



# **JOINT ANNUAL REPORT**

## **OFFICE OF THE OMBUDSMAN & NATIONAL HUMAN RIGHTS COMMISSION**

**FOR THE YEARS ENDED 2014 & 2015**

**MONT FLEURI, MAHE, SEYCHELLES**

## **1. INTRODUCTION**

- 1.1 This report is submitted to the National Assembly and the President in compliance with paragraph 6 (6) of the Schedule of the Constitution. This report chronicles the activities of the office in the year 2016.
- 1.2 Incepted in 1993, the Office of the Ombudsman was created to provide the citizens of Seychelles with a forum to address issues of maladministration, good governance and corruption.
- 1.3 Once this report is laid before the National Assembly, it becomes a public document. It will be circulated to public authorities and to those with an interest in it. Members of the general public may also avail of this document from our website.

## **2. THE OFFICE**

### **2.1 OFFICE ACCOMMODATION**

- 2.1.1 The office is situated in Mont Fleuri in a clear and inconspicuous place between the main hospital, the botanical gardens and the Ministry of Foreign affairs. This geographical location near amenities and along a major route makes the office convenient and accessible to most citizens.
- 2.1.2 The issue of accessibility to disabled and infirmed complainants by virtue of its location on the second floor of a building however still needs to be addressed. Sourcing for alternative venues to be used as office accommodation did not yield any result in 2016. In contemplating ways and means of overcoming this challenge, we even considered relocating the complaints receipt and registration functions to the ground floor of the same or some other building but no suitable arrangements were reached.

2.1.3 Our efforts nevertheless continue to secure at least a small office on the ground floor premises for our complaints receipt and registration division.

2.1.4 The address for communication is P. O. Box 736. Telephone 4225147, Fax 4225737, Email address ombuds@seychelles.net

### 3. STAFFING

3.1 The approved staff complement of the office for the year 2016 was as follows

Ombudsman	Ms Dora Zatte
Principal Investigations Officer	Mrs Marie-Paule Gertrude
Assistant Investigations Officer	Mrs Wendy Michel

3.2 Two positions are currently vacant, being those of Senior Driver and Private Secretary. No moves were made to fill these vacancies as it had been expected that there would be restructuring of the offices in the event that it merged with that of the National Human Rights Commission.

### 4. BUDGET

4.1 In 2016 the Ministry of Finance merged the budgets of the Office of the Ombudsman and National Human Rights Commission. The approved budget for the Office of the Ombudsman and the National Human Rights Commission for the year 2016 was SR3,196,000.00.

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

Wages & Salaries	SR1,213.43 (SR1,213,430.00)
Use of Goods & Services	SR1,851.15 (SR1,851,150.00)
Non-Financial Asset	SR 131.24 (SR131,240.00)
<b>Total</b>	<b>SR3,195.82 (SR3,195,820.00)</b>

## **5. ACTIVITIES OF THE OFFICE**

### **5.1 CASES**

5.1.1 In the execution of its mandate, a greater part of our time and resources devolved upon investigations into allegations brought to us by members of the public. In 2016, the office registered 62 cases. 44 of these cases were satisfactorily resolved with the granting of advice to the complainant. Investigations were carried out in 18 of these. Some of these cases alleged maladministration in employment matters, land issues and legal matters, to name a few. Complaints were also registered against delays in the payment of terminal benefits, delays in obtaining a response and sometimes a total lack of response from a duty bearer. 11 cases were successfully resolved in 2016 and 7 are still being investigated.

### **5.2 ADVICE & ASSISTANCE**

5.2.1 It has become customary over many years, that many people access our services for legal advice. Many do this via a telephone call and some come in person to be guided on what relief or redress may available to them. It is not uncommon for them to avail of our counsel to either confirm or refute any other advice previously given to them by other persons or organisations. This pattern has continued over the years.

5.2.2 Where we deem this necessary, we also assist complainants to fill in the necessary paperwork. We also make calls and enquiries to Government offices to ascertain the procedures and requirements to which a complainant must adhere to in order to invoke the redress or relief they seek in a public authority.

5.2.3 All services provided by the Ombudsman are free and fair.

5.2.4 The statistics for matters registered in the Office of the Ombudsman in 2016 are set out hereunder. They are organised according to month and subject matter respectively.

### 5.3 STATISTICS

OMBUDSMAN CASES 2016	
Complaints received by the Ombudsman	62
Cases Retained	18
Cases resolved	11
Cases pending	7
Cases for advice	44

#### **COMPLAINTS IN 2016 (BY MONTH)**

<b>MONTH</b>	<b>NUMBER OF CASES</b>
January	7
February	2
March	8
April	2
May	9
June	2
July	3
August	2
September	3
October	9
November	13
December	2
<b>TOTAL</b>	<b>62</b>

