



VOLUME IV

AMNESTY

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1. Introduction

Pursuant to Section 12 of the TRNUC Act, “a petitioner who has provided a full and frank disclosure of his or her culpable acts in relation to any violation and has offered sincere apologies to the victim or victims shall be granted an amnesty in relation to the acts or omissions that were part of the disclosure and apology”.¹ The petitioner shall disclose in the petition all facts relating to the incident for which the amnesty is being sought, including but not limited to the scene of the incident; a description of the incident, including the date; and any loss suffered by a person.² The petition shall also include a statement of sincere apologies to the victim(s), and the Commission shall, as far as reasonably practicable, require the petitioner to provide the apologies to the victim(s) in person.³ Once a petition for amnesty has been filed, notwithstanding any written law of Seychelles, “a criminal investigation or criminal or civil prosecution shall not be commenced or shall be discontinued, as the case may be, in respect of any matter for which the amnesty has been sought, until the final determination thereof by the Commission”.⁴ A perpetrator who has been granted amnesty is not criminally or civilly liable in respect of the acts or omissions that were part of the disclosure and apology.⁵

A rare feature among the world’s 40-50 truth commissions since the time of the archetypal South African Truth and Reconciliation Commission in 1995,⁶ the Seychelles TRNUC was given a truth-for-amnesty power by the National Assembly in the drafting of the TRNUC Act.⁷ Especially uncommon in the drafting of the TRNUC Act was that in contrast to the multiple truth commissions that have been empowered to *recommend* that their respective governments grant amnesties to particular individuals,⁸ the Commission in Seychelles was given the power to *grant* amnesty outright upon the fulfilment of certain conditions. Among the truth commissions that have been empowered to grant or recommend amnesty, most have rejected the application of amnesty for genocide, war crimes, crimes against humanity, and gross human rights violations.⁹ While the Seychelles TRNUC is not mandated to ascertain the presence of genocide, war crimes, or crimes against humanity, as these crimes are not applicable to the circumstances of the Coup d’état in Seychelles, the Commission does have the power to consider amnesty for unlawful killing, torture, enforced disappearance, and rape¹⁰—all of which are widely accepted to constitute gross violations of human rights. The Seychelles TRNUC has been only the second truth commission in the world to be able to grant amnesty to those actors it finds responsible

¹ TRNUC Act, sec. 12(4).

² *Id.*, sec. 12(2).

³ *Id.*, sec. 12(3). In determining whether the disclosure has been full and frank or the apology sincere, the Commission shall hear testimony from the complainant, victim or victims, close relative of the victim, petitioner or perpetrator, or any other person it deems appropriate. *Id.*, sec. 12(5).

⁴ *Id.*, sec. 12(6)(a).

⁵ *Id.*, sec. 12(6)(b).

⁶ See Adrian Guelke, *Truth for Amnesty? The Truth and Reconciliation Commission and Human Rights Abuses in South Africa*, 10 IRISH STUDIES IN INT’L AFFAIRS 21 (1999). See also Bonny Ibhawoh, *Do truth and reconciliation commissions heal divided nations?*, THE CONVERSATION (23 January 2019), <https://theconversation.com/do-truth-and-reconciliation-commissions-heal-divided-nations-109925>.

⁷ See TRNUC Act, sec. 12.

⁸ Burundi, DRC, The Gambia, Kenya, Liberia, and Timor-Leste. See AMNESTY INTERNATIONAL, *Commissioning Justice: Truth Commissions and Criminal Justice* (2010), <https://www.amnesty.org/en/documents/pol30/004/2010/en/>; Truth, Reconciliation and Reparations Commission Act, 2017 (The Gambia).

⁹ See AMNESTY INTERNATIONAL, *supra*.

¹⁰ TRNUC Act, sec. 2(8).

for the human rights violations under its mandate; the only other truth commission with this power was the seminal TRC of South Africa.¹¹

Both linguistically and philosophically, the term “amnesty” has been highly controversial on the level of international affairs for the past several decades. Numerous definitions of the term abound in legal, political, and academic literature, though its etymological root to the concept of *amnesia*—a sense of forgiving and forgetting—cannot be ignored. While forgiveness is understandably a worthwhile goal in the transitional justice setting, where reconciliation is a primary objective, the allusion to forgetting the events of the past is unfortunate and actually paradoxical in the context of the Commission’s truth-seeking procedures. That is, the Commission under its Act requires the full truth in exchange for an amnesty.¹² In this way, the idea of amnesty in the context of the Seychelles should not serve to make the public forget injustices, but rather amplify the investigative and truth-seeking aspects of the Commission’s work and ultimately enable the Commission to compile a fuller, more accurate Final Report.

While forgiveness is a central tenet of any reconciliation process from the outset, the Commission struggled with the notion of a power to grant amnesty. This was not only because of concerns with its consistency with international law, but also in part because of the disparity between the power of the Commission to *grant* amnesty to perpetrators and its power to merely *recommend* reparations for the benefit of victims and society.¹³ Notably, the view shared amongst the Commissioners from the Commission’s commencement of operations was that the grant of amnesty, without the implementation of reparations recommendations being assured by the Government, would be detrimental to long-term reconciliation efforts. As a result, the Commission in its very first report to the President outlined this concern and requested that the President establish forthwith a trust fund for compensation, which would send a clear signal to the victims that redress would be made. Notably, the Commission received no response from the President to this request, and in fact received no response at all from the then President in relation to the first three reports filed, all of which increasingly urged the Government to establish a trust fund for victims. On the filing of its fourth report on 9 August 2021 the Commission was accorded an audience with the President, but unfortunately, its sense of urgency in the establishment of a trust fund as a means of making the use of its amnesty power more palatable to the complainants and the broader community of Seychelles did not appear to be shared. Nonetheless, the Commission continued to advocate for the establishment of a trust fund in its fifth and final interim report to the President on 9 February 2022, and duly scheduled a meeting with the President on 24 May 2022. However, the matter was not advanced any further during that meeting.

1. Effectiveness of the Power to Grant Amnesty

While the Commission continued to harbor these concerns about the lack of Government signaling of a commitment to the payment of reparations, it also soon became apparent to the Commission that there was little to no trust amongst perpetrators, who were all aligned with the party that had taken power with the Coup d’état, in the amnesty power of the Commission. During the roughly 15-month period between the start of Commission operations and the October 2020 National Assembly and Presidential elections, there was a genuine fear amongst perpetrators that should the Coup/United Seychelles-aligned Government lose the election, the Commission’s Act would be amended by the new Government and the amnesty power removed. This would then open the way for the prosecution of any

¹¹ See Promotion of National Unity and Reconciliation Act, No. 34 of 1995 (South Africa), sec. 4(c).

¹² TRNUC Act, sec. 12(2).

¹³ See *id.*, secs. 3(7)(e), 7(d).

such person before the national courts. The Commission sought to allay these concerns by pointing out that under Section 10 of the TRNUC Act, evidence given before the Commission was not admissible in any civil or criminal proceedings other than a prosecution for perjury.¹⁴ It also advised that even should such an amendment be made, it could not retroactively impact the rights of a person that was already engaged with the Commission on the good-faith belief that they could receive amnesty, because in the exercise of its functions, the Commission was bound to adhere to international human rights standards, among which is the principle of non-retroactivity. Nonetheless, these assurances were of little comfort, and the amnesty power had little motivating weight with alleged perpetrators. While the feared removal of the amnesty power did not materialise with the change of Government in October 2020, this fear was not the only prohibiting factor on the giving of evidence.

In that respect, many of those who were accused of having committed human rights violations and eventually found to bear perpetrator status before the Commission feared the impact of any confession before the Commission on their families, their jobs, and their standing in the community. In a large number of cases, direct perpetrators of violations had been young soldiers at the time of the commission of violations and were acting under orders. For many of these young soldiers, it was their economic circumstances rather than ideological commitments that motivated their joining and support of the army, which was established to defend the revolution and led by Coup participants. Notably, a number of the commanders installed by Albert René to lead the army were illiterate, without any previous military training, and ruled with physical violence and other punishments. The young men and women who served under them were trained to obey the orders of their commanders without question, regardless of their legality, and often carried out actions pursuant to orders without any real appreciation of the illegality of doing so and with the fear of punishment for failure to do so. The fragility of the rule of law in Seychelles was amplified by the subjugation of the police force to the army. The police, and in particular its Commissioner, were expected to demonstrate loyalty to the party, and essentially the police were often used to harass, frame, and victimise members of the opposition. Like the army, police officers were required to carry out the orders of their superiors, which often included directions from the President and party representatives, including those in Government, which required that certain discriminatory actions be taken against those perceived to be “not with them”. Particularly, during the period of the one-party State and for decades thereafter, the climate in Seychelles was one of fear. Absolute loyalty to the regime was demanded. Telephone bugging was widespread, people were encouraged to spy and report on each other, and oaths of secrecy by all Government employees led to a widespread cloak of silence and an understanding that questions could never be asked. Failures to demonstrate abiding loyalty had consequences, as set out in Volume II of this report.

In addition, as the Commission has already set out in Volume I of this report and is also evident from many of the case determinations contained in Volume III, the political climate and the leadership in Seychelles did not encourage perpetrators to come forward and tell the truth about their involvements in human rights violations. Indeed, truthful participation with the Commission appeared to be positively discouraged on the part of the army leadership and potentially also that of the police.

The disregard shown for the amnesty power of the Commission was also evident in unilateral decision-making by the Ministry of Finance not to accord the Commission any resources, staff or otherwise, for outreach and communication. With respect to the amnesty power in particular, it was imperative for the Commission to have the capacity to lay the foundation within the broader community to the concept of

¹⁴ *See id.*, sec. 10. However, the Commission notes that this provision does not prevent the police or prosecutorial authorities in using the publicly available evidence of the Commission to build their own cases and conduct prosecutions; indeed, the Commission has reserved the right to itself share files with the police for prosecution of certain perpetrators. Instead, this provision merely dictates that evidence given before the Commission shall not be directly admissible as such in courts of Seychelles. As such, the Commission acknowledges that this may have provided little assurance.

amnesty, the implications of its exercise, and the need for societal respect for the amnesty process. Without the allocation of staffing or other resources, none of this foundation was adequately laid by the Commission, which rendered the Commission's invocation of the amnesty power even more concerning. In particular, the Commission was concerned that any such process could result in lynch-mob results and, given its experience with the police, it feared its own abilities to protect the perpetrators petitioning for amnesty from such a potential outcome. Notably, to the Commission's deep chagrin, when the Commission raised concerns about the amnesty power at the Presidential level, it was informed that it was never anticipated that perpetrators would actually come forward and provide full and frank disclosure and request an amnesty.

In the practice of amnesty and prospective amnesty proceedings, the Commission has had reason to believe that continued loyalty to the party that had taken power with the Coup d'état of 1977 and continued idolisation of Albert René underpinned the staunch reluctance of many, if not most, perpetrators to engage with the Commission, as did an apparent victim-blaming belief, seemingly widespread within society, that any person that was a victim of the regime was so because of their own actions. In that respect, the Commission was called upon by many of those it suspected of having committed human rights violations to investigate what the victim was doing at the time, implying that they deserved what came to them, and then the complainant(s) would know why the events in question happened to them. As already underscored, the human rights culture in Seychelles was and continues to be weak, and abuses of human rights, rather than cause outrage in the eyes of the general population, have historically been generally accepted based on explanations that seek to identify a victim's role in the instigation of that abuse. There were also indications to the Commission that people aligned with the Government who took power with the Coup d'état of 1977 and who were still powerful in the party positively discouraged perpetrator engagement with the Commission.

The Commission was very aware of the context and climate of misunderstandings and distrust in its determinations of individual perpetrator status and amnesty, and in many cases, it declined to accord perpetrator status to public servants implementing discriminatory Government policy, or to police officers implementing detention orders, whether or not they believed the orders to be lawful. This is due to the belief that should the public servant or officer in question have refused to comply with the order, they themselves would likely have been punished, and as such had little to no discretion on whether to follow an order from above. However, in other cases, the human rights violations committed by perpetrators at the behest of superiors were so egregious that the Commission, while understanding the circumstances, nonetheless considered it important to ensuring that such violations did not recur that these people be held individually responsible for their actions.¹⁵ Yet, while perpetrators may have understood that the actions they carried out were unlawful in the context and climate in which they had carried them out, namely in circumstances where they believed they had no choice, many perpetrators struggled to understand why they were being held accountable for the human rights violation they had perpetrated, not on their own volition but pursuant to an order that they do so. In that respect, before the Commission, perpetrators considered themselves as much victims of the system as the Commission's complainants and for some the Commission's failure to acknowledge this status merely caused to underscore the inherent bias of the Commission as a political tool of the LDS Government.

Just as direct perpetrators struggled to appreciate their responsibility, so did the leadership of Seychelles at the time. In that regard, there seemed to be a notion amongst army commanders and others that if they did not directly commit the act, then they were not responsible, regardless of the chain of command or the fact that they had ordered the act, or knew about it and took no action, thus allowing impunity to prevail through their sanction. Notably, there seemed to be little to no appreciation of the notion that with authority and position comes responsibility and accountability. Indeed, numerous persons who

¹⁵ This was often true in cases of torture. *See* Volume III.

held high-level positions of authority in the Government, army, and police categorically denied that they held individual responsibility for the serious human rights violations that occurred. In this respect, while the Commission appreciated that the one-party State was a dictatorship and that actual authority lay with the dictator, Albert René, from the period of 5 June 1977 until the handing of the baton to Vice-President James Michel in 2004, it was also undeniable that the system implemented by the Coup, whereby those perceived as against the continued exercise of power by the President and his successors were systematically discriminated against on political grounds, was dependent upon the adherence of all those in positions of authority. Without that support, the system could not have continued for the decades that it did. That this was the experience of the Commission is amply illustrated in the Commission's reasoned determinations contained in Volume III of this report. In light of the foregoing, in many instances it can be said that the amnesty power of the Commission provided little incentive for those named as perpetrators to be fully truthful before it.

2. Consistency of the Amnesty with International Law

As already indicated in Volume I, the amnesty power conferred upon the Commission was also not uncontroversial from an international perspective. While not explicitly impermissible under international law,¹⁶ and while in many transitional justice contexts, given the impossibility of bringing all perpetrators to account, what amounts to impunity is granted for the majority of the perpetrators, there are conflicting views on amnesty on the international level. It is the policy position of many organisations and governments that amnesty should not be granted for gross violations of human rights, including murder, torture, enforced disappearance, and rape—all violations under the TRNUC Act, *i.e.*, able to be amnestied by the Commission. These organisations and governments include, among others, the United Nations (the stance of which has been adopted by many States and organisations), European Union (and many constituent governments), and the United States Government, as well as important NGOs such as the International Committee of the Red Cross, who all oppose amnesties for gross violations for human rights, including in the context of peace negotiations.¹⁷ Despite this, others, such as the African Union, have considered amnesties to be permissibly “used for a wide range of purposes, particularly as part of political transitions and before criminal processes commence,”¹⁸ even

¹⁶ The Commission recognises that the only international treaty that mentions amnesty directly is Additional Protocol II to the Geneva Conventions, which actually requires States parties to “endeavour to grant the broadest possible amnesty” at the end of non-international armed conflicts. *See* Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, 1125 U.N.T.S. 609, art. 6(5). However, some have read an implicit prohibition of amnesty stemming from the duty of the state to investigate and *aut dedere aut judicare* (“either extradite or prosecute”), in treaties such as the Genocide Convention (art. 4), Geneva Conventions (Convention IV, art. 146), Convention against Torture (art. 7), and Convention on Enforced Disappearance (art. 11). Nevertheless, these treaties have not definitively codified either vindication or prohibition of amnesty into international law, and the Commission moreover recognises that there has been no customary international law basis relied on as underpinning the status of amnesty under international law. *See, e.g.*, Sean D. Murphy, Special Rapporteur, *Third report on crimes against humanity*, Int'l L. Comm'n, 69th sess., para. 290, 23 January 2017, U.N. Doc. A/CN.4/704 (“With respect to State practice, amnesties historically have been adopted by various States, even for serious crimes.”). Even the views and practices of international tribunals have differed on the subject. *See id.*, para. 292 (“With respect to international or “hybrid” courts, the International Tribunal for the Former Yugoslavia rejected any affect [sic] of a national amnesty upon its jurisdiction; it further maintained that amnesties for international offences were generally invalid under international law, a position that has been criticized. Other international courts or hybrid tribunals have been more cautious on the latter point, indicating that this is an area where the law is “developing” or where there is an “emerging consensus.””).

