



REPUBLIC OF SEYCHELLES

2019 ANNUAL REPORT

OF THE OMBUDSMAN



"MAKING A DIFFERENCE"

FOR THE PERIOD ENDING

31st DECEMBER 2019

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Message from the Ombudsman

Making a Difference

The Ombudsman's constitutional mandate is the blueprint for making a difference in the lives of citizens. Through its application, the Ombudsman ensures that instances of maladministration and abuse of authority are not only recognised for what they are, but are also rectified for the future and the greater good.

But as we start out on another year and another decade, we must collectively recognise that making that real and lasting difference will not happen unless everyone – the aggrieved citizen as well as the public service provider, and both the Executive and the Legislature – fully understand and appreciate the true purpose and worth of the Ombudsman. It is only when everyone assumes and fulfills the important roles they each must play in the end game of improving their service delivery that we will all make that difference.

By educating our citizens to know and claim their rights, we ensure that they are better placed to recognise maladministration and poor or bad service delivery from public service providers. By bringing their grievances to the attention of the Ombudsman, citizens stand up for those rights and demand that remedial action be taken.

By enquiring into those grievances, the Ombudsman assumes its watchdog role and acts as a catalyst for change by pinpointing the weaknesses and proposing the changes that will indeed start the ball rolling towards making that difference.

By responding to the call to critically look at the alleged grievance through the prism of the Ombudsman's enquiry the public service provider is led to question its own work methods and decision-making processes and is given the opportunity to review how it operates even if that is how it's been done since time immemorial.

At the end of this process, the Ombudsman's check list and 'faults reports' form a blueprint for what needs to be done to fix the wrongs and make them right. The recommendations that emerge from each enquiry help the authority improve its service delivery and also offer both the Executive and the Legislature a golden opportunity and excuse to review old policies and set new ones, amend outdated laws and regulations or pass new ones and generally direct and empower public

authorities to deliver the customer-focused service that can make that positive difference to the bigger picture of public administration.

This Utopic vision may be only in my dreams! Sharing it has proven difficult enough in our national context where the public service is often deeply set in its ways, sometimes far too comfortable operating under archaic laws and regulations left over from another time.

Making a real difference requires a change in attitude; a desire to rethink and relook at age-old methods and a will to change. If public authorities continue to hold to their top-down attitude of *'I'm right, you're wrong'* and continue to insist that public administration is happy camping on centuries-old traditions, the work and efforts of the Ombudsman will be in vain. I will make no difference!

But if we are all prepared to admit that our general public is now revitalised and more demanding; that citizens can and do insist on a fairer and better deal from the servants of the people, we must all stand together and strong in the knowledge that by offering our public officers the tools with which to deliver a service that is fair, open and transparent, we will lay the foundations for a public administration that will withstand the scrutiny of even the most difficult citizen.

Some writers have likened the Ombudsman to the canary carried into their workplace by coal miners of the past. The miners kept a close eye on the canary which served as a warning that all was not well in the mine in time for the miners to get out. Like the canary to the miners, the good work of the Ombudsman serves as a guarantee that our public service is fulfilling its role in our democracy.

Our Ombudsman is created by the Constitution – the highest law of the land – which provides the environment in which the Ombudsman lives and thrives. We can collectively make it an even better institution by giving it the attention it deserves. With greater respect and acknowledgement of its role, the Ombudsman, like the canary, will be encouraged to 'sing' ever louder in attesting to the good administrative health of the country – and thereby guarantee that it can indeed make a real difference.

Nichole Tirant-Gherardi
Ombudsman
31st January 2020

INTRODUCTION

The general Annual Report of the Office of the Ombudsman is submitted each year to the National Assembly and copied to the President in compliance with paragraph 6 (6) of Schedule 5 of the Constitution. It is a general report of the exercise of the functions of the Ombudsman for the period under review. This report chronicles the activities of the Office in the year 2019.

It is being submitted to the President and laid before the National Assembly after which it becomes a public document and can be viewed by the public at large. It will be shared with all public authorities and with fellow ombudsman all over the world.

For ease of reference to readers and to facilitate the focus of the Executive and Legislature on any follow up action they may wish to take, the report this year contains a special chapter (Chapter 12) which summarises all the general recommendations made by the Office throughout the body of the report.

1. THE OFFICE

- 1.1 The Office of the Ombudsman was first created in 1993 to provide the citizens of Seychelles with a forum in which to address issues of maladministration, good governance, human rights violations and fraud and corruption within the public service.
- 1.2 Today, parts of its mandate have been transferred to more dedicated statutory institutions, such as the Seychelles Human Rights Commission and the Anti-Corruption Commission, with much wider powers to deal with violations of the fundamental rights enshrined in Chapter III of the Constitution as well as the corruption agenda.
- 1.3 Notwithstanding, the constitutional mandate of the Ombudsman remains unchanged and still provides for instances of fraud and corruption and human rights violations by public officers to be dealt with by this Office.
- 1.4 **Schedule 5 paragraph (1)(b)** of the Constitution (**SEE APPENDIX I**) empowers the Ombudsman to *“investigate an allegation of fraud or corruption in connection with the exercise by a person of a function of a public authority”*, while **paragraphs 1(1)(c) and (d)** enable the Ombudsman to *“assist an individual complainant in respect of legal proceedings in relation to a contravention of the provisions of the Charter,”*

and become a party to proceedings relating to a contravention of the provisions of the Charter with the leave of the trial court.

- 1.5** The Ombudsman has not availed itself of these constitutional powers in the period under review, primarily because of the lack of in house legal capacity and financial resources linked to the costs of legal representation for such action.
- 1.6** In my last activity report, I flagged the interface between the new institutions and the Ombudsman as an area of potential conflict which should be addressed to ensure that it does not affect the work and end results of all the institutions involved. I can report that no direct conflict has arisen between the Ombudsman and any of the new institutions to date, although overlaps continue to be identified in several instances.
- 1.7** I believe that notwithstanding the good entente between the institutions, we should subscribe to Memoranda of Understanding to frame our close working relationships. This is a matter that will be fully explored in 2020.
- 1.8** I have continued to consider each complaint submitted to my Office on its merits and where, as is often the case, elements of maladministration are noted in addition to the elements of fraud and corruption or a human rights violation, my Office has proceeded with its enquiry into the perceived maladministration and referred the other aspects to the relevant institution.
- 1.9** Two cases of possible corruption have been referred to the ACCS and three have been referred to the HRC, although it is too early to report any outcome at this juncture.

2. OFFICE ACCOMMODATION

- 2.1** The Ombudsman operates from physical premises in Suite 306, Aarti Chambers at Mont Fleuri since 1993. The Office is well-placed on the Mont Fleuri road, opposite Seychelles Hospital, the Botanical Gardens and key ministries of the Family, Education, Foreign Affairs and Tourism and is well served by public transport, making it readily accessible to citizens.
- 2.2** Since July 2018 we have taken on additional office space in Suite 206 on the second floor of the same Aarti Chambers with direct street level access in order to address the issue of access for physically challenged complainants unable to climb stairs to our third floor offices with no elevators.

- 2.3** The extra space has also enabled us to accommodate our growing office while remaining well within our annual budget allocation for rental which is now fixed since we do not envisage any move in the foreseeable future.
- 2.4** At the end of 2018 into the start of 2019 the Office was invited along with other constitutional bodies and national institutions to comment on proposals for the new Government House to be built at Ile du Port by Indian aid. While this Office expressed no adverse opinion on the proposal, it is noteworthy that a move to what we consider the out-of-town area which is currently not on a main public transport axis could negatively impact the current ease of access to the Office of the Ombudsman enjoyed by the general public, especially for people from the southern districts of Mahé.

3. STAFFING

- 3.1** At the end of 2019, the Office of the Ombudsman comprised a complement of six persons, including the Ombudsman. The Office includes an investigation section headed by a Senior Investigations Officer and two investigation officers, one of who is a law graduate (Legal/Investigation Officer), as well as an administration section dealing with the administrative, financial, and human resources matters comprising an Office Administrator and assistant.

- 3.2** Staffing for the period January to December 2019 was as follows:

Principal Investigation Officer -	Franky Simeon (to 23-02-19)
Senior Investigation Officer -	Sylvette Gertrude
Legal/Investigation Officer -	Sophie Lagrenade
Investigation Officer-	Tressy Dine
Investigation Officer-	Wendy Michel
Office Manager/Administrator-	Marie-Paule Gertrude

- 3.3 Information Officer** – In keeping with its legal obligation under the **Access to Information Act**, the Office has nominated Sylvette Gertrude Information Officer under the Act.
- 3.4 Vacancies** – Several positions within the new set up remained vacant throughout the year. Efforts to recruit a principal investigation officer following the departure of the incumbent during the probation period proved unsuccessful as no suitable candidate applied for the post. The post remained vacant as at the year's end.
- 3.5 Investigative Capacity** – At the start of 2019, the Office's investigative capacity was complete within the new structure with a Senior Investigation Officer and two Investigation Officers in the team. The addition of a Law graduate, Sophie Lagrenade as a legal/investigation officer has served well in addressing the large volume of law-related research that is an essential part of the work undertaken by the Office. I continue my efforts to seek specialised medium-term training for Ms Lagrenade in 2020 to improve her skills and performance. Meanwhile, every opportunity was taken to benefit from short training sessions and workshops offered through our membership of international ombudsman associations during 2019. **(See Chapter 8.4).**
- 3.6 Creating a position for a qualified Legal Officer** – In my three years in office, it has become increasingly evident that the complex nature of the complaints and the indepth approach being adopted for evaluating and enquiring into grievances and elaborating detailed reports of findings and recommendations require high level legal competence on a permanent basis. This shortfall is exacerbated by the lack of a deputy position for this one-man institution. The Office is therefore envisaging the creation of a new senior legal officer's position to assist in this task. The Office is retaining available funds earmarked for several vacant posts while this new project is fully studied in the context of a revision of our institutional needs and our strategic plan and current **Organisational Chart. (SEE APPENDIX II).**

4. BUDGET

4.1 The approved budget for the Office of the Ombudsman for the year **2019** was **SCR 3,740,364.90**.

4.2 The budget allocation disbursed by the Ministry of Finance for **2019** was as follows:

Compensation of Employees	SCR 1,958,274.90
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Use of Goods & Services	SCR 1,782,090.00
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Total	SCR 3,740.364.90
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4.3 The Office of the Ombudsman currently operates under a full PPBB.

DID YOU KNOW?

OMBUDSMAN HAS NO GENDER

Is it *Ombudsman*, *Ombudswoman* or *Ombudsperson*? And what happens when we have a roomful of them?

The word "*Ombudsman*" was imported into English and other languages from Old Norse (Scandinavia), in a worldwide move to provide a defender of the citizen against the maladministration of the state. It is a non-gender word and despite what many believe, it is definitely not sexist!

The "*Man*" part of the Swedish word means '*agent*', or '*one who protects the citizen*'. It follows therefore that the plural of *Ombudsman* remains quite simply *Ombudsman*. The word "*Ombudsmen*" is definitely out because it brings gender into the word, and corrupts it too, since the female version may shun being called *Ombudswoman* and insist on the androgynous *Ombudsperson* instead.

An excellent reason to retain *Ombudsman*. Full stop!

5. STRATEGIC PARTNERSHIPS & MEMBERSHIPS

5.1 AOMF (*ASSOCIATION DES OMBUDSMAN & MEDIATEURS DE LA FRANCOPHONIE*)

– The Office of the Ombudsman is a member since 1999 of the **Association des Médiateurs et Ombudsmans de la Francophonie (AOMF)**, the international body comprising Ombudsman institutions and its equivalent in French-speaking states. The AOMF's primary role is to promote and encourage the development and consolidation of independent mediation institutions with a view to promoting democratic practices, social peace and the protection and advancement of human rights. Its research and training capabilities help member institutions train staff and develop ombudsman and mediator institutions to the highest professional standards. Over the years, our office has participated in numerous training sessions, workshops, meetings and conventions organised by the AOMF.

5.2 AOMA (*ASSOCIATION OF OMBUDSMAN AND MEDIATORS OF AFRICA*)

– The Office is a member of the **African Ombudsman and Mediators Association (AOMA)** since its creation in 2003.

5.2.1 AOMA's objectives are to encourage the establishment and promotion of African Ombudsman institutions; foster mutual support, co-operation and joint activity through information sharing, training and development of Ombudsman and staff; promote good governance and transparency and administrative justice; and support and promote the autonomy and independence of Ombudsman offices. Our Office has, over the years, participated in meetings, workshops and training sessions organised by AOMA.

5.2.2 To mark the 20th anniversary of the creation of AOMA in 2023 and the pioneering role of the Seychelles Ombudsman in hosting the 7th African Regional Ombudsman Conference in July 2001, I plan to propose that Seychelles hosts the 2022 AGM, (held every second year). A project is being finalised and will be presented for financing in the next revision of long term budget proposals for the Office.

5.3 PUBLIC OFFICERS ETHICS COMMISSION – The Ombudsman is an *ex-officio* member of the Public Officers Ethics Commission (POEC) along with the Auditor-General and the Chairman of the Constitutional Appointments Authority. POEC meetings are held on a regular basis every two months, upon notice of the CEO.

5.4 FORMER NATIONAL HUMAN RIGHTS COMMISSION –

5.4.1 Under the Protection of Human Rights Act in 2018, the Ombudsman held the chair *ex officio* of the former National Human Rights Commission (NHRC). The Seychelles Human Rights Commission Act 7 of 2018, passed by the National Assembly in April 2018, repealed the former Protection of Human Rights Act. It only came into force on 1st March 2019 through Commencement Notice S.I. 33 of 2019. The new Human Rights Commissioners, except for the chairperson, were sworn in on 1st March 2019. The Chair was sworn in on 3rd July 2019. I continued to hold portfolio responsibility as accounting officer for the NHRC until March 2019. Since that date, I have no direct involvement in the new Commission.

5.4.2 HANDOVER COMPLETED IN NOVEMBER 2019 –

The Ombudsman formally handed over all of the assets, active files and institutional memory of the former NHRC retained in the Office of the Ombudsman to the new Commission in November 2019. All accounting documents relating to the financial administration of the former NHRC are retained in the archives held by the Office of the Ombudsman.

5.5 INTERNATIONAL OMBUDSMAN INSTITUTE (IOD) – The Office is not currently a member of this global organisation of Ombudsman which regroups more than 198 independent Ombudsman institutions from over 100 countries across six regional chapters (Africa, Asia, Australasia & Pacific, Europe, the Caribbean & Latin America and North America). The IOI's objectives focus on capacity building and good governance, and it provides technical support to its members in training, research and regional project subsidies. It is in the best interests of the Office to join as a member. I plan to submit an application for membership in the course of 2020. This will be preceded by a request for financing from the Ministry of Finance in the first quarter of 2020.

6. ACTIVITIES OF THE OFFICE

6.1 CASE WORK

- 6.1.1** A greater part of our time and resources is dedicated to enquiries into allegations lodged with us by members of the public. In 2019, the office registered a total of 179 complaints. Again we received a large number of complaints that were either premature (75), where the complainant had not exhausted available avenues for seeking remedy, or 'outside remit' (66) where the matter falls within one of the exclusions contained in Paragraph 2 of Schedule 5 or is outside the jurisdiction of the Ombudsman because the complaint involves actions between private persons or institutions.
- 6.1.2** In the premature cases, we advised the complainants of the available options open to them and prepared referral letters to ease their access to those services. It is to ensure that these referrals are properly transmitted that the Ombudsman requires accurate details of the complaints handling offices in all public authorities.
- 6.1.3** Out of the 38 complaints retained by the Office in 2019, 11 were closed upon completion and 27 remain pending.
- 6.1.4** As in preceding years, I have noted systemic issues emerging from a general overview of the complaints where there is an inter-relationship between the subject matter of the complaint or where the same institution is involved. Several recorded complaints in 2019 have involved the issue of Gainful Occupation Permits as well as the administration of the Employment Act. These complaints will be looked at in greater detail in 2020.
- 6.1.5** In an effort to improve efficiency and efficacy in such enquiries which demand more time and greater involvement, the Office is developing its own process for consolidating such cases to deal with the primary cause of the dysfunction rather than focus on the individual cases. I believe that it is in addressing this type of consolidated case that the Ombudsman can have the most positive impact on addressing administrative weaknesses across the public sector.