**COMPLAINTS BY SUBJECT & MONTH IN 2016**

<b>CATEGORY</b>	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>	<b>JUNE</b>	<b>JULY</b>	<b>AUG</b>	<b>SEPT</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>total</b>
<b>Employment</b>	<b>1</b>		<b>5</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>		<b>2</b>	<b>3</b>		<b>17</b>
<b>Housing</b>											<b>1</b>	<b>1</b>	<b>2</b>
<b>Land</b>			<b>1</b>		<b>2</b>					<b>1</b>	<b>2</b>		<b>6</b>
<b>Planning</b>										<b>1</b>			<b>1</b>
<b>Health</b>	<b>1</b>		<b>1</b>							<b>1</b>	<b>1</b>		<b>4</b>
<b>Education</b>													
<b>Training</b>													
<b>Social Cases</b>													
<b>Police</b>											<b>2</b>		<b>2</b>
<b>Legal Matters</b>					<b>1</b>	<b>1</b>			<b>1</b>		<b>2</b>	<b>1</b>	<b>6</b>
<b>Road Access</b>	<b>1</b>												<b>1</b>
<b>Environment</b>													
<b>Others</b>	<b>4</b>	<b>2</b>	<b>1</b>		<b>5</b>		<b>2</b>	<b>1</b>	<b>2</b>	<b>4</b>	<b>2</b>		<b>23</b>
<b><u>Total</u></b>	<b><u>7</u></b>	<b><u>2</u></b>	<b><u>8</u></b>	<b><u>2</u></b>	<b><u>9</u></b>	<b><u>2</u></b>	<b><u>3</u></b>	<b><u>2</u></b>	<b><u>3</u></b>	<b><u>9</u></b>	<b><u>13</u></b>	<b><u>2</u></b>	<b><u>62</u></b>

## **5.4 OUTREACH PROGRAMME**

5.4.1 In furtherance of our outreach programme, the aim of which is to bring our services closer to the population, the office held day clinics on Praslin in 2016. These were held in Baie Ste Anne and Grand Anse District Administration offices on 15<sup>th</sup> June 2016 and 24<sup>th</sup> November 2016. This reduction in day clinics compared to the preceding year, is on account of a combination of factors including the demand and use of these services as well as lack of manpower resources in our office.

## **5.5 EVENTS**

5.5.1 The following are some of the workshops seminars and meetings we attended in 2016:

1. Meeting with H.E. Mr. Alexandre Lévêque, High Commissioner of Canada to Seychelles, accompanied by the Trade Commissioner, Mr. Ryan Ward. - Friday 08 January 2016
2. Compiling 5<sup>th</sup> and 6<sup>th</sup> combined report on the implementation of the Convention on the Rights of the child. – 23<sup>rd</sup> February 2016 at STC Conference Room
3. Meeting with the Commonwealth African Anti Corruption Agencies – (Sethunya Rathedi; Research Coordinator and Lerato Dube; Communications and Political Affairs Coordinator) Monday 22<sup>nd</sup> February 2016
4. Meeting Seychelles Human Rights Treaty Committee; Thursday the 17<sup>th</sup> of March, from 8.30 to 12pm, at Care House (to discuss the review and strengthening of the National Human Rights Commission/Ombudsman's Offices. To reach a final consensus on the way forward with regards to the

structure and staffing of the Commission/Ombudsman's Office. Led by the co-chairs of the SHRTC - PS Loustau-Lalanne and the Attorney General.

5. Workshop on Recommendations received by Seychelles under the Second Cycle of the Universal Periodic Review; Tuesday 22<sup>nd</sup> March, 2016 from 8:30 am to 12 pm, Care House.
6. National Action Planning Workshop on removing legal barriers for HIV and AIDS – 4<sup>th</sup> -5<sup>th</sup> August 2016, Eden Bleu
7. Meeting with the African Union Election observer mission headed by H.E. Mrs Fatuma Ndangisa on Thursday 8<sup>th</sup> September 2016 at 9:00 am, Office of the Ombudsman.
8. Commonwealth interview (on rule of law, political and election management, debt management, ocean governance/blue economies and human rights) by Ms. Ella Haruna from the Centre for International Development and Training (CIDT) of the University of Wolverhampton – Monday 31<sup>st</sup> October, 2016 at 12 noon.
9. Training of Trainers and Educators for Human Rights organised by Citizens Democracy Watch Seychelles (CDWS) – 5<sup>th</sup> – 7<sup>th</sup> December 2016 and 13<sup>th</sup> – 14<sup>th</sup> December 2016 from 8:00 am to 3:30 pm at NCC head office, Beal Eau.
10. The Ministry of Finance, Trade & Blue Economy in collaboration with the World Bank also conducted a series of short courses, workshops and training locally. The aim of such training was to educate public officials on the subject of programme performance-based budgeting (PPBB). These were held throughout 2016.

## **5.6 MEMBERSHIPS & PARTNERSHIPS**

### **5.6.1 AOMF**

Since 1999, the Office of the Ombudsman is a member of the Association des Médiateurs et Ombudsmans de la Francophonie (AOMF). AOMF is an



international body comprising of the Ombudsman institutions or its equivalent in all of the French speaking states. Its role, amongst others, is to encourage the development and consolidation of independent mediation institutions, to offers its expertise to existing institutions, to promote and defend democracy, the rule of law and social peace, and respect for the national and international texts on human rights. Over the years, our office has participated in many trainings, workshops, meetings and congress organized by AOMF.