¹⁷ *See* Loveland, *Amnesty and Accountability in Seychelles*, *supra*.

¹⁸ African Union, *Transitional Justice Policy*, p. 18 (Feb. 2019), available at <https://au.int/en/documents/20190425/transitional-justice-policy>.

emphasising certain positive objectives of amnesties in the post-conflict or post-transition period. The African Commission on Human and Peoples' Rights has similarly noted that although "human rights advocates are often predisposed to reject the use of amnesties in [transitional justice], it is clear that in at least some cases amnesty, particularly qualified or conditional amnesty, may be necessary in pursuing [transitional justice] objectives."¹⁹

Given this scattered international framework and lack of consensus on the legitimacy of domestic grants of amnesty, the Commission undertook to assuage any prospective international concerns and make any grants of amnesty it decides as legitimate as possible. To that effect, the Commission undertook extensive research and consultation to design a procedure for the implementation of its amnesty power, including review of the amnesty powers and specific procedures of several truth commissions, consultation with international experts, and use of the Belfast Guidelines²⁰ as a model framework. In the Commission's Guidelines and Procedures on Amnesty (hereinafter "Amnesty Guidelines"),²¹ it has thus recognised that the grant of amnesty is in any case an extraordinary remedy which should only be used on a case-by-case basis, and never unconditionally nor for entire groups of suspects or perpetrators (referred to as a "blanket amnesty"). The Commission's research and extensive consultations resulted in the adoption of its Amnesty Guidelines, which are contained in Annex 1 to this Volume and which set out the procedure to be followed by the Commission in the consideration of a petition for amnesty.

3. Amnesty Guidelines

Following from international best practices the Commission's Amnesty Procedures included within its provisions many safeguards against arbitrary use of the amnesty power and protections for both the rights of victims and due process rights of perpetrators. It is to be noted that pursuant to the TRNUC Act, suspects and perpetrators may choose whether to engage with the processes of the Commission. In this regard, while the Commission has the power to summon, Section 13(3) of the TRNUC Act provides for the right to refuse to answer before the Commission in the exercise of the fundamental right against self-incrimination.²² Also, importantly, the Act provides that an amnesty shall not affect any order by the Commission for remedies, reparations or rehabilitation.²³

The Amnesty Guidelines adopted by the Commission are premised upon "the fundamental and complementary needs for justice and accountability, protection of the right to truth and other human rights, and the importance of peace, reconciliation, reparation and remedy, forgiveness, and guarantees of non-recurrence in the transitional justice process", as well as "the need for transparency in the granting of amnesty, of ensuring victims' voices are heard and considered in relation to potential amnesties, and of clear public communication on the criteria for amnesty and rationale behind decisions".²⁴ In that regard, the Amnesty Guidelines seek to implement the amnesty provisions set out in Section 12 of the TRNUC Act consistent with broader international principles. Section 12 of the TRNUC stipulates that the petitioner seeking amnesty must provide a full and frank disclosure of their

¹⁹ Afr. Comm'n Hum. & Peoples' Rts., *Study on Transitional Justice and Human and Peoples' Rights in Africa*, p. 12 (2019), available at http://www.achpr.org/files/news/2019/04/d373/achpr_transitional_justice_eng.pdf.

²⁰ Belfast Guidelines on Amnesty & Accountability, TRANSITIONAL JUSTICE INST. (2013).

²¹ Guidelines and Procedures on Amnesty, Guideline 1 (hereinafter "Amnesty Guidelines").

²² TRNUC Act, sec. 13(3). This is echoed in Rule 33 of the Rules of Procedure and Evidence.

²³ TRNUC Act, sec. 12(6)(b). Similarly, the Commission has recognised that alternative means of accountability, such as investigations to further truth and reconciliation by ombudsman offices or other truth-seeking processes, or investigations related to a prosecution later made possible by a breach of the amnesty conditions, are not affected by the Commission's amnesty power. See Amnesty Guidelines, Guideline 5(4).

²⁴ Amnesty Guidelines, Preamble.

acts or omissions and must make a sincere apology to the victim(s) in relation to the violation for which they are seeking amnesty.²⁵ Further, Section 12 (4) provides that if these conditions are met the petitioner “shall be granted an amnesty in relation to the acts or omissions that were part of the disclosure and apology”. Lest this mandatory “shall” be considered to unduly constrain the discretion of the Commission in the grant of amnesty, Guideline 6(2) of the Amnesty Guideline sets out the approach to be adopted by the Commission, which reflects the requirements of Section 12, while also rendering implementation consistent with international law. Accordingly, in any petition for amnesty the petitioner must:

- (a) submit individual petitions, applications, and any other evidence required for full deliberation of the grant of amnesty,
- (b) testify before the Commission with victims present,
- (c) participate in traditional or restorative justice processes,
- (d) contribute materially and/or symbolically to reparations as provided by the Act; or
- (e) perform any other act of a similar nature as agreed between the TRNUC, perpetrator or petitioner, and victims based on the circumstances of the case.²⁶

In tandem with and as part of the requirement of Guideline 6(2)(a) above, the information provided by the amnesty petitioner as to their full and frank disclosure of acts must be detailed, including a full account of the circumstances and scene; names of any others involved; the motive(s) of the person committing the act; the object or objective of the act or omission; details of any instructions or commands given and names or descriptions of such superiors; events that transpired after the act in question, including steps taken to cover up the act; and any other information requested by the Commission.²⁷

Further, the Commission has similarly interpreted the Act in setting clear expectations that the perpetrator must act in good faith to uphold the agreements they undertake which underpin their grant of amnesty at all times following the grant of amnesty. In that regard, the Commission has further required the act or agreement on the part of the amnesty petitioner to

- (a) not breach the preconditions ... on which the amnesty was granted,
- (b) refrain from committing new violations under the TRNUC Act or any other type of criminal activity,
- (c) not stand for election or public office or serve in the police, armed forces, or government, at least for periods of time as determined by the Commission; or
- (d) perform any other act of a similar nature as agreed between the TRNUC, perpetrator or petitioner, and victims based on the circumstances of the case.²⁸

²⁵ See TRNUC Act, sec. 12(2).

²⁶ Amnesty Guidelines, Guideline 6(2).

²⁷ *Id.*, Procedures 3-4.

²⁸ *Id.*, Guideline 6(3).

In addition, the amnesty guidelines provide, victims the rights to be heard, to counsel, and to appeal, and victims may also request protective measures if faced with significant and demonstrable threats to their safety on account of the evidence provided.²⁹ Further, the victims are not only able to provide evidence at the amnesty hearings if they so choose, but are also invited to share their input with the Commission publicly or privately thereafter to help it determine whether to grant the amnesty in question.³⁰ While not required pursuant to its Act, the Commission worked to build victim support for the grant of amnesty through informal meetings led by Commissioner Wong and Commissioner Kouï Gbilimou and supported by Commission staff in cases where the petitioner had satisfied the criteria to be considered for a grant of amnesty. While without the allocation of any dedicated funding, the Commission also made provision for victims to apply to the Commission for financial support to enable their attendance at the hearing, as well as for medical, psychological, or emotional support services to help them participate effectively in the process.³¹

As regards the due process rights of perpetrators petitioning for amnesty, the Commission has reaffirmed and taken steps to ensure the protection of the right of perpetrators to be heard, including the right to notice of the allegations and opportunity to respond; the right to counsel; and the right to appeal, including asking the Commission for reconsideration or petitioning the courts of Seychelles to review a final decision on amnesty by the Commission.³² The Commission also informs the perpetrator who is about to testify in their amnesty hearing about the possible uses and consequences of their prospective statement, consistent with the mandate of the Commission.³³

The Commission has considered all the above provisions and due process rights to have provided sufficient protection for the human rights of individuals holding suspect or perpetrator status within the context of the Commission's proceedings so as to legitimise any grants of amnesty it makes.³⁴ In the event that a perpetrator refuses to comply with the amnesty process or declines to submit a petition for amnesty, such as in exercise of their right against "self-incrimination",³⁵ and does not engage with the processes of the Commission, the Commission has reserved the right to refer the names of those persons to relevant authorities for criminal investigation. The Commission also refers to relevant authorities those persons who it considers bear perpetrator status and who have deliberately provided misleading or false information before the Commission.³⁶ The Commission considers such referral action

²⁹ *Id.*, Procedure 10.

³⁰ *Id.*, Procedure 9(4).

³¹ *Ibid.*

³² *Id.*, Procedure 11.

³³ *Id.*, Procedure 12.

³⁴ The Commission notes, however, that while not specifically mandated, where persons deemed by the Commission to be perpetrators exercise their right against self-incrimination and do not engage with the processes of the Commission, the Commission will refer the names of those persons to relevant authorities for criminal investigation. The Commission will also refer to relevant authorities those persons who it considers bear perpetrator status and who have deliberately provided misleading or false information before the Commission. The Commission considers such referral action consistent with its obligations to abide by international human rights norms and standards in the implementation of its mandate.

³⁵ The Commission notes the awkward nature of this term in this context, as the amnesty process is not a criminal process with criminal penalties, but rather the opposite: a truth-based, re-conciliatory exercise that can result in barring any future civil or criminal proceedings, *i.e.*, a benefit rather than a punishment for the perpetrator. Therefore, the Commission conceives of a "right against self-incrimination" in this context to correspond to the decision of perpetrators to not provide a full and frank disclosure of their acts, thereby removing the prospect of amnesty.

³⁶ The Commission notes that this is also an offence under the TRNUC Act for which the individual may bear civil and criminal penalties. *See* TRNUC Act, sec. 13.

consistent with its obligations to abide by international human rights norms and standards in the implementation of its mandate.³⁷

Notably, while the amnesty guidelines emphasised transparency and the provision of notice and publication of amnesty proceedings, it became clear to the Commission from its consultation with its victims in the small number of cases where amnesty petitions had been filed that the victims of amnesty perceived the amnesty process as a personal process and were fundamentally opposed to widespread community observation of that process.³⁸ In that respect, the Commission notes that throughout its proceedings, and as already set out in Volume I, social media played a significant role in undermining the work of the Commission. Victims, complainants and suspects that appeared in public session were regularly ridiculed or undermined on social media platforms thereafter. While the Commission consistently publicly asked for respectful use of social media the practice of disrespectful commentary did not abate. The well-being of the victims is paramount to the Commission, particularly in circumstances where it has, as also set out in Volume I, being consistently denied the allocation of any resources to provide for psychological counselling and support for its victims. As such, victim requests for closed amnesty hearings, while not ideal, needed to be respected by the Commission.

While this was the Commission's experience with its individual victims the broader interest of the general public in Seychelles in amnesty proceedings was abundantly clear. On occasions false social media reporting was made of purported secret deals being made by the Commission with perpetrators and the alleged lack of transparency on the part of the Commission severely criticised. Notably, as almost all of those that confessed their involvement in gross human rights violations did so behind closed doors it was only the direct victims who were made aware of these facts in the first instance and the more general public was left with the impression that either no perpetrators had come forward at all, or that the Commission was protecting those that had, to the detriment of the victims.

To balance the desires of the victims with the needs of the broader community for transparency, the Commission publicised events of consequence relating to amnesty, including the commencement of individual amnesty proceedings and opportunities to be heard.³⁹ It has also sought to ensure that the archival data the Commission generates would be preserved for the benefit of all persons in Seychelles, subject to reasonable restrictions to safeguard privacy and security of victims.⁴⁰

While the purpose of the Commission in issuing the Amnesty Guidelines was to delineate the procedure to be applied in conformity with international law and ensure transparency with respect to the Commission's approach to the use of its amnesty power, as a direct result of the lack of resources accorded to the Commission for outreach and translations specified above and in Volume I of the Final Report, fundamental misunderstandings in the broader community about the amnesty power continued and were exemplified in the following address made by Mr. Dolor Ernesta during his appearance as a witness in case 258.⁴¹ Mr. Ernesta spoke about the amnesty provisions of the Commission and the Amnesty Guidelines it had issued:

³⁷ See *id.*, sec. 3(9).

³⁸ *Id.*, Procedure 9(1). Victims are accorded further specific protections and support, in that the victims wronged by the perpetrator who may be subject to amnesty are invited to the amnesty hearings, whether public or closed, related to their case.

³⁹ *Id.*, Guidelines 8, 10.

⁴⁰ *Id.*, Procedure 14.

⁴¹ Hearing No. 154, Monday, 17 May 2021, Case No. 258: Chetty Vangadachalam.

Yes, Madam Chair and members of the Commission, a week ago there was a question which was asked, and the answer has troubled me. It has motivated me to do some research into this question of Amnesty. I see the Guidelines and Procedures on Amnesty.

Has this been formally adopted now?

If it has been formally adopted, I believe it is important for people to know. I personally have to admit that I know this law in question, but I didn't know all which is in the Provision. And it is important for people to know what it is that we are talking about. What are the implications? And this compels me to ask certain questions, for which I don't necessarily need answers, but I have to ask.

Does TRNUC feel uncomfortable in the knowledge that some of the decisions it takes could subsequently be reversed by govt? This seems a legitimate question to me.

Something else which is important is that the Constitution of 1993, guarantees Human Rights for every person. This applies equally to victims as it does to the accused – which you refer to as Perpetrators – but which we call 'bann akise' [*the accused*] in Kreol. The Amnesty which would be based on these Guidelines, it is the government which can reconsider it. I think it is important for people to know that this Amnesty could be revoked, according to the Provisions in the Guidelines.

My question is: is this document what is called a Statutory Instrument? It has established its procedures and the manner in which evidence – I don't know, I don't need an answer but I am asking the question.

Is our law, in its current state – which as I said we drafted rather quickly – which we based on South African law which bears some similarities but at the same time is rather different – in conflict with the Provisions of our Constitutional Court, which also has the power to decide if there has been a violation of Human Rights?

For example, it says that if someone has applied for Amnesty, all the other Legal Institutions cannot take action. Are we saying that the Constitutional Court also cannot take action?

There is another situation, where a certain person who is accused, a perpetrator, and who has come before the Commission, has already previously faced their victims' charges against them in court. Some have been acquitted, some were sentenced and they served their sentences and have been freed, we need to be careful because of this principle in our Seychelles law called Double Jeopardy. What is the position of these perpetrators in this instance, if victims have already taken them to court previously?

And what is also important on this Amnesty application form, I see 'Political or other affiliation'. I know that in South Africa, which I have researched, it also says 'Political or other affiliation'.

Why did South Africa do this, is one question? As we know there are occasional cases in South Africa which went to court, when this exercise was being carried out.

I understand that your work is very difficult, it requires resources which sadly you have not been given. When I looked at the South African structure as it was, it also required a lot of resources and research, because when you are taking decisions, you need a clear conscience, you need to know that you have taken decisions based on verification of all the evidence. If we look at the evidence we are getting, from Kew Gardens in England, the CIA – and the CIA, well we know their kind of information, what tendencies they sometimes have with their information, because we never forget about Iraq, weapons of mass destruction which never existed.

I think it is important that we also get information from France, South Africa, all those countries which had interests in Seychelles.

You are supposed to finalise your mandate in September, and it's difficult. It is difficult because you don't get credible information, and forgive me if I've given you *too much* information. I like to do research, to give you information to be able to piece it all together. You use what you need and ignore the rest. I've also made efforts to source some books to which I've made reference to give to you. This is important to me. The opinions of these people, how they see things in life.