6.2 ADVICE & ASSISTANCE

6.2.1 Ombudsman not a legal aid office – All services provided by the Ombudsman are free. Perhaps as a direct consequence of this, the Ombudsman continues to be solicited for legal advice; a practice which could also be related to the fact that all Ombudsmen, since the post's inception in 1993, have been former or practicing attorneys-at-law. Many of the 66 '*outside remit*' complaints involve such requests. While I have accommodated some of these where I have felt it necessary, it is not within the mandate of this Office and will be discontinued altogether in order to avoid duplicating or interfering with the work of members of the Seychelles Bar.

6.2.2 Collaboration with the Bar Association – It is now standard practice for us to refer these complainants to a lawyer of his choice for legal advice or further legal action. To guarantee objectivity and transparency in this process, the Ombudsman will every year require from the Seychelles Bar Association an updated database of all practicing attorneys and their fields of specialisation where applicable.

6.2.3 Ombudsman takes complaints as last resort – The Constitution requires that before investigating a complaint involving an action taken by a public authority or officer that has resulted in a violation of rights or harsh or oppressive treatment, the Ombudsman must be satisfied that the complainant does not have other remedies available to him under the Constitution or under any other law. In line with this constitutional requirement, we have set up an internal assessment process whereby all complainants are advised of any other steps they can or should take in seeking redress for the substance of their complaints. This procedure now includes referral letters which the complainant will present to the relevant complaints office in the public service institution where he will follow a specified avenue for redress. It is only where this fails that the Ombudsman will take up the complaint.

6.2.4 Making referrals work – However, for this referral process to work well, it also requires direct cooperation of all public offices and state-owned enterprises since they must have their own internal complaints' handling systems and procedures to deal with complaints from members of the public who use their services. It is also essential that these procedures are known to the public and to our Office. This remains an area that requires

greater attention throughout the public service as not all ministries and departments have complaints' handling mechanisms in place and even those that claim to have them do not always appear to make full and proper use of them. As part of its own procedural development, the Ombudsman has drawn up complaints forms designed to capture the maximum information to be used in data collection. Where we deem necessary, we assist complainants in filling in the forms. We also make telephone calls and enquiries to Government offices to ascertain the procedures and requirements to which a complainant must adhere in order to invoke the redress or relief they seek from a public authority.

6.2.5 Complaint to Ombudsman does not stop prescription running – It is of note that any matter being investigated by the Ombudsman does not currently enjoy the benefit of a break in prescription. In fact, as the Ombudsman is not empowered to award compensation or damages, I have adopted the thumb rule of advising any complainant seeking compensation for any wrongful action of a public authority to ensure that any civil suit is filed within the legal time limits set out in the Civil Code of Seychelles. This is generally five years for any delict or breach of contract and between 10 and 20 years in cases involving title to land. Additionally, the current Constitutional Court Rules allow only three months in which to file a petition alleging a violation of a fundamental human right before the Constitutional Court.

While a complainant could file legal action before the courts while the Ombudsman investigates the subject matter of the complaint, such process is not without its own difficulties, since it can also create confusion in the minds of some parties. Furthermore, depending on the wording in the plaint, the Ombudsman may have to stop further enquiry into the complaint should the matter be made *sub judice* (under judicial consideration in court).

6.2.6 To address this anomaly, it is recommended that consideration be given to amending the relevant laws to include the time of investigation by the Office of the Ombudsman as stopping prescription in civil matters, especially since the Office may play a mediating role in the dispute which could resolve the conflict and benefit all parties including the legal system in the longer term.

6.3 MEDIATION

6.3.1 No direct mandate to mediate – Whilst the mandate of the Ombudsman as contained in Schedule 5 of the Constitution does not specifically provide for the role of mediator and mediation, the modern trend across many jurisdictions shows a departure from the traditional role of investigating complaints, drawing conclusions and making recommendations towards other forms of alternative dispute resolution between the parties. In fact, the Ombudsman is known as a *Mediator* in French-speaking jurisdictions and has a traditional task of mediation.

6.3.2 Ombudsman should be given role of Mediator – Giving the Ombudsman a role of mediator may be the only practical way to resolve grievances in some instances. Hence, it is proposed that the Executive and the Legislature consider revising the existing legal framework governing the Ombudsman's mandate to provide directly for mediation in addition to the traditional investigative and quasi-judicial tasks of the Office.

6.3.3 Reviewing legislation – Such legislation is envisaged in **Article 143 (6)** of the Constitution which makes provision for “an Act” that “*may provide for any matter, not otherwise provided for under this Article, necessary or expedient for the purpose of ensuring the independence, impartiality and effectiveness of the office of the Ombudsman.*” A dedicated stand-alone Ombudsman legislation could set out the mediation dimension of the mandate, amongst other things.

6.4 PROVIDING ACCESS TO JUSTICE –

6.4.1 The Constitution (**Schedule 5 paragraph 1 (1)(c)**) enables the Ombudsman to “*assist an individual complainant in respect of legal proceedings in relation to a contravention of the provisions of the Charter (of Fundamental Human Rights and Freedoms).*”

6.4.2 A growing number of citizens have expressed concern that the high cost of lawyers' fees render access to the court available only to the very wealthy or to *paupers* entitled to legal aid. While some litigants do represent themselves in the courts, the prospect of being ordered to pay costs of the other side's in case of failure often acts as a deterrent. This is where the Ombudsman, with free access and an objective, inquisitorial approach, can, in theory at least, provide assistance to complainants with constitutional complaints before the Constitutional Court. However, this possibility also comes with a significant human and financial cost for the

Ombudsman since fulfilling this role will require an in-house or out-sourced legal team, including a court lawyer as well as funds for filing and other court-related costs. Consequently, the Office has not followed this avenue in any case to date although a report drawn up in one case in 2018 was designed to assist a complainant in instituting such legal action. The case is still *sub judice*.

6.5 GUARANTEE OF AUTONOMY & INDEPENDENCE

6.5.1 The Ombudsman is guaranteed independence under **Article 143 (3)** of the Constitution which states: “*Subject to this Constitution, the Ombudsman shall not, in the performance of the Office of the Ombudsman, be subject to the direction or control of any person or authority.*”

6.5.2 While it is generally recognised that the independence and personal integrity of the Ombudsman combine to ensure the free and impartial decisions emanating from the Office, the autonomy and independence guaranteed in Article 143 extends to “*the performance of the Office.*” Consequently, the Ombudsman also requires a guarantee that the financial means and human resources with which to operate the Office will not in any way impede the work of the office.

6.5.3 This commitment is underscored in **Resolution 72/186** adopted by the General Assembly of the United Nations on 19th December 2017 on the “role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights.” (**SEE APPENDIX III**) The resolution, most notably, encourages member states to endow their ombudsman with adequate constitutional and legislative as well as financial and all appropriate means to ensure the efficient and independent exercise of their mandate and strengthen the legitimacy and credibility of their actions as mechanisms for promoting and protecting human rights.

6.5.4 In the light of these undertakings, the Ombudsman is studying the current practice whereby the annual operating budget of the office is subject to the total management and control of the Ministry of Finance, as well as the supervisory role of the Department of Public Administration in administrative matters relating to human resources and staff recruitment.

6.5.5 In order to address this issue and guarantee the full independence and autonomy of this Office, the Ombudsman calls on both the Executive and

the Legislature to join in a concerted reflection on the administrative and legislative measures needed to delink the Ombudsman from the Ministry of Finance and the Department of Public Administration as required by the Paris Principles.

- 6.5.6** It is conceded that such autonomy does not and will not mean that the Ombudsman can act as it wishes in all impunity. Any reservations with respect to the accountability and oversight of the Office in respect of requested funds and utilisation of such funds are already fully addressed under the current provisions of the Constitution and existing legal framework which provide for auditing and supervisory control by the Auditor General and the National Assembly.
- 6.5.7** Recognising that it is not alone in this predicament which is shared by all constitutional bodies, the Ombudsman will continue to work closely with all stakeholders in the coming year to address the issue with the objective of finding a workable solution that is in the best interests of the country and the Office.

7. STATISTICS FOR 2019

7.1 The statistics for complaints registered in the Office of the Ombudsman in 2019 are set out hereunder. They are organised according to month and subject matter respectively. ANNEX IV gives a snapshot of the diverse subject matter of complaints received in 2019.

7.2 Case Management System – I recognise that there is room for improvement in the collection and treatment of statistics. One of our major challenges currently is the absence of a case management system which could simplify the task and guarantee more reliable statistics. In view of the high cost of purchase of such a system, the Office is exploring the possibility of obtaining assistance to set up the system and train staff to manage it through its membership of international ombudsman organisations. A project application is being drawn up for submission to possible donors.

<u>STATUS OF COMPLAINTS RECEIVED BY OMBUDSMAN IN 2019</u>	
Complaints received by the Ombudsman	179
Cases Retained	38
Cases considered premature	75
Cases found to be Outside remit	66
Cases referred to other institutions	08

<u>COMPLAINTS RECEIVED IN 2019 (BY MONTH)</u>			
Month	No. of Cases	Month	No. of Cases
January	16	July	19
February	20	August	13
March	10	September	17
April	20	October	10
May	13	November	15
June	19	December	07
TOTAL		179	

SAMPLE OF REPORTED COMPLAINTS - PREMATURE & OUTSIDE REMIT

NATURE OF COMPLAINTS	RESPONDENT
<p>The complainant took ill while on holiday and was seen by a specialist doctor and diagnosed with a chronic intestinal problem. Her application for a refund of her medical fees on the ground that this was an unforeseen medical emergency was turned down by both the Overseas Diagnosis & Treatment Board and Appeals Committee.</p> <p>The Overseas Treatment Act, 2018 envisages a refund of expenses if a person falls ill and requires urgent treatment while overseas. The complainant had no proof that the medical condition needed immediate attention. The medical note from the doctor described her condition as 'chronic'; hence she had not qualified for a refund. The Ombudsman could not find fault with the Health Care Agency's application of the statutory provisions. The complainant was advised to seek legal advice if she wished to pursue the matter.</p>	Health Care Agency
<p>A licensed taxi driver based and operating at a hotel resort complained that he had been informed by the person in charge of security that he could no longer work at the hotel. He had been unable to get the General Manager to review the decision and complained to the Ombudsman.</p> <p>The resort is a private entity and its action falls outside the Ombudsman's mandate. The complainant was referred to the Tourism Department.</p>	Private matters outside remit
<p>A complainant alleged that the survey and sub-division of a plot of family property by a private surveyor had not been done in accordance with planning regulations. The private surveyor had purportedly acted on instructions of the executor of the estate who, the complainant said had not consulted other family members regarding the sub-division.</p> <p>The Ombudsman rejected the complaint when it became apparent that the sub-division had been carried out by a private surveyor. The complainant was advised to seek legal advice.</p>	Private surveyor. Matter outside remit.
<p>The complainant was seeking additional payment for the sale of a large tract of land in a West Mahé district which had been sold by a member of the family over ten years previously.</p> <p>The complainant was advised to seek legal advice on the way forward to address the matter.</p>	Ministry of Habitat, Infrastructure & Land Transport
<p>A former soldier who had resigned from the Seychelles Defence Forces wanted the Ombudsman to compute and confirm whether the sum he had received as compensation was accurate.</p> <p>As the complainant had not raised the query with the SDF to ask for a verification of the formula used in the computation, he was advised to return to the SDF to do so. The Ombudsman would reconsider the complaint only if he was not satisfied with the outcome.</p>	Seychelles Defence Forces

<p>The complainant reported that her 13-year-old daughter was suspended from her secondary school for a 10-day period which she considered excessive. She had complained to an official at the Education Department who had agreed to attend to the issue. She was advised that the Ombudsman would await the outcome of the appeal process before taking up the complaint.</p>	<p>Education Department</p>
<p>The complainant reported that the Family Tribunal had ordered that her two children be removed from her care and placed with family members. She alleged that the Tribunal was wrong to remove her children from her care and sought to regain custody of the children as she believed she was a fit mother capable of caring for her children.</p> <p>As the complaint amounted to an appeal against an order of the Family Tribunal, it fell outside the mandate of the Ombudsman. The complainant was advised to seek legal advice on whether she could appeal the order or file a fresh custody application.</p>	<p>Decision of the Family Tribunal. Matter outside remit.</p>

8. ACTIVITIES & EVENTS

8.1 OUTREACH PROGRAMME – Bringing the services of the Ombudsman closer to the population is a primary aim of our outreach programme. The programme involves facilitating access to the services of the Ombudsman through open ‘clinics’ for residents of Praslin and La Digue. However, primarily because of our staff limitations, we were unable to organise any day trips to Praslin or La Digue in 2019. We envisage at least one trip in the course of 2020.

8.2 WEBSITE – Work to create and launch a dedicated website suffered several setbacks in 2019 due to the lack of in house technical staff capable of working on the project. I plan to seek assistance from the Ombudsman's partner institutions in the course of 2020 to upgrade the work done this far. Meanwhile, the Office has created a Facebook page which it is using for information purposes.

8.3 PARTICIPATION IN INTERNATIONAL & NATIONAL EVENTS

8.3.1 JOINT CONFERENCE COMMEMORATING 30TH ANNIVERSARY OF THE CONVENTION ON RIGHTS OF THE CHILD

– In October 2019, the Ombudsman assisted by Senior investigation Officer Sylvette Gertrude attended the second edition of the joint conference of the **Association des Ombudsman et Médiateurs de la Francophonie (AOMF)** and **Assemblée Parlementaire de la Francophonie (APF)** held in Rabat, Morocco from 23 to 24 October, under the theme “*Les Droits de l'Enfant, une priorité pour les Parlementaires et les médiateurs de la francophonie.*” The conference, which included participants from La Francophonie (OIF) and the Council of Europe as well as AOMF members, celebrated the 30th anniversary of the signature of the Convention on the Rights of the Child. It produced a *Declaration of Rabat* in which participating parliamentarians and ombudsman called for renewed efforts, increased resources and greater commitment from all State parties to the Convention to work towards achieving the set objectives for the benefit of all children. The Declaration, in its French-language original, is attached at **APPENDIX V** of this Report.

Follow up action – The engagement of ‘*La Francophonie*’ (of which Seychelles is part) is to ensure that our country fully abides by its international commitments contained in the convention through better networking and greater linkages between all State institutions, civil society bodies and the private sector. Although all matters relating to the rights of the child fall directly under the mandate of the National Council for Children and, now also under the new Human Rights Commission, my Office will continue its oversight of the public services from which all children benefit. To this end upon my return, I shared the Declaration with both the Executive and Legislature to initiate the follow up action. My call for meetings with the two parties had not materialised at the time of publication of this report.

8.3.2 AOMA-SPONSORED INTERNATIONAL OMBUD EXPO –

ABUJA, NIGERIA – The Office of the Ombudsman participated in October 2019 in the first ever Ombudsman's Expo in Abuja, Nigeria under the auspices of the AOMA. The Office was represented by Tressy Dine and Sophie Lagrenade. The three-day Expo provided a window into the work of Ombudsman institutions around the world and a platform for discussion and exchange through numerous presentations on a wide range of subjects from the role of women in oversight institutions, the ombudsman in the fight against corruption and as a human rights advocate, and the status of the ombudsman's recommendations in the scheme of things.

Follow up action – Noting the lack of support from some public bodies and acknowledging that accepting and following up on recommendations emerging from ombudsman enquiries is already a matter for concern, I have resolved in 2020 that immediately after deadlines have passed, the Office will draw the attention of both the Executive and the Legislature to the report and seek their support in securing greater compliance with the recommendations. There is also an urgent need to build credible relationships with all public bodies and ensure that our investigations remain thorough, systematic and fair so as to not only reassure the general public but also instil more trust in the public bodies by either validating their work or by providing constructive feedback on how to improve. I draw from this, the need to increase the intensity of our advocacy through engaging public opinion, using the media and social media and producing follow-up reports wherever public bodies fail to see the value of working

collaboratively, refuse to accept recommendations, claim to accept recommendations that never materialise, or simply fail to take any action and show a lack of sincere efforts to accept them.

