred upon or assigned to him or her by the Commission,

subject to the general or special directions and instructions that the Commission may, from time to time, issue to him or her.

**25.** A member of the staff of the Commission or any other person acting under the direction of the Commission shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

Application of provisions of the Penal Code

**26.** A suit or other legal proceedings shall not lie against the Commissioners or other employees of the Commission for any action taken or intended to have been taken in pursuance of the provisions of this Act.

Protection of action taken in good faith

**27.(1)** The Minister may, make regulations for carrying into effect the provisions of this Act.

Regulations

**(2)** Without prejudice to the generality of subsection (1), the regulations may provide for —

**(a)** the salary and allowances of the Commissioners including the Chairperson and the Deputy Chairperson; and

**(b)** any other matter required to be prescribed under this Act.

**(3)** The Commission may, make rules for the following matters in relation to the members of staff —

**(a)** the requirements for discharge and disciplinary steps;

**(b)** the powers, duties, conduct and discipline;

**(c)** the training of members of staff, including financial assistance for such training;

**(d)** the code of conduct to be complied with by members of staff;

- (e) subject to section 27, the legal liability of any member of staff in respect of any act done in terms of this Act;
- (f) the procedure for dealing with complaints and grievances of members of staff and the manner in which and time when or period wherein and the person to whom documents in connection with requests and communications of such members of staff must be submitted; or
- (g) any other matter which is necessary or required to be prescribed by rules under this Act.

Repeal and  
savings

**28.(1)** The Protection of Human Rights Commission Act, (Cap 301), is hereby repealed.

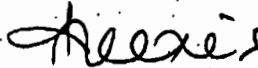
- (2) Notwithstanding the repeal under subsection (1)—
  - (a) any person who, immediately before the commencement of this Act, has been appointed to a post under the repealed Act shall be deemed to have been so appointed under the corresponding provisions of this Act;
  - (b) anything done, including any regulation made or instruction issued or other administrative measures taken or any contracts entered into or any obligations incurred under the repealed Act which could be done under this Act and which were in force immediately before the commencement of this Act, shall be deemed to have been so done, issued, taken, entered into or incurred, as the case may be, under this Act until amended, withdrawn or repealed under this Act.

(3) Any reference in any written law to the Protection of Human Rights Act (Cap 301) shall, unless the context otherwise indicates or if clearly inappropriate, be construed as a reference to this Act, or to the corresponding provision thereof, as the case may be.

29. The National Human Rights Commission established under the repealed Act shall continue to be in force and function till the Commission under section 3 of this Act is established.

Transitional provisions

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 5th June, 2018.



Ms. Jutta Alexis  
Clerk to the National Assembly

## APPENDIX III

### Seychelles Charter of Fundamental Rights and Freedoms CONSTITUTION OF THE REPUBLIC OF SEYCHELLES [21st June, 1993]

#### **Right to life**

15. (1) Everyone has a right to life and no one shall be deprived of life intentionally.
- (2) A law shall not provide for a sentence of death to be imposed by any court.
- (3) Clause (1) is not infringed if there is a loss of life-
- (a) by any act or omission which is made not punishable by any law reasonably justifiable in a democratic society; or
- (b) as a result of a lawful act of war.

#### **Right to dignity**

16. Every person has a right to be treated with dignity worthy of a human being and not to be subjected to torture, cruel, inhuman or degrading treatment or punishment.

#### **Freedom from slavery and forced or compulsory labour**

17. (1) Every person has a right not to be held in slavery or bondage.
- (2) Every person has a right not to be compelled to perform forced or compulsory labour.
- (3) Labour forced or compelled to be performed pursuant to a law necessary in a democratic society does not infringe clause (2).