It's been a pleasure to be with you this afternoon, to give me the possibility.

Chairperson McIntyre:

Do you want me to answer what you've just said about Amnesty because we think it is very important for people to understand the Amnesty, did you want me to address it at all?

Dolor Ernesta:

I don't believe you will be able to address that, but we need to be able to do it somehow.

Chairperson McIntyre:

Yeah, I mean I think the ACT is really the guiding the statutory instrument and that is a full and frank disclosure and sincere apology. And then it's mandatory: "shall be given an amnesty".

Our concerns are to make sure that we grant the amnesty consistently with international law. So those guidelines are really based on the Belfast principles about amnesty and we've spoken to a couple of international professors that work on amnesty to make sure that we cannot be criticized for what we're doing internationally. That was our concern. That's why we made guidelines to show that this is not a blasé practice, we will be very serious about granting the amnesty, but the ACT tells us that we "shall grant amnesty", those conditions being satisfied.

Having said that, what you're telling me about the investigations, we have gone into a lot of archives. We're going into more archives of foreign governments. There's a lot of declassified materials, most countries declassify after 25 years. So, we're accessing a lot of very relevant material.

Now, one thing that occurred to me that we were discussing today, is that this idea of full and frank disclosure and sincere apology. It cannot be that the Commissioners has gathered all this evidence against you, and it's going to dump it at your feet, and you are now going to give us little bits of information because you're sorry. The Commission has got all this information against you, and you can no longer deny. It's very important that people come and give us the information.

We do have people that have done that, right? We do have people who have done that, but we need these guidelines. We need to have them in the petition, and we need to make sure that they're supported enough to go through that process. And we need to talk to the families that are involved and make sure we have support for them before we do it. So that's where we are, but we will be doing it. It's our responsibility to do it.

It is our sincere desire that the broader Community respects the right of a victim to forgive somebody for something that's directly impacted their life and respect the decisions this Commission has made about amnesty which are not decisions taken lightly. That's all I can say about that.

[...] We all were of the view that should there be a change in that, that would be incompatible with our integrity as Commissioners. We wouldn't be able to continue because the undertaking was there and people have come to us based on that undertaking, if there was a change in that position. I think we definitely would not be able to continue in this position because it would be wrong morally, ethically, professionally wrong to continue if there was a change in the law because there was a change in the government.

Dolor Ernesta:

That is good. In South Africa for instance, they put it in their Constitution, in 1993, but we have not put it in our Constitution, it is a separate law. And what is also important is that the people, the accused, need to understand is that despite the fact that they may make this disclosure, it is not guaranteed that you will be given Amnesty. You could be refused it. This is in the Guidelines. And if you don't get Amnesty, your case could be taken to the court and you could be prosecuted in a criminal case, based on what this Guide says.

Chairperson McIntyre:

None of our evidence is admissible [in court]. And we wouldn't give it up.

Dolor Ernesta:

The problem is that some will listen and others will not. What is also important is that even if you do Amnesty, you could be asked to pay compensation in financial or physical form or

whatever. It is important that people are clear on this. We are all on the same page, the population knows –

Chairperson McIntyre:

If you have it, you have it, right. If someone is already on their knees, we could not in good conscience make an order against them, but if they have funds, yes.

Dolor Ernesta:

But what remains is that this Guideline should be published, should be popular, and that everyone understands it. Even if we do it little by little day by day. To make people understand, get someone to explain it in Kreol, because it is very important that people understand.

Commissioner Purvis:

It is our intention to translate it into Kreol, but we have not had time, and to make publicity about it. We don't have the staff.

While Mr. Ernesta called for no response to the statements he made, the Chairperson thus responded, seeking to justify and reinforce the power of the Commission to grant amnesty and the circumstances under which its Act mandates that amnesty “shall” be granted. Because the Commission considered the statements and questions of Mr. Ernesta to likely be emblematic of misunderstandings or misconceptions of the amnesty power and its ramifications among the broader community in Seychelles, the Commission here responds to the specific questions he raised, beyond the responses at the time given by the Chairperson:

- (1) As to the Guidelines and Procedures on Amnesty, this document, adopted by the Commission in April 2021 is not a formal law or statute, but rather is an interpretive tool. It sets forth the principles and internal guidelines by which the Commission has undertaken to hold the amnesty proceedings. As discussed in this present chapter of the Final Report, the Guidelines were produced in an effort to delineate the Commission’s understandings of its amnesty power and to make any exercise of that power legitimate under domestic and international law. They are the product of the work and advice of many international legal experts. The implications of the Guidelines are essentially to 1) confine the use of amnesty except as strictly necessary and required by the TRNUC Act; 2) expand upon and provide public notice of the factors the Commission takes into account when considering the requirements of amnesty under the TRNUC Act; 3) acknowledge and respect the many rights of victims and perpetrators in the amnesty process; 4) provide more information on the procedures for the grant, appeal, or revocation of amnesty by the Commission; and 5) provide for a means of chronicling and archiving any amnesty decisions and supporting documentation for future national memory purposes.
- (2) Regarding the prospect of later reversal by the Government of the Commission’s amnesty decisions, the Commission unfortunately can make no judgment as to how likely such a prospect may be. However, it does note that its amnesty power has been established by the TRNUC Act, a law passed by the National Assembly and assented to by the President, and thus depending on the potential grounds for a decision by the Government to reverse or undo one or more of the amnesties granted, it would be up to the courts of Seychelles to uphold the amnesty or accept the Government’s challenge, as the case may be. In short, reversal of an amnesty can be likened to reversal of a conviction: done not for political reasons but pursuant to some articulable legal basis, such as a serious procedural irregularity or if found to contravene the laws of Seychelles. In addition, given that the present amnesty decisions are made in the context

of a process of national truth and reconciliation, which was called for by the Government and in which many citizens have come forth and participated, the Commission notes that unless an amnesty decision blatantly contravenes the Constitution of the Republic of Seychelles or international law, reversal by the Government may be politically unwise.

- (3) On the question of amnesty and the Constitutional Court, the Commission first notes that as with any law of Seychelles, the TRNUC Act must comport with the Constitution of the Republic of Seychelles. There has been no constitutional challenge to the Act before that Court as far as the Commission is aware. However, as with all laws of Seychelles, the Constitutional Court has the power to review and decide such a challenge to the TRNUC Act, once lodged by a party with standing. This would include the power to decide a challenge to a particular grant of amnesty under the Act, should the challenge be constitutional in nature. Second, there would be little to no overlap between the Commission's work and the duties of the Constitutional Court, as the Commission is not a court and has a very specific mandate compared with the broad functions and powers of the Constitutional Court. In that regard, should the Commission be subject to any dispute before that Court, it would be bound to respect its decision as a body corporate under the laws of Seychelles. To the extent that there is overlap in the mandates of the Commission and other bodies, most notably the Human Rights Commission, the Commission notes that insofar as claims before it fall within its specific mandate, *i.e.*, occurring during or in relation to the Coup d'état of 1977,⁴² the Commission has statutory authority to make a determination on that claim, notwithstanding the fact that the complainant may have submitted a similar claim before another body. That said, the Commission has also sought to respect the principle of complementarity, and has worked with other bodies to identify and pursue the most efficient means of resolving a case, so that ultimately justice is done for a particular victim.
- (4) As to the concern about double jeopardy for perpetrators who have already been before a court in relation to the events or acts for which they are petitioning for amnesty, the Commission notes that this concern belies a misunderstanding of the nature of amnesty. An amnesty is not a conviction and does not punish a perpetrator; in contrast, it is seen to provide a benefit to the perpetrator by legally "wiping the slate clean", as it were. Amnesty removes legal liability for an act that may have been punished by a court. As used in the present context, amnesty rewards a perpetrator for providing 1) the truth to the Commission, in the form of a full and frank disclosure of their acts; and 2) reconciliation, in the form of a sincere apology to the victim(s) they have wronged. Similarly, the principle of double jeopardy is inapplicable to the decision of perpetrators to participate in the Commission's processes: importantly, the Commission is not a court, and does not have the power to punish perpetrators for having committed human rights violations. Plus, participation with the Commission is voluntary and perpetrators may assert a right against self-incrimination. For these reasons, double jeopardy does not apply because the perpetrator in question is not put into any legal jeopardy by agreeing to come before the Commission of their own accord.
- (5) Finally, regarding the question of identifying "political or other affiliation", the Commission considers it very important for national truth and reconciliation to know the party affiliations of those who petition for amnesty. This is part of their "full and frank disclosure" required by the TRNUC Act. The Commission notes that in Seychelles, as in South Africa, one political party had been in power and controlled essentially all aspects of Government and society for many years, during which serious human rights violations occurred and divisions in society deepened. Because the SPUP/SPPF/US party was that party in Seychelles, one would expect

⁴² TRNUC Act, sec. 2(8).

all of the perpetrators found by the Commission as responsible for any of the violations under its mandate to be from that party, and it would be odd to see, for instance, an LDS supporter petitioning for amnesty. In that sense, this clarification also serves necessary administrative and record-keeping purposes for the Commission and, by extension, the public whom it serves.⁴³

4. Amnesty Proceedings

As a result of its final determinations in 126 cases at the time of the filing of the report, the Commission served close to 300 perpetrator notifications on persons deemed by the Commission to bear perpetrator status and as a matter of due process on the next of kin of those person's deemed to bear perpetrator status who are deceased.⁴⁴ The perpetrator notifications advised, among other things, of the right to petition for amnesty pursuant to Section 12(1) of the TRNUC Act. Within the last weeks of the Commission's mandate, as case determinations continued to be finalized, the Commission advised those deemed to have perpetrator status that the time for the petitioning for amnesty had closed. The Commission notes in that regard, that in the majority of cases where the perpetrator was still alive, a suspect notification had been sent, in most cases, months or years before giving that person ample opportunity prior to being deemed a perpetrator to have decided to take responsibility and petition for amnesty.

The Commission received amnesty petitions in nine cases from eight perpetrators in total: Case 205-207, Case 16-56-108, Case 90-270, Case 149 and Case 419. One of the eight perpetrators, Mr. Jemmy Marengo, had been determined to be a perpetrator in eight cases (Case 205-207, Case 16-56-108, Case 90-270, Case 149). Another of the perpetrators, Mr. Marc Pool, was determined to be a perpetrator in five of those cases (Case 205-207, Case 90-270 and Case 149). Mr. Alain Jeannevol and Mr. Ken Jean Charles were determined perpetrators in three cases (Case 90-270 and Case 149). Mr. José Hollanda and Mr. Roland Gertrude were determined perpetrators in two cases (Case 205-207) and Samuel Camille was deemed a perpetrator in one case (Case 419).

To assist the perpetrators in filing their petitions for amnesty, the Commission Perpetrator Support Office, assisted by the International Investigator, provided support both at the premises of the Commission and, with respect to Mr. Charles, at the Seychelles Prison Service Detention Remand Facility.⁴⁵

Between 1 March 2022 and 23 March 2022, the perpetrators in all but Case 419 had separate meetings with the Commission's Perpetrator Support Officer and a Commission Investigator to be informed on amnesty procedures and proceedings, and to fill in amnesty petition forms for the cases in which they had been determined to be perpetrators.

During these meetings, the Perpetrator Support Officer and Investigator explained to the perpetrators the amnesty procedures, as set out in the Commission's Amnesty Guidelines. The perpetrators were also informed of the legal effects of amnesty, the preconditions and conditions for amnesty, requirements for amnesty, and the possibility of public amnesty hearings. Once the perpetrators were briefed on the amnesty procedures and proceedings, each of them filled out amnesty petition forms for the cases in

⁴³ Volume IV, Annex II, Amnesty Guidelines

⁴⁴ At the time of the filing of this report 126 case determinations have been finalized; 100 are pending review by the National Commissioners; 63 are in the drafting stage and 84 are yet to be commenced.

⁴⁵ The Commission notes that Mr. Ken Jean Charles was convicted by the Supreme Court on Friday 3 June 2022 and that the Commission thereafter declined to hear the petition of amnesty of Mr. Ken Jean Charles.

which they had been determined as perpetrators, with the assistance of the Perpetrator Support Officer and the Investigator.

Although the perpetrators filled in amnesty petition forms for their respective cases during these meetings, a separate date was decided upon for the perpetrators to sign the petitions. This was done so as to allow the Perpetrator Support Officer and Investigator to consult the Commission's Vice Chairperson to ensure that the amnesty petition forms had been filled out correctly, and that the information provided by each perpetrator in their respective petitions was accurate and met the criteria necessary for an individual to petition for amnesty before the Commission.

Following the initial dissemination of the perpetrator notifications to those determined to be perpetrators by the Commission, several other perpetrators requested to meet with the Perpetrator Support Officer and Investigator to discuss the prospect of applying for amnesty. Although several of these perpetrators displayed an interest in petitioning for amnesty, a few subsequently informed the Investigator and Perpetrator Support Officer that they would not be submitting a petition for amnesty.

Notably, those who asserted that they would not be submitting a petition for amnesty were determined to bear responsibility for some of the most egregious violations within the Commission's mandate, namely, unlawful killing, torture, and enforced disappearance. The Investigator informed these perpetrators that the Government of Seychelles has an international legal obligation to prosecute those accused of the aforementioned violations; therefore, by not petitioning for amnesty, they were at risk of being subjected to criminal proceedings following the termination of the Commission's mandate. Notably, one perpetrator told the Investigator that he did not believe the Government would prosecute him or anyone else for such violations, despite having an international obligation to do so.

The Commission scheduled the first of its amnesty proceedings between 31 May 2022 and 2 June 2022. Following the relevant provisions of the Commission's Amnesty Guidelines on conducting amnesty proceedings, the Commission issued a press release on 23 May 2022 advising of the scheduled amnesty proceedings and the identities of those petitioning for amnesty. The public release of this information resulted in a social media frenzy against the persons petitioning for amnesty, and the perpetrators were harangued online by members of the public, as were their family members, including their children. The press release also led to further demands for transparency and to criticism of decisions to hold three of the four amnesty hearings in closed session; subsequently, in three cases Case 90-270 and Case 149 the complainants had a change of heart and expressed their willingness to have the hearings in open session.

The public interest in the amnesty hearings and the social media focus on the perpetrators led to concerns about perpetrator safety, and the Commission liaised with the police to ensure adequate protection of its premises and the perpetrators prior to and after the amnesty hearings. It met with the police and agreed to arrangements and measures that would be put in place.

The Perpetrator Support Officer, supported by a Commission Investigator, continued to try to provide support to the perpetrators, especially following the public announcements of the amnesty hearings.

On 27 May 2022, Commissioner Jacques Gbilimou, a Commission Investigator, the Perpetrator Support Officer, a Commission Translator, and a visiting international legal consultant engaged with the individuals petitioning for amnesty during the amnesty hearings from 31 May 2022 to 2 June 2022, namely, Jemmy Marengo, Alain Jeannevol, Marc Pool, José Hollanda, Roland Gertrude, and Francois Lesperance.

That meeting commenced with the amnesty petitioners voicing their frustrations at the Commission's disclosure of their names to the media and the potential security threats that could arise due to this issue.

Specifically, Mr. Pool informed the Commission's staff that he had seen a post on Facebook calling for all the amnesty petitioners to be "rounded up in a field and shot". He added that he had seen another post which suggested that the public "cut the perpetrators up into pieces". Mr. Pool claimed that, although the Commission could provide the petitioners with security within the premises of the Commission, it could not ensure their safety outside the TRNUC headquarters. He added that even the police would not be able to provide them with 24/7 security, as he felt they would need.

Mr. Jeannevol stated that, although he had no issue with his name being publicised, he anticipated backlash from the public to manifest in the form of acts of physical violence against him. Mr. Jeannevol informed the Commission's staff that if he or his family were attacked by a member or members of the public, he would have no choice but to defend himself.