8.3.3 AOMA EXECUTIVE COMMITTEE MEETING, NAIROBI,

KENYA – As a committee member, I attended the meeting of the Executive Committee of the Association of Ombudsman and Mediators of Africa (AOMA) held in Nairobi, Kenya on 3rd May 2019 in Nairobi. Costs of travel and participation were met entirely out of the Ombudsman's 2019 budget allocation after *virements* for adjustment.

A second AOMA Executive Committee meeting which was to be held back to back with the Ombudsman Expo in Abuja was cancelled for lack of quorum.

8.3.4 AOMF EXECUTIVE COMMITTEE MEETINGS – As an

elected representative for the Indian Ocean islands sub-group on the executive committee of the AOMF (*Association des Ombudsman et Médiateurs de la Francophonie*), my attendance at committee meetings is expected. However, due to illness, I was unable to attend the first AOMF executive committee held in Paris, France on 4th February 2019.

I was able to attend the second executive committee meeting held back to back with the Rabat Conference (referred to in Paragraph 8.2.1. above) on 22nd October 2019. Travel and associated costs of attendance were met through the Office budget allocation.

8.3.5 AFRICAN ANTI-CORRUPTION FORUM, SHARM-EL-

SHEIKH, EGYPT – In June 2019 I was invited to accompany the Auditor General to the African Anti-Corruption Forum organised by the Egyptian authorities under the auspices of President Abdel Fattah El Sisi of Egypt. The delegation, comprising the Chair and Vice-Chair of the Anti-Corruption Commission of Seychelles and myself (the Auditor General was unable to travel at the last minute for personal reasons) was fully financed by the Egyptian Government. The two-day forum over 12th and 13th June looked at national anti-corruption agenda in the light of the obstacles corruption places to the 2063 African Development Agenda and the efforts of several African countries in combating the scourge. The forum, which may well become a regular event, recommended that Egypt's National

Anti-Corruption Academy take leadership in Africa's anti-corruption campaign in preparing an integrated strategic plan to combat and prevent corruption across Africa, develop indicators to measure corruption specific to the African context, launch a continent-wide platform to monitor corruption and efforts to curb it, and draw up MOUs and cooperation protocols between the Egyptian Academy and other African institutions for the purpose of training and developing qualified African cadres.

8.3.6 SOUTHERN AFRICAN CHIEF JUSTICES' FORUM – From 27th to 30th October 2019, I attended the Southern African Chief Justices' Forum hosted by the Seychelles Judiciary and formed part of a panel to discuss Financial Autonomy, Resourcing and Judicial Independence.

8.4 TRAINING –

8.4.1 AOMF TRAINING ON THE RIGHTS OF PERSONS WITH DISABILITIES – In June 2019, the Senior Investigation Officer Sylvette Gertrude and Legal/Investigation Officer, Sophie Lagrenade travelled to Rabat, Morocco to follow a AOMF-sponsored training workshop on ***“The Rights and the Accessibility of Public Services of Persons with Disabilities.”***

The three-day workshop (18-20 June), organised under the auspices of the AOMF, was designed to assist ombudsman and mediators in understanding the principles of and the national commitments made in signing the **International Convention on the Rights of Persons with Disabilities** and ensuring that our countries have set up all the necessary structures and processes that enable persons with disabilities to live dignified lives in which they are fully included in professional and academic fields.

Lessons learned for Seychelles context – Best practices emerging from the workshop that should be developed in our local context include focusing on coordination and liaison between the Ombudsman and local institutions to safeguard the rights of persons with disabilities.

Addressing accessibility – Having determined accessibility as a major issue for persons with disabilities in Seychelles, a full scale study should be undertaken to determine the extent of the problem and the way forward. It is my intention to enquire into this in 2020 with a view to making recommendations on the fundamental changes required.

8.4.2 AOMF TRAINING ON MEDIATION – In March 2019, the Ombudsman had planned to attend a training session organised by the African Ombudsman Research Centre (AORC) under the auspices of the AOMA in Durban, South Africa. I was to be accompanied by the Principal Investigation Officer. However, I could not travel for health reasons and with the PIO's resignation and departure at the end of February, the Office was unable to avail itself of this training.

9. CHALLENGES

9.1 VISIONING EXERCISE & STRATEGIC STATEMENT

9.1.1 The Ombudsman's strategic plan for the period of my mandate to 2024 envisions '**A fair, open, accountable and effective public service**'. Our core mission is to continuously improve the level of service delivery across the public service. To achieve this plan, we must ensure that our own systems and processes are effective and efficient in the service we provide to complainant citizens.

9.1.2 Drawn up during the first year of my mandate, the plan focuses on institutional and capacity building over the first period from 2018 – 2021. The second period from 2022 – 2024 makes space for a refreshed plan designed to take the Office to the end of my mandate in preparation for the next Ombudsman.

9.1.3 To build the institutional capacity of the Ombudsman we must recruit qualified personnel and provide the training needed to enable existing staff to fully deliver those services. This remains work in progress. In view of the type of work envisaged by the Office and if it is to operate effectively and efficiently in its role and make a real difference, it has become increasingly clear that the Office needs a strong legal team. This aspect will be given greater attention in the coming year.

9.1.4 The current Strategic Plan is shared in this report at **APPENDIX VI**. It is expected that the plan will be reviewed during 2020 in light of the findings.

9.2 ADDRESSING INCREASED BUDGET MANAGEMENT OBLIGATIONS

9.2.1 The Office is now operating under a full PPBB (Programme Performance-Based Budgeting) which requires a continued overview and oversight of performance information designed to show how effectively the Office is using the budget allocation for its single programme, which is to carry out its constitutional mandate of investigating complaints, promoting good governance, improving administration and promoting and protecting human rights.

9.2.2 This has resulted in a greater demand for time and expertise in the annual budget preparation and reporting generated by this approach. To meet this demand, the Office established a dedicated administration section run by an Office Manager and an assistant. However, it has proven challenging

to rationalise new posts while maximising the work performed by the two staff members involved, especially in the light of the Office's lack of administrative autonomy which continues to hinder the completion of this exercise with the Department of Public Administration playing a direct role in the human resource management of the Office.

9.2.3 It remains to the honour of the current team of Ombudsman's staff that the work is done under the best possible circumstances despite the fact that one staff member has so far not been able to benefit from the proposal for promotion envisaged as part of this exercise.

9.2.4 Lobbying for Financial & Administrative Autonomy – In 2019, the Ombudsman continued its leadership of a group of constitutional and autonomous statutory bodies lobbying for a review of proposed legislation designed to oversee the financial management of constitutional bodies. The group met with the Ministry of Finance and experts from the International Monetary Fund Regional Technical Assistance Centre for Southern Africa (AFRITAC SOUTH) in August 2019. The mission, which is assisting the Ministry in reviewing the country's Public Finance Management legal framework, appears to have advised against the introduction of any public finance management legislation specifically designed for constitutional and autonomous bodies as was initially proposed. The bigger debate on financial and administrative autonomy is still ongoing.

9.2.5 The central issue remains finding the most suitable and cost effective solution to maintaining transparency and accountability on our budget planning and expenditure whilst retaining our autonomy and the ability to deliver our services efficiently and effectively.

9.3. PUBLIC EDUCATION AND PROMOTION OF OMBUDSMAN'S ROLE

9.3.1. EDUCATING THE PUBLIC – Again in 2019 statistics disclose that over half of the complaints received by the Office are not within the remit of the Office or are premature. **Paragraph 1(3)(d) of Schedule 5 of the Constitution** provides that the Ombudsman shall not investigate a complaint where the complainant has a remedy under the Constitution by way of appeal, objection, or review on merits and the complainant has not exhausted the remedy, unless the Ombudsman is of the view that it would

have been unreasonable in the particular circumstances to expect the complainant to exhaust the remedy.

Applying this restriction, the Office does require that complainants first address their complaints to the public authority to give the latter the opportunity to respond and offer redress before taking up the matter. Additionally, many complaints involve private individuals or entities and do not fall under the jurisdiction of this Office.

9.3.2. Ignorance of the role of the Ombudsman – Out of a total of 179 complaints lodged in 2019, a total of 141 were either premature (75) or outside the remit (66) of the Office. Once again the conclusion drawn from this observation is that the public remains largely ignorant of the role and mandate of the Ombudsman.

9.3.3. Messages & Social Media – A more focused and specialised outreach programme is needed to fully sensitise and educate the general public on the Ombudsman's mandate and work. However, in the absence of dedicated staff, this has not been possible. Meanwhile, the Office has done limited work on an outreach programme, making full use of the more cost-effective measures available to reach out to the public. We started a Facebook page and throughout 2019 made use of the complicity of the national media by issuing messages and statements on the occasion of national and international days dedicated to areas that fall within the scope of our work.

9.3.4. Information leaflets – We have also designed and printed an information leaflet outlining the work of the Ombudsman and our plans for 2020 include the design and publication of pamphlets and posters which will be distributed for posting in schools and other public places and offices. I also plan to hold talks in schools and other educational establishments.

9.4. GOOD GOVERNANCE & PUBLIC ACCOUNTABILITY

9.4.1. The central tenet of the work of the Ombudsman is to act as a '*quality controller*' of the public services administered by public officers who implement government policies through the basic functions of Government.

9.4.2. Public officers make decisions and determinations in the course of delivering services relating to defending the country and safeguarding law and order; collecting revenue through taxation; regulating the economy;

providing welfare and certain economic services; protecting individuals; and developing human and physical resources. They are expected to make those decisions and determinations so in a fair and non-oppressive manner for the benefit of members of the public.

9.4.3. The citizen will turn to the Ombudsman when that public officer's decision or determination is or is seen to be unfair and oppressive. By checking those allegations of maladministration and enquiring into the decision-making process, the Ombudsman can determine how the decision was made, and consequently make recommendations that target an improved service and, more importantly, help prevent similar occurrences in the future.

9.4.4. Public accountability and good governance are ensured only if all parties draw and learn from their errors. This remains the fundamental principle behind the work of the Ombudsman for without it, there is no way this Office can make a real difference.

9.4.5. In the course of 2019, I have noted several instances where public authorities have rejected my recommendations or have counter-recommended that I review my findings. Some of these instances are discussed further in the Case Synopsis chapter of this report or touched on in the general reviews of individual ministries and organisations.

9.4.6. I will, in addition to keeping these cases under review, also submit proposals to both the Legislature and the Executive on how to ensure that this situation is addressed and the work of this Office is given its full value as envisaged in the Constitution.

9.5. DEALING WITH COMPLAINTS –

9.5.1. SETTING UP INTERNAL COMPLAINTS' MECHANISMS –

The fundamental purpose of the public service is to serve the public. As servants of the public, a good public sector service must be economical, efficient, effective, fair, impartial, prudent, responsive and transparent in all their dealings with citizens. The citizens and general public have a right to expect a quality service at all times.

9.5.2. Capturing and addressing the grievances of members of the public at source will help channel the complaint and address it more directly both for the complainant and as part of the quality control exercise of the public authority. **Complaints' mechanisms would give aggrieved members of the public a first port of call in seeking remedies for their grievances.**

Additionally, it would assist the Ombudsman in conflict resolution since complainants could be referred back to such mechanisms in the first instance. Setting up such complaints offices is therefore fundamental to any long term initiative to improve service and maintain a high standard of service delivery.

9.5.3. I made several general recommendations in my last report addressing the need to set up fully operational complaints' handling systems to deal with internal matters. Again in 2019, I have observed that many public authorities continue to fail to deal effectively with in-house complaints by members of the public. Complaints procedures are either non-existent or not followed or only partially followed by both the general public and the public service providers.

9.5.4. Consequently, I am obliged here to repeat the recommendation made in my 2018 activity report, namely, that all public authorities (ministries, departments, agencies and state-owned enterprises) should set up effective internal customer complaints handling mechanisms where these do not already exist. In this age of the internet and social media, I note that many public authorities have websites and a social media presence but lack any engagement of the public in respect to resolving issues and complaints about their services. The success of such mechanisms in making a difference will depend on how well it is marketed so that the public is fully aware of its existence.

9.6. USING THE OUTCOME OF THE COMPLAINTS REVIEW TO IMPROVE SERVICES – By setting up effective mechanisms and dealing with grievances and complaints from those who use their services, public authorities will be able to determine what, if anything, may have gone wrong in their service delivery and use this to satisfy not only the complainant but also to ensure it does not happen again. This is the essence of good public service – the process by which learning from our mistakes will have real impact and make a lasting difference in our efforts to create that effective, fair, impartial, prudent, responsive and transparent public sector to which we all aspire. It lies at the heart of the Ombudsman's constitutional obligation in the Third Republic.

9.7. RATIONALISE NATIONAL COMPLAINTS MECHANISMS

– I also noted in my last report an urgent need for the various national complaints mechanisms to be rationalised and eventually streamlined. I pointed to the fact that in employment-related issues involving public officers, a public officer may have recourse to several complaints mechanisms and appeals procedures. These involve the provisions of the Employment Act and the Public Service Orders, as well as the choice of filing grievances before the Public Service Appeals Board or the Employment Tribunal. I note confusion in some instances as to which institution complainants should turn, especially in the light of more current administrative practices which give greater independence to parastatal organisations.

9.8. REVIEWING THE DEFINITION OF PUBLIC OFFICER – In this respect, the definition of a '*public officer*' may not always be clear or generally agreed and accepted especially when it comes to employment relations state-owned enterprises. **It is recommended that a clear policy and practice direction be drawn up by the Executive to lift any confusion and/or lack of clarity on this matter.**

9.9. MAKING USE OF PUBLIC RELATIONS & INFORMATION OFFICERS – I strongly recommended in 2018 that institutions employing Public Relations Officers should consider how to use these officers to assist in their in house complaints handling systems. Since the Information Commission became fully operational in the course of 2019 and assumed its oversight role over information officers appointed in all the public authorities, I urge that the Commission consider how my recommendation with respect to complaints' handling mechanisms could be extended to include Information Officers. This may ensure economies of scale and greater effectiveness across the entire public service.

9.10. ACCESS TO INFORMATION – The Access to Information Act (Act 4 of 2018) now provides the means by which citizens can fully exercise their constitutional right to access information. The Commission only started operations in the second semester of 2019 and it is therefore too early to evaluate the effectiveness of the new law. It is generally recognised that by enhancing and facilitating access to information across the public service, the new law will enable greater public participation of the public in decision making.

10. ENQUIRIES & DEALINGS WITH PUBLIC AUTHORITIES & PARASTATALS

This chapter is dedicated to some of the more notable general matters emerging from enquiries and consultations with a selection of public authorities.

10.1. PUBLIC & OFFICIAL DOCUMENTS LACK DATES &

IDENTIFICATION – It remains a general weakness across many public authorities that important administrative documents, such as job descriptions, position papers, reports, and sometimes even official and statutory forms lack dates that serve to position the document in time as well as clear identification of the provenance of the documents. The latter is particularly true in respect of statutory forms which do not always refer to the law or regulation under which they are drawn up. The absence of identification reference of forms was noted in Immigration Department forms such as the Gainful Occupation permits. All public authorities are advised to review all their documentation and statutory forms to ensure that this anomaly is fully addressed and that all official forms carry the correct formulation in accordance with the relevant regulations.

10.2. MINISTRY OF HEALTH & HEALTH-RELATED AGENCIES

FAIL TO RESPOND – A total of 10 complaints against the health services were again received in 2019. These varied from administrative matters to technical issues involving medical services. The point raised in my last report about the absence of a clear distinction between the roles and management of several dedicated health-related bodies – Health Care Agency, the Public Health Authority, the Medical and Dental Council and the Ministry of Health – continue to make it difficult on occasion to determine from who to request information upon receipt of a complaint.

Whether because of this or for other unidentified reasons, communications with the health authorities continue to pose a major challenge and remain largely unacknowledged and unaddressed. Efforts to find a workable solution after meeting with the Minister of Health in January 2018 have not produced positive results. One request for a report went several months without any feedback, only for us to receive a reply several months after it had been signed off by the service being investigated.