### **5.6.2 AOMA**

This Office is also a member of the African Ombudsman and Mediators Association (AOMA) since 2001. AOMA's objectives are to encourage the establishment and promotion of African Ombudsman institutions; to foster mutual support, co-operation and joint activity through information sharing, training and development of Ombudsman and staff; to promote good governance and transparency and administrative justice; to support and promote the autonomy and independence of Ombudsman offices. This office has also participated in activities organized by AOMA such as meetings, trainings etc. The President of AOMA has shown an avid interest in the plight of our institution and works in close collaboration with our office.

### **5.6.3 OTHERS**

Our office has also established a strong partnership with the offices of the Ombudsman of Mauritius and Namibia. We have also greatly benefitted from the unflinching support of the legal unit of the Commonwealth Secretariat under the leadership of Mrs Karen McKenzie.

## **6. ASSISTANCE**

- 6.1 The office continues to be an invaluable resource to students and colleagues who often seek some input or contribution from the Ombudsman for an assignment, project or dissertation. This is always welcomed and although it is time consuming, the Ombudsman tries to find ways and means to supply the many competing demands on her time.

## **7. REQUESTS FOR INFORMATION**

- 7.1 On a regular basis, many international organisations request information either to update their records or to carry out surveys for miscellaneous purposes. Although these questionnaires can be very lengthy and call for very detailed information, we do our utmost to assist them with our input.

## **8. WEBSITE**

- 8.1 This year the office was able to commission the creating of its first website. After soliciting three quotations from the private sector, the Office selected the services of EZ-Fix, a young entrepreneur, for the job. The primary aim of the website is to provide information to current and potential clients and to promote and market the organisation. This, it is expected, will allow users to interact with our organisation, submit requests, keep abreast of developments in their cases and provide easier access to our services and make for enhanced visibility.

## **9. CHALLENGES**

### **9.1 STAFFING**

9.1.1 In 2016, the three staff continued to deliver to the utmost of their capability to run both the Ombudsman and Human Rights Offices. This is quite a formidable feat to accomplish. As the public becomes more demanding and demands from other areas increase, staff long for the much awaited structure to be finalised and approved by authorities so that more personnel will become available to assist with shouldering the many and diverse responsibilities and allow staff to work in their areas of proven strength and expertise.

### **9.2 EDUCATION AND PROMOTION**

9.2.1 The area in which the staffing gap is most strongly felt is in the education and promotion facet of our work. With no especially dedicated staff to work in that area, that aspect of our mandate did not receive priority treatment. This was not by design but by necessity. We are optimistic that at least one Education and Promotion Officer will be recruited soon and become available for the office in 2017.

### **9.3 NO HEADWAY ON STRUCTURE**

9.3.1 In 2015 we started working on a structure for the Office of the Ombudsman and Human Rights Commission under a fused or hybrid model. This was because such a model had been advocated by the Commonwealth after

sending a needs assessment team to look at the country's needs. Thereafter, work on the structure did not progress and moves towards either the hybrid or fused model or towards the separate model were stalled. In this period of limbo and uncertainty, it made little economic or logistical sense to recruit under either office given their impending fate of either a merger or separation. We nevertheless hope that some pronouncement on the position will soon be made so that a way forward can be made in terms of drafting a structure for the Ombudsman's Office and recruiting the requisite staff.

## **10. SYNOPSIS OF CASES 2016**

### **1. NEGLIGENCE**

Mr A complained of maladministration in the health system. In March 2016, the complainant inhaled some kind of chemical that was leaking at a supermarket. He went to the English River Health Centre to receive medical attention. He requested a medical certificate for further medical treatment and paid SR350 to receive it. Four days later, he went back to the doctor for review. When he asked for his medical certificate he was told that he would receive it in fifteen days. He was dissatisfied because he had not been informed in advance that it would take that amount of time to prepare the medical certificate. He felt even more aggrieved when he was informed that his diagnosis report has been misplaced.

Upon receiving the complaint, we contacted the English River Health Centre regarding the matter. We were told that the diagnosis report of the complainant was misplaced in the records office and that they were doing their best to locate it. In the afternoon of the same day, our office received a call from the English River Health Centre and informing us that the diagnosis report has been found and they undertook to give the same to a doctor to prepare the medical certificate as the doctor that the complainant had seen had left the country to attend to a family

matter. They guaranteed that they would do their best to give the complainant his medical report expeditiously.

On 14<sup>th</sup> April 2016, we were informed by the English River Health Centre that the complainant had received his medical certificate. Thereafter, we contacted the complainant and he confirmed the same to us.