#### **Right to liberty**

18. (1) Every person has a right to liberty and security of the person.
- (2) The restriction, in accordance with fair procedures established by law, of the right under clause (1) in the following cases shall not be treated as an infringement of clause (1)-
- (a) the arrest or detention in execution of a sentence or other lawful order of a court;
- (b) the arrest or detention on reasonable suspicion of having committed or of being about to commit an offence for the purposes of investigation or preventing the commission of the offence and of producing, if necessary, the offender before a competent court;
- (c) the arrest or detention to prevent the spread of infectious or contagious diseases which constitute a serious threat to public health;
- (d) the arrest or detention for the treatment and rehabilitation of a person who is, or reasonably suspected to be, of unsound mind or addicted to drugs to prevent harm to that person or to the community;
- (e) the arrest or detention for the purpose of preventing the unauthorised entry into Seychelles of a person, not being a citizen of Seychelles, or for the purpose of deportation or extradition of that person;
- (f) the detention for the rehabilitation and welfare of a minor with the consent of the parent or guardian or of the Attorney General where such detention is ordered by a competent court.
- (3) A person who is arrested or detained has a right to be informed at the time of the arrest or detention or as soon as is reasonably practicable thereafter in, as far as is practicable, a language that the person understands of the reason for the arrest or detention, a right to remain silent, a right to be defended by a legal practitioner of the person's choice and, in the case of a minor, a right to communicate with the parent or guardian.
- (4) A person who is arrested or detained shall be informed at the time of the arrest or detention or as soon as is reasonably practicable thereafter of the rights under clause (3).
- (5) A person who is arrested or detained, if not released, shall be produced before a court within twenty-four hours of the arrest or detention or, having regard to the distance from the place of arrest or detention to the nearest court or the non-availability of a judge or magistrate, or force majeure, as soon as is reasonably practicable after the arrest or detention.
- (6) A person charged with an offence has a right to be tried within a reasonable time.
- (7) A person who is produced before a court shall be released, either unconditionally or upon reasonable conditions, for appearance at a later date for trial or for proceedings preliminary to a trial except where the court, having regard to the following circumstances, determines otherwise-
- (a) where the court is a magistrates' court, the offence is one of treason or murder;
- (b) the seriousness of the offence;

- (c) there are substantial grounds for believing that the suspect will fail to appear for the trial or will interfere with the witnesses or will otherwise obstruct the course of justice or will commit an offence while on release;
- (d) there is a necessity to keep the suspect in custody for the suspect's protection or where the suspect is a minor, for the minor's own welfare;
- (e) the suspect is serving a custodial sentence;
- (f) the suspect has been arrested pursuant to a previous breach of the conditions of release for the same offence.
- (8) A person who is detained has the right to take proceedings before the Supreme Court in order that the Court may decide on the lawfulness of the detention and order the release of the person if the detention is not lawful.
- (9) Proceedings under clause (8) shall be dealt with as a matter of urgency by the Supreme Court and shall take priority over the proceedings of the Court listed for hearing on that day.
- (10) A person who has been unlawfully arrested or detained has a right to receive compensation from the person who unlawfully arrested or detained that person or from any other person or authority, including the State, on whose behalf or in the course of whose employment the unlawful arrest or detention was made or from both of them.
- (11) A person who has not been convicted of an offence, if kept or confined in a prison or place of detention, shall not be treated as a convicted person and shall be kept away from any convicted person.
- (12) An offender or a suspect who is a minor and who is kept in lawful custody or detention shall be kept separately from any adult offender or suspect.
- (13) A female offender or suspect who is kept in lawful custody or detention shall be kept separately from any male offender or suspect.
- (14) Where a person is convicted of any offence, any period which the person has spent in custody in respect of the offence shall be taken into account by the court in imposing any sentence of imprisonment for the offence.
- (15) A person shall not be imprisoned merely on the ground of the inability to fulfil a contractual obligation.
- (16) Clause (15) shall not limit the powers of a court under any law in enforcing its orders.