Without a workable final solution to this problem, both the Ombudsman and the health service will continue to fail in their respective duties of guaranteeing

a fair, transparent and effective service and frustrate the complainants. My Office is bound to carry out its investigations in an objective, impartial and fair manner which requires that the respondent institution is given every opportunity to explain itself and provide its version of the events before I draw any conclusions and make recommendations. If there is no improvement in the reaction of this and other public authorities in the coming months, I will not hesitate to avail myself of more coercive action in dealing with the failure of institutions to respond to my requests for information.

Schedule 5 Paragraph 3 grants me the same powers as a judge of the Supreme Court to force the attendance of a person before my Office – a power I have not used to date since I consider it impractical in most cases where my enquiries remain informal.

10.3. MINISTRY OF HABITAT, INFRASTRUCTURE & LAND

TRANSPORT – A large number of complaints received in 2019 (24) involved land use, housing or planning issues. Several of these required in depth enquiries and involved major recommendations which I believe are essential to the Ombudsman's vision of 'a fair, open, accountable and effective public service' where rules apply equally to all and any citizen, and where the basis for decision-making is clearly understood by both sides.

The issues encountered at the start of my mandate in obtaining feedback from the various departments of this ministry have been adequately resolved through the appointment of the special advisor to the minister as the liaison with respect to all requests for information from my Office. This arrangement is working very well.

I strongly recommend that this procedure be maintained and replicated in other ministries and departments. Furthermore, I urge that all ministries and departments bear in mind that any unannounced senior staff transfers take into consideration the need to ensure that a designated person is appointed and remains fully apprised of the need to liaise with and respond to enquiries from the Ombudsman.

In large ministries such as this, the size and diversity of portfolios and portfolio responsibilities within this ministry can often result in an overlap with other agencies and ministries. In such instances, for example, the Ministry responsible for Agriculture where the minister holds portfolio responsibility for the Seychelles Agricultural Agency and the National Biosecurity Agency, it is essential that

there clear lines of communication are established to facilitate exchange between all these bodies.

10.4. MINISTRY OF EMPLOYMENT – Four (4) complaints lodged against the Ministry of Employment allege failure in their statutory duty under the Employment Act of protecting employees and taking action against recalcitrant employers. While enquiries into these complaints are often borderline and still ongoing, I have noted a lack of coherence in the manner in which employee complaints are received by the Employment Department and followed through the tribunal.

10.5. NATIONAL ASSEMBLY – Two complaints involved the work of the Anti-Victimisation Committee of the National Assembly, set up in 2017 under the 6th Assembly's Standing Orders in respect of grievances of victimisation filed before the Committee. The Committee had breached its own terms of reference by allowing the complainants to present their complaints. The lesson drawn for all public institutions, especially those with judicial or quasi-judicial roles or powers is that the rules and regulations and terms of reference must always be followed to the letter and no attempt should be made on any grounds to circumvent these since doing so can be costly to both the public service provider and the general service-using public.

10.6. THE JUDICIARY – The Office recorded a total of 15 complaints against the Judiciary and legal officers although the large majority of these were outside remit. Many of the complaints were from dissatisfied or disgruntled members of the public who sought redress against their lawyers or who were seeking a second opinion on advice already given to them. Complaints involving the judiciary are always considered in the light of Paragraph 2(b) of Schedule 5 which limits my mandate to not investigate an action “concerning the performance of a judicial function or a Justice of Appeal, Judge or person performing a judicial function.” I have adopted the position that distinguishes between the Judiciary's judicial function which involves any legal finding, court order, ruling or judgment over which I have no powers of oversight, and the administrative affairs of the judiciary, over which I find that the Ombudsman does have oversight. Based on this position, I have enquired into a complaint that the judiciary had failed to follow statutory procedures in dealing with a complaint against an attorney.

10.7. OFFICE OF THE REGISTRAR GENERAL – The Office of the Registrar General is part of the Department of Legal Affairs responsible for the registration, supervision and effective management of several major public registries and depositories under the Land Registration Act, Mortgages and Registration Act, Companies Ordinance, Registration of Associations Act, trademarks and patents, etc. Three complaints received in 2019 involved allegations of maladministration in three of the main activities of the Office, namely, the Registrar of Companies, Registrar of Associations and Registrar of Lands. These enquiries disclosed a lack of consistency in the rules and the manner in which rules are applied. I noted, in some instances, failure in following the governing laws and regulations to the letter, as illustrated in the case synopsis below.

10.8. SEYCHELLES POLICE FORCE – Twenty three (23) complaints against the police ranged from allegations of police brutality, assault, failure to follow procedure and violations of rights in carrying out searches and arrests as well as employment-related issues. I have noted that police procedures are not always followed and/or properly recorded. I repeat suggestions made in my last report that the Police should reinforce established protocols and procedures of recording all events and complaints and set new procedures for any activities not currently covered.

Complainants also continue to fail in first taking their complaints to the police for possible action and remedy. In such instances, I treat the complaints as 'premature' and refer the complainant back to the Police Force. Referral letters are addressed to the Commissioner of Police making it difficult to follow up on the numerous queries that are still pending. I also repeat the recommendation made in my last report that the police set up a dedicated complaints bureau to deal with complaints against police officers independent of the main complaints offices which deal with general complaints and reports of offences.

10.9. SEYCHELLES PRISON SERVICE – The Ombudsman received a total of eleven (11) complaints against the prison services. These included a claim for compensation for an inmate injured in an altercation involving prisoners. Several general recommendations were submitted to the Prison Service in respect of the need to set up protocols to deal with riots and other civil disturbances in the prison as well as reaction in case of illness or injuries of inmates. I can report good cooperation from the prison services in all respects.

10.10. PUBLIC UTILITIES CORPORATION – In 2019 four (4) complaints were lodged against the PUC ranging from employment of staff to abuse of power and violation of a constitutional right in disconnecting a domestic water supply for failure to pay bills. **The latter case, developed in the Case Synopsis Chapter, shows an urgent need to review the Public Utilities Corporation Act to bring it in line with the Constitution.** It was also an opportunity to consider whether the right of access to water was a constitutional right under the Seychellois Charter of Fundamental Human Rights and Freedoms and whether the PUC violated that fundamental right action in cutting off a consumer's domestic water supply. Although not specifically acknowledged or recognised as a fundamental right in Chapter III of the Constitution of Seychelles, a right to water may be implied in the right to life guaranteed under Article 15 since no person can live without water. Moreover, Seychelles' international obligations may have established an obligation through the recognition by the United Nations General Assembly on 3rd August 2010 of the *“right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and Human Rights.”* Additionally, Goal 6 of the Sustainable Development Goals adopted in September 2015 also engages the State to sustainably manage water and sanitation and make it available for all by 2030. **I have referred this question for consideration by the Human Rights Commission.**

10.11. LACK OF COOPERATION OF PUC – The PUC has shown little interest in acting on my recommendations, justifying their action in disconnecting the water supply because the consumer had failed to pay the bill. This disregard for the authority of the Ombudsman is most regrettable and borders on contempt, aggravated by the fact that the state-owned, state-funded entity enjoys a continued monopoly as sole provider and distributor of water in Seychelles. I surmise that this gives it a higher standard of duty to provide water to citizens. The right to water should not mean that it can be enjoyed free of any charge to the citizen. It would most probably be balanced by a corresponding duty on the consumer to pay promptly for the water supplied to him. It would mean that the PUC cannot act outside its own regulations to call the defaulting customer to order in this way.

11. SYNOPSIS OF CASES 2019

11.1. HUMAN RESOURCE MISMANAGEMENT IN HCA

- 11.1.1.** An expatriate dentist recruited on a local contract was first employed by the Ministry of Health (MoH) from August 2007 to July 2010. He re-joined MoH on a two-year contract in September 2012 and was automatically transferred to the Health Care Agency (HCA) on 1st January 2014 upon the agency's creation in April 2014.
- 11.1.2.** After the contract ended in September 2014, S continued working while the HCA drew up a new contract. That contract was to end in September 2016, and as had become standard practice, S continued working past the end date. Two days after the end date, he was informed by the Seychelles Medical and Dental Council (SMDC) that a complaint for serious malpractice had been filed against him with them. That complaint had been received in August 2016, almost a month prior to the end of his contract. It is not known whether SMDC informed HCA of the complaint. In mid-December 2016, SMDC informed S that he had been struck off the Medical & Dental Practitioners' Register and was suspended from practising for a 12-month period and advised him to attend further professional training before he could be reinstated.
- 11.1.3.** It is noteworthy that the SMDC Act does not specifically provide that removal from the Register would mean a person could not work as a dentist in Seychelles, although this outcome could be implied. On the other hand, while de-registration could be interpreted as ample grounds for HCA as employer to terminate S's frustrated contract since he could no longer deliver on his contractual undertaking to work in his professional capacity, it cannot mean that de-registration of its own would automatically end the contract. Be that as it may, HCA did nothing.
- 11.1.4.** S followed the training and in April 2017 informed both MoH and SMDC of his readiness to return to work. In January 2018 the SMDC considered his application for reinstatement to the Register and informed him of his re-registration in April 2018.
- 11.1.5.** At no time following S's suspension from the register by SMDC did HCA engage with him with regard to his employment status despite having tacitly renewed his contract after the previous contract ended in September 2016. I concluded that a new two-year contract was tacitly granted because S had

clearly worked past the end date and was paid his salary up to December 2016. Secondly, precedence had been set when the previous 2014-2016 contract was formally renewed by a letter of appointment dated April 2015 which S signed in May 2015 and which took effect in mid-September 2014. Thirdly, records showed that HCA had recommended termination with immediate effect in January 2017 because they could not hold the post vacant for the duration of the year of suspension, clearly acknowledging that S was still employed by them in January 2017. Again, even then, HCA took no action at the time.

- 11.1.6. Despite his reinstatement to the Register, HCA did not reintegrate S into the workforce nor did they communicate with him in any manner until well over a year later when they gave him a 'termination' letter in March 2018 and backdated the termination to January 2017. My Office saw no details of any administrative procedure for handling renewal of contracts or action required where medical practitioners and dentists are struck off the register.
- 11.1.7. S lodged a grievance for unlawful termination of employment with the Public Service Appeal Board (PSAB) which ordered in October 2018 that MoH reinstate him in his original position with retrospective effect from the date he was restored to the register and pay his salary from that date.
- 11.1.8. The HCA has not, to date, complied with the PSAB's order even after the PSAB notified them of its powers under **Article 146 (4) of the Constitution** to report non-compliance to the National Assembly. The HCA responded that it was unwilling to comply with the order and intended to apply for judicial review. It is now out of time for such action.
- 11.1.9. I noted that S's 'contract of employment' was a regular letter of appointment which the HCA appear to have assumed to be the same thing. Reference to *"letters of appointment and forms of contract"* in **Public Service Order 43** indicates otherwise. I concluded that a contract of employment should be drawn up between the parties, especially for an expatriate on a local contract.
- 11.1.10. Standard terms and conditions contained in S's letter of appointment made only a passing reference to professional obligations enabling employment to be terminated immediately upon being found guilty of a disciplinary offence. Registration on the SMDC's Register was not obligatory and no clause enabled the contract to be rescinded should the incumbent be

struck off the register or for such removal to be considered a serious disciplinary offence justifying immediate termination.

- 11.1.11.** HCA argued that S's re-enlistment on the Register by the SMDC did not automatically mean that he was employed by the agency. By the same token, having been struck off by the SMDC could not automatically mean that his employment with a third party (HCA) had come to an end. I found that the removal alone of S's name from SMDC's register could not automatically put an end to S's contract of employment with the HCA.
- 11.1.12.** The HCA's letter of March 2018 seeking to terminate S's employment failed to state the grounds for dismissal and broke a fundamental principle of employment law by backdating the termination more than 15 months. I found the termination unlawful and an abuse of authority and concluded that S had therefore continued in HCA's employment past the December 2016 date to which he had been paid and beyond the 'termination date' of March 2018. Having been tacitly granted a new two-year contract beyond September 2016 and since he was not properly dismissed in line with administrative procedures during the term of the tacitly renewed 2016-2018 contract, I found that he had remained an HCA employee up to the date in September 2018 upon which the tacitly-renewed two-year contract would have ended. HCA therefore owed S employment dues up to that date.
- 11.1.13.** In addition to recommending that S be paid all outstanding employment dues owed to him by 30th June 2019, I also recommended that HCA urgently address the weaknesses that had emerged in its personnel & human resource management. These were to:
- (a)** Set up management and administrative processes that will ensure that contract renewal and termination procedures are adopted well ahead of the end date of every contract so that no contracts are extended tacitly or by default;
 - (b)** instruct the HCA's Human Resources Department to maintain a proper register of all personnel to ensure long term HR planning and timely decisions are taken in respect of staff well ahead of end of contract dates;
 - (c)** ensure that all employees, especially expatriate staff whether on local or expatriate contracts, are recruited and work **only** on valid contracts of employment in lieu of Letters of Appointment, incorporating a clause enabling HCA to suspend/terminate contracts where the employee is

under investigation/found guilty of professional malpractice or removed from the Register maintained by the SMDC;

- (d) discontinue the practice of allowing employees to continue working past the end of their contract;
- (e) Establish a clear policy on renewal of contracts, especially where the need to ensure continuous and undisrupted service overrides recommendations that are not in favour of renewal.
- (f) Ensure that whenever an investigation alleging medical malpractice against a medical practitioner is commenced an employment review is also carried out and steps are taken to either suspend or terminate the member of staff concerned to ensure that quality service is rendered to the public.

11.1.14. I also recommended that MoH, in collaboration with HCA and the SMDC, should set up a coordinated complaints service to ensure that immediately upon SMDC receiving complaints against medical practitioners and dentists, and upon deciding to investigate the complaint, HCA (or other employer) is informed and any necessary action is immediately taken in respect of ending or suspending a subsisting contract or not renewing a contract that is about to end.

11.2. FAILING TO APPLY SCHEMES OF SERVICE

11.2.1. A group of specialised nurses working in the operating theatre lodged a joint complaint alleging arbitrary and iniquitous treatment by the Health Care Agency (HCA) in refusing to pay them the Responsibility Allowance provided under the Nursing & Midwifery Scheme of Service set up in April 2014. Although the allowance was eventually paid with effect from 1st July 2017 after persistent lobbying from the nurses, the HCA had refused to back date payment to 1st April 2014 the date the Scheme came into effect. The nurses were claiming back payment for the period in between.

11.2.2. The Scheme provided for nurses within the cadre to receive a "Responsibility Allowance", of varying amounts depending on the nurse's grade, payable where the nurse is attached and discharging the functions on a continuous basis to specialised areas, including the operating theatre, listed in the Scheme. While a Scheme of Service may not have the force of law of

any legal provision or regulation, it applies as part of the public officer's contract.

- 11.2.3. The complainant nurses had been fulfilling the conditions from the date the Scheme came into effect (i.e. 1st April 2014), but were not paid the "Responsibility Allowance" until they had made several representations to the HCA management. They had first drawn attention to this anomaly in September 2015 and had written to the HCA'S Chief Executive Officer in October 2016. It was not until 10th October 2017 that the HCA's official response, addressed to each nurse individually, informed them that approval had been granted to pay them the "Responsibility Allowance" with effect from 1st July 2017 – 39 months after the Scheme had been implemented.
- 11.2.4. In taking up the complaint, I invited HCA to explain why the allowance had been approved only with effect from 1st July 2017, over three years after the Scheme had become operational and to propose the way forward in the best interests of both sides.
- 11.2.5. The HCA failed to respect any of the deadlines provided, even after repeated reminders in several informal e-mails. I wrote formally in November 2018 demanding a response as the delay was affecting my Office's credibility and service delivery.
- 11.2.6. In its letter of 26th December 2018, HCA finally responded acknowledging that the revised Scheme had been introduced on 1st April 2014 and that provision had been made for specialised nurses to be paid a responsibility allowance for autonomous practice within their field of specialisation. The nurses were receiving the responsibility allowance since 1st July 2017 "**when funds became available**". Despite my specific requests, HCA did not explain why the effective date was 1st July 2017 and why it would not backdate payments to 2014 which was the basis of the Complainant nurses' complaint.
- 11.2.7. In my final report, I criticised the unacceptable delays in HCA's response which had been received **after 441 days** as not only discourteous, but also showed contempt for a constitutional Office that deserves the full collaboration and respect of all public institutions it interacts with. My disappointment was amplified since I had previously met with officials from the HCA and parent ministry to agree on a line of prompt communication between our offices – a line of communication that had clearly failed.