## **2. DOUBLE CHECKING A COMPUTATION**

Mrs. L is a carer for her husband and had been so for five years. The complainant informed our office that from 2011 to November 2015 she worked half day, from 7:00 am to 12:00 noon. In December 2015 her working hours were revised. She started working from 7:00 am to 3:00 pm because her husband's health condition had worsened. In August 2016, she wrote to the Director Social Services asking to be paid her annual leave since she had never taken any. She was paid a certain amount. The complainant queried whether the sum paid to her had been correctly computed and requested something in writing from Social Welfare Agency.

Our office contacted the Home Care Unit at the Social Welfare Agency requesting an explanation as to how the sum had been computed. We were told that the amount paid to the complainant was rightly calculated. As she has stated she was working half day, from 7:00 am to 12 noon. She was on family support. Her working hours were revised in December 2015 and she is now working full day, starting 7:00 am to 3:00 pm. Her annual leave was calculated as from July 2013 when she was removed from family support. The Chief Executive Officer for Social Welfare Agency was requested to reduce her computation and explanation in writing.

### **3. PAYMENT OF TERMINAL DUES**

The complainant was employed at the Ministry of Health as a health care assistant for three and half years. She resigned in August 2016, giving twenty four hours' notice to her employer. She felt aggrieved because she had not been paid her compensation immediately thereafter i.e. upon exiting her job.

Upon complaining to our office, she was informed that in view of the fact that she resigned giving 24 hours' notice and had given no prior indication of her plans to quit her employment, she had not given her employer ample time to process her legal dues and be in a position to pay such as speedily as she desired.

Nonetheless, our office contacted the Ministry of Health and was informed that the complainant's file was being processed. As soon as this was approved by the Director General for Health Agency, the file would be sent to Department of Public Administration for further formalities.

One month later, we contacted the Ministry of Health and they confirmed to us that the complainant's file was at the Department of Public Administration.

In December 2016, when we contacted the complainant to verify whether she had received payment, she told us she had indeed received it but was not satisfied with the amount paid to her. She was however, personally sorting out the matter of computation with the Department of Public Administration.

### **4. JUST COMPENSATION FOR FAUTE**

Mrs. P complained that she lost sight in her right eye as a result of cataract surgery done at the Seychelles Hospital during an eye surgery camp in November 2015.

Several letters were written by the complainant to the Ministry of Health all of which received no response. In May 2016, she met with the Minister of Health to discuss the matter, and was told that a panel would be set up to investigate her complaint and that she would be informed of the outcome. However, she heard nothing on the matter.

She sought the assistance of our office. Given the severity of the alleged loss sustained by the complainant, the Ombudsman immediately requested the comments of the Minister for Health on this matter.

We followed the matter up with the Ministry of Health. We were informed that the matter would be settled. Subsequently, the matter was settled. The complainant was paid compensation for the loss she sustained.

## **5. MISUNDERSTANDING**

Ms. C is a tenant of Property Management Corporation. She complained that in June 2016 she signed her transfer deed before a notary from the Attorney General's chambers and five months had since elapsed and she had not received her transfer deed.

Our office contacted the Attorney General's Chambers and we were informed that the transfer deed was in the names of the both the complainant and her spouse. The complainant had signed the transfer deed in the absence of her spouse who lived separately from her. The spouse lived in the old people's home on Praslin. The notary had duly gone to the old people's home so that the complainant's spouse could sign the transfer deed. When the notary had arrived at the old people's home, the complainant's spouse had refused to sign the transfer deed. The notary had returned the file to Property Management Corporation advising them of the predicament.

The complainant was informed accordingly and we advised her to resolve the matter with Property Management Corporation and her spouse.

## **6. PAYMENT OF COMPENSATION**

Mrs D joined the teaching profession in September 1969 during the colonial time and was confirmed in position in January 1970. In 1978 she was employed by the Ministry of Education. She was claiming for colonial pension, from the years 1969 to 1978. She saw an officer at the Department of Public Administration and was told that she must have worked for ten years to receive the said pension. She requested that they consider paying her in consideration of the eight years she had served on humanitarian grounds.

Upon registering her complaint, our office contacted the Department of Public Administration and they informed us that they needed documented proof of her employment for the period from September 1969 to 31<sup>st</sup> December 1978. Since there was none in the complainant's file, her case could not be considered. They advised her to liaise with the Ministry of Education to find out if she could retrieve those documents. In the event that these documents could be retrieved, then the Department of Public Administration could reconsider her case.

The complainant was advised accordingly and endeavoured to retrieve the documents.



## **7. EMPLOYMENT CERTIFICATE**

Mr A resigned from the police force on 4<sup>th</sup> October 2016 giving one month's notice to his employer. One month later, he complained that he had not received his employment certificate from the police department which was inconveniencing him because he had been accepted in a new job and his new employer required his employment certificate to put on file.

Our office contacted the Human Resources personnel at the police department and we were informed that they were working on the complainant's file and undertook to give us a speedy response.

A month later, the complainant informed us that he had received his employment certificate and this was confirmed by the police department.

## **8. ADJUSTMENT OF SALARY**

Ms. J was a teacher for thirty eight years with the Ministry of Education. She retired on 1<sup>st</sup> March 2016 due to medical reasons.