Mr. Marengo was visibly frustrated by his name being published in the media. He informed the Commission's staff that the families of two of the victims lived near his residence, and he anticipated them confronting him, potentially in a violent manner, if they saw him walking around his neighborhood. He also noted that, following his first public appearance before the Commission in 2019, he spotted one complainant situated in a vehicle, which was driving around his house.

Mr. Gertrude informed the Commission's staff that he had not been subjected to any harassment as of yet. He attributed this to the fact that not many people knew him by face. He did mention, however, that he had heard people speaking in a threatening way about him in town, but as they did not know him, they did not confront him.

Mr. Lesperance stated that he had not faced "too much harassment" as he did not leave his home very often. He did note, however, that his neighbors had been harassing him ever since his name was published in the media.

Mr. Hollanda informed the Commission's staff that an unknown person approached him on the street in Perseverance and started shouting out that Mr. Hollanda was a killer. He had then told Mr. Hollanda that he would kill him.

The amnesty petitioners then explained to the Commission's staff the impact that the disclosure of their names to the public had had on their lives. Some of the petitioners stated that their families were in disarray. Mr. Marengo and Mr. Pool stated how their children and spouses were shocked and dismayed. Mr. Marengo stated that his seven-year-old son had also been bullied in school. Mr. Hollanda informed the Commission's staff that his girlfriend's family asked her to end their relationship, and that his girlfriend dropped off his belongings at a police station and told him to go collect his belongings from there.

The petitioners also emphasised that they did not believe that televising the hearings would foster reconciliation. They claimed that the Seychellois people were not seeking to forgive them, and that they had already been condemned by the public. Mr. Marengo told the Commission's staff that he did not believe the fact that they were ordered and, in some instances, coerced into committing these violations would make the public any more sympathetic. Mr. Pool stated that he believed that they would all be at risk of being subjected to violence until the end of the year.

Three of the petitioners, namely Mr. Jeannevol, Mr. Pool, and Mr. Hollanda, stated that they believed that they would lose their jobs.⁴⁶

Mr. Hollanda and Mr. Pool stated that their mental health had been severely affected by the public backlash. Mr. Pool informed the Commission's staff that he had contemplated committing suicide.

After listening to the petitioners, Commissioner Gbilimou informed them that their concerns had been noted and would be discussed by the Commissioners. The Investigator then walked the petitioners through the security protocols on the days on which the hearings would take place and the procedure for the amnesty hearing.

Unfortunately, as the above meeting disclosed, the perpetrators evidently felt betrayed by the Commission. For those perpetrators working in the public service, loss of employment became a reality, and even the perpetrator working in private services was informed that he would be sacked from his employment. And all this was prior to the evidence of the perpetrators being heard, which the Commission determined did not bode well for the Commission's objective of reconciliation. In that respect, again, it was clear that the Commission had not laid a sufficient foundation in the community concerning the amnesty process and why the Commission had been granted the authority to accord amnesty to those responsible for the commission of human rights violations. Somewhat ironically, as those trying to participate in the Commission's processes and contribute to its truth-seeking mandate by disclosing facts in their amnesty petitions were abused by the general community, all of the many others that had been served perpetrator notifications (in the form of private correspondence) and remained silent suffered no such consequences. For all intents and purposes, it appeared that the best approach, from the standpoint of the wellbeing of a perpetrator, was for a perpetrator to not engage with the Commission's amnesty process.

The first of the amnesty hearings was held on 31 May 2022 in closed session. The proceeding concerned Case No. 016: Brian Victor, Case No. 056: William Elizabeth, and Case No. 108: Myrna Issack. At that proceeding, the petitioners in question, Mr. Lesperance and Mr. Marengo, were first asked to provide a full and frank disclosure of their involvement in the events that had happened in 1983 that formed the foundation for those three cases. Both petitioners explained that they were young privates at the time who had received intelligence that Michael Hoffman had been seeking to buy guns from the army; Mr. Lesperance had then reported that intelligence to his commanding Officer, Claude Vidot, and to President René. Mr. Lesperance and Mr. Marengo claimed that they were then ordered to bring Mr. Hoffman to the tea plantation on the pretext of getting guns. Both petitioners stated that they had no intelligence on Sonny Elizabeth or Brian Victor, and claimed that both Mr. Elizabeth and Mr. Victor just happened to be with Mr. Hoffman at that time.

Once the petitioners had disclosed the acts for which they sought amnesty, they were questioned by the complainants. The complainants queried the frankness of the petitioners' disclosure and the sincerity of the apologies that were given. In particular, the complainants believed that the petitioners would have known which soldiers participated in the ambush, and wanted the disclosure of their names. Both petitioners explained that it was dark, and that as soon as they exited the vehicle, they headed back to L'Exile as they had been ordered to do. Mr. Marengo stated his belief that his Commanding Officer, Claude Vidot, would have been present, along with Charles Gertrude, both deceased. He also indicated that George Camille and Simon Constance may have been present, but he could not confirm that. The complainants posed numerous other questions as to why, given that their orders had been to bring Mr. Hoffman, they had not taken efforts to go only with Mr. Hoffman to the tea plantation. The petitioners both stated that they had not known that Mr. Hoffman would bring Sonny Elizabeth and Brian Victor

⁴⁶ As of 31 May 2022, Mr. Jeannevol has been officially informed of his termination..

with him, and that once in the car, they did not believe they could take any actions. Mr. Marengo stated that as they were going towards San Souci, Mr. Hoffman began to talk about the fact that they were going to collect guns, and at that stage Mr. Marengo was hoping that Mr. Victor would turn the car around and say that he was not going to be involved in the collection of weapons, but he did not. The complainants also questioned the veracity of soldiers selling guns and how that would be possible. The Commission explained that it had received evidence in other cases of soldiers selling weapons they had access to from the army.

The family members of Mr. Elizabeth and Mr. Hoffman expressed their desire to reach a point of forgiveness for Mr. Marengo and Mr. Lesperance. Mr. Victor, who appeared via Skype, was categorical that he would not forgive. Notably, and perhaps linked to this refusal of Mr. Victor, the brother of Mr. Victor, who attended the Commission hearing in person, was found to be in possession of a weapon upon entry to the Commission. A dagger was removed from him by the police at the door, and he was permitted to enter the premises of the Commission. However, once inside and during the proceedings, it was ascertained that he was in possession of another dagger, and at that point, he was escorted from the premises and detained by the police. Originally, it had been intended that this relative of Mr. Victor would be present in the hearing room, but the Commission had been informed just prior to the hearing that Mr. Victor wanted his relatives to remain in the adjacent room where they could follow the proceedings on the live screen. It is unclear whether this change in plan was to facilitate the brother of Mr. Victor attacking the petitioners, as he would have been in a position to observe their departure from the hearing room and make his own departure coincide. The Commission notes that Mr. Victor informed it that following the incident, he had been unaware of any plans on the part of his brother to harm the petitioners.

The next hearing, on 1 June 2022, was the first public amnesty hearing of the Commission. This hearing related to Case No. 205-207: Sidna Umbricht and Aruna Couchene. Three complainants were present in the hearing room, Sidna Umbricht, Aruna Couchene, and Walter Constance who had filed a separate case before the Commission concerning his harassment and burning of his pick-up on political grounds⁴⁷. The petitioners set out the incident for which they were seeking amnesty. One of the petitioners, José Hollanda, who was at the time of the events a police sub-inspector in Praslin, detailed how he had been given orders by the Commissioner of Police, Andre Kilindo, to assist Mr. Marengo in the carrying out of a mission, and that his role was to destroy any evidence to avoid detection. The mission was to burn the pick-up truck of Mr. Constance, a vocal SNP supporter, who used his pick-up during rallies in support of the SNP and had been reported for swearing against President René and Vice President James Michel. Mr. Marengo informed the complainants that he had received orders from Charles Mellie, issued by Central Committee Member on Praslin, Vice President Michel, to burn Mr. Constance's pick-up. When that order was not immediately implemented by Mr. Marengo, he was called again by Mr. Mellie on the Thursday, and informed that Vice President Michel was coming to Praslin on the Saturday and that he did not want to see Mr. Constance's pick-up; the order had to be implemented prior to Vice President Michel's arrival. Mr. Marengo then instructed a friend and fisherman, Roland Gertrude, to come to Praslin on the Friday from Mahé and to bring fuel as Mr. Marengo did not want to purchase the fuel on Praslin, as it could arise suspicions. Mr. Gertrude brought the fuel as requested, unaware of its purpose at that time. When Mr. Gertrude arrived on Praslin, he was then briefed and enlisted to assist with the mission. Marc Pool, Mr. Marengo's driver, was aware of the order that had been given, having been told from the outset by Mr. Marengo. Mr. Pool, as a trained member of the SPDF, apparently knew that it was an order that had to be implemented.

Under pressure to complete the mission prior to Vice President Michel's arrival, the petitioners drove around Praslin trying to locate the pick-up on the Friday evening, and eventually located it outside Mimi's

⁴⁷ Walter Constance made his own complaint in Case 441.

Casino. As there were a number of CCTV cameras around Mimi's Casino, they could not implement the mission then, so they sat and waited. Eventually they observed a white man come out and get into the pick-up and drive to the Oxygen Nightclub at Baie St. Anne. They sat and waited until the man came out of the nightclub, got into the pick-up, and drove off. They then followed the pick-up until it suddenly stopped and parked up near the Chateau de Feuilles Hotel, in Point Cabris. The petitioners did not know why the pick-up had stopped, and they drove past it and pulled up around a corner out of sight of the pick-up. Mr. Gertrude then approached the vehicle and saw that the driver appeared to be asleep on the wheel, and he went back to the jeep to report to Mr. Marengo what he had seen. Mr. Marengo then gave the instruction to execute the order that had been given, and Mr. Gertrude and Mr. Hollanda went back to the vehicle with a gunny bag and the fuel. Mr. Gertrude threw the fuel over the passenger side where they had placed the gunny bag, lit the fire, and fled. All petitioners had believed that the occupant of the vehicle would feel the heat and wake up, but he did not. The following day, the petitioners learnt that Claude Monnaie, the occupant of the vehicle, had suffered serious burns and was in the intensive care unit of Victoria Hospital. Mr. Hollanda recalled that when he explained to the Commissioner of Police what had happened, the Commissioner had been completely unconcerned about the injuries suffered by Mr. Monnaie.

Mr. Monnaie was in the hospital recovering for some three weeks, and then he suddenly died. The complainants believed that Mr. Monnaie had been deliberately murdered in the hospital to prevent him from talking about what had happened. The Commission had extensively investigated this claim, however, and had been unable to establish that it was more likely than not true. Throughout their interactions with the Commission, the petitioners had made it clear that Mr. Monnaie had not seen them light the fire, and that their orders had been to burn the pick-up, not to kill its occupant, Mr. Monnaie.

At the hearing, all three of the complainants present stated that they were not ready to forgive the perpetrators for their acts that led to the death of Mr. Monnaie. Walter Constance was particularly vocal in stating that there would be no pardon from him now or in the future.

On 2 June 2022, the Commission conducted the amnesty hearing in Case No. 149: Rolderick Larue and Marise Eulentin, which concerned the death of Dhamendra Eulentin. Three of the four petitioners appeared before the Commission: Jemmy Marengo, Marc Pool, and Alain Jeannevol. The fourth petitioner, Mr. Ken Jean Charles, was unable to attend as he was being tried in the Supreme Court for murder, and that trial was still ongoing. Six of the victims appeared before the Commission, including the parents of Dhamendra, his brother Daniel Laurence, Marie-Lise Eulentin and Neddy Labiche.

To commence the proceedings, the petitioners set out the facts relevant to the incident. Mr. Marengo had been called to see Albert René, who at the time was no longer President, but President of the SPUP Party, who had asked Mr. Marengo whether he knew Dhamendra Eulentin and informed Mr. Marengo that Dhamendra was dangerous, and that he needed to be eliminated. Mr. Pool was Mr. Marengo's driver at the time, and he recounted taking Mr. Marengo three times to see Mr. René, and each time Mr. René ordered the elimination of Dhamendra. Mr. Marengo was told by Albert Rene to use Mr. Jeannevol and Mr. Charles to implement the mission, both of whom were stationed in a special unit at Bel Eau Headquarters, under the command of Edward Anacoura, but who were assigned to Mr. Marengo by the army leadership. According to Mr. Jeannevole, he had understood that the order to eliminate Dhamendra was due to a political problem he had. In order to be able to eliminate Dhamendra, the petitioners formed a plan whereby Dhamendra would be taken one evening to the old SPDF clinic being used by the intelligence services on the pretext of meeting with Dr. Patrick Hermitte, then Speaker of the National Assembly, to discuss the allocation of a house to Dhamendra. At the clinic waiting for him would be Mr. Jeannevol and Ken Jean Charles. The petitioners detailed how Mr. Marengo, Mr. Pool and Bernard Gertrude collected Dhamendra from the Roche Caiman bridge as agreed and drove him to the SPDF clinic. Once there, Dhamendra was instructed to go inside and Mr. Marengo, Mr. Pool, and

Mr. Gertrude left, stating they would be back shortly. Inside the clinic, waiting for Dhamendra, were Mr. Jeannevol and Mr. Charles. Mr. Jeannevol detailed how he invited Dhamendra to sit down and then went as if to leave the room, but came behind him and placed him in a headlock, and then he and Mr. Charles placed a bin liner over his head. Mr. Jeannevol described how he held his grip for five minutes, and then Dhamendra was dead. They waited in the clinic for the return of Mr. Pool, and when he returned, they placed Dhamendra into the back of the jeep. Already in the vehicle was an engine block and rope, and the plan previously formulated was to take the body to Providence and throw it into the sea, tied to an engine block. This was implemented. It was dark, the perpetrators observed the body sink, and then they left. One of the concerns of the family had been the state of Dhamendra's body when it had re-surfaced some three days later, without clothes, with eyelids missing, and various injuries on the body. Mr. Jeannevol was categorical that they had not tortured Dhamendra, and stated that the damages to his body must have been caused by fishes in the sea.

The complainants pressed the petitioners to provide as many details as possible as to what had happened to Dhamendra, and the mother of Dhamendra and other family members expressed their sympathy for Mr. Pool, who was just the driver, and for Mr. Jeannevol, who had acted under orders. The complainants were particularly hurt by the involvement of Mr. Marengo, as he had grown up with their family and they knew each other well. The complainants also expressed their view that compared to others that had come before the Commission, they were lucky to have Dhamendra's body and were grateful that the petitioners had come forward so that they knew what had happened. All of the petitioners asked for forgiveness and stated that there was no reason as to why Dhamendra should have been killed. The family members stated that they were not ready to forgive, but they would try to forgive one day. They proposed that the petitioners should go to the grave of Dhamendra with flowers and ask for his forgiveness, and that they should organise a mass for Dhamendra at the church that he used to attend. It was agreed that the victims and the petitioners could both attend. Mr. Marengo offered to take care of these arrangements and to let the petitioners know the details.

There was another person that had been present in the vehicle with Mr. Marengo and Mr. Pool when Dhamendra was collected, Bernard Gertrude, a fisherman and a friend to Mr. Marengo. At the time of the events, Mr. Gertrude had been at the home of Mr. Marengo and had been asked to come along with them when they collected Dhamendra. The Commission was satisfied that Mr. Gertrude had no knowledge about the plan to kill Dhamendra. Once Dhamendra had been killed, Mr. Gertrude was sent back to the location to collect Dhamendra's body with Mr. Pool and was then made to assist in its disposal. Given all the circumstances of Mr. Gertrude's participation, including the evidence of the other petitioners that he had not been involved and had been dragged into the matter by the others, the Commission determined not to accord Mr. Gertrude perpetrator status for the unlawful killing of Dhamendra. As Mr. Gertrude was never accorded perpetrator status, he could not petition for amnesty. Given the public backlash against those involved in the matter, Mr. Gertrude's participation in the hearing was not publicly disclosed during the amnesty hearing by the petitioners or by the Commissioners. However, as the family members of Dhamendra had full access to the case file in this case, and the determination that had been made by the Commission, they were also fully aware of the role of Mr. Gertrude at the time of the public amnesty hearing.