- 11.2.8.** It was not disputed that the six Complainant nurses had been performing their respective duties and appeared to meet the conditions under the Scheme as of 1st April 2014. Furthermore, the Scheme had provided that *“all Seychelles registered and licensed nurses and mid wives in the employment of the government will abide by it”* from the date it became operational. It had not provided that nurses would only be eligible for allowances upon the availability of funds, and by making it effective from 1st July 2017, 39 months AFTER the Scheme became operational, HCA had deprived the Complainants of the benefits of the scheme over that same period.
- 11.2.9.** My Office estimated the additional cost to HCA at **SCR 296,400** for fully implementing the Scheme in favour of the six Complainants over the 39-month period from 1st April 2014 to 1st July 2017. While recognising that HCA may not have funds readily available to cover such costs, I stressed it was the HCA's duty to meet any additional budgetary needs created by the scheme. HCA should have immediately upon approval of the Scheme if not earlier, requested the Ministry of Finance for additional funds to meet these additional demands.
- 11.2.10.** I noted that following the Scheme's approval in 2014, HCA had submitted three annual budgets for the fiscal years 2015, 2016 and 2017 and had failed to secure provision to cover the additional resources needed to meet the financial obligations created by the Scheme. Despite having been given the opportunity to do so, the HCA failed to explain this failure/omission, nor did they explain why in the 2017 budget allocation funds were provided for only six months although the complainants were in post for the entire 12-month period.
- 11.2.11.** I found it incumbent on the HCA to exercise foresight when seeking approval of its Scheme of Service by the DPA to ensure that where it did not have enough funds to meet the additional cost created by the Scheme, the Agency had to state its case and convince the Ministry of Finance to approve additional funds for the purpose.
- 11.2.12. HCA's defective Grievance handling mechanism** – I also found weakness in HCA's approach to the nurses' grievance which had unnecessarily resulted in a conflictual situation with dedicated key personnel. The nurses had first queried the non-payment of the allowance on 14th September 2015 but did not receive a formal reply until 10th October 2017. Although HCA's letter to the nurses was intended to close the matter, it contained no formal apology to the nurses for having waited 39 months for an answer in respect of promised dues.

Furthermore, HCA's refusal to backdate the payments to 1st April 2014 was not conciliatory and showed a lack of good faith, exacerbated by the single statement that *'funds had only become available in July 2017'*, with no explanation as to why this was the case, the nurses having worked since April 2014. HCA should have kept the nurses formally informed throughout about the lack of progress it was encountering in implementing or financing the Scheme. Here again the HCA's failure to communicate in a timely manner was noted.

11.2.13. In conclusion, I found that the HCA had acted unilaterally and grossly unfairly in deciding to pay the nurses the allowance only from 1st July 2017 and not with effect from 1st April 2014. I recommended that the HCA pays the group and any other qualifying nurses the allowances set out in the Scheme of Service with effect from 1st April 2014, the date the scheme became operational. I suggested that HCA could consider drawing funds from a possible contingency budget and urged that before any new Scheme is devised and made operational in the future, the public authority must ensure that funds are available or the additional budget is obtained from the Ministry of Finance to meet the increased cost. Where funds are not available, the Scheme should be delayed until such time as funds can be earmarked.

11.2.14. I also recommended that the DPA should issue clear guidelines to all public authorities to make provision for additional funds BEFORE any Scheme of Service or salary review is to become operational to avoid a recurrence of this case where unfulfilled commitments to the staff due to the lack of funds can be interpreted as unfair and hence serve to demotivate staff.

11.3. ABUSE OF AUTHORITY BY CUTTING OFF DOMESTIC WATER SUPPLY

- 11.3.1.** L complained against the action of the Water Division of the Public Utilities Corporation (PUC) to cut off the water supply to his East Mahé home in violation of his constitutional right to water and in breach of the law in failing to give him the statutory notice.
- 11.3.2.** The facts disclosed an issue over water consumption by L's household which he blamed on a defective water meter. PUC had assisted in determining that the fault was after the meter on L's side. It was in the context of this dispute that L paid a disputed bill by cheque in which an error was reputedly made. L was informed and invited to correct the error but had failed to before PUC disconnected the water supply.
- 11.3.3.** I focused my enquiry on PUC's public service role as a statutory body corporate, wholly owned by the Government of Seychelles, and established on 1st January 1986 during the one-party Second Republic under the Public Utilities Corporation Act (Cap 196) as the only utilities provider providing electricity, water, and sewerage services in Seychelles. Its obligations to the citizens and the national interest are paramount in view of the monopoly it holds in the provision of its services. Since its establishment in 1986, the PUC Act has remained substantially unchanged. Regulations made under the act that govern the PUC's functions, regulatory powers and duties in relation to the supply of treated and untreated water and sewerage services as well as fees, deposits and charges payable to it for its services and supplies, also remain largely unchanged.
- 11.3.4.** PUC responded to my request for information with a timeline report from its engineer setting out the steps taken in the dispute over L's water bills which spanned a two-month period. They described their relationship with customers as a contractual one in which the customer, upon application for connection, signs an 'Agreement form for Supply' which provides that the customer may be disconnected for non-payment of account; that meters are read every month and issued bills become payable on presentation; and if not paid within 14 days is deemed to be in arrears and the supply may be disconnected for non-payment of account.

- 11.3.5.** PUC issues warnings to consumers of their intention to disconnect every month through the Seychelles Nation daily newspaper and on SBC Radio and television over a span of two weeks which serve as final reminders to all customers with unpaid invoices of over 30 days to settle their invoices to avoid disconnection of supply.
- 11.3.6.** I established from my enquiry that, notwithstanding the contract, provision of services and the relationship between PUC and consumer is governed by the PUC law and regulations. The law clearly provides for water bills to be paid on presentation and L therefore had a statutory duty to pay his water bill upon presentation and by not paying within 14 days was in arrears of payment. However, I noted that the procedure and powers for disconnection were also clearly framed within the law. While the law gives PUC's manager absolute discretion to disconnect or restrict water supply to a consumer who fails to pay his bills, the manager is obliged to follow the statutory process for disconnection. That process is also set out in the law. It requires PUC to give a notice of demand and warning which must be presented to the consumer when a bill is in arrears for 7 days. The consumer has 7 more days in which to pay and if, after the end of those 7 days, the bill remains unpaid, the supply may be cut off without further warning. The 7-days' written notice must be signed and sent by post.
(Regulation 4 of S.I. 26/1988)
- 11.3.7.** Applying this procedure to the facts, I found that PUC had not followed it. L had not been given any warning as to the PUC's decision and action to disconnect his water supply.
- 11.3.8.** PUC argued that it had fulfilled its duty and given all consumers with unpaid invoices of over 30 days final reminders through its standard practice of monthly notices in a daily newspaper and on radio and television. However, the regulations do not provide for such public notices. Consequently, by cutting off L's water supply without first presenting a notice of demand and warning to the defaulting consumer, PUC had failed to follow its statutory procedure and had acted wrongly and in breach of its own regulations in disconnecting L's water supply.
- 11.3.9.** The fact that L was in arrears of payment, which amounted to a little over SCR2,000, could not justify PUC's abusive action. I recommended that PUC pay the Complainant compensation for the inconvenience caused by the improper exercise of its powers. While I did not propose the amount of

such compensation, I did urge PUC to consider an amicable approach in agreeing on a sum for compensation with L. The feedback from PUC has been negative.

11.4. BREACHING SPECIFIC TERMS OF REFERENCE

- 11.4.1.** Following the creation by the 6th National Assembly of the Anti-Victimisation Committee (AVC) under its Standing Orders in 2017, C, a non-resident Seychelles national lodged a grievance with the AVC alleging victimisation by her former employer, a Ministry. After she had travelled to Seychelles for what she believed had been a hearing of her victimisation complaint, the AVC had informed her they could not take any remedial action as the complaint was outside their remit.
- 11.4.2.** C then lodged a grievance with the Ombudsman alleging that the AVC had failed to take any remedial action and had caused her unnecessary financial loss in travelling from her country of residence to Seychelles specifically for the hearing. She had not been informed at the outset that her complaint would not be heard.
- 11.4.3.** The AVC's mandate set out in its Terms of Reference (TOR), was to hear complaints of people who alleged to have been victimised by public authorities. The TOR specifically excluded complaints arising more than 5 years prior to the AVC's approval date. C's complaint was based on the termination of her employment with a public authority dating back to 2003 and was therefore clearly outside the remit of the AVC.
- 11.4.4.** I confined my enquiry to the AVC's actions in dealing with C's victimisation complaint and did not consider any allegations in respect of her original complaint of victimisation. Several threads of e-mail correspondence between C and the AVC's Secretariat were considered in addition to responses from the AVC.
- 11.4.5.** I found that the AVC's secretariat had acknowledged receipt of C's grievance form in April 2017 undertaking to inform her of "progress of procedure." She had sought information and updates on her complaint through several threads of e-mails with the AVC secretariat through July, August and November 2017. However, I noted a general lack of response until February 2018 when she was informed that the AVC had met in February 2018 to work on the year's action plan and that they would discuss the complaints on 1st March 2018. Although the author of the correspondence undertook to ensure that C's case would be prioritised and that she would be kept posted,

there was no mention that her complaint would or may not be considered because it was out of time.

- 11.4.6. The parties were also communicating by telephone, and a specific reference in one e-mail was made to a telephone conversation which involved a hearing proposed for a specified date and for which C awaited confirmation. C had clearly prepared her travel to coincide with this date, having arranged to arrive in Seychelles just two days before the scheduled hearing and planning to spend 11 days here.
- 11.4.7. By the time she was informed 8 days before the proposed hearing date and 5 days before she was due to travel that the hearing date had been cancelled because the AVC was "*rectifying a few issues within the Committee,*" it was too late to call off her trip without incurring further loss. Furthermore, no explanation was given of those "issues" nor was C informed whether the cancellation was because the AVC could or would not hear her complaint.
- 11.4.8. The AVC Secretariat knew at the time of this correspondence of C's imminent travel plans since they invited her to contact the Secretariat upon her arrival to discuss the way forward. Instead of inviting her to do so, they should have informed her that they would not or could not hear her complaint because of the time limitation or for any reason and should have put her on notice not to travel specifically for this purpose and that they could not take any responsibility for her travel plans. They never did.
- 11.4.9. Notwithstanding that she was aware of the cancellation of the date, I concluded that C had travelled to Seychelles specifically for the hearing before the AVC. She had reasonably concluded that the Committee would hear her complaint. Once in Seychelles, it was just two days before her scheduled return to her country of residence that the AVC informed her that they could not act on her complaint on account of the time limitation.
- 11.4.10. The AVC categorically rejected the claim that C had been requested to travel to Seychelles to be heard on her complaint and that there had been a hearing. They claimed that after making it clear that her complaint was time-barred, she had insisted on telling her story and the AVC had therefore listened to her "*on compassionate grounds.*" No *verbatim* of that meeting had been recorded but an extract of minutes for the day indicated a formal meeting of four out of seven AVC members as well as its Secretariat under a case title reference during which the AVC chair did explain to C that the AVC

could not make any recommendation in her case because of the time limitation. The minutes also showed that C had queried why this information had not been communicated to her earlier. Hence, she had never been informed of the time limitation until then.

11.4.11. In conclusion, I found that having known from the outset that they could not accept or act on C's complaint of victimisation because of the time limitation, the AVC had breached their mandate in receiving and registering her complaint. They had failed in their duty of care to inform her that her complaint was outside their remit ahead of her incurring the expenses of travelling to Seychelles to appear before them. Furthermore, throughout the exchange of correspondence C had been wrongly led to believe that her complaint would be heard and was formally informed that the AVC was not empowered to offer her any relief only on the date the Committee met with her in Seychelles.

11.4.12. By allowing C to present her story on compassionate or any other grounds without authority to hear the complaint or provide any relief, the AVC had acted wrongly and in breach of its own mandate. I found that the wrongful action had caused C to sustain unnecessary cost to travel to Seychelles on the mistaken belief that her complaint was receiving attention. I recommended that the AVC refer the complaint to the Truth & Reconciliation & National Unity Commission (TRNUC) and that the National Assembly should pay compensation to C to, at least, cover any further expenses relating to travel to Seychelles at a future date to attend any hearings of a complaint before the TRNUC.

11.5. WRONGFULLY 'STRIKING OFF' ASSOCIATION FOR FAILING TO SUBMIT AUDITED ACCOUNTS

- 11.5.1.** F, an office bearer of an association, complained that the Registrar of Associations had not followed the procedure contained in the Registration of Associations Act (RAA) and had acted unjustly and unfairly in striking off the association for not filing annual accounts and names of office bearers over several years and for refusing to reinstate the association despite a Supreme Court order.
- 11.5.2.** The association had been sent formal notice by ordinary letter through the post that it would be struck off the register for failing to lodge audited annual returns, minutes of its AGM and a list of office bearers over a period of several years. Issue was taken over the date and addressee of the notice which had allegedly resulted in it being received late. Despite steps taken to immediately fulfil the Registrar's demands, the association had been too late to avoid being struck off. Acting on the Registrar's advice, the complainant filed for and obtained an order for reinstatement in the Supreme Court but the Registrar rejected the order and refused to reinstate the association on grounds that the RAA did not provide for reinstatement.
- 11.5.3.** During the course of my enquiry, the reinstatement issue had gone before the Court of Appeal where it was amicably resolved between the parties and the association was reinstated. Despite suggestions that the complaint to the Ombudsman should also be withdrawn, I maintained that, once seized of a complaint, my Office is not bound by the resolution of the complainant's grievance independently of my Office. I held that where an enquiry by my Office discloses actions, practices or patterns of conduct by a public authority in the exercise of its administrative functions that appear to result in injustices or harsh, oppressive or unfair administration, as in this case, the Ombudsman is entitled to pursue its findings, observations and/or recommendations as may be required.
- 11.5.4.** The RAA establishes the statutory duty for the secretary of an association to furnish specific information every year, the failure of which results in a penalty for non-compliance. That penalty does not include 'striking off' an association. The Registrar argued that the association had been struck off for failing to submit audited accounts, information on new office bearers and minutes of its AGM, that she had applied the procedure set out in **Section 15** of RAA because she had 'reasonable grounds to believe that the association had

wilfully infringed its own rules.' The Registrar had inquired into the affairs and conduct of the association by sending them reminders to put the affairs of the association in order, which they had failed to do.

- 11.5.5.** I found that the RAA does not give the Registrar the power to "strike off" any association for failure to submit audited annual reports or any of the matters set out in the Act. The relevant **Section 12(1)** places on the secretary an obligation to submit to the registrar once a year before the end of January "a return" of names and addresses of officers of the association and "an audited account of the yearly revenue and expenditure and of the assets and liabilities of the association." These, along with details of any change in the association's place of business or in its office bearers which must be submitted by the Secretary within 14 days of such change, are in my view matters of good administrative housekeeping performed as part of the secretary's duties.
- 11.5.6.** The RAA creates a statutory offence for non-compliance with that statutory duty. Under Section 12(2), the secretary "shall, on conviction, be liable to a fine not exceeding twenty five rupees for every day during which the default continues." Where an association fails to submit its annual returns, the RAA enables the Registrar to file a criminal complaint to deal with the default. It does not provide otherwise.
- 11.5.7.** The Section 15 procedure used by the Registrar in this case, on the other hand, caters for more serious allegations stated in the section, such as obtaining registration of the association by fraud, illegal activity, wilful infringement of the law or the association's rules, misapplication of funds or where the association has ceased to function. These 'offences' should not be confused with the statutory 'offences' created under Section 12.
- 11.5.8.** The Registrar's choice of the Section 15 procedure was therefore wrong and resulted in an unfair and unjust decision against which the Association's only recourse appeared to be an appeal to the Supreme Court. However, even that attempt proved costly and futile since the Registrar rejected the court's order for reinstatement claiming, in my view rightly, that it could not be adhered to since the RAA was silent *about reinstating an association which had already been struck off by the Registrar.*
- 11.5.9.** Furthermore, where Section 15 is applied to deal with an association's offences, the Registrar is expected to use her powers to institute an inquiry into the association's affairs and conduct. Such inquiry would have to go beyond affording the association a mere notice letter as was done in this case.