The complainant informed this office that whilst in employment, she had been earning a monthly salary of SR9, 887. 00 while other teachers with the same or less teaching experience had been earning more than her.

In 2010, a revision of salary had been made and in 2015 the first phase of this revision was implemented. The teachers' scheme of service was subsequently drawn up at which point her salary was wrongly computed. She felt that she had not being paid according to her qualifications or experience.

Upon receiving her complaint, our office contacted the Human Resources Department of the Ministry of Education. They confirmed that they were in fact working on her case and they considered it as priority since it was a delicate one.

We contacted the complainant and informed her accordingly.

Subsequently, the complainant informed this office that she had received a response from the Ministry of Education that her past salary anomalies had been rectified.

## **9. TARDINESS IN EXECUTING DOCUMENTS**

Miss U was employed in a government division and was being paid an allowance for her duties waiting to be placed on a contract. The drafting of the contract was being delayed because, her organisation, being so small, did not have the services of a Human Resource or administration personnel to draw up the document or have the same drawn up.

Another Government organisation had been instructed to assist Miss U's office by drawing up Miss U's contract. Because Miss U was not employed in and had no link with that other department, there was no hurry to assist her. She approached the Ombudsman.

The Ombudsman took up this matter and urged the other department to quickly have Miss U's contract drawn up. A staff from the other department was instructed by the head to work on that assignment and the document was ready within a few weeks. Miss U's appointment was formalised.

## **10. REFUSAL TO HEED COUNSEL**

Mrs J was employed for a long time in the public service. She expressed dissatisfaction with the changed management in her workplace which had assigned her to a new work location without demotion or prejudice to her salary or other benefits. She invoked the jurisdiction of the Ombudsman who began to negotiate with her employee to reconsider her relocation.

Against her repeated threats that she would resign, the complainant was advised several times to stay in service whilst we negotiated on her behalf. However, she resigned giving her employer only 24 hours' notice. She did not inform us.

Some months elapsed and the complainant came back asking that we urge her employer to reinstate her. We counselled her and put the pertinent facts before her. She quickly withdrew from her position when faced with the prospect of taking orders from the same new management that she could not stand and being assigned duties which she personally had neither the inclination nor the desire to discharge.

## **11. ACKNOWLEDGEMENT**

11.1 Firstly, I would like to thank the citizens of Seychelles who have put their trust in this institution in their search for fairness and justice. I realize that there are cases whose outcome or conclusion, however fair, may have not been what the complainant or an affected third party may have desired. As regards those cases whose conclusions are delayed, my staff or I always explain to complainants the reasons for the delay so that they are aware of and understand that there are situations that are beyond our control.

11.2 Secondly I wish to thank public servants who have in one way or another cooperated with this institution during the course of the year 2016 in our joint

effort to put things right where injustices and maladministration have occurred. I salute each and everyone's effort to individually and collectively forestall administrative errors and improve government.

11.3 I also wish to extend my sincere gratitude to the many local and international organisations as well as resident Diplomatic missions which have expressed interest in our work and offered their kind assistance. My deepest gratitude is hereby expressed to the Ombudsmen of Namibia and Mauritius and to Mrs Karen McKenzie of the Commonwealth for their unfailing support.

11.4 My most sincere appreciation is hereby extended to the staff members of this institution who have shown unfailing support, commitment and constant dedication and devotion to duty in delivering quality service to the public that we serve. Your service is invaluable and your devotion is priceless. May you be strengthened in the knowledge that your contribution is of great value.

## APPENDIX I

### LEGISLATIVE FRAMEWORK

I am appending to this Annual Report excerpts of the Constitution that are relevant to the Institution of Ombudsman.

**Article 143. (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.(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

- 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 exercise of the administrative functions of the authority,

or on the ground that the practices or patterns of conduct of a public authority or the President or a Minister, officer or member of the authority in the exercise of the administrative functions of the authority appear to result in injustices or harsh, oppressive or unfair administration; or



(c) where the Ombudsman considers that it is necessary to investigate the action on the grounds specified in subparagraph (b),

and an allegation under subparagraph (1)(b)

**(3)** The Ombudsman shall not investigate or may discontinue an investigation of a complaint relating to an action referred in subparagraph (1)(a) or an allegation under subparagraph (1)(b) where it appears to the Ombudsman that

(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.

(2) In this Schedule –

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

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

“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.

**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.

**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.

**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.

**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.

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;
- (iii) 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.