The last amnesty hearing held in the afternoon of the same day concerned the same four petitioners in Case No. 090: Livette Hermitte, *joined with* Case No. 270: Gaetan Didon, which concerned the death of Ricky Hermitte. Again, only three of the petitioners were present due to the on-going trial of the fourth petitioner, Mr. Charles, in the Supreme Court. The mother, father, and daughter of Ricky Hermitte appeared before the Commission, along with Samina Marie, Doris Philoe and Jennifer Didon. The petitioners again set out the events for which they were petitioning for amnesty, with Mr. Marengo stating that he had again received an order from ex-President René to kill Mr. Ricky Hermitte, and that he did not know the reason why. Marc Pool was again his driver and was implicated upon that basis.

This event occurred prior to the killing of Dhamendra Eulentin, and Alain Jeannevol and Ken Jean Charles were released from L'Exile by Commanding Officer Claude Vidot to assist Mr. Marengo following Mr. Marengo's failure to implement the order himself. Mr. Marengo recounted that the botched attempt on his part took place at a house in Vista Do Mar, Glacis, where Ricky had been brought by Ralph Mathiot on the pretext of selling a motorcycle or robbing the property. When they arrived, Mr. Marengo lay in wait, and when Ricky entered the house, he fired his gun, but above his head. Mr. Marengo stated that he could have fired again and he could have killed Ricky, but he did not want to do so. Mr. Marengo stated that when he reported his botched attempt to ex-President René, he had been instructed to enlist Mr. Jeannevol and Mr. Charles to assist him in carrying out the mission to kill Ricky. Mr. Jeannevol advised how he had kept Ricky under surveillance for some four weeks and knew his movements. Ricky operated a pirate taxi, and a plan was formulated whereby Mr. Jeannevol would use Ricky's pirate taxi and travel to Kan Tobruk, and once there he would stab Ricky to death. Mr. Charles would be hiding at the location to ensure the plan was properly implemented. Mr. Jeannevol explained how he stabbed Ricky in the chest, and as Ricky fled, Mr. Charles appeared and stabbed him in the neck. Mr. Charles then moved Ricky's car to Curio Road, while Mr. Jeannevol fled in the car that Mr. Pool had hired from the company operated by the Commissioner of Police, Mr. Gerard Waye-Hive. As they were fleeing the scene, Mr. Jeannevol crashed the hire car into a telegraph pole, and then Mr. Pool was called, and he came with Mr. Marengo to collect Mr. Jeannevol and Mr. Charles. Mr. Jeannevol and Mr. Charles were dropped at Bel Eau, and Mr. Pool and Mr. Marengo proceeded to the house of Leopold Payet, where Commissioner Waye-Hive was having dinner, to inform the Commissioner of Police that his hire car had been crashed and its location.

During the proceedings, Ricky Hermitte's father, Gaetan Didon, questioned the petitioners in detail for over 90 minutes about aspects of the evidence they gave, making the allegation that they had not told the truth about what had happened. Many of the questions involved details that Mr. Didon presented as arising from his own independent investigation as a senior police officer previously, but which nonetheless mirrored several findings of the Commission. In that regard, the Commission had at one stage to point out that Mr. Didon was asking the petitioners to confirm aspects of the testimony that had been given by another witness and was not necessarily within the knowledge of the petitioner, and that nuances in the language of the determination decision may have resulted from the Chairperson's reliance on one translator for most of the hearings coupled with the unavailability of transcripts. It was emphasised that the Chairperson relied on her notes based on the translation she had been given to draft the determination. It also had to be explained that memory by its nature can become fragmented, especially given events that occurred multiple decades ago, and that it is not as if the petitioners were able to replay a video in their head detailing every instant of what occurred.

Mr. Didon also emphasised that as a senior police officer, he himself had been ordered to undertake unlawful acts, and he had refused and been sentenced to imprisonment. He queried why the petitioners had not done the same. While the petitioners ultimately expressed their apologies and sought forgiveness, Mrs. Hermitte was categorical that her family would not forgive the petitioners. She stated that if they were really sorry, they should go and turn themselves in to the police for prosecution. At this point, the Commission noted the provision of its Act whereby once a petition for amnesty has been filed, no police investigation can be commenced or one already commenced must be discontinued until the completion of the amnesty proceeding.⁴⁸ The victims also wanted to know whether amnesty could be granted if they did not agree to forgive, and the Commission explained that there were only two criteria under the TRNUC Act – full and frank disclosure and sincere apology – and these were factors for the Commission to address. The views of the complainants, including their decisions on whether to forgive the petitioners, were not determinative.

⁴⁸ TRNUC Act, sec. 12(6)(a).

While the complainants and victims in the case of Ricky's death were not ready to forgive, they were still grateful for the opportunity they were given to address the petitioners and to ask the questions that they had.

As a general observation, the Commission notes that despite the fact that it had undertaken thorough investigations into all allegations subject of the amnesty hearings the complainants in these cases were reluctant to accept the findings of the Commission with respect to what had actually happened to their loved ones. This stemmed from the fact that in the years prior to the establishment of the Commission the complainants had been given various pieces of information as to what had happened and created their own narrative of events based on what they had heard or been told by others. It appeared that what they were seeking from the Commission was confirmation of these pre-existing narratives such that any deviation from them by the petitioners resulted in accusations that the petitioners were lying. In all of the hearings, the Commission had cause to emphasize its investigations and what they had established, yet for the most part this appeared of no avail, the complainants had a strong sense of knowing the truth prior to the work of the Commission and a strong commitment to their pre-existing narratives.

During the Commission's amnesty hearings, Sharon Morgan, the daughter of Gilbert Morgan, who had disappeared in February 1977,⁴⁹ had contacted the Commission Chairperson by email and stated as follows:

I hope I get lucky that my perpetrator comes forward and ask for Amnesty. Mrs. McIntyre the only way I can get a full closure is if "he" comes forward. I will forgive him, the burden we both carry is heavy. I would never want to do what he did to me... taking my father away from me, [...] has kids and grandkids, I want him to live his next 10 years with them. So, if this note I am writing now brings some kind of help, please address this with my perpetrator. If it helps him, we can even do a closed session.

The Commission publicly broadcast the message of Sharon Morgan at the close of the hearings in the hope that it would not only resonate with the perpetrators in her case, but also underscore the significance of the petitioners in the cases the Commission had heard coming forward to tell the truth about their involvement as a measure of bringing closure to the victims and inspiring reconciliation.

5. Social Media and Community Responses

Following the amnesty hearings, social media was again active against the prospective grant of amnesty to the perpetrators. The perpetrators were accused of lying before the Commission, their demeanor criticised and the sincerity of their apologies questioned. The TRNUC was criticised for its power to grant amnesty and accused of forcing the victims to forgive the perpetrators. In particular, Archbishop Wong, who had addressed the complainants on the merits of forgiveness for their own well-being, came under attack. In that respect, it was disappointing to the Commission that the people of Seychelles did not appreciate the courage that had been shown by the petitioners, who had come before the Commission voluntarily to petition for amnesty, or the value of the information the petitioners had provided towards closure for the victims, recognition of their human rights violations, and contribution to archives and national memory. It appeared that while the Commission had always made clear that its objective was not punitive, but reconciliatory, segments of the population of Seychelles nevertheless still wanted revenge and punishment for the perpetrators, and were opposed to the notion of reconciliation more generally. Indeed, the allegation that the TRNUC was failing because it advocated for forgiveness and reconciliation was demonstrative of a fundamental misunderstanding of the mandate of the Commission and of truth commissions and transitional justice more broadly.

⁴⁹ See Case Determination No. 031: Sharon Morgan, *joined with* Case No. 032: Derek Morgan and Case No. 033: Sylvia Morgan.

Notably, on Saturday, 4 June 2022, the United Seychelles Party held its Annual Meeting with supporters at Maison Du Peuple and in which former Member of the National Assembly Mitcy Larue saw fit to praise the greatness of Albert René. In addition, during his speech the President of the United Seychelles Party, Dr. Patrick Herminie as already noted in Volume I, stated the following:

“Our Founding Father, Mr France Albert Rene told us that the journeys of SPPF, Lepep and US are one and the same journey for a better Seychelles. All those who want to change direction, who want to change direction, will end up in a gutter, under a bridge.”

These statements on the part of the US Party, so close to the Commission amnesty hearings concerning politically motivated murders ordered by Albert René, was sincerely disappointing to the Commission. It brought home to the Commissioners that the path towards reconciliation, which fundamentally relied on national leadership and political will, was not being broadly supported.

The week following the amnesty hearing in his cases Alain Jeannevol confirmed that he had been fired for petitioning for amnesty and Marc Pool was terminated by the Commissioner of Police and no reasons were given for that termination. The letter of dismissal later served just made reference to the stock standard provision “failed to be an efficient police officer” relied upon in the Second Republic and beyond to victimize on political grounds those deemed not to be with them.

In addition, José Hollanda was suspended from his job at the Land Transport Department on 1 June 2022. He was told that he would be informed within 14 days as whether he would be terminated. While the duration of his suspension was supposed to be 14 days, it was extended twice by written notice at the time of writing and Mr. Hollanda was informed that he should not go to work until a decision is made on whether his employment there will be terminated or not.

Furthermore, Mr. Hollanda informed the Commission that on 16 July 2022 he had been informed by the Chairperson of the Board of the Family Tribunal, of which he has been a Member of the Board for 18 years, that he had two weeks to submit his resignation. The Chairperson had further informed him that, if he did not submit his resignation, he would be terminated from his position on the Board. The Family Tribunal did not provide Mr. Hollanda with any written document stating this - it was only verbally conveyed to him by the Chairperson and Mr. Hollanda was, at the time of writing, seeking a meeting with the Chief Justice of Seychelles. According to Mr. Hollanda, the reasons given for both these issues was his appearance before the Commission to petition for amnesty. However, the Commission has been informed that his suspension from the Land Transport Department was due to other grounds. Unfortunately, shortly after his appearance before the Commission Mr. Hollanda was also hospitalised with extremely high blood pressure and was placed on heavy medication and bed rest. Mr. Hollanda conveyed to the Commission that, if he loses his employment with the Land Transport Department and Family Tribunal, he would no longer be able to financially sustain his family. Furthermore, Mr. Hollanda told the Commission that, as a result of the reactions to his amnesty petition, he had become severely depressed and has contemplated suicide.

The Commission considered it unfortunate that those small number of people who had sought to assist the Commission in its objective of bringing closure to the victims and who were seeking forgiveness and reconciliation were subjected almost immediately to punitive measures. The Commission considered the approach of the Government authorities contrary to the mandate of the Commission and inconsistent with any Government commitment towards rehabilitation of perpetrators and broader reconciliation of the society. In this respect, the Commission felt that it had been placed in an almost untenable position, it had been mandated to promote forgiveness and reconciliation but was without the support of relevant Government authorities in the implementation of that mandate.

As already noted, there was only one additional petitioner Samuel Camille who came forward but in light of the backlash experienced by other perpetrators Mr. Camille requested that he be permitted present his petition in closed session. The Commission agreed pursuant to Section 6(4) (b) of the TRNUC Act but publicly announced that Mr. Camille was petitioning for amnesty in the media. As a pirate taxi operator, Mr. Camille was not opposed to his name being disclosed, provided that his physical identity was not also disclosed.

The Amnesty hearing of Mr. Samuel Camille in Case 419 Madalena Joubert was scheduled for 13 July 2022. Mr. Camille's petition pertained to the planting of drugs on Mr. Robin Barbe by members of the Seychelles Police Force. Mr. Camille, who was a Constable in the Police Force at the time of the incident, noted that he was made to plant drugs on Mr. Barbe and provide false testimony during Mr. Barbe's subsequent trial under duress. The hearing was attended by Mr. Camille, Mr. Barbe, and Mr. Barbe's wife, Magdalena Joubert.

The hearing commenced with Mr. Camille recounting the incident. He stated before the Commission that for several weeks prior to the incident, his superior officer, Mr. Ron Marie, who was then the Commanding Officer of the Seychelles Police Force's Anti-Drug and Marine Squad (ADAMS) repeatedly told him that the situation pertaining to drugs was getting worse in the Seychelles. He had told Mr. Camille that he had received letters from the Office of the President of the Seychelles informing him that there were too many drug dealers in Seychelles and that the ADAMS were not apprehending them efficiently.

Mr. Camille stated before the Commission that for a few weeks prior to the incident, Mr. Marie had told him that he believes the ADAMS needed to plant drugs on Mr. Barbe as they were having no luck apprehending him in a conventional manner. Mr. Camille had suggested to Mr. Marie that he remain patient as, if Mr. Barbe was a drug dealer, he would eventually falter and the ADAMS could arrest him when he does. Mr. Marie had told Mr. Camille that he believed that officers from within ADAMS were being bribed by Mr. Barbe, which was one of the reasons as to why he had consistently evaded capture.

Mr. Camille informed the Commission that, approximately one day prior to the incident, he accompanied Mr. Marie to the Central Police Station. Mr. Camille stated that, when they arrived at the Central Police Station, they went to the Commissioner of Police, Gerard Waye-Hive's, office. Whilst at Commissioner Waye-Hive's office, Mr. Camille recalled witnessing Commissioner Waye-Hive retrieve an envelope from his safe and hand it over to Mr. Marie. He noted that he could not remember if Mr. Marie opened the envelope whilst in the Commissioner's office, however, he asserted that Mr. Marie eventually opened the envelope and presented him with a piece of hashish. Mr. Camille asserted that Mr. Marie told him that he would have to plant the hashish on Mr. Barbe.

Mr. Camille stated that, the following day, an operation was conducted to search Mr. Barbe's residence. According to Mr. Camille, this was the guise under which he was told to plant the hashish on Mr. Barbe given to him by Mr. Marie. Mr. Camille recalled kicking down Mr. Barbe's door and pinning him to the ground. When questioned by Ms. Joubert as to whether officers physically harmed Mr. Barbe, Mr. Camille noted that some officers did physically assault Mr. Barbe. Mr. Camille stated that he then planted the hashish on Mr. Barbe and alerted his fellow officers, informing them that he had found drugs on Mr. Barbe's person.

Once Mr. Camille had finished sharing the details of the incident with the Commission, Ms. Joubert recounted how challenging her and her children's lives became once Mr. Barbe was imprisoned. She noted that she her children were traumatised by the manner in which their father was arrested and their access to quality education was also impeded as Mr. Barbe was responsible for paying their school fees. Ms. Joubert noted that it was emotionally difficult to visit Mr. Barbe at prison and Mr. Barbe informed the Commission that he even requested to be sent to one of the outer islands so that Ms. Joubert would

not have to go through the ordeal of visiting him. Ms. Joubert stated that she and Mr. Barbe had plans for their future, but those plans were ripped away from them the day Mr. Barbe was arrested.

When questioned by the Commissioners, Ms. Joubert and Mr. Barbe both noted that they were Seychelles National Party supporters, with Ms. Joubert noting that she was a fanatic, therefore she was very vocal about her political opinions. The Commissioners noted that based on the pattern of evidence received, that this may have been a reason as to why Mr. Barbe was targeted by the government.

When the issue was raised by Ms. Joubert, Mr. Camille also confessed to soliciting a bribe from Ms. Joubert following Mr. Barbe's arrest. Mr. Camille agreed with Ms. Joubert's assertion that Mr. Camille told her that if she paid him SCR 200,000, he would confess before the Court that the drugs had been planted on Mr. Barbe during his evidence on trial. Apparently, the motivation for the request was that Mr. Camille knew that if he told the truth he would be terminated by the police and the money would assist him in purchasing a pirate taxi and embarking upon a new career. Ms. Joubert, however, did not have the necessary funds to pay this bribe.