#### **Right to a fair and public hearing**

19. (1) 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.
- (2) Every person who is charged with an offence-
- (a) is innocent until the person is proved or has pleaded guilty;
  - (b) shall be informed at the time the person is charged or as soon as is reasonably practicable, in, as far as is practicable, a language that the person understands and in detail, of the nature of the offence;
  - (c) shall be given adequate time and facilities to prepare a defence to the charge;
  - (d) has a right to be defended before the court in person, or, at the person's own expense by a legal practitioner of the person's own choice, or, where a law so provides, by a legal practitioner provided at public expense;
  - (e) has a right to examine, in person or by a legal practitioner, the witnesses called by the prosecution before any court, and to obtain the attendance and carry out the examination of witnesses to testify on the person's behalf before the court on the same conditions as those applying to witnesses called by the prosecution;
  - (f) shall, as far as is practicable, have without payment the assistance of an interpreter if the person cannot understand the language used at the trial of the charge;
  - (g) shall not be compelled to testify at the trial or confess guilt;
  - (h) shall not have any adverse inference drawn from the exercise of the right to silence either during the course of the investigation or at the trial; and
  - (i) shall, except with the person's own consent, not be tried in the person's absence unless the person's conduct renders the continuance of the proceedings in the person's presence impracticable and the court has ordered the person to be removed and the trial to proceed in the person's absence.
- (3) When a person is tried for any offence that person or any other person authorised by that person in that behalf shall, if either of them so requires and subject to payment of such reasonable fee as may be specified by or under any law, be given as soon as is practicable after judgment a copy for the use of that person of any record of the proceedings made by or on behalf of the court.
- (4) Except for the offence of genocide or an offence against humanity, a person shall not be held to be guilty of an offence on account of any act or omission that did not, at the time it took place, constitute an offence, and a penalty shall not be imposed for any offence that is more severe in degree or description than the maximum penalty that might have been imposed for the offence at the time when it was committed.

(5) A person who shows that the person has been tried by a competent court for an offence and either convicted or acquitted shall not be tried again for that offence or for any other offence of which the person could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) A person shall not be tried for an offence if the person shows that the person has been pardoned for that offence in accordance with an Act made pursuant to article 60(2).

(7) Any court or other authority required or empowered by law to determine the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial, and where proceedings for such a determination are instituted by any person before such a court or other authority the case shall be given a fair hearing within a reasonable time.

(8) Subject to clause (9), all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any court or other authority, including the announcement of the decision of the court or other authority, shall be held in public.

(9) Anything in clause (8) shall not prevent the court or other authority from excluding from the proceedings, except for the announcement of the decision of the court or other authority, persons other than the parties thereto, their legal representatives and legal practitioners to such extent as the court or other authority-

(a) may by law be empowered so to do and may consider necessary in the circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings, or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the privacy of persons concerned in the proceedings; or

(b) may by law be empowered or required to do so in the interests of defence, public safety or public order.

(10) Anything contained in or done under the authority of any law necessary in a democratic society shall not be held to be inconsistent with or in contravention of -

(a) clause (1), (2)(e) or (8), to the extent that the law in question makes necessary provision relating to the grounds of privilege or public policy on which evidence shall not be disclosed or witnesses are not competent or cannot be compelled to give evidence in any proceedings;

(b) clause (2)(a), to the extent that the law in question imposes upon any person charged with an offence the burden of proving particular facts or declares that the proof of certain facts shall be prima facie proof of the offence or of any element thereof;

(c) clause (2)(e), to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;

(d) clause (5), to the extent that the law in question authorises a court to try a member of a disciplinary force for an offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting the member shall in sentencing the person to any punishment take into account any punishment awarded the member under that disciplinary law.

(11) Every person convicted of an offence shall be entitled to appeal in accordance with law against the conviction, sentence and any order made on the conviction.

(12) For the purposes of clause 2(i), a person who has, in accordance with law, been served with a summons or other process requiring the person to appear at the time and place appointed for the trial and who does not so appear shall be deemed to have consented to the trial taking place in the person's absence.