**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

### SEYCHELLOIS CHARTER OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

Right to  
life

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

Right to  
dignity

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

Freedom from slavery  
and forced or  
compulsory labour

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

Right to liberty

- 18.(1)** Every person has a right to liberty and security of the person.
- (2) The restriction, in accordance with fair procedures established by law, of the right under clause (1) in the following cases shall not be treated as infringement of clause (1)

- (a) the arrest or detention in execution of a sentence or other lawful order of a court;
  - (b) the arrest or detention on reasonable suspicion of having committed or of being about to commit an offence for the purposes of investigation or preventing the commission of the offence and of producing, if necessary, the offender before a competent court;
  - (c) the arrest or detention to prevent the spread of infectious or contagious diseases which constitute a serious threat to public health;
  - (d) the arrest or detention for the treatment and rehabilitation of a person who is, or reasonably suspected to be, of unsound mind or addicted to drugs to prevent harm to that person or to the community;
  - (e) the arrest or detention for the purpose of preventing the unauthorised entry into Seychelles of a person, not being a citizen of Seychelles, or for the purpose of deportation or extradition of that person;
  - (f) the detention for the rehabilitation and welfare of a minor with the consent of the parent or guardian or of the Attorney-General where such detention is ordered by a competent court.
- (3) A person who is arrested or detained has a right to be informed at the time of arrest or detention or as soon as is reasonably practicable thereafter in, as far as is practicable, a language that the person understands of the reason for the arrest or detention, a right to remain silent, a right to be defended by a legal practitioner of the person's choice and, in the case of a minor, a right to communicate with the parent or guardian.
- (4) A person who is arrested or detained shall be informed at the time of the arrest or detention

or as soon as is reasonably practicable thereafter of the rights under clause (3).

- (5) A person who is arrested or detained, if not released, shall be produced before a court within twenty-four hours of the arrest or detention or, having regard to the distance from the place of arrest or detention to the nearest court or the non-availability of a Judge or magistrate, or force majeure, as soon as is reasonably practicable after the arrest or detention.
- (6) A person charged with an offence has a right to be tried within a reasonable time.
- (7) A person who is produced before a court shall be released, either unconditionally or upon reasonable conditions, for appearance at a later date for trial or proceedings preliminary to a trial except where the court, having regard to the following circumstances, determines otherwise –
  - (a) where the court is a magistrates' court, the offence is one of treason or murder;
  - (b) the seriousness of the offence;
  - (c) there are substantial grounds for believing that the suspect will fail to appear for the trial or will interfere with the witnesses or will otherwise obstruct the course of justice or will commit an offence while on release;
  - (d) there is a necessity to keep the suspect in custody for the suspect's protection or where the suspect is a minor, for the minor's own welfare;
  - (e) the suspect is serving a custodial sentence;
  - (f) the suspect has been arrested pursuant to a previous breach of the conditions of release for the same offence.
- (8) A person who is detained has the right to take proceedings before the Supreme Court in order that the Court may decide on the lawfulness of the detention and order the

release of the person if the detention is not lawful.

- (9) Proceedings under clause (8) shall be dealt with as a matter of urgency by the Supreme Court and shall take priority over other proceedings of the Court listed for hearing on that day.
  - (10) A person who has been unlawfully arrested or detained has a right to receive compensation from the person who unlawfully arrested or detained that person or from any other person or authority, including the State, on whose behalf or in the course of whose employment the unlawful arrest or detention was made or from both of them.
  - (11) A person who has not been convicted of an offence, if kept or confined in a prison or place of detention, shall not be treated as a convicted person and shall be kept away from any convicted person.
  - (12) An offender or a suspect who is a minor and who is kept in lawful custody or detention shall be kept separately from any adult offender or suspect.
  - (13) A female offender or suspect who is kept in lawful custody or detention shall be kept separately from any male offender or suspect.
  - (14) Where a person is convicted of any offence, any period which the person has spent in custody in respect of the offence shall be taken into account by the court in imposing any sentence of imprisonment for the offence.
  - (15) A person shall not be imprisoned merely on the ground of the inability to fulfil a contractual obligation.
  - (16) Clause (15) shall not limit the powers of a court under any law in enforcing its orders.
- 19.(1)** Every person charged with an offence has the right, unless the charge is withdrawn, to a fair hearing within a reasonable time by an independent and impartial court established by law.

- (2) Every person who is charged with an offence -
- (a) is innocent until the person is proved or has pleaded guilty;
  - (b) shall be informed at the time the person is charged or as soon as is reasonably practicable, in, as far as is practicable, a language that the person understands and in detail, of the nature of the offence;
  - (c) shall be given adequate time and facilities to prepare a defence to the charge;
  - (d) has a right to be defended before the court in person, or, at the person's own expense by a legal practitioner of the person's own choice, or, where a law so provides, by a legal practitioner provided at public expense;
  - (e) has a right to examine, in person or by a legal practitioner, the witnesses called by the prosecution before any court, and to obtain the attendance and carry out the examination of witnesses to testify on the person's behalf before the court on the same conditions as those applying to witnesses called by the prosecution;
  - (f) shall, as far as is practicable, have without payment the assistance of an interpreter if the person cannot understand the language used at the trial of the charge;
  - (g) shall not be compelled to testify at the trial or confess guilt;
  - (h) shall not have any adverse inference drawn from the exercise of the right to silence either during the course of the investigation or at the trial; and
  - (i) shall, except with the person's own consent, not be tried in the person's absence unless the person's conduct renders the continuance of the proceedings in the person's presence

impracticable and the court has ordered the person to be removed and the trial to proceed in the person's absence.