Mr. Camille and Ms. Joubert both recalled that, during Mr. Barbe's trial, he attempted to tell the truth about the incident, however, when the prosecution noticed that he was not relaying the statement he was instructed to make, they adjourned the trial. Mr. Camille noted that, whilst the trial was adjourned, he was told by someone whom he could not remember the identity of that if he did not provide the false statement as he had been instructed to, he would be sent to prison. Notably, Ms. Joubert reaffirmed Mr. Camille's statement and asserted that Mr. Camille's then-girlfriend, Sheryl Rangasamy, told her shortly after the trial that Mr. Camille had been threatened into providing false testimony.

Throughout the hearing, Mr. Camille was visibly emotional. He repeatedly told Mr. Barbe and Ms. Joubert how sorry he was. He noted that, at the time of the incident, he was in his early twenties and did not have the courage to decline the orders given to him by his superior officer. He added that he is now a father and having children of his own has made him realise how painful it must have been for Mr. Barbe's children to lose their father. He stated that he can never give Mr. Barbe, Ms. Joubert, and their family the years they lost, but that he hopes that they know that his apology is sincere and asked for their forgiveness.

When questioned by the Commissioners, Mr. Barbe and Ms. Joubert agreed that Mr. Camille's actions were committed under duress and that his attempt to rectify the situation was impeded by threats made against him. Additionally, when asked by the Commissioners as to whether they were ready to forgive Mr. Camille, Mr. Barbe and Ms. Joubert both said they were. The hearing concluded with Mr. Camille shaking hands with Mr. Barbe and Ms. Joubert.

6. Informal Reconciliation Processes

In addition to the formal amnesty proceedings the Commission also conducted a few informal reconciliation processes.

In Case 303 Weston Wirtz, who had filed a complaint concerning his beating by soldiers under the command of former SPDF officer Robert Ernesta requested the appearance of Mr. Ernesta during his presentation of his complaint and gave his pardon to Mr. Ernesta for that incident during that hearing.⁵⁰ In so doing, Mr. Wirtz hoped to persuade other Seychellois to engage in truth telling before the Commission.

⁵⁰ Hearing No. 137 of Monday 12 April 2021.

A further informal reconciliation process took place during the hearing of Case 405 Peter Henri. In his complaint Mr. Henri had alleged that he was badly beaten on 23 December 1991 at La Rosiere School, Hangard Street by members of the SPDF because he was wearing an opposition t-shirt. Mr. Henri could not identify his attackers but following the hearing of his complaint the Commission was called by former soldier Mr. Elvis Dingwall who identified himself as one of the participants in the beating of Mr. Henri along with other soldiers of the SPDF, Garry Laporte and Mr. Eric L's estrange. The Commission then organized individual hearing sessions with Mr. Dingwall⁵¹ and the other persons identified by him.⁵² During those hearings, Mr. Dingwall and Mr. Laporte took responsibility for the beating of Mr. Henri with Mr. Dingwall in particular expressing his relief that Mr. Henri had survived the attack, which was politically motivated. It was only Mr. L'estrage, the most senior officer involved in the incident, that continued to deny involvement and the Commission then scheduled a joint hearing of the perpetrators with Mr. Henri.⁵³ At that hearing, Mr. Dingwall and Mr. Laporte sought the forgiveness of Mr. Henri and Mr. Henri gave the perpetrators his pardon. Mr. L'estrage continued to deny any involvement in the incident or that he gave an order for the beating of Mr. Henri.

In addition, one of the Commission's national investigators was contacted by Louanne Etienne on 8 June 2022, who was deemed a perpetrator by the Commission in Case 018: Guilmer Mangroo. Mr. Etienne was found to bear responsibility for the torture inflicted upon Mr. Mangroo at Grande Police in 1998. Mr. Etienne requested to meet with the Perpetrator Support Officer and the International Investigator.

The International Investigator and Perpetrator Support Officer, along with a Commission Translator, met with Mr. Etienne and his wife on 17 June 2022. During this meeting, Mr. Etienne informed the Commission staff that he may have tortured Mr. Mangroo, however, given the time lapsed and the fact that he was ordered to beat and torture many persons during his time at Grande Police, he struggles to recall torturing Mr. Mangroo. Mr. Etienne asked if the Commission could organise a meeting with him and Mr. Mangroo to allow him to see Mr. Mangroo's face and so that Mr. Mangroo could tell him his story.

As requested by Mr. Etienne, on 27 June 2022, a meeting was convened so as to allow Mr. Mangroo to speak directly with Mr. Etienne. This meeting was attended by Commissioner Gbilimou, the Victim Support Officer, the Perpetrator Support Officer, the National Investigator on the case, a Commission Translator, and the International Investigator.

The meeting commenced with Mr. Mangroo sharing details about his ordeal with the intention of jogging Mr. Etienne's memory of the incident. He noted that he was brought to Grande Police because two soldiers had provided false intelligence to Robert Ernesta asserting that Mr. Mangroo had accepted a case of drugs from them at the airport. Mr. Mangroo claimed that Mr. Etienne was one of the soldiers who tortured him and described in detail how Mr. Etienne did so. Mr. Mangroo noted that he remembered a green band on the cuff of Mr. Etienne's uniform, which signified that he carried the rank of Sergeant Major. He added that, seeing Mr. Etienne that day, he was sure it was he who beat him. However, Mr. Mangroo said that he wants to forgive Mr. Etienne because he knows he was ordered to do what he did and noted that when Mr. Etienne came to Mr. Mangroo's residence to apologise to him after learning that Mr. Mangroo was not guilty of the crimes he was accused of, his apology seemed sincere and his remorse genuine.

⁵¹ Hearing No. 163 of Monday 7 June 2021

⁵² Hearing No. 160 of Thursday 27 May 2021; Hearing No. 172 of Monday 21 June 2021; Hearing No. 172 of Monday 21 June 2021.

⁵³ Hearing No. 212 of Friday 8 October 2021.

Mr. Etienne then took the floor. He stated that, despite Mr. Mangroo's detailed recount of the incident, he could not seem to recall torturing Mr. Mangroo. Mr. Etienne noted that his primary job at Grande Police was to collect people from around the island and bring them back to the camp - which meant that he was seldom at the camp itself. Mr. Etienne added that he was not a Sergeant Major at that time, rather he was only a Sergeant. He added that he does not recall the allegations levelled against Mr. Mangroo by the two soldiers and noted that, if he had beaten Mr. Mangroo, he would be privy to those details given that when torturing someone, he would have to question them whilst inflicting harm on them. He noted, however, that he has been involved in many beatings, hence why he cannot remember Mr. Mangroo in particular. He told Mr. Mangroo that, if he is responsible for beating him, he is truly sorry as it is not something he is proud of having done.

The meeting then concluded with Mr. Mangroo and Mr. Etienne shaking hands and reconciling.

The Commission recalls that for an individual to petition for an amnesty, they must meet the criteria of a 'full and frank disclosure' of the incident and 'sincere apology' to the victim(s). Whilst it is evident that Mr. Etienne is genuinely remorseful for his actions and his assertion that he cannot remember torturing Mr. Mangroo seems sincere, the fact that Mr. Etienne's account was not full meant that he did not meet the threshold to petition for an amnesty before the Commission.

The Commission notes that following this meeting it obtained Mr. Etienne's army file to ascertain his rank at the time of the incident, given that Mr. Mangroo asserted during the meeting that, whilst being tortured, he noticed a green band on Mr. Etienne's cuff, which indicated that he was a Sergeant Major. According to a document in Mr. Etienne's army file, he was not a Sergeant Major at the time of the incident, in 1998, as alleged by Mr. Mangroo. According to the aforementioned document, Mr. Etienne was a Staff Sergeant at the time of the incident. The Commission notes that it did not find this detail of significance with respect to the identification Mr. Mangroo had made of Mr. Etienne before the Commission during the hearing of complaint.

As already indicated, despite the Commission's best efforts, no further persons sought to petition for amnesty with the Commission, despite some of them having admitted their responsibility to the Commission. In that regard, it did not appear to resonate with the broader community the impact of their negative responses to the amnesty petitioners on the likelihood of other people seeking to petition for amnesty, which may have brought closure to other victims seeking to know the truth of the fate of their loved one. Indeed, it appeared to the Commission that some of its victims and the community more broadly had expected that anyone deemed a perpetrator would embrace the chance of being granted an amnesty and that the public vilification of the petitioners and their families that followed would not act as a deterrent to them doing so.

During the public meeting scheduled by the TRNUC and the TRNUC Victims Committee on 6 July 2022⁵⁴, the Commission sought to further explain to the TRNUC's victims the legislative framework and its reconciliatory objective. The Commission noted that it was not "tone deaf" to the opposition of the victims to a grant of amnesty but that it was unfortunate that the victims had not made that opposition clear at the time of the drafting of the law. The Commission further noted that, while it was not mandated to refer persons for prosecution, the Commissioners had determined that it would do so, especially in relation to those persons who had not petitioned the Commission for amnesty. However, the Commission warned that there would be many obstacles to successful prosecutions considering the high burden of proof of criminal prosecutions, the time that had passed since the commission of the human rights violations and realities of whether the police force in Seychelles had the capacity to undertake investigations into historical offences.

⁵⁴ See Volume V Reparations.

7. Mass for Victims

Following the amnesty hearing in Case 149, Mr. Marengo, Alain Jeannvole and Marc Pool organized a mass originally intended for Damendra Eulentin on 14 July 2022, upon the request of the mother of Damendra, Mariyse Eulentin, that they do so. As the mass was being organized, Ms. Eulentin requested that it include all the victims of these perpetrators and also extended the invitation of attendance to the victims in Case 419. At that mass, held at the Sainte Therese Church at Plaisance, representatives of all victims' subject of amnesty petitions attended, except for those in Case 90, which concerned the unlawful killing of Ricky Hermitte, along with members of the Commission and the perpetrators, some of whom were supported by their family members. During the mass, the perpetrators asked for forgiveness and expressed their remorse and received the forgiveness of God. The mother of Damendra Eulentin spoke and informed the perpetrators that the forgiveness that God could give them was more important than any forgiveness that she could give. Ms. Eulentin informed the perpetrators that she was happy that they had listened to her and that they had come to ask the forgiveness of God and told the perpetrators that they would be lighter now that God had forgiven them.

The following morning, Mr. Marengo, Alain Jeannvole and Marc Pool attended at the grave of Damendra Eulentin along with Damendra's mother, and representatives of the Commission. The perpetrators asked Damendra for his forgiveness and lay flowers on his grave. The mother of Damendra spoke and informed the perpetrators that she could feel the spirit of Damendra and that Damendra had forgiven the perpetrators. Ms. Eulentin informed the perpetrators that she knew that they could not walk freely, particularly Mr. Marengo, and that Damendra and Ms. Eulentin wanted the perpetrators to live their lives freely and for the victimisation of their families to cease.

The mass was filmed by SBC and a small segment of the event was broadcast on the news the following day. The Commission considers that it was unfortunate that a fuller version of the mass was not shown by SBC and believes that the historical significance of the event with respect to the purported national aim of reconciliation was not appreciated. Again, the Commission notes that it failed to lay a sufficient ground work in the community with respect to the purpose and value of the amnesty proceedings due to the simple fact that it was consistently denied the allocation of any resources whatsoever to be able to do so.

8. Amnesty Petitions Deliberations

Following the hearing of the last amnesty petitions the Commissioners met to deliberate on the applications that had been made on 22 July 2022. Due to the principle of the secrecy of deliberations the contents of those deliberations is not shared here but the Commission considered each petition individually and the orders made by the Commission are annexed to this Volume.⁵⁵ It must be underscored, that in determining whether or not to grant amnesty to petitioners, the Commissioners abided fully by the legal framework they had been given and decisions on the amnesty petitions were taken by the majority of the Commissioners. In that respect, given the small nature of Seychellois as a community and sensitivities towards the grant of the power of amnesty to the Commission, the positions of individual Commissioners on each amnesty petition are not reflected in the orders on amnesty petitions. This approach of non-identification of individual Commissioners seeks to protect individual Commissioners from retaliation from broader members of the society and to underscore that decisions on amnesty are institutional decisions taken in accordance with the legal framework of the Commission. Notably, the decision to include within the legal framework of the Commission the power to grant amnesty was a political decision of the relevant law-makers and the Commission, in exercising its amnesty power, has done so in accordance with the expressed will of the legislative authorities and made all efforts to do so in conformity with relevant and applicable international standards.

⁵⁵ Volume IV Annex 2.





VOLUME IV

ANNEX I

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

GUIDELINES AND PROCEDURES ON AMNESTY

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PREAMBLE

The Truth, Reconciliation and National Unity Commission,

Recognising that the inherent dignity and equal and inalienable rights of all human beings is the bedrock of justice and peace;

Reaffirming the duty of every state under international law to respect and protect human rights and take effective measures to combat impunity,

Recalling the principles set forth in the United Nations (UN) Charter, Universal Declaration of Human Rights, Belfast Guidelines on Amnesty and Accountability, and the “UN Updated Set of principles for the protection and promotion of human rights through action to combat impunity,”

Bearing in mind the amnesty provisions as set out in Section 12 of the Truth, Reconciliation and National Unity Commission Act, 2018, and in Rules 42 through 48 of the Commission’s Rules of Procedure and Evidence,

Cognisant of the fundamental and complementary needs for justice and accountability, protection of the right to truth and other human rights, and the importance of peace, reconciliation, reparation and remedy, forgiveness, and guarantees of non-recurrence in the transitional justice process,

Also cognisant, therefore, that conditional and selective amnesty can play a role in the truth and reconciliation process, in particular when combined with strategies to ensure those most responsible for serious crimes are meaningfully held to account,

Mindful of the need for transparency in the granting of amnesty, of ensuring victims’ voices are heard and considered in relation to potential amnesties, and of clear public communication on the criteria for amnesty and rationale behind decisions,

Considering that in some instances throughout history, grants of amnesty may have resulted in impunity for serious crimes causing recurrence of abuse or further victimisation of victims by acting to deny their experiences and suffering,

Further considering the painful events of the Coup d'état of 1977 in Seychelles, and the need to bring healing, closure, and understanding to deal with the yet lingering effects,

Agrees to be bound by the following guidelines and procedures in the granting of any amnesty:

PART I

PRELIMINARY

Title

1. These principles and procedures may be cited as the Guidelines and Procedures on Amnesty.

Entry into force

2.(1) The Guidelines and Procedures on Amnesty (“Amnesty Guidelines” or “Procedures”) are adopted pursuant to Section 8(1) of the Truth, Reconciliation and National Unity Commission Act, 2018 (“Act”), and shall take effect upon adoption by the Commissioners appointed pursuant to the Act.

(2) These Procedures are derived from the provisions of the Act and are to be interpreted consistent with the Act and the Constitution of the Republic of Seychelles, 1993.

Definitions

3. In these Procedures, unless the context otherwise requires, the following terms shall mean—

Act: The Truth, Reconciliation and National Unity Commission Act, 2018.

Agreement: An understanding or accord reached by the perpetrator(s), victim(s), and/or Commission for purposes of mediation, conciliation, amnesty, or reparation.

Amnesty: An official act barring prosecution or civil liability of an individual for a specific act or omission, resulting in immunity from civil or criminal liability.

Commissioner: A member of the Commission and includes the Chairperson and Vice-Chairperson.

Commission: The Truth, Reconciliation and National Unity Commission established by the President pursuant to the Act.

Complainant: A person who is a victim, a representative of a victim or close surviving relative of a deceased victim.

Impunity: The impossibility in law or fact of bringing perpetrators of human rights violations to account under legal proceedings or reparations mandates, often originating from a failure by the state to investigate, prosecute, and punish violations or to ensure that victims have access to effective remedies, fulfilment of their right to truth, or reparations for injuries suffered.

Perpetrator: A person who the Commission has found was more likely than not to have committed any violation as defined in the Act and includes a person who has given an order or is otherwise implicated through superior responsibility, or materially assisted someone, to commit a violation.