In such enquiry, the Registrar must apply the law in respect of the Commissions of Inquiry Act (Cap 39), which gives her powers to summon witnesses and compel production of documents. Most importantly, Section 15(3) obliges the Registrar to produce *"a report of her findings, together with her recommendations"* to be submitted to the Minister who can make any order he deems fit. It is only upon the completion of this procedure and once the Registrar is satisfied that the association should be struck off, that the Registrar, with the Minister's approval, can serve a notice on the (association's) secretary *informing him that he (Registrar) intends to strike the association off the register for reasons to be set out in the notice."*

11.5.10. It is only where the Section 15 procedure is properly followed, that the association can then appeal to the Supreme Court under **Section 17(2)** against the decision within two months of receiving the notice to show cause why the association should not be struck off. An appeal to the Supreme Court is therefore meant to precede the striking off and cannot be after the fact.

11.5.11. **Section 18** of the RAA further provides for 'follow up' action by the Registrar once an association is struck off. All the association's property (*usually funds held in bank accounts*) shall become vested in the Registrar who shall use such property towards meeting, as far as possible, all the debts and liabilities of the association and transfer any balance "to such registered association or charitable institution as the Minister may elect." This further reinforces my finding that 'striking off' an association must be taken much more seriously and cannot apply for simple 'housekeeping' matters like the failure to submit audited yearly reports of income and expenditure. This is not to say that such matters are not important. It is evident that the possible conviction and fine can be sufficient deterrent to discourage non-compliance. This also safeguards the rights of the association's members who are not office bearers. The Registrar had taken no consideration of this legal obligation in this case and had clearly failed in her duty. Using the section 15 procedure to strike off associations for failing to submit audited accounts would inevitably generate significant additional work that the Registrar and her team may not be sufficiently prepared to undertake.

11.5.12. In my report on this enquiry, I cautioned the Registrar of Associations to distinguish between the power granted to her under the RAA and the power granted to the Registrar of Companies under Section 305 of the 1972

Companies Ordinance to “*strike off*” the name of a “*defunct company*” from the Companies Register. Such power is not reproduced in the RAA.

- 11.5.13.** By way of comparison, in the Companies Ordinance “where the Registrar has reasonable cause to believe that a company is not carrying on business or is not in operation” the Registrar of Companies can send a letter to the company by post inquiring whether the company is carrying on business or is in operation. If after one month of sending the letter no answer is received, the Registrar can, within the next fourteen days, send a registered letter by post referring to the first letter and stating that because no answer had been received to the first letter, and without an answer from the company to the second letter within one month from the letter's date, a notice would be published in the Gazette with a view to striking the company's name off the company register. Notably, the Companies Act specifically provides for the liability of all parties involved in the company to remain “*as if the company had not been dissolved.*” There is no such provision in the RAA where arbitrary striking off could leave creditors without recourse.
- 11.5.14.** I recommended that the association be reinstated forthwith although that had been done following the undertakings in the Court of Appeal.
- 11.5.15.** Drawing from statements made by the Registrar in the Court of Appeal that the failure to submit audited reports and updated lists of office bearers was widespread and to address the lack of discipline among associations raised by the Registrar of Associations in the Court of Appeal, I strongly recommended that the Registrar notifies all defaulting associations that are not in compliance with their statutory obligations under the Act of its intention to apply the legal remedies provided in the Act. Such notification should include warning that the strict application of these legal remedies could result in the secretary of any association being prosecuted for failing to submit the required documentation. A conviction for the statutory offence could result in the secretary being fined SCR25 per day for every day the default continues after the date of conviction.
- 11.5.16.** Since it was likely that the Registrar had applied the same procedure to wrongfully strike off other associations, I also advised that the Registrar carries out a review of all cases in which associations have been struck off with a view to rectifying her records. In such instances, I strongly recommended that the Registrar adopts the provisions of the RAA as outlined above to deal with recalcitrant associations, whilst those associations that may have complied after the notice was served on them may be restored to the register forthwith.

11.5.17. Finally, I recommended that the Registrar of Associations engages the state-funded apex non-governmental organisation Citizens Engagement Platform Seychelles (CEPS), that regroups and works directly with NGOs, to collaborate on a national sensitisation campaign to raise on the need to fully respect the legal duties and obligations that arise from the establishment of associations.

11.6. HARASSMENT & UNWARRANTED POLICE ACTION

11.6.1. C complained of being aggrieved by the excessive and unwarranted action of Police Officers from a South-Mahé Police Station searching his house several times and finally taking him and his wife to the police station during the same night. He had filed a grievance with the Police asking for an investigation into his complaint but had not received any reply.

11.6.2. C claimed that upon returning home after an outing his neighbour had informed him that Police Officers with dogs had visited and searched his property in his absence. The Police returned to his house later the same evening, accompanied by a civilian and informed him that they were looking for a named missing person. C told the Police that the missing person had been at his home earlier but had left around 6.00 p.m., after which the Police left. Later in the night, Police Officers came again to C's house, asking whether the missing person was with him. Again he repeated the information he had already given to the Police Officers that the missing person was not in his house. C claimed that the Police Officer in charge then asked to search the house, which request he queried asking whether the police had a search warrant. He claimed that he allowed the search to proceed under duress since the officer replied that the police did not require a search warrant as they had authorisation from higher authority. The search was fruitless as the missing person was not in the house.

11.6.3. In the early hours of the next day, the Police Officers returned for a third time and this time took C and his wife to the police station to give a statement to C.I.D. personnel. C said he had asked for a copy of his statement and the name of the officer in charge of the case but was denied.

11.6.4. He requested an investigation into what he saw as unjustified and oppressive action by the Police Officers which he claimed had caused distress to both himself and his sickly wife. Since the Police had not responded to his request, he filed a grievance with my Office.

11.6.5. This case is cited to illustrate how the failure to respond to and engage with the Ombudsman affects the outcome of our work. In order to determine whether there was any substance in the complaint, I requested a report from the Police but no response had been received by September 2019. The case is still outstanding.

11.7. JOB DESCRIPTIONS INCLUDE TASKS THAT CANNOT BE CARRIED OUT

11.7.1. M and T worked with the Seychelles Fishing Authority (SFA) in an administrative capacity for extensive periods of 25 and 10 years respectively. Prior to December 2014, part of their job, relating to the issue of fishing licenses, was done by the Seychelles Licensing Authority (SLA) and not by the SFA. This responsibility for issuing fishing licences to local and international fishermen was only mandated to the SFA after the new Fisheries Act 2014 came into effect in January 2015. From that date M and T started performing the additional task related to the issue of fishing licences and for which they were promised an allowance for the additional duties generated by the new mandate. The promised allowances were not paid and the two lodged a grievance with the Ombudsman claiming this was unfair and abusive.

11.7.2. The SFA explained that their request for payment of the allowances or upgrading the posts had been turned down by the Department of Public Administration as being unwarranted and unnecessary on grounds that the additional duties had already been included in the job descriptions of both staff.

11.7.3. I found that while it could be argued that issuing licences was part of the “processing” duties stated in the job descriptions, it was trite that at the time the two were appointed to the posts the SFA did not have the legal authority to issue licences. Until 2014 issuing licences was under the exclusive jurisdiction of the SLA under the Fisheries Act (Cap 82) & Licences (Fisheries) Regulations of 31st March 1987. However, the SFA was restructured in 2015 by the Fisheries Act 20 of 2014 – which repealed and replaced Cap 82 and became operational on 13th January 2015. Provision was made for changes to the complainants’ job descriptions which included specific reference to issuing fishing licences. Consequently, I found that the SFA was obliged to pay the allowances and to back date such payment to 13th January 2015, date at which the SFA took up the mandate for issuing licences.

- 11.7.4.** I recommended that the allowances should be paid with effect from 13th January 2015 to the date these additional tasks were taken into account in the SFA's review of salary and posts made in 2016. I suggested that in determining the level of the allowance, the SFA could consider the number of entries, man hours or other data of the additional tasks on the normal working day/week of the Complainants. This could be evaluated using the number of licences issued on average over a given period.
- 11.7.5.** I noted that the criticism of 'underperformance' was unfair in a case such as this where a post holder had been recruited to do a job with specific tasks that would be carried out by other persons in another institution. The SFA's human resources management should ensure that, in future, no posts are created with mention of specific tasks that cannot be performed by the incumbent for whatever reason. I recommended that the SFA carry out an evaluation and review of the posts occupied by M and T and any similar posts to determine their duties, remuneration packages, allowances and qualifications and ensure that these cater for the full extent of the duties and responsibilities of the incumbents.
- 11.7.6.** This case has been fully resolved in favour of the complainants.

12. SUMMARY OF GENERAL RECOMMENDATIONS

This Chapter is intended to provide a summary of the general recommendations made in this Report.

12.1.1. Enabling Ombudsman's enquiries to put a stop to prescription –The

Executive and the Legislature may wish to consider amending the relevant laws with regard to prescription to allow for the time in which an investigation by the Ombudsman is carried out to effectively stop prescription in civil matters in view of the mediating role the Office may play in the dispute.

12.1.2. Reviewing the Ombudsman's legislation – The Executive and the Legislature should consider revising the existing legal framework governing the Ombudsman's mandate to directly include mediation as a task of the Office. This could be done in a dedicated stand-alone Ombudsman law as envisaged in **Article 143 (6)** of the Constitution which *"may provide for any matter, not otherwise provided for under this Article, necessary or expedient for the purpose of ensuring the independence, impartiality and effectiveness of the office of the Ombudsman."*

12.1.3. Addressing the lack of support from some public bodies – In 2020, the Executive and the Legislature will be informed of the failure of any public authority to accept and follow up on recommendations by the Ombudsman enquiries immediately after any deadline for implementation has passed. The Ombudsman calls upon the National Assembly and Office of the President to secure greater compliance with the recommendations.

12.1.4. Lobbying for Financial & Administrative Autonomy – The Ombudsman and other autonomous constitutional bodies wish to engage with the Executive and Legislature on how best to ensure financial and administrative autonomy and independence while maintaining transparency and accountability.

12.1.5. Setting up customer complaints handling mechanisms - All public authorities (ministries, departments, agencies and state-owned enterprises) must set up effective internal complaints' handling mechanisms to deal with complaints and grievances and improve their service delivery.

12.1.6. Rationalising National Complaints Mechanisms in respect of public officers – The Executive and the Legislature should look into the national employment-related complaints mechanisms with a view to rationalising and eventually streamlining their functions in respect of public officers, where a public officer may have recourse to several complaints mechanisms and

appeals procedures either under the Employment Act or the Public Service Orders, the Public Service Appeals Board or the Employment Tribunal.

12.1.7. Reviewing the Definition of Public Officer – Consider a possible review of the definition of a ‘*public officer*’ to bring greater clarity to employment relations within state-owned enterprises. **The Executive should draw up a clear policy and practice direction to lift any confusion and/or lack of clarity on this matter.**

12.1.8. Making use of Public Relations & Information Officers to assist in handling complaints – In addition to using Public Relations Officers in public authorities employing them to assist in *in house* complaints handling systems, the Information Commission is urged to consider how Information Officers could also assist in this task to help establish economies of scale and greater effectiveness in smaller entities and across the public service.

12.1.9. Identifying Statutory Forms and Documentation – All public authorities must review all their documentation and forms to ensure that all official and statutory forms carry the correct identification formulation in accordance with the relevant regulations and that all contracts, job descriptions, schemes of service and any other official document are dated and correctly identified.

13. ACKNOWLEDGEMENTS

- 13.1. In concluding this Report, I acknowledge and thank the citizens of Seychelles for the trust they place in this institution in their search for fairness and justice. I recognise that the outcome of their complaints may not always have been what they expected. I hope that even where the process has not been in their favour, they will appreciate the principles of fairness and objectivity adopted in the enquiry which we seek to make the hallmark of this Office.
- 13.2. I recognise the patience displayed by those complainants who have experienced and continue to experience excessive delays in the handling of their complaints. I acknowledge this as a persistent weakness which we continue to address in our own endeavour to continuously improve upon our service delivery. I reassure the general public that every effort is being made to reduce the delays as part of our strategic initiatives in 2020 and beyond. I am deeply grateful for the relentless support of my small team without whose devotion and dedication this Office would not have been able to accomplish what we have achieved this far. We continue to build our internal capacity to improve our efficiency and enable us to provide a wider and better service across all the areas of our mandate. The team is fully committed to dealing with the increasing demands for our services. Together we pledge to continue working towards making a substantive and real difference for the betterment of our society.
- 13.3. I must also thank the many public officers across many institutions who fully cooperated and worked with me in this past year and whose participation has helped make a difference not only to the complaining citizens but also to their ministries and agencies and the public service as a whole. Thank you for your commitment, humility and sustained effort in rectifying administrative errors and improving government services after recognising that indeed no one is perfect and mistakes do happen. With your continued collaboration, together we can make a real difference through ***'a fair, open, accountable and effective public service'***.

Nichole Tirant-Gherardi
Ombudsman

APPENDIX I

LEGISLATIVE FRAMEWORK

The legislative framework for the Institution of the Ombudsman is contained in **Chapter X** of the **Constitution of Seychelles**, more specifically in the following articles:

Article 143 – Ombudsman

- (1) There shall be an Ombudsman who shall be appointed by the President from candidates proposed by the Constitutional Appointments Authority.
- (2) A person is qualified for appointment as Ombudsman if –
 - (a) the person is a citizen of Seychelles;
 - (b) the person is of proven integrity and impartiality;
 - (c) the Constitutional Appointments Authority is of the opinion that the person possesses demonstrated competence and experience and can effectively discharge the functions of the office of Ombudsman; and
 - (d) the person is not a member of the National Assembly or Judiciary or a Minister or the President or a candidate in an election under this Constitution.
- (3) Subject to this Constitution, the Ombudsman shall not, in the performance of the office of Ombudsman, be subject to the direction or control of any person or authority.
- (4) The person holding office as Ombudsman shall not hold any other public office of emolument or engage in any occupation for reward outside the functions of the office of Ombudsman which might compromise the integrity, impartiality and independence of that office.
- (5) **Schedule 5 shall have effect with regard to the Ombudsman.**
- (6) An Act may provide for any matter, not otherwise provided for under this article, necessary or expedient for the purpose of ensuring the independence, impartiality and effectiveness of the office of Ombudsman.

Article 144 – Tenure of office of Ombudsman

- (1) A person shall be appointed to the office of Ombudsman for a term of seven years, and is eligible for reappointment at the end of the term.
- (2) A person holding the office of Ombudsman shall vacate the office on death, if the person, by writing addressed to the President, resigns, if the person is removed from office or at the end of a term of office.
- (3) Where a person holding office as Ombudsman resigns, the resignation has effect on the date it is received by the President.
- (4) The salary, allowances and gratuity payable to the Ombudsman shall be prescribed by or under an Act and the salary, allowances or gratuity so payable shall be a charge on the Consolidated Fund.
- (5) Subject to article 166, the salary, allowances or gratuity payable to and the term of office and other conditions of service of the Ombudsman shall not be altered to the disadvantage of the Ombudsman after appointment.

Schedule 5 of the Constitution

Functions of the Ombudsman

1. (1) Subject to this Schedule, the Ombudsman may
 - (a) investigate an action taken by a public authority or the President, Minister, officer or member of the public authority, being action taken in the exercise of the administrative functions of the public authority in the circumstances specified in subparagraph (2);
 - (b) investigate an allegation of fraud or corruption in connection with the exercise by a person of a function of a public authority;
 - (c) assist an individual complainant in respect of legal proceedings in relation to a contravention of the provisions of the Charter;
 - (d) with leave of the Court hearing proceedings relating to a contravention of the provisions of the Charter, become a party to the proceedings;

- (e) Initiate proceedings relating to the constitutionality of a law or of the provisions of a law.