(13) Every person convicted of an offence and who has suffered punishment as a result of the conviction shall, if it is subsequently shown that there has been a serious miscarriage of justice, be entitled to be compensated by the State according to law.

### **Right to privacy**

20. (1) Every person has a right not to be subjected -

(a) without the consent of that person, to the search of the person or property or premises of that person or to the unlawful entry by others on the premises of that person;

(b) without the consent of the person or an order of the Supreme Court, to the interception of the correspondence or other means of communication of that person either written, oral or through any medium.

(2) Anything contained in or done under the authority of any law shall not be held to be inconsistent with or in contravention of clause (1)(a) to the extent that the law in question makes provision-

(a) that is reasonably required in the interest of defence, public safety, public order, public morality, public health, the administration of Government, town and country planning, nature conservation and the economic development and well-being of the country;

(b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

(c) that authorises an officer or agent of the Government or a local authority, or a body corporate established by law for public purposes, to enter on the premises of any person in order to inspect or value those premises or anything therein for the purpose of any tax, rate, due or duty or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government or that authority or body corporate, as the case may be; or

(d) that authorises, for the purpose of enforcing of the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order. except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be necessary in a democratic society.

#### **Freedom of conscience**

21. (1) Every person has a right to freedom of conscience and for the purpose of this article this right includes freedom of thought and religion, freedom to change religion or belief and freedom either alone or in community with others and both in public and in private, to manifest and propagate the religion or belief in worship, teaching, practice and observance.

(2) The freedom to manifest and propagate a religion or belief may be subject to such limitations as may be prescribed by a law and necessary in a democratic society-

(a) in the interests of defence, public safety, public order, public morality or public health; or

(b) for the purpose of protecting the rights or freedoms of other persons.

(3) A person attending any place of education shall not be compelled to impart or receive religious instruction or to take part in or attend any religious ceremony or observance.

(4) Subject to this Constitution or any other law, a person shall not be compelled to take any oath that is contrary to the religion or belief of that person or to take any oath in a manner that is contrary to that religion or belief.

(5) A person shall not be required to profess any religion as a qualification for public office.

(6) A law shall not make provision for the establishment of any religion or the imposition of any religious observance.

(7) Anything in this article shall not preclude any religious community or denomination from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination.

#### **Freedom of expression**

22. (1) Every person has a right to freedom of expression and for the purpose of this article this right includes the freedom to hold opinions and to seek, receive and impart ideas and information without interference.

(2) The right under clause (1) may be subject to such restrictions as may be prescribed by a law and necessary in a democratic society-

(a) in the interest of defence, public safety, public order, public morality or public health;

(b) for protecting the reputation, rights and freedoms or private lives of persons;

(c) for preventing the disclosure of information received in confidence;

(d) for maintaining the authority and independence of the courts or the National Assembly;

(e) for regulating the technical administration, technical operation, or general efficiency of telephones, telegraphy, posts, wireless broadcasting, television, or other means of communication or regulating public exhibitions or public entertainment; or

(f) for the imposition of restrictions upon public officers.

#### **Right of assembly and association**

23. (1) Every person has a right to freedom of peaceful assembly and association and for the purpose of this article this right includes the right to assemble freely and associate with other persons and in particular to form or to belong to political parties, trade unions or other associations for the protection of the interests of that person and not to be compelled to belong to any association.

(2) The right under clause (1) may be subject to such restrictions as may be prescribed by a law and necessary in a democratic society-

(a) in the interests of defence, public safety, public order, public morality or public health;

(b) in respect of the registration of associations or political parties;

(c) for the protection of the rights and freedoms of other persons,

(d) for imposition of restrictions-

(i) on persons who are not citizens of Seychelles; or

(ii) on public officers or members of the disciplinary forces.