Rehabilitation: The psychological, mental, or physical support offered to both victims and perpetrators in need of such support, with a view to their achieving complete closure and reparations, including restoring their credibility in society.

Reparation: The restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition, as understood in the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (2005), which are made to individuals and/or communities affected by human rights violations in acknowledgment of the harm(s) they suffered.

Suspect: A person who is suspected of having committed any violation as defined in the Act and includes a person who is suspected of giving orders or otherwise implicated by virtue of superior responsibility, or materially assisting someone, to commit a violation.

Victim: A person who has suffered any harm or detriment as a result of any violation as defined in the Act.

Violation: Any human rights abuse committed during or in relation to the Coup d'état of 5 June 1977 as set out in Section 2(8) of the Act, including any violations prior to or after that time period where the Commission is satisfied that violation(s) is of direct relevance to that period.

PART II

GENERAL

Values of the Commission

4. In dealing with any matter relating to amnesty, the Commission, its sub-committees, members, staff, interns, consultants, and volunteers shall act in accordance with and promote the following values and principles—

- (a) respect for the human dignity of all persons;
- (b) respect for the truth and the upholding thereof;

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- (c) equality and the advancement of human rights and freedoms;
 - (d) accountability, accessibility, and openness;
 - (e) earnest and methodical inquiry and due process;
 - (f) integrity, resoluteness, independence, impartiality, and the highest standard of professional ethics.

Cooperation with other bodies

5. (1) In the exercise of its functions under these Procedures, the Commission may cooperate and collaborate with organisations and persons that are concerned with post-conflict accountability and justice, healing, and reconciliation.

(2) Such cooperation shall be had with organisations and persons in Seychelles, such as national courts, police investigations, ombudsman offices, human rights commissions, hospitals, mortuaries, future truth-seeking bodies, and legal and community leaders, as well as with organisations and persons outside of Seychelles, such as civil society, the United Nations human rights framework and applicable procedures, the African Commission on Human and Peoples' Rights and other regional processes, and other international accountability mechanisms in line with the international commitments of Seychelles.

Handling of victims and survivors

6. The handling of victims and survivors of human rights violations shall be conducted following the provisions of these Guidelines and Procedures and in accordance with the following principles:

- (1) respect for dignity;
- (2) non-discrimination;
- (3) protection of privacy;
- (4) respect for diversity of languages and cultural values;

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- (5) respect for informal mechanisms for dispute resolution, including mediation and reconciliation measures; and
 - (6) procedures shall be fair, transparent, expeditious, inexpensive, and accessible.

PART III

GUIDELINES ON AMNESTY

Guideline 1: Context and threshold considerations

(1) The Commission realises it operates in an overall climate of historical public mistrust and human rights abuses. It thus undertakes to, *inter alia*,

- (a) review every amnesty petition on a case-by-case basis, reserving the right to group certain amnesties together in its deliberations where the factual circumstances, perpetrators, or victims are related; and
- (b) involve victims and the public to a high degree, including building considerations on reparations and reconciliation into the conditions for any grant of amnesty.

(2) In this context, this section contains basic guidelines, principles, and best practices that will inform the work of the Commission when considering any amnesty. These guidelines differ from the below procedures as they are less technical or procedural and more of a foundational grouping of considerations aimed at enhancing the legitimacy of the amnesty process and contributing to truth, accountability, and reconciliation.

Guideline 2: Basic understandings and aims

(1) In the spirit of the Preamble and Guideline 1 above, the Commission agrees to abide by the following considerations:

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- (a) There shall be no blanket amnesties extending to multiple perpetrators without due consideration of each individual case;
 - (b) Any grant of amnesty is, by nature, extraordinary, heavily conditioned, and offered only upon a significant concession or benefit to the victim or public in return, including after thorough inquiry, full and effective investigation, and all legal requirements being met;
 - (c) Any grant of amnesty shall be designed to further justice and accountability, trust-building, and reparative measures, and to promote peace and reconciliation;

(2) Amnesties shall be without effect as to victims' and communal rights to reparation.

Guideline 3: Crimes ineligible for amnesty

(1) No grant of amnesty shall be made for acts or omissions other than those amounting to violations under Section 2(8) of the TRNUC Act.

(2) Notwithstanding the nature of the offence, crimes effectuated by those who acted out of personal gain or malice, ill-will, or spite shall be ineligible for amnesty, unless the petitioner can provide a good-faith showing of remorse.

(3) If more information subsequently comes to light after a grant of amnesty was awarded that would have rendered the petitioner ineligible for amnesty, such amnesty shall be reconsidered and may be revoked by the Commission during its mandate or by a court of Seychelles after the closure of the Commission.

Guideline 4: Scope of grants of amnesty

Pursuant to its mandate under the TRNUC Act, the Commission shall not consider for amnesty offences falling outside the legal and political scope of its mandate as related to the Coup d'état of 1977, and such offences shall remain liable for prosecution.

Guideline 5: Legal effects of amnesty

(1) Pursuant to the TRNUC Act, a perpetrator or other petitioner who has been granted amnesty in respect of a violation shall not be criminally or civilly liable in respect of the acts or omissions that were part of the disclosure and apology.

(2) A grant of amnesty shall not affect any recommendation by the Commission for remedies, reparations, or rehabilitation.

(3) Notwithstanding any written law, a criminal investigation or criminal or civil prosecution shall not be commenced or shall be discontinued, as the case may be, in respect of any matter for which an amnesty has been sought, until the final determination thereof by the Commission.

(4) Notwithstanding subsections (1) and (2), investigations to further truth and reconciliation, such as by ombudsman offices or other truth-seeking processes, or investigations related to a prosecution later made possible by a breach of the amnesty conditions shall be unaffected by these Procedures.

Guideline 6: Amnesty preconditions and conditions

(1) Where perpetrators or petitioners seeking amnesty fail to comply fully with applicable preconditions or conditions, no amnesty shall be granted and any benefits conferred may be revoked.

(2) Preconditions: As per the Act, a petitioner seeking amnesty must provide a full and frank disclosure of their culpable acts or omissions and knowledge of events in relation to any violation and must offer sincere apologies to the victim(s). In addition, the Commission may require the fulfilment by perpetrators or amnesty petitioners of such other preconditions as it considers necessary, including the act or agreement to

- (a) submit individual petitions, applications, and any other evidence required for full deliberation of amnesty;
- (b) testify before the Commission with victims present;
- (c) participate in traditional or restorative justice processes;
- (d) contribute materially and/or symbolically to reparations as provided by the Act; or
- (e) perform any other act of a similar nature as agreed between the TRNUC, perpetrator or petitioner, and victims based on the circumstances of the case.

(3) Conditions: The Commission may recommend the fulfilment of particular conditions by perpetrators or amnesty petitioners, including the act or agreement to

- (a) not breach the preconditions in subsection (2) on which the amnesty was granted;
- (b) refrain from committing new offences under the TRNUC Act or any other type of criminal activity;
- (c) not stand for election or public office or serve in the police, armed forces, or government, at least for periods of time as determined by the Commission; or

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- (d) perform any other act of a similar nature as agreed between the TRNUC, perpetrator or petitioner, and victims based on the circumstances of the case.

Guideline 7: Proportionality principle

In making decisions about amnesty, the Commission shall take into account the proportionality principle, which involves ascertaining whether the ends justified the means; apply an objective, “ordinary person” sense of fairness; and consider whether the act or omission for which amnesty is sought was proportionate to the claimed political objective under the TRNUC’s mandate, whether the conduct carries a sense of shock to the ordinary person, and whether the offence breached the bounds of what a democratic society may tolerate in light of all the circumstances.

Guideline 8: Notifying the public

As laid out in these Guidelines and Procedures, the Commission shall make additional good-faith efforts to notify victims and their representatives and families, perpetrators or petitioners and their representatives, the President, the National Assembly, and the public at large about any event of consequence relating to amnesty, including the commencement of individual amnesty proceedings, opportunities to be heard, conclusion of such proceedings, any findings of Commissioner conflicts of interest, and any decisions or recommendations of the Commission.

Guideline 9: Public hearings

- (1) In line with Section 5 above, amnesty proceedings by the Commission shall be public, except where
 - (a) there is a likelihood that harm may ensue to any person; or
 - (b) the interests of justice so require.

(2) The Commission may invite experts to its meetings and hearings to assist it, but the Commission shall not be bound to accept the opinion of such experts.

Guideline 10: Transparency and sharing truth with nation

(1) In line with the spirit of Guidelines 8 and 9, the Commission shall undertake to act with transparency at every level and stage of any amnesty proceeding, shall make itself available as the need arises for public comment, and shall enact such outreach strategies necessary to inform the nation of its operations.

(2) The Commission's website shall include a page devoted to the amnesty process which shall provide the following:

- (a) background to and justification for the amnesty process;
- (b) description of the amnesty process, including—
 - (i) regulations and international law dealing with amnesty;
 - (ii) how to apply for an amnesty;
 - (iii) criteria that may be applied in the making of decisions;
 - (iv) written determinations of the Commission, including reasons;
 - (v) ultimate grants or decisions made and any reasons provided.

(3) Applications for amnesty shall be published on the website, with the redaction as the Commission deems appropriate of sensitive information such as contact details and identifying details of children or victims of sexual violence.

PART IV

PROCEDURES FOR AMNESTY

Procedure 1: Context and threshold considerations

(1) Pursuant to Section 12 of the TRNUC Act, a person may via the prescribed form make an application for consideration of amnesty to the Commission for any act or omission which constitutes a matter to be investigated under the Act, and the Commission may grant a conditional amnesty to any person liable to any penalty for the commission of any of the offences enumerated in the Act.

(2) In order to facilitate this process under Seychellois constitutional law and international legal principles, this section contains mandatory procedures that the Commission shall follow in determining whether to grant any amnesty.

Procedure 2: Petitioning for amnesty and justice recommendations

(1) Pursuant to the Rules of Procedure and Evidence, any person who wishes to apply for amnesty in respect of any act or omission as per the TRNUC Act shall

- (a) within 30 months from the commencement of the mandate of the Commission, or
- (b) within such extended period as may be prescribed,

file a petition for amnesty with the Commission in the prescribed form.

(2) Petitions for amnesty may be submitted in English, Creole, or the petitioner's native language.

(3) In accordance with Procedure 6 *infra*, the Commission may reject the petition on the papers where it does not meet the basic requirements, and the petitioner may subsequently resubmit the petition with more information alleged.

Procedure 3: Requirements for an amnesty

(1) Pursuant to the TRNUC Act and Rules of Procedure and Evidence, petitioners seeking amnesty must accept responsibility for the act or omission applied for, demonstrate that the offence falls under the Commission's mandate, and provide a full, verifiable disclosure of the facts underpinning the petition and reason(s) for amnesty.

(2) In particular, petitions for amnesty must allege, *inter alia*,

- (a) a full account of the factual circumstances of the events, including the context in which they occurred, the names of any other persons involved in the events, and a full recounting of the individuals' actions and participation, as per Procedure 4 *infra*;
- (b) the motive of the person who committed the act or omission, including whether the act or omission was committed at the behest of or pursuant to the orders of another person or of an organisation or government, and whether the perpetrator was a member of such body;
- (c) the legal and factual nature of the act or omission, including the scene of the incident, a detailed description and dates of the incident, any known loss

suffered by any person, and the gravity of the events in question;

- (d) the object or objective of the act or omission, including whether the act or omission was primarily directed against a particular party, individual, or group;
- (e) the relationship between the act or omission and the objective pursued; and
- (f) a sincere apology or apologies to the victim or victims, which may be repeated at the Commission's direction in a public forum with the victim(s) present.

Procedure 4: Full disclosure

(1) In order for the facts in an amnesty petition to be deemed a full account under Procedure 3(2), the petitioner must make detailed allegations that are sufficiently verifiable, disclosing, in addition to the requirements of Procedure 3, such information as

- (a) names of any accomplices or co-conspirators;
- (b) details of any instructions or commands given, and names or descriptions of the individuals alleged to have given them;
- (c) dates or temporal approximations of when the events occurred;
- (d) events that transpired after the act or omission occurred, including steps taken to cover up the offence; and
- (e) any other information requested by the Commission.

(2) Subject to the provisions of Guideline 10 and Procedures 12 and 14, steps shall be taken to ensure appropriate levels of confidentiality as to personal contact information submitted to the Commission.

Procedure 5: Administrative checking and record-keeping

(1) The Vice-Chairperson shall check each petition form to ascertain whether it is properly completed, signed, and attested to, and if not, the Commission shall return the petition to the petitioner to be rectified.

(2) The Commissioners and anyone else involved in the amnesty investigations, proceedings, or deliberations shall

- (a) keep a proper record of all relevant actions throughout the course of the amnesty process per petitioner, and maintain records in accordance with the Commission's record-keeping policies; and
- (b) preserve documents, materials, testimony, or other evidence received in regard to amnesty proceedings in accordance with its policies on evidence.

Procedure 6: Preliminary analysis and determination of eligibility

(1) Pursuant to Procedure 7 and the Rules of Procedure and Evidence, upon receipt of a petition for amnesty the Commission shall conduct a preliminary examination to determine whether the petition is *prima facie* eligible for amnesty. An amnesty petition shall be inadmissible when it concerns events that the Commission determines are manifestly outside the scope of its mandate.

(2) If the Commission determines that the offence does not fall under its mandate, the Commission shall refuse the petition and inform the petitioner of such decision, including the basis of the decision.

(3) In appropriate cases the Commission may grant the petitioner an opportunity to make a further submission or petition for reconsideration

under Procedure 8 where the petitioner can demonstrate that a material factor was overlooked.

(4) Where it is not possible for the Commission to make a decision *prima facie* without further investigation, the petition shall be referred to the Investigation Unit with directions on what must be investigated.

Procedure 7: Administering amnesties

(1) Taking into account the procedural rights of victims, perpetrators, and amnesty petitioners, upon receipt of a petition for amnesty and after administrative checking the Commission may

- (a) give such directions as may be necessary in order that the application is completed and properly submitted, or
- (b) request that the petitioner provide further information as the Commission may consider necessary.

(2) The Commission shall review the amnesty petition in light of Procedure 6 *infra* and make such enquiries and investigations as it deems necessary.

(3) After an investigation is completed under subsection (2), the Commission shall hold an amnesty hearing, and then may

- (a) grant the petition for amnesty;
- (b) inform the petitioner that the application does not qualify for amnesty;
- (c) afford the petitioner the opportunity to make a further submission;
- (d) reject the petition and inform the petitioner accordingly.

(4) Upon the completion of an amnesty hearing, the Commission shall determine whether and when to grant amnesty and inform the petitioner and, if possible, any victim of the decision to grant amnesty to such person in respect of a specified act or omission.

(5) If the Commission conducts a hearing for amnesty under this section, the Commission shall notify the petitioner and any victim or person implicated of the hearing and of their rights to be present and to testify.

(6) If the Commission refuses a petition for amnesty, it shall as soon as practicable provide notice of its decision in writing, giving the reasons for its refusal, to the person who applied for amnesty and any person who is in relation to the act or omission concerned a victim. As with decisions to grant amnesty, the Commission shall also publish this decision to reject an amnesty on its website.

Procedure 8: Making of decisions

(1) In making decisions as to amnesty, while it is preferable to rely on more than one direct and credible source of evidence before deciding questions of individual responsibility or amnesty, the standard of proof shall be that used by the Commission as per its Act and Rules of Procedure and Evidence, namely a balance of probabilities;

(2) In order to grant an amnesty under Procedure 7, the Commission must be satisfied that a petitioner has met all the requirements as set out in these Procedures. In particular, upon a consideration of all documents submitted, all investigations undertaken, and all reports by legal staff or consultants, the Commission shall

- (a) conclude whether reasonable steps were taken to contact victims and interested parties;
- (b) direct any remedial action it determines to be necessary;

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- (c) direct investigative staff to obtain further information required for its decision;
 - (d) make a decision after a careful weighing of all relevant facts and circumstances in order to reach a just and fair conclusion.