(2) The Ombudsman shall investigate an action under subparagraph (1) (a) –

- (a) where the Ombudsman receives a complaint from a person or body alleging that the complainant has suffered a violation of the complainant's fundamental rights or freedoms under the Charter, or an injustice, in consequence of a fault in the administration of a public authority or has been treated harshly or oppressively by the authority or the President or a Minister, officer or member of the authority in the exercise of the administrative functions of the authority;

- (b) where the President or a Minister or member of the National Assembly requests the Ombudsman to investigate the action on the ground that the person or body specified in the request –

- (i) has or may have suffered a violation of the person's or body's fundamental rights or freedoms under the Charter, or an injustice, in consequence of a fault in the administration of a public authority or of a fault of the President or a Minister, officer or member of the authority in the exercise of the administrative functions of the authority;

- (ii) has been treated harshly or oppressively by the authority or the President or a Minister, officer or member of the authority in the ..5

- (a) the complaint or allegation is frivolous, vexatious or trivial or not made in good faith;

- (b) the making of the complaint or allegation has, without reasonable cause, been delayed for more than twelve months;
- (c) in the case of a complaint relating to subparagraph (1)(a), the complainant does not have sufficient interest in the subject matter of the complaint;
- (d) in the case of a complaint relating to subparagraph (1)(a), the complainant has or had, by way of remedy under this Constitution or any other law, a right of appeal, objection or review on merits and the complainant has not exhausted the remedy, unless the Ombudsman believes that in the particular circumstances it is or was not reasonable to expect the complainant to exhaust or to have exhausted the remedy.

(3) In this Schedule –

“action” includes a failure to act, an advice or a recommendation;

“body” means a body of persons whether corporate or incorporate;

“investigation” means an investigation in terms of this Schedule;

“public authority” means a Ministry, a department, division or agency of the Government or a statutory corporation or a limited liability company which is directly or ultimately under the control of Government or any other body which is carrying out a governmental function or service or a person or body specified by an Act.

Excluded matters

2. The Ombudsman shall not investigate an action referred to in paragraph 1(1) (a) –
- (a) in respect of a subject matter which the President or the relevant Minister certifies may affect the relation or dealing between the Government of Seychelles and any other Government or international organisation, the security of the Republic or the investigation of crime;
 - (b) concerning the performance of a judicial function or a Justice of Appeal, Judge or person performing a judicial function;
 - (c) taken with respect to orders or directions to a disciplinary force or a member of the force; or
 - (d) unless the person aggrieved is resident in Seychelles or the action was taken in respect of the person aggrieved while the person was present in Seychelles or in respect of rights or obligations that arose or accrued in Seychelles.

Investigative power of Ombudsman

3. Subject to this Schedule, the Ombudsman has the same power as a judge of the Supreme Court in respect of the attendance of a person before the Ombudsman, the examination of any person in relation to an investigation, the production of a document or record relevant to an investigation and the inspection of premises relevant to an investigation.

Privileged information

4. **(1)** Subject to this paragraph, a person shall not refuse to answer any question or withhold any document, information, record or thing or refuse to make available to the Ombudsman any document, information, record or thing or refuse access to the Ombudsman to any premises relating to an

investigation, on the ground that the answering of the question or disclosure of the document information, record or thing or making available of any document, information, record or thing or the granting of access to any premises would be injurious to the public interest, contrary to a law or in breach of a privilege or an obligation, whether contractual or otherwise.

(2) Where a certificate certifying that the answering of a question, the disclosure of document, information, record or thing, the making available of a document, record or information or thing or the granting of access to any premises would be contrary to public interest is issued by –

(a) the President –

(i) because it might prejudice the security of the Republic or international relations between the Government of Seychelles and any other Government or international organization; or

(ii) because it involves the disclosure of the proceedings of the Cabinet;

(b) the Attorney-General because it might prejudice the investigation or detection of crime.

the Ombudsman shall not require a person to answer the question, disclose the document, information, record or thing, make available the document, information, record or thing or grant access to premises, as the case may be.

Investigation

- 5. (1)** The Ombudsman shall, when carrying out an investigation, act fairly and judicially and shall, in particular, afford any public authority or person alleged to have taken or authorised an action or responsible for the administration of the public authority which is the subject of an investigation an opportunity to be heard.
- (2)** Subject to subparagraph (1), the Ombudsman shall determine the procedures to be followed when conducting an investigation.

Report

- 6. (1)** Subject to subparagraph (7), where after an investigation the Ombudsman is of the opinion that –
- (a) the action which was the subject of the investigation –
- (i) was contrary to law;
 - (ii) was unreasonable, unjust, oppressive or discriminatory;
 - (iii) was based on a mistake of facts or a wrongful assessment of facts;
 - (iv) was based partly on a mistake of law and facts;
 - (v) was based on an improper exercise of a discretionary power or an exercise of a discretionary power based on irrelevant considerations;
 - (vi) was an improper refusal to exercise a discretionary or power;
 - (vii) was based on an exercise or improper use of authority or power;

- (viii) was in accordance with law but the law is unreasonable, unjust, oppressive or discriminatory;
 - (ix) was otherwise, in all circumstances, wrong;
 - (x) should be cancelled, varied or given further consideration; or
- (b) reasons for the action which was the subject of the investigation should have been given;
 - (c) there was unreasonable delay before the decision or action which was the subject of the investigation was taken;
 - (d) there was an omission which needs to be rectified;
 - (e) the law or practice on which the action which is the subject of the investigation is based should be reconsidered;
 - (f) the practice or pattern of conduct of a public authority or the President, a Minister, officer or member of the public authority which is the subject of the investigation is contrary to law or unreasonable, unjust, harsh, oppressive or discriminatory; or
 - (g) the allegation of fraud or corruption is well founded,

the Ombudsman shall report the opinion and reasons together with any recommendation or remedy the Ombudsman considers fit to make to the President, Minister, officer, member or chief executive officer of the public authority, as the case may be.

- (2)** The Ombudsman shall, where the report is not required to be sent to the President or Minister, send a

copy of the report to the President and any relevant Minister.

- (3)** The Ombudsman may specify in the report referred to in subparagraph (1) a time limit within which it is reasonable for the report to be acted upon.
- (4)** Where a report submitted under subparagraph (1) is not, in the opinion of the Ombudsman, adequately acted upon –
 - (a) within the time specified in the report; or
 - (b) if no time has been specified, within such reasonable time as the Ombudsman is of the opinion is reasonable,

the Ombudsman may submit the report and recommendation together with such further observations the Ombudsman thinks fit to make to the President and the National Assembly.

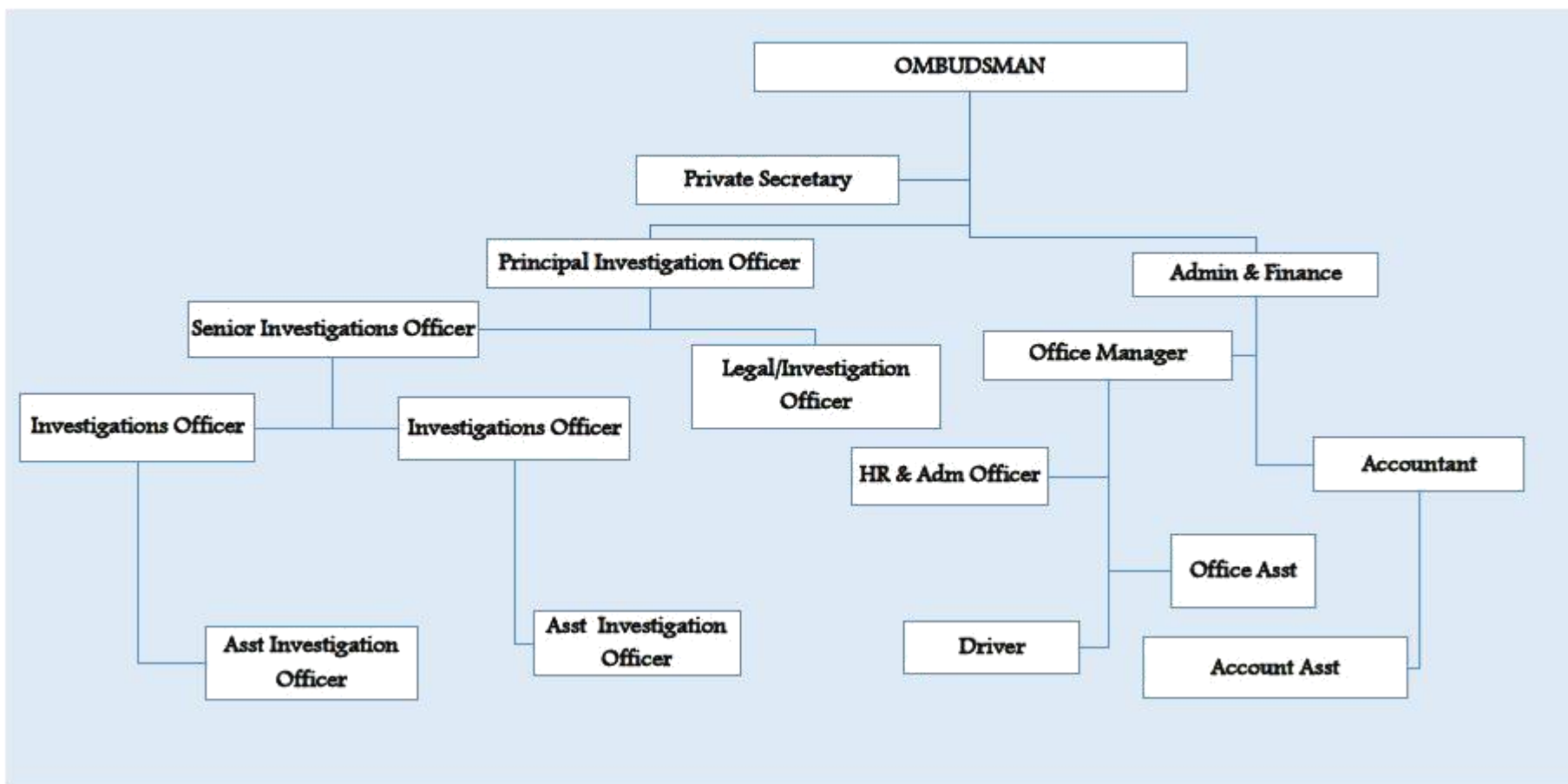
- (5)** The Ombudsman shall attach to every report submitted to the President and the National Assembly under subparagraph (4) a copy of any comments made thereon by or on behalf of the chief executive officer of the public authority concerned or the President, Minister, officer or member of the public authority, as the case may be.
- (6)** The Ombudsman shall not later than the thirty-first January in each year make a general report to the National Assembly with a copy to the President on the exercise of the functions of the Ombudsman under this Constitution during the previous year.

- (7) The Ombudsman shall, in every case where a complaint is received by the Ombudsman, inform the complainant of the result of the complaint.

Miscellaneous provisions relating to Ombudsman

7. (1) For the purposes of the law of defamation, absolute privilege is attached to the publication of any matter by the Ombudsman or any other person acting under the authority of the Ombudsman.
- (2) The Ombudsman or any other person acting under the authority of the Ombudsman shall not be liable for anything done or omitted to be done in good faith in the performance or purported performance of the functions of the Ombudsman.

**APPENDIX II
ORGANISATIONAL CHART
OFFICE OF THE OMBUDSMAN**



APPENDIX III

UNITED NATIONS GENERAL ASSEMBLY
RESOLUTION 72/186
ON THE ROLE OF THE OMBUDSMAN, MEDIATOR & OTHER
NATIONAL HUMAN RIGHTS INSTITUTIONS IN THE PROMOTION
& PROTECTION OF HUMAN RIGHTS

United Nations

A/RES/72/186



General Assembly

Distr.: General
29 January 2018

Seventy-second session
Agenda item 72 (b)

Resolution adopted by the General Assembly on 19 December 2017

[on the report of the Third Committee (A/72/439/Add.2)]

72/186. The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights

The General Assembly,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,¹

Recalling the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,² in which the Conference reaffirmed the important and constructive role played by national institutions for the promotion and protection of human rights,

Reaffirming its resolutions 65/207 of 21 December 2010, 67/163 of 20 December 2012, 69/168 of 18 December 2014 and 71/200 of 19 December 2016 on the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights,

Recalling the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), welcomed by the General Assembly in its resolution 48/134 of 20 December 1993 and annexed thereto,

Reaffirming its previous resolutions on national institutions for the promotion and protection of human rights, in particular resolutions 66/169 of 19 December 2011, 68/171 of 18 December 2013 and 70/163 of 17 December 2015, as well as Human

¹ Resolution 217 A (III).

² A/CONF.157/24 (Part I), chap. III.

Rights Council resolutions 23/17 of 13 June 2013,³ 27/18 of 25 September 2014⁴ and 33/15 of 29 September 2016,⁵

Reaffirming also the functional and structural differences between national human rights institutions, on the one hand, and the Ombudsman and mediator institutions, on the other, and underlining in this regard that reports on the implementation of General Assembly resolutions on the role of the Ombudsman, mediator and other national human rights institutions should be stand-alone reports,

Welcoming the rapidly growing interest throughout the world in the creation and strengthening of the Ombudsman, mediator and other national human rights institutions, and recognizing the important role that these institutions can play, in accordance with their mandate, in support of national complaint resolution,

Recognizing the role of the existing Ombudsman, whether a male or female, mediator and other national human rights institutions in the promotion and protection of human rights and fundamental freedoms,

Underlining the importance of the autonomy and independence of the Ombudsman, mediator and other national human rights institutions, where they exist, in order to enable them to consider all issues related to their fields of competence,

Considering the role of the Ombudsman, mediator and other national human rights institutions in promoting good governance in public administrations, as well as improving their relations with citizens, and in strengthening the delivery of public services,

Considering also the important role of the existing Ombudsman, mediator and other national human rights institutions in contributing to the effective realization of the rule of law and respect for the principles of justice and equality,

Stressing that these institutions, where they exist, can play an important role in advising Governments with respect to bringing national legislation and national practices into line with their international human rights obligations,

Stressing also the importance of international cooperation in the field of human rights, and recalling the role played by regional and international associations of the Ombudsman, mediator and other national human rights institutions in promoting cooperation and sharing best practices,

Noting with satisfaction the active work of the Association of Mediterranean Ombudsmen and the active continuing work of the Ibero -American Federation of Ombudsmen, the Association of Ombudsmen and Mediators of la Francophonie, the Asian Ombudsman Association, the African Ombudsman and Mediators Association, the Arab Ombudsman Network, the European Mediation Network Initiative, the International Ombudsman Institute and other active ombudsman and mediator associations and networks,

1. *Takes note* of the report of the Secretary-General;⁶

³ See *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 53 (A/68/53)*, chap. V, sect. A.

⁴ *Ibid.*, Sixty-ninth Session, Supplement No. 53A and corrigenda (A/69/53/Add.1, A/69/53/Add.1/Corr.1 and A/69/53/Add.1/Corr.2), chap. IV, sect. A.

⁵ *Ibid.*, Seventy-first Session, Supplement No. 53 and corrigendum (A/71/53/Add.1 and A/71/53/Add.1/Corr.1), chap. II.

⁶ A/72/230.

2. *Encourages* Member States:

(a) To consider the creation or the strengthening of independent and autonomous Ombudsman, mediator and other national human rights institutions at the national and, where applicable, the local level;

(b) To endow Ombudsman, mediator and other national human rights institutions, where they exist, with an adequate constitutional and legislative framework, as well as financial and all other appropriate means, in order to ensure the efficient and independent exercise of their mandate and to strengthen the legitimacy and credibility of their actions as mechanisms for the promotion and protection of human rights;

(c) To give due consideration to the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles)⁷ when assigning the Ombudsman, mediator and other national human rights institutions the role of national preventive mechanisms and national monitoring mechanisms;

(d) To develop and conduct, as appropriate, outreach activities at the national level, in collaboration with all relevant stakeholders, in order to raise awareness of the important role of the Ombudsman, mediator and other national human rights institutions;

(e) To share and exchange best practices on the work and functioning of their Ombudsman, mediator and other national human rights institutions, in collaboration with the Office of the United Nations High Commissioner for Human Rights and with the Global Alliance of National Human Rights Institutions and other international and regional ombudsman organizations;

3. *Recognizes* that, in accordance with the Vienna Declaration and Programme of Action,² it is the right of each State to choose the framework for national institutions, including the Ombudsman, mediator and other national human rights institutions, which is best suited to its particular needs at the national level, in order to promote human rights in accordance with international human rights instruments;

4. *Welcomes* the active participation of the Office of the High Commissioner in all international and regional meetings of the Ombudsman, mediator and other national human rights institutions;

5. *Encourages* the Office of the High Commissioner, through its advisory services, to develop and support activities dedicated to the existing Ombudsman, mediator and other national human rights institutions and to strengthen their role within national systems for human rights protection;

6. *Encourages* the Ombudsman, mediator and other national human rights institutions, where they exist:

(a) To operate, as appropriate, in accordance with the Paris Principles and other relevant international instruments, in order to strengthen their independence and autonomy and to enhance their capacity to assist Member States in the promotion and protection of human rights;

(b) To request, in cooperation with the Office of the High Commissioner, their accreditation by the Global Alliance of National Human Rights Institutions in order to enable them to interact effectively with the relevant human rights bodies of the United Nations system;

⁷ Resolution 48/134, annex.