#### **Right to participate in Government**

24. (1) Subject to this Constitution, every citizen of Seychelles who has attained the age of eighteen years has a right-

(a) to take part in the conduct of public affairs either directly or through freely chosen representatives;



- (b) to be registered as a voter for the purpose of and to vote by secret ballot at public elections which shall be by universal and equal suffrage;
  - (c) to be elected to public office; and
  - (d) to participate, on general terms of equality, in public service.
- (2) The exercise of the rights under clause (1) may be regulated by a law necessary in a democratic society.

### **Freedom of movement**

25. (1) Every person lawfully present in Seychelles has a right of freedom of movement and for the purpose of this article this right includes the right to move freely within Seychelles, the right to reside in any part of Seychelles, the right to leave Seychelles and the right not to be expelled from Seychelles.
- (2) Every person who is a citizen of Seychelles has a right to enter Seychelles and, subject to clause (3)(d), not to be expelled from Seychelles.
- (3) The right under clause (1) may be subject to such restrictions as are prescribed by a law necessary in a democratic society -
- (a) in the interests of defence, public safety, public order, public morality or public health;
  - (b) for protecting the rights and freedoms of other persons;
  - (c) for the prevention of a crime or compliance with an order of a court;
  - (d) for extradition of persons from Seychelles; or
  - (e) for lawful removal of persons who are not citizens of Seychelles from Seychelles.
- (4) A law providing for the extradition of persons from Seychelles shall not authorise the extradition to a country in respect of an offence punishable with death in that country unless that country undertakes not to carry into effect a sentence of death in respect of the offence.
- (5) A law providing for the lawful removal from Seychelles of persons lawfully present in Seychelles shall provide for the submission, prior to removal, of the reasons for the removal and for review by a competent authority of the order of removal.

### **Right to property**

26. (1) Every person has a right to property and for the purpose of this article this right includes the right to acquire, own, peacefully enjoy and dispose of property either individually or in association with others.
- (2) The exercise of the right under clause (1) may be subject to such limitations as may be prescribed by law and necessary in a democratic society-
- (a) in the public interest;
  - (b) for the enforcement of an order or judgment of a court in civil or criminal proceedings;
  - (c) in satisfaction of any penalty, tax, rate, duty or due;
  - (d) in the case of property reasonably suspected of being acquired by the proceeds of drug trafficking or serious crime;
  - (e) in respect of animals found trespassing or straying;
  - (f) in consequence of a law with respect to limitation of actions or acquisitive prescription;
  - (g) with respect to property of citizens of a country at war with Seychelles;
  - (h) with regard to the administration of the property of persons adjudged bankrupt or of persons who have died or of persons under legal incapacity; or
  - (i) for vesting in the Republic of the ownership of underground water or unextracted oil or minerals of any kind or description.
- (3) A law shall not provide for the compulsory acquisition or taking of possession of any property by the State unless-
- (a) reasonable notice of the intention to compulsorily acquire or take possession of the property and of the purpose of the intended acquisition or taking of possession are given to persons having an interest or right over the property;
  - (b) the compulsory acquisition or taking of possession is necessary in the public interest for the development or utilisation of the property to promote public welfare or benefit or for public defence, safety, order, morality or health or for town and country planning;
  - (c) there is reasonable justification for causing any hardship that may result to any person who has an interest in or over the property;
  - (d) the State pays prompt and full compensation for the property;
  - (e) any person who has an interest or right over the property has a right of access to the Supreme Court whether direct or on appeal from any other authority for the determination of the interest or right, the legality of the acquisition or taking of possession of the property, the amount of compensation payable to the person and for the purpose of obtaining prompt payment of compensation.
- (4) Where the property acquired by the State under this article is not used, within a reasonable time, for the purpose for which it was acquired, the State shall give, to the person who owned it immediately before the acquisition of the property, an option to buy the property.

(5) A law imposing any restriction on the acquisition or disposal of property by a person who is not a citizen of Seychelles shall not be held to be inconsistent with clause (1).

#### **Right to equal protection of the law**

27. (1) 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.

(2) Clause (1) shall not preclude any law, programme or activity which has as its object the amelioration of the conditions of disadvantaged persons or groups.