(3) Where a petition for amnesty has been denied, the petitioner and any relevant victims shall be notified of the denial in writing and the following provisions shall come into effect:

- (a) a victim or perpetrator whose petition for amnesty has been denied may seek reconsideration of that denial before the Commission within 14 days of notification of the decision by filing a petition for reconsideration on provision of additional evidence or demonstration that a material factor was overlooked;
- (b) if the reconsideration petition is subsequently rejected or the petitioner receives an unfavourable decision, the petitioner may appeal that decision to independent courts as per the TRNUC Act and Constitution of Seychelles;
- (c) where amnesty is denied the Commission may alert the prosecutorial authorities.

Procedure 9: Victim support and role at hearings

(1) Victims who testify at hearings, or their families or legal representatives where applicable, shall be invited in a timely manner to all amnesty hearings, including closed amnesty proceedings, to which they are an essential party as determined by the Commission based on the victims' previous involvement in hearings and investigations. In order to encourage victim participation, victims shall be provided:

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- (a) the date and location of the hearing, as well as other relevant details to coordinate their attendance;
 - (b) the opportunity to apply to the Commission for financial support for travel or other related expenses that are necessary for their presence and participation; and
 - (c) where appropriate, medical, psychological, or emotional support services to help them testify effectively.

(2) The Commission shall follow up with victims after their public testimony to assess whether their wellbeing was compromised as a result of testifying, and if so, to provide necessary counselling.

(3) The Commission may refer victims to alternative forms of assistance, such as religious or spiritual support by clerics or elders, self-help support groups, and special community or family support arrangements.

(4) During each hearing where it is determined the victim or their family would be affected by a decision on amnesty, the victim shall be invited not only to testify but also to share their input with the Commission publicly or privately in determining whether an amnesty should be approved. The Commission shall take this input into account during deliberations.

Procedure 10: Protection of victims' rights

(1) At amnesty proceedings, victims shall be afforded the opportunity to submit allegations and/or a full case against perpetrators during amnesty proceedings. If a victim chooses not to do so personally, they may instead submit their case through a personal or legal representative of their choosing.

(2) In addition, victims shall be notified of their following basic rights, including but not limited to the following:

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- (a) right to be heard, including the right to testify against perpetrators and the opportunity to respond before the Commission in public or private hearing;
 - (b) right to counsel, including the provision of legal counsel for indigent victims in appropriate circumstances as determined by the Commission; and
 - (c) right to appeal, including asking for reconsideration by the Commission as contemplated by these Procedures or petitioning independent courts to review the final decision of the Commission.

(2) The Commission shall, having regard to its available resources, arrange measures to protect the physical safety of anyone who testifies publicly, or who cooperates with the Commission, and who faces significant and demonstrable security threats to their safety on account of evidence provided.

(3) Applications for protection may be made to the Commission and such applications shall be considered in private by the Commission, who shall have the discretion to provide or deny protective measures in accordance with established and published criteria.

(4) Protective measures may include but shall not be limited to—

- (a) physical protection;
- (b) relocation;
- (c) non-disclosure of identities and personal details;
- (d) use of pseudonyms or expungement of name and other identifying information from public records of the Commission;
- (e) limits on who may attend a hearing; and

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- (f) reasonable restrictions on public reporting of hearings.

Procedure 11: Due process rights of perpetrators and witnesses

(1) Pursuant to the TRNUC Act, Rules of Procedure and Evidence, and Seychelles Constitution, the Commission shall recognise and ensure the protection of the procedural rights of any individual who files a petition for amnesty and all others testifying before it.

(2) Specifically, as regards amnesty proceedings, perpetrators, witnesses, and any individual who submits an amnesty petition shall be notified of their following basic rights, including but not limited to the following:

- (a) right to be heard, including the right to notice of allegations against the individual, the opportunity to respond before the Commission in public hearing, and any relevant protective measures as may be necessary;
- (b) right to counsel, including the right of individuals to select and bring with them the legal representation of their choice, or where an individual is not represented by counsel the right to notice of the implications of proceeding *pro se*; and
- (c) right to appeal, including asking for reconsideration by the Commission as contemplated by these Procedures or petitioning independent courts to review the final decision of the Commission.

Procedure 12: Information on possible consequences of giving a statement

(1) The Commission shall inform a petitioner who is about to testify in an amnesty proceeding of all the possible subsequent uses of his or her statement for purposes that are consistent with the Commission's mandate, including but not limited to the following:

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- (a) listing the petitioner's name in the Final Report;
 - (b) citing all or part of the petitioner's statement in the Final Report;
 - (c) forwarding the statement to investigators subject to the provisions of the Act and Rules of Procedure and Evidence; and
 - (d) permitting public access to review the statement, evidence, and all other aspects of the amnesty petition except for personal contact information, including ongoing access after the mandate of the TRNUC.

Procedure 13: Memoranda of Understanding for protection or support of victims

The Commission may, with the approval of the victim in question, enter into a Memorandum of Understanding with any civil society organisation, state agency, or international partner that the Commission believes can provide protection or support beyond that which the Commission itself can provide.

Procedure 14: Preservation of and access to archives of violations and amnesties

- (1) For purposes of these Guidelines and Procedures, the term "Archives" refers to any collection(s) of documents pertaining to violations or amnesties from sources (or being kept in sources) such as
 - (a) national governmental agencies, particularly those that significantly played roles or housed main actors in relation to human rights violations;

-
- (b) local agencies, such as police stations, that were involved in human rights violations;
 - (c) State agencies, including the office of the prosecutor, Attorney-General, and judiciary, that are involved in the protection of human rights; and
 - (d) materials collected by the Commission and other truth-seeking or investigative bodies as shall be created to support ongoing transitional justice processes.

(2) Upon the winding up of operations of the Commission, archival data as to amnesties shall be preserved in accordance with the general procedures of the Commission, complete with penalties put in place to prevent the removal, destruction, concealment, or falsification of archives.

(3) All persons shall be entitled to have access to such amnesty archives, subject to reasonable restrictions to safeguard privacy and security of victims and other individuals.

(4) All persons shall be entitled to know whether their name appears in state amnesty archives and, if it does, to challenge the validity of information concerning them in line with their right to truth.

(5) Notwithstanding anything in this section to the contrary, courts and non-judicial commissions of inquiry, including investigators reporting to them, shall have full access to relevant archives upon assurances of confidentiality to victims and appropriate respect for privacy. Access may not be denied on grounds of national security unless imposed by law in exceptional circumstances, the Government demonstrates the restriction is necessary in a democratic society to protect a legitimate national security interest, and the denial or restriction is subject to independent judicial review.

MADE this day of, 2021.

.....
CHAIRPERSON OF THE COMMISSION

ANNEX

Amnesty Petition
MOU for protection/support of victims

APPLICATION FOR AMNESTY IN TERMS OF SECTION 12 OF THE TRUTH, RECONCILIATION AND NATIONAL UNITY COMMISSION ACT, 2018 (ACT NO. 9 OF 2018)

The following information must be provided fully and frankly in order for your application for amnesty to be considered by the Truth, Reconciliation and National Unity Commission.

Please complete this form in block letters, sworn solemnly affirmed before a commissioner of oaths/notary public and returned to the Commission, at TRNUC Building, Perseverance, P.O. Box 5013, Mahe, Seychelles. Please use a separate page if additional space is required.

You are entitled to counsel, including the right to select and bring with you the legal representation of your choice, both while completing this statement and when testifying in a potential public hearing.

This form is also available in Creole and French at <http://www.trnuc.sc/>.

I. Personal Details

Surname First Name

Date of Birth Place of Birth

(DD/MM/YYYY)

Telephone Number Email Address

Address

Identity Number/Passport Number

II. Political or other affiliations

If you are/were an officer, office-bearer, member or supporter of any political organization, institution, body or liberation movement, state the name thereof:

.....

If applicable, provide the following:

1. The capacity in which you served in the organisation, institution, body or liberation movement concerned:

.....

2. The dates of your service or affiliation:

.....

3. Your membership or affiliation number:

.....

III. History of employment by the State

If you are/were an official, office-bearer or employee of the State, or a former State, or if you are/were a member of the security forces of the State, or a former State, provide the following:

4. Department

5. Division

6. Position/State Capacity

7. Time period

8. Force number, if applicable

IV. Full and frank disclosure of all facts relating to the incident

A. *Details of acts(s), omission(s) and/or offence(s) for which amnesty is being sought*

Act(s), omission(s) and/or offence(s)

1. What were the violations, and what was the context of the violations? (*for example, Murder; Central Police Station shooting*)

.....

2. What was the motive of the violations?

.....

3. Did you act alone or as part of a group?

.....

4. If you acted as part of a group, who commanded or led the group? (provide as much detail as possible, including their current location, contact information and position):

.....
.....

5. In what capacity did you act? (*for example*, private citizen; public official)

.....

6. Additional description of the nature and particulars of the act(s), omission(s) and/or offence(s):

.....
.....
.....
.....

Date(s)

Location(s)

B. Victims

State whether any person was injured, killed, or was caused any loss or suffering to person or property as a result of the act(s), omission(s) and/or offence(s) disclosed above:

Yes No

If yes, provide the following:

1. Name of victim(s):

.....

2. Occupation of victim(s):

3. Address of victim(s):

4. Name and address of victim(s) next of kin:

.....

.....

5. Any other information which may assist in identifying and locating the victim(s):

.....
.....

6. Whether you would like to meet the victim(s):

Yes..... No.....

C. Political objectives

State whether you sought to achieve any political objective in committing the above disclosed act(s), omission(s) and/or offence(s):

Yes No

If yes, provide the following:

1. The political objective sought to be achieved:

.....

2. Your justification for regarding such act(s), omission(s) and/or offence(s) as ones associated with a political objective:

.....
.....

D. Benefits

State whether you benefited in any way, financially or otherwise, from the commission of the above disclosed act(s), omission(s) and/or offence(s):

Yes No

If yes, specify and explain the nature and extent of such benefits:

.....
.....

E. Execution of order

State whether the above disclosed act(s), omission(s) and/or offence(s) were committed in the execution of an order of, on behalf of, or with the approval of the organisation, institution, body,

liberation movement, state department or security force concerned, with either implied or express authority:

Yes No

If yes, specify and explain:

1. The particulars of such order(s) and/or approval(s):

.....

2. The date(s) thereof:

3. If known, the name and address of the person(s) who gave such order(s) and/or approval(s):

.....

F. Previous interventions

Have you already made one or more statements about any of the above disclosed act(s), omission(s) and/or offence(s)?

Yes No

If yes, please specify:

To whom the statement was made <i>(for example, police; NGO; church)</i>	When the statement was made <i>(for example, date or year)</i>	Name and contact details of person/entity informed <i>(for example, Organisation name, Telephone number)</i>	Action taken <i>(for example, court case filed)</i>

--	--	--	--

G. Criminal proceedings

Are criminal proceedings envisaged, pending or completed as a result of the act(s), omission(s) and/or offence(s) disclosed above for which amnesty is sought?

Yes No

If yes, state the following, if applicable:

1. In which court:
.....
2. Case number:
3. On which charge(s):
4. Date of next appearance in court:
5. Offence(s) in respect of which found guilty and sentenced:
.....
6. Date of sentence:
7. Sentence imposed:
8. Prison number:

H. Civil proceedings

Are civil proceedings envisaged, pending or completed as a result of the act(s), omission(s) and/or offence(s) disclosed above for which amnesty is sought?

Yes No

If yes, state the following:

1. The identity and address of the parties and their legal advisers, if any:

.....

.....

2. In which court:

.....

3. Case number:

V. Supporting documentation and materials

Do you have any documents or materials that will further help the Commission understand the act(s), omission(s) and/or offence(s) disclosed above? (*for example*, Receipts; Letters; Photographs; Recordings; etc.)

Yes No

If yes, please provide the following information:

Type of document or material <i>(for example, Receipt; Letters; Photographs; Recordings; etc.)</i>	Where is this document or material now? <i>(Write "Attached" if you have provided the document with this application)</i>	Other comments

VI. Statement of sincere apologies to victim(s):

.....

.....

.....

.....

.....

.....
.....
.....
.....
.....

Declaration

I,, solemnly declare that the information I provided above to the Truth, Reconciliation and National Unity Commission is true and correct to the best of my knowledge, information and belief.

.....
Name of deponent/applicant

.....
Signature of deponent/applicant

.....
Date of signature (DD/MM/YYYY)

The deponent has acknowledged that she/he knows and understands the contents of the declaration. This declaration was duly sworn to/solemnly affirmed before me on this ____ day of _____ 2021 at the premises of the Truth, Reconciliation and National Unity Commission.

.....
COMMISSIONER OF OATHS/NOTARY PUBLIC



VOLUME IV

ANNEX II

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 16-56-108

REGARDING FRANCOIS LESPERANCE

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018),
(The Act)

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

G. McEntee
Huber.

G. J.
+ James
M. James

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 16-56-108

REGARDING JEMMY MARENGO

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018), **(The Act)**

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

G. McGeorge
Shelton

W. P. ...

G. ...
+ ...

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 205 -207

REGARDING ROLAND GERTRUDE

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018),
(The Act)

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

G. Meunier
Julien.

P.

G.
+ J.

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 205 -207

REGARDING JOSEE HOLLANDA

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018), **(The Act)**

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

G. M. ...
Stulman .

W. ...

For
+ ...

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 205 -207

REGARDING JEMMY MARENGO

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018),
(The Act)

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

G. McIntyre
Shuler.

W. Brown

Ed
H
+ James

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 205 -207

REGARDING MARC POOL

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018),
(The Act)

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

G. McEntyre
Shulem.

Shulem

Shulem
Shulem

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 149

REGARDING ALAIN JEANNEVOL

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018),
(**The Act**)

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

J. M. ...
Shelton.

W. ...

J. ...
+ ...

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 149

REGARDING JEMMY MARENGO

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018), **(The Act)**

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

G. M. George
Sullivan

H. P. Smith

F. J. ...
+ J. ...

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 149

REGARDING MARC POOL

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018),
(The Act)

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

G. M. George
Shelton.

M. P.
M. P.

G. M.
George

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 90-270

REGARDING ALAIN JEANNEVOL

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018),
(The Act)

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

J. McEntyre
Stuber.

McA...

For
James

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 90-270

REGARDING MARC POOL

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018), **(The Act)**

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

Gonzalez
Shuler.

W. H. H.

+ James

W. H.

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 90-270

REGARDING JEMMY MARENGO

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018),
(The Act)

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

George
Shuler.

Ami
197
+ James

TRUTH, RECONCILIATION, AND NATIONAL UNITY COMMISSION

ORDERS

AMNESTY IN THE MATTER OF CASE 419

REGARDING SAMUEL CAMILLE

DATE OF ORDER: 8 AUGUST 2022

The Commissioners of the Truth, Reconciliation, and National Unity Commission of the Republic of the Seychelles,

Having regard to Section 12 of the Truth, Reconciliation, and National Unity Commission Act (2018),
(**The Act**)

Satisfied the perpetrator has filed a petition seeking amnesty which provides a full and frank disclosure of their culpable acts in relation the incident for which the amnesty is sought, and

Satisfied the perpetrator has offered sincere apology to the victim(s),

Pursuant to Section 12(6) of the Act,

ON CONDITION THAT:

1. Non-repetition;
2. Participation in rehabilitative measures through the education of others;
3. Participation in counselling services;

THE COMMISSION ORDERS THAT:

1. Any criminal investigation or criminal or civil prosecution shall not be commenced in respect of the matter for which amnesty be granted;
2. Any criminal investigation or criminal or civil prosecution shall not be continued in respect of the matter for which amnesty be granted;
3. Amnesty be granted in respect of the violation that was the subject of the disclosure and apology.

Done in English, in Persévérance, this 8th day of August, two thousand and twenty-two.

The Commission by majority

G. McEntyre
Shelton

M. J. [unclear]

For
+ [unclear]