(c) To cooperate with relevant State bodies and develop cooperation with civil society organizations;

(d) To conduct awareness-raising activities on their roles and functions, in collaboration with all relevant stakeholders;

(e) To engage with the International Ombudsman Institute, the Global Alliance of National Human Rights Institutions and other regional networks and associations, with a view to exchanging experiences, lessons learned and best practices;

7. *Requests* the Secretary-General to report to the General Assembly at its seventy-fifth session on the implementation of the present resolution, in particular on the obstacles encountered by States in this regard, as well as on best practices in the work and functioning of the Ombudsman, mediator and other national human rights institutions.

*73rd plenary meeting
19 December 2017*

APPENDIX IV

SNAPSHOT OF COMPLAINTS RECEIVED IN 2019

COMPLAINTS BY INSTITUTION & MONTH - 2019													
Public Authority	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTAL
Employment	1	1				1	1						4
Police		3		4	1	2	2	2	4		3	2	23
Land	2	2	2	1	2		1	3	1	1			15
Housing	2								1				3
Planning	2	1		1							1		5
Road access						1							1
Health/ Health Care Agency	2	2	3						2			1	10
Judiciary/complaints lawyers	2	2		2	1	2	2		1	1	1	1	15
Registrar General							1		1	1			3
Prison	1	3		1		2	3					1	11
Education					1			1		1			3
Social Affairs										1			1
Finance								1	1				2
Environment	1	1	1										3
Nature/Forest Reserve													
Seychelles Agricultural Agency			1								2		3
Agency for Social Protection						1					1		2
Dept of Public Administration						1	1						2
Housing Finance Corporation						1							1
Immigration						1		1	1				3
Culture	1									1			2
Sey. Civil Aviation Authority						1							1
Seychelles Pension Fund					1								1
Seychelles Fishing Authority				1		1					1		3
Property Management Corporation				2									2
Seychelles Licensing Authority				1					1				2
Industrial Estates Authority				1			1						2
Island Development Company										1	1		2
Seychelles Defence Forces	1		1	2		1	2						7
Seychelles Trading Company										1	1		2
Seychelles Revenue Commission										1			1
Sey. Public Transport Corp									1				1
Public Utilities Corp.		1		1				1	1				4
Fair Trading Commission											1		1
Private enterprises, individuals & others	1	4	2	3	7	4	5	4	2	1	3	2	38
TOTAL No. Complaints	16	20	10	20	13	19	19	13	17	10	15	7	179

APPENDIX V

RABAT DECLARATION ON « LES DROITS DE L'ENFANT, UNE PRIORITÉ POUR LES PARLEMENTAIRES ET LES MÉDIATEURS DE LA FRANCOPHONIE »



Déclaration de Rabat

Nous, Médiateurs et Ombudsmans, membres de l'Association des Ombudsmans et Médiateurs de la Francophonie (AOMF)¹, réunis à Rabat les 23 et 24 octobre 2019 en Conférence commune de l'AOMF et de l'APF (Assemblée parlementaire de la Francophonie) à l'occasion des 30 ans de la Convention internationale relative aux droits de l'enfant ;

RAPPELANT :

- La Convention internationale relative aux droits de l'enfant adoptée par l'Assemblée générale de l'Organisation des Nations Unies (ONU) dans sa résolution 44/25 du 20 novembre 1989 ;
- Les Observations générales du Comité des droits de l'enfant de l'ONU, notamment l'Observation générale n°2 adoptée en 2002, sur le rôle des institutions nationales indépendantes de défense des droits de l'Homme dans la protection et la promotion des droits de l'enfant ;
- La Déclaration de Bamako, adoptée en 2000 par les Chefs d'Etats et de gouvernements ayant le français en partage, notamment sur les engagements pris pour la promotion d'une culture démocratique intériorisée et le plein respect des droits de l'Homme ;
- Les résolutions n° 72/186 (19 décembre 2017), n° 71/200 (19 décembre 2016), n° 69/168 (18 décembre 2014), 67/163 (20 décembre 2012), 65/207 (21 décembre 2010) et 63/169 (18 décembre 2008), adoptées par l'Assemblée générale des Nations Unies et intitulées « Le rôle de l'ombudsman, du médiateur et des autres institutions nationales de défense des droits de l'Homme dans la promotion et la protection des droits de l'Homme » ;
- La Résolution de Tirana adoptée par l'AOMF le 24 octobre 2012 définissant au rang d'axes prioritaires l'élargissement des compétences des Ombudsmans et Médiateurs concernant la protection des mineurs et la promotion des droits de l'enfant, et le renforcement de leurs pouvoirs et moyens d'action dans ce domaine ; la mise en place, dans les pays n'en disposant pas encore, de mécanismes de suivi de la Convention internationale relative aux droits de l'enfant ; le renforcement de la coopération entre Ombudsmans et Médiateurs en matière de protection et de promotion des droits de l'enfant et l'adoption des textes nécessaires à la mise en œuvre des droits reconnus dans la Convention internationale relative aux droits de l'enfant ;

¹ L'Association des Ombudsmans et Médiateurs de la Francophonie, créée en 1998, résulte d'une volonté d'obtenir une meilleure entraide et une plus grande coordination entre les Médiateurs francophones sur les questions des droits de la personne.

Elle consiste également à développer l'engagement démocratique et à renforcer les bureaux des ombudsmans et médiateurs francophones. Pour plus d'informations, vous pouvez consulter son site Internet.

CONSIDERANT :

- Le rôle fondamental et déterminant que nous exerçons dans nos différents pays pour protéger et promouvoir la démocratie, la prééminence du droit, le respect des droits humains et des libertés fondamentales et garantir la bonne administration ;
- La nécessité impérieuse d'incarner les principes fondamentaux d'indépendance, d'objectivité, de transparence, d'équité et d'impartialité afin de contribuer à résoudre de façon apaisée les litiges que nous soumettent les personnes confrontées à des difficultés dans leurs relations avec les services publics ;
- Notre indéfectible engagement à renforcer nos actions de défense et de promotion des droits de l'enfant, notamment par la création d'un département ou d'un pôle spécifique au sein de nos institutions, la garantie de l'accessibilité des enfants en toute confidentialité au mécanisme des recours ainsi que par le développement significatif de procédures permettant la participation des enfants au travail de nos institutions ;
- L'importance de garantir une identité à chaque enfant, lui permettant d'être un acteur à part entière, au sein de nos sociétés ainsi que le respect de son statut de sujet de droit, naissant et demeurant égal en droits et en dignité à l'adulte ;

PREOCCUPES

- Du fait que des enfants continuent d'être victimes de différentes formes de discriminations en particulier en matière d'accès aux soins de santé, de droits à l'éducation, au logement, à la culture, aux loisirs et à la participation ;
- De constater que si l'intérêt supérieur de l'enfant a été en grande partie intégré dans les législations nationales de nos Etats, il n'est pas systématiquement pris en compte dans les décisions administratives et judiciaires, aussi bien en tant que principe juridique interprétatif fondamental, que droit substantiel ou en tant que règle de procédure ;
- De l'extension de la pauvreté, des violences, de la radicalisation et de l'endoctrinement, des crises, des guerres, des conflits armés, des famines, des catastrophes naturelles, sanitaires, environnementales et climatiques qui frappent des millions d'enfants de par le monde et portent atteinte à leur droit à la vie, à la survie, au développement et au bien-être ;
- De l'absence d'une véritable culture de la participation des enfants et de la persistance des résistances tant dans les dispositifs légaux que dans les mœurs privant les enfants de leur droit d'être entendus sur toute question les concernant et de participer à la réflexion, à l'élaboration, à la mise en œuvre et à l'évaluation des politiques publiques dont ils sont directement ou indirectement bénéficiaires ;

NOUS ENGAGEONS A :

1. Renforcer nos actions de défense et de promotion des droits et intérêts de l'enfant afin que la Convention internationale relative aux droits de l'enfant soit connue de toutes et tous, enfants et adultes, participant ainsi à asseoir une culture des droits de l'enfant ;
2. Optimiser l'accessibilité et l'effectivité de nos mécanismes de traitement de cas concernant des enfants en veillant à la constante mise à jour de nos postures déontologiques, ainsi qu'au développement d'une formation continue visant à mieux répondre aux demandes des bénéficiaires ;
3. Soutenir le développement d'une culture de résultat dans nos actions, visant à obtenir des réalisations concrètes pour faire avancer les droits de l'enfant dans nos pays respectifs et à permettre l'évaluation des progrès accomplis dans l'atteinte des objectifs fixés, aussi bien au niveau de nos institutions qu'au niveau de l'AOMF dans son ensemble ;
4. Impliquer activement les enfants et leurs représentants dans nos travaux et activités ainsi que dans l'élaboration de nos stratégies et plans d'actions ;
5. Développer une plus grande cohérence et un meilleur partenariat entre nos institutions afin d'élaborer de nouvelles stratégies et de renforcer des actions communes, notamment en matière de plaidoyer et dynamiser notre travail en collaboration avec les organisations de la société civile, les institutions publiques, les organisations internationales ainsi qu'avec le secteur privé ;

DEMANDONS AUX ETATS ET AUX GOUVERNEMENTS :

1. D'adopter une approche fondée sur les droits de l'enfant pour l'élaboration de l'ensemble de leurs politiques publiques et leurs budgets en mettant en place un système de suivi de l'allocation et de l'emploi des ressources destinées aux enfants ainsi que la mesure de leur impact sur les droits de l'enfant ;
2. De renforcer les capacités humaines et financières des institutions publiques indépendantes de défense et de promotion des droits de l'enfant ; et de renforcer leurs compétences et missions en faveur des droits de l'enfant ;
3. De mettre en place des modules relatifs aux droits de l'enfant dans la formation initiale et continue de tous les professionnels travaillant avec et/ou pour les enfants ;
4. De redoubler d'efforts pour que le principe de l'intérêt supérieur de l'enfant soit interprété et appliqué de manière uniforme dans les décisions qui concernent les enfants, en particulier les plus vulnérables, notamment les enfants migrants, réfugiés ou demandeurs d'asile, les enfants issus de minorités, les enfants en conflit avec la loi, les enfants séparés de leurs parents, les enfants en situation de handicap ou encore les enfants en situation de pauvreté ;
5. De garantir l'exercice effectif des droits de l'enfant dans leur intégralité et indivisibilité ;
6. D'adopter un cadre légal prévoyant l'implication systématique des enfants et des jeunes dans la réflexion, l'élaboration, le suivi et l'évaluation des politiques publiques dont ils sont bénéficiaires.

APPENDIX VI

STRATEGIC STATEMENT FOR PERIOD 2018-2021

Established under the 1993 Constitution of Seychelles, the Ombudsman's core activity is to examine and investigate complaints about administrative actions, delays, or inaction adversely affecting persons or bodies in their dealings with public service providers.

The Office is also empowered to investigate allegations of fraud or corruption in connection with the exercise by a person of a function of a public authority, assist an individual in respect of legal proceedings in relation to a contravention of the provisions of the charter and violations of Human Rights, become a party to such proceedings with the leave of the court and initiate proceedings relating to the constitutionality of a law or provisions of a law.

If the Ombudsman finds that a complainant has been treated unfairly or improperly and has been adversely affected as a result, then she will suggest an appropriate redress to remedy, mitigate or alter the adverse effect suffered.

In dealing with and resolving individual complaints, the Ombudsman will always strive to bring about improvements in the service delivery and administration of public sector organizations based on lessons drawn from those individual complaints.

Vision

'A fair, open, accountable and effective public service'

Our vision is of a public service that is fair, open, accountable and effective and the Office of the Ombudsman has a central role to play in ensuring that public service decision making processes are applied in a proper and equitable manner and in a consistent way across all public services.

Mission

We aim to achieve this vision by seeking to extend and improve the impact our Office has on the wider public service, by continuously improving the level of services we provide for our own customers, and in ensuring that our systems and processes are as effective and efficient as they can be.

This will require, in the short term, building the institution in terms of recruiting trained and qualified personnel capable of fully delivering on the expected services of the Ombudsman.

Values

As a constitutional body, we preach, follow and adopt the fundamental principles of good administration, and to do so, we must:

- Get it right
- Be customer orientated
- Be open and accountable
- Act fairly and proportionately
- Deal with errors effectively
- Seek continuous improvement

More than a checklist, these principles provide a valuable framework to which all public service providers, including our own staff, should adhere in carrying out their duties.

Organisational Values

Our organisational values describe the qualities that our staff are expected to demonstrate when carrying out their functions.

We will always expect public service providers to have integrated similar values into their own decisions, actions, policies, processes, and systems and will consequently apply these same standards in reviewing any of their decisions and services.

1. **Independence** - We will examine complaints, conduct reviews, and make decisions in a fair, objective, and impartial manner.
2. **Customer Focus** - We aim for excellence and professionalism in the delivery of our services. We will meet defined quality standards and continuously review our own performance to ensure that the customer remains at the heart of everything we do.
3. **Fairness** – We treat all people with respect, dignity and fairness – values that are fundamental to our relationships with all of our stakeholders and which also contribute to a healthy work environment that promotes engagement, openness and transparency.
4. **Empathy** – We understand that complainants come to us after having exhausted all other avenues open to them. They are consequently sometimes angry and frustrated. We will listen carefully to them with a view to understanding and being sensitive to their concerns.
5. **Innovation** - We will deliver continuous performance improvements and avail of best practice methods for delivering a first class service and, in doing so, enhance confidence in public service delivery.

6. Strategic Objectives for 2018-2021

The following three key objectives for the Office have been identified as primary enablers in the achievement of our vision.

- We will lead by example and drive improvements in the wider public service.
- We will deliver a customer-focused service that reflects our core values and of which we can be proud.
- We will develop and enhance our management and administrative frameworks to enable and underpin our objectives of improving the wider public service and delivering an excellent customer-focused service.

Key actions

We have identified the following key actions, through which the Office will achieve its objectives.

Building an Ombudsman institution

- Recruit trained and qualified investigators.
- Create the space and the institutional units that can better deliver the constitutional objectives of the Office.
- Provide advanced training for our staff in all fields of expertise within the limits of our financial resources, through stakeholders and external and local partners, to help us maximize our engagement with public service providers and improve the standards of administration.

Improving Public Services

- Influence improvements in public services by carrying out systemic investigations and raising awareness of service failure based on our findings/casework.
- Engage with all stakeholders through multiple approaches to improve the standards of administration in public service providers.
- Offer our perspective to public service providers through shared learning.
- Secure effective outcomes and change for complainants.

'Customer'-Focused Service

- Further develop our investigation/complaint handling skills in order to deliver the best service to our 'customers'.
- Simplify/increase options available to complainants for interacting with our Office, including improved online access.
- Ensure our quality standards are effectively measured using best practice metrics.
- Ensure that our communications with our 'customers' reflect our core values.

Enhanced Management and Administrative Frameworks

- Ensure we are working in the most effective way in terms of structures, processes, and procedures.
- Develop more effective use of digital technology to simplify the public's experience of public services, including our own and share information.
- Develop and implement case management systems that will support the delivery of effective and efficient services.
- Be recognised by others as a source of expertise in all of our areas of operations.