#### **Right of access to official information**

28. (1) The State recognises the right of access of every person to information relating to that person and held by a public authority which is performing a governmental function and the right to have the information rectified or otherwise amended, if inaccurate.

(2) The right of access to information contained in clause (1) shall be subject to such limitations and procedures as may be prescribed by law and are necessary in a democratic society including-

(a) for the protection of national security;

(b) for the prevention and detection of crime and the enforcement of law;

(c) for the compliance with an order of a court or in accordance with a legal privilege;

(d) for the protection of the privacy or rights or freedoms of others;

(3) The State undertakes to take appropriate measures to ensure that information collected in respect of any person for a particular purpose is used only for that purpose except where a law necessary in a democratic society or an order of a court authorises otherwise.

(4) The State recognises the right of access by the public to information held by a public authority performing a governmental function subject to limitations contained in clause (2) and any law necessary in a democratic society.

#### **Right to health care**

29. (1) The State recognises the right of every citizen to protection of health and to the enjoyment of the attainable standard of physical and mental health and with a view to ensuring the effective exercise of this right the State undertakes -

(a) to take steps to provide for free primary health care in State institutions for all its citizens.

(b) to take appropriate measures to prevent, treat and control epidemic, endemic and other diseases;

(c) to take steps to reduce infant mortality and promote the healthy development of the child;

(d) to promote individual responsibility in health matters;

(e) to allow, subject to such supervision and conditions as are necessary in a democratic society, for the establishment of private medical services.

#### **Right of working mothers**

30. The State recognises the unique status and natural maternal functions of women in society and undertakes as a result to take appropriate measures to ensure that a working mother is afforded special protection with regard to paid leave and her conditions at work during such reasonable period as provided by law before and after childbirth.

#### **Right of minors**

31. The State recognises the right of children and young persons to special protection in view of their immaturity and vulnerability and to ensure effective exercise of this right the State undertakes -

(a) to provide that the minimum age of admission to employment shall be fifteen years, subject to exceptions for children who are employed part-time in light work prescribed by law without harm to their health, morals or education;

(b) to provide for a higher minimum age of admission to employment with respect to occupations prescribed by law which the State regards as dangerous, unhealthy or likely to impair the normal development of a child or young person;

(c) to ensure special protection against social and economic exploitation and physical and moral dangers to which children and young persons are exposed;

(d) to ensure, save in exceptional and judicially recognised circumstances, that a child of young age is not separated from his parents.

#### **Protection of families**

32. (1) The State recognises that the family is the natural and fundamental element of society and the right of everyone to form a family and undertakes to promote the legal, economic and social protection of the family.

(2) The right contained in clause (1) may be subject to such restrictions as may be prescribed by law and necessary in a democratic society including the prevention of marriage between persons of the same sex or persons within certain family degrees.

#### **Right to Education**

33. The State recognises the right of every citizen to education and with a view to ensuring the effective realisation of this right undertakes -

(a) to provide compulsory education, which shall be free in State schools, for such minimum period, which shall not be less than ten years, as may be prescribed by law;

(b) to ensure that the educational programs in all schools are aimed at the complete development of the person;

(c) to afford, on the basis of intellectual capability, every citizen equal access to educational opportunities and facilities beyond the period of compulsory education;

(d) to allow, subject to such reasonable restrictions, supervision and conditions as are necessary in a democratic society, any person, organisation or institution to establish and maintain a private school;

(e) to respect the right of parents to choose whether to send their children to a State or private school.

#### **Right to shelter**

34. The State recognises the right of every citizen to adequate and decent shelter conducive to health and well-being and undertakes either directly or through or with the co-operation of public or private organisations to facilitate the effective realisation of this right.