- (3) When a person is tried for any offence that person or any other person authorised by that person in that behalf shall, if either of them so requires and subject to payment of such reasonable fee as may be specified by or under any law, be given as soon as is practicable after judgment a copy for the use of that person of any record of the proceedings made by or on behalf of the court.
- (4) Except for the offence of genocide or an offence against humanity, a person shall not be held to be guilty of an offence on account of any act or omission that did not, at the time it took place constitute an offence, and a penalty shall not be imposed for any offence that is more severe in degree or description than the maximum penalty that might have been imposed for the offence at the time when it was committed.
- (5) A person who shows that the person has been tried by a competent court for an offence and either convicted or acquitted shall not be tried again for that offence or for any other offence of which the person could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.
- (6) A person shall not be tried for an offence if the person shows that the person has been pardoned for that offence in accordance with an Act made pursuant to article 60(2).
- (7) Any court or other authority required or empowered by law to determine the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other authority the case shall be given a fair hearing within a reasonable time.

- (8) Subject to clause (9), all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any court or other authority, including the announcement of the decision of the court or other authority, shall be held in public;
- (9) Anything in clause (8) shall not prevent the court or other authority from excluding from the proceedings, except for the announcement of the decision of the court or other authority, persons other than the parties thereto, their legal representatives and legal practitioners to such extent as the court or other authority –
- (a) may by law be empowered so to do and may consider necessary in the circumstances, where publicity would prejudice the interests of justice, or in interlocutory proceedings, or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the privacy of persons concerned in the proceedings; or
- (b) may by law be empowered or required to do so in the interests of defence, public safety or public order.
- (10) Anything contained in or done under the authority of any law necessary in a democratic society shall not be held to be inconsistent with or in contravention of -
- (a) clause (1), (2) (e) or (8), to the extent that the law in question makes necessary provision relating to the grounds of privilege or public policy on which evidence shall not be disclosed or witnesses are not competent or cannot be compelled to give evidence in any proceedings;
- (b) clause (2) (a) , to the extent that the law in question imposes upon any person charged with an offence the burden of proving particular facts or declares that the proof of certain facts shall be prima facie proof of the offence or of any element thereof;

- (c) clause (2) (e) , to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;
- (d) clause (5), to the extent that the law in question authorises a court to try a member of a disciplinary force for an offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting the member shall in sentencing the person to any punishment take into account any punishment awarded the member under that disciplinary law.

- (11) Every person convicted of an offence shall be entitled to appeal in accordance with law against the conviction, sentence and any order made on the conviction.
- (12) For the purposes of clause 2 (i), a person who has, in accordance with law, been served with a summons or other process requiring the person to appear at the time and place appointed for the trial and who does not so appear shall be deemed to have consented to the trial taking place in the person's absence.
- (13) Every person convicted of an offence and who has suffered punishment as a result of the conviction shall, if it is subsequently shown that there has been a serious miscarriage of justice, be entitled to be compensated by the State according to law.

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

- (a) without the consent of that person, to the search of the person or property or premises of that person or to the unlawful entry by others on the premises of that person;
- (b) without the consent of the person or an order of the Supreme Court, to the interception of the correspondence or other means of communication of that

**Right to  
privacy**



person either written, oral or through any medium.

- (2) Anything contained in or done under the authority of any law shall not be held to be inconsistent with or in contravention of clause (1) (a) to the extent that the law in question makes provision -
- (a) that is reasonably required in the interest of defence, public safety, public order, public morality, public health, the administration of Government, town and country planning, nature conservation and the economic development and well-being of the country;
  - (b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;
  - (c) that authorises an officer or agent of the Government or a local authority, or a body corporate established by law for public purposes, to enter on the premises of any person in order to inspect or value those premises or anything therein for the purpose of any tax, rate, due or duty or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government or that authority or body corporate, as the case may be; or
  - (d) that authorises, for the purpose of enforcing of the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order.

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be necessary in a democratic society.

- 21 (1)** Every person has a right to freedom of conscience and for the purpose of this article this right includes freedom of thought and religion, freedom to change religion or belief and freedom either alone or in community with others and both in public and in private,

to manifest and propagate the religion or belief in worship, teaching, practice and observance.

- (2) The freedom to manifest and propagate a religion or belief may be subject to such limitations as may be prescribed by a law and necessary in a democratic society -
  - (a) in the interests of defence, public safety, public order, public morality or public health; or
  - (b) for the purpose of protecting the rights or freedoms of other persons.
- (3) A person attending any place of education shall not be compelled to impart or receive religious instruction or to take part in or attend any religious ceremony or observance.
- (4) Subject to this Constitution or any other law, a person shall not be compelled to take any oath that is contrary to the religion or belief of that person or to take any oath in a manner that is contrary to that religion or belief.
- (5) A person shall not be required to profess any religion as a qualification for public office.
- (6) A law shall not make provision for the establishment of any religion or the imposition of any religious observance.
- (7) Anything in this article shall not preclude any religious community or denomination from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination.