#### **Right to work**

35. The State recognises the right of every citizen to work and to just and favourable conditions of work and with a view to ensuring the effective exercise of these rights the State undertakes-

(a) to take necessary measures to achieve and maintain a high and stable level of employment, as is practicable, with a view to attaining full employment;

(b) subject to such restrictions as are necessary in a democratic society, to protect effectively the right of a citizen to earn a dignified living in a freely chosen occupation, profession or trade;

(c) to promote vocational guidance and training;

(d) to make and enforce statutory provisions for safe, healthy and fair conditions of work, including reasonable rest, leisure, paid holidays, remuneration which guarantees, as a minimum, dignified and decent living conditions for the workers and their families, fair and equal wages for work of equal value without distinction and stability of employment;

(e) to promote machinery for voluntary negotiations between employers and workers or their organisations with a view to the regulation of conditions of employment by means of collective agreements;

(f) to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitrations for the settlement of labour disputes;

(g) subject to such restrictions as are necessary in a democratic society, and necessary for safeguarding public order, for the protection of health or morals and the rights and freedoms of others, to ensure the right of workers to organise trade unions and to guarantee the right to strike.

#### **Right of the aged and the disabled**

36. The State recognises the right of the aged and the disabled to special protection and with a view to ensuring the effective exercise of this right undertakes -

(a) to make reasonable provision for improving the quality of life of and for the welfare and maintenance of the aged and disabled;

(b) to promote programs specifically aimed at achieving the greatest possible development of the disabled.

#### **Right to social security**

37. The State recognises the right of every citizen to a decent and dignified existence and with a view to ensuring that its citizens are not left unprovided for by reason of incapacity to work or involuntary unemployment undertakes to maintain a system of social security.

### **Right to safe environment**

38. The State recognises the right of every person to live in and enjoy a clean, healthy and ecologically balanced environment and with a view to ensuring the effective realisation of this right the State undertakes -

- (a) to take measures to promote the protection, preservation and improvement of the environment
- (b) to ensure a sustainable socio-economic development of Seychelles by a judicious use and management of the resources of Seychelles;
- (c) to promote public awareness of the need to protect, preserve and improve the environment.

### **Right to cultural life and values**

39. (1) The State recognises the right of every person to take part in cultural life and to profess, promote, enjoy and protect the cultural and customary values of the Seychellois people subject to such restrictions as may be provided by law and necessary in a democratic society including-

- (a) the protection of public order, public morals and public health;
- (b) the prevention of crime;
- (c) the protection of the rights and freedoms of other persons.

(2) The State undertakes to take reasonable steps to ensure the preservation of the cultural heritage and values of the Seychellois people.

## **PART II - FUNDAMENTAL DUTIES**

Fundamental duties

40. It shall be the duty of every citizen of Seychelles-

- (a) to uphold and defend this Constitution and the law;
- (b) to further the national interest and to foster national unity;
- (c) to work conscientiously in a chosen profession, occupation or trade;
- (d) to contribute towards the well-being of the community;
- (e) to protect, preserve and improve the environment; and
- (f) generally, to strive towards the fulfilment of the aspirations contained in the Preamble of this Constitution.

## **APPENDIX IV**

### **Principles relating to the Status of National Institutions (The Paris Principles)**

Adopted by General Assembly resolution 48/134 of 20 December 1993

#### **Competence and responsibilities**

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:
  - (a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:
    - (i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;
    - (ii) Any situation of violation of human rights which it decides to take up;
    - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;
    - (iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;
  - (b) To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;
  - (c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;
  - (d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;
  - (e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights;

- (f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;
- (g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

### **Composition and guarantees of independence and pluralism**

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:
  - (a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;
  - (b) Trends in philosophical or religious thought;
  - (c) Universities and qualified experts;
  - (d) Parliament;
  - (e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).
2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.
3. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

### **Methods of operation**

Within the framework of its operation, the national institution shall:

- (a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner,
- (b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;
- (c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;
- (d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly concerned;
- (e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;
- (f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions);
- (g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and

protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

#### **Additional principles concerning the status of commissions with quasi-jurisdictional competence**

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

- (a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;
- (b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;
- (c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;
- (d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.