**Freedom of  
expression**

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

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

- (a) in the interest of defence, public safety, public order, public morality or public health;
- (b) for protecting the reputation, rights and freedoms or private lives of persons;
- (c) for preventing the disclosure of information received in confidence;
- (d) for maintaining the authority and independence of the courts or the National Assembly;
- (e) for regulating the technical administration, technical operation, or general efficiency of telephones, telegraphy, posts, wireless broadcasting, television, or other means of communication or regulating public exhibitions or public entertainment; or
- (f) for the imposition of restriction upon public officers.

**Right of assembly  
and association**

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

- (2) The right under clause (1) may be subject to such restrictions as may be prescribed by a law and necessary in a democratic society -
  - (a) in the interests of defence, public safety, public order, public morality or public health;
  - (b) in respect of the registration of associations or political parties;
  - (c) for the protection of the rights and freedoms of other persons,
  - (d) for imposition of restrictions –

- (i) on persons who are not citizens of Seychelles; or
- (ii) on public officers or members of the disciplinary forces.

**Right to participate in Government**

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

- (a) to take part in the conduct of public affairs either directly or through freely chosen representatives;
- (b) to be registered as a voter for the purpose of and to vote by secret ballot at public elections which shall be by universal and equal suffrage;
- (c) to be elected to public office; and
- (d) to participate, on general terms of equality in public service.

(2) The exercise of the rights under clause (1) may be regulated by a law necessary in a democratic society.

**Freedom of movement**

**25.(1)** Every person lawfully present in Seychelles has a right of freedom of movement and for the purpose of this article this right includes the right to move freely within Seychelles, the right to reside in any part of Seychelles, the right to leave Seychelles and the right not to be expelled from Seychelles.

(2) Every person who is a citizen of Seychelles has a right to enter Seychelles and, subject to clause (3) (d), not to be expelled from Seychelles.

(3) The right under clause (1) may be subject to such restrictions as are prescribed by a law necessary in a democratic society –

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

- (b) for protecting the rights and freedoms of other persons;
- (c) for the prevention of a crime or compliance with an order of a court;
- (d) for extradition of persons from Seychelles; or
- (e) for lawful removal of persons who are not citizens of Seychelles from Seychelles.

(4) A law providing for the extradition of persons from Seychelles shall not authorise the extradition to a country in respect of an offence punishable with death in that country unless that country undertakes not to carry into effect a sentence of death in respect of the offence.

(5) A law providing for the lawful removal from Seychelles of persons lawfully present in Seychelles shall provide for the submission, prior to removal, of the reasons for the removal and for review by a competent authority of the order of removal.

**Right to property**

**26.(1)** Every person has a right to property and for the purpose of this article this right includes the right to acquire, own, peacefully enjoy and dispose of property either individually or in association with others.

(2) The exercise of the right under clause (1) may be subject to such limitations as may be prescribed by law and necessary in a democratic society –

- (a) in the public interest;
- (b) for the enforcement of an order or judgment of a court in civil or criminal proceedings;
- (c) in satisfaction of any penalty, tax, rate, duty or due;
- (d) in the case of property reasonably suspected of being acquired by the

- proceeds of drug trafficking or serious crime;
- (e) in respect of animals found trespassing or straying;
  - (f) in consequence of a law with respect to limitation of actions or acquisitive prescription;
  - (g) with respect to property of citizens of a country at war with Seychelles;
  - (h) with regard to the administration of the property of persons adjudged bankrupt or of persons who have died or of persons under legal incapacity; or
  - (i) for vesting in the Republic of the ownership of underground water or unextracted oil or minerals or any kind or description.
- (3) A law shall not provide for the compulsory acquisition or taking of possession of any property by the State unless –
- (a) reasonable notice of the intention to compulsorily acquire or take possession of the property and of the purpose of the intended acquisition or taking of possession are given to persons having an interest or right over the property;
  - (b) the compulsory acquisition or taking of possession is necessary in the public interest for the development or utilization of the property to promote public welfare or benefit or for public defence, safety, order, morality or health or for town and country planning;
  - (c) there is reasonable justification for causing any hardship that may result to any person who has an interest in or over the property;
  - (d) the State pays prompt and full compensation for the property;

- (e) any person who has an interest or right over the property has a right of access to the Supreme Court whether direct or on appeal from any other authority for the determination of the interest or right, the legality of the acquisition or taking of possession of the property, the amount of compensation payable to the person and for the purpose of obtaining prompt payment of compensation.
- (4) Where the property acquired by the State under this article is not used, within a reasonable time, for the purpose for which it was acquired, the State shall give, to the person who owned it immediately before the acquisition of the property, an option to buy the property.
- (5) A law imposing any restriction on the acquisition or disposal of property by a person who is not a citizen of Seychelles shall not be held to be inconsistent with clause (1).

**Right to equal protection of the law**

**27.(1)** Every person has a right to equal protection of the law including the enjoyment of the rights and freedoms set out in this Charter without discrimination on any ground except as is necessary in a democratic society.

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

**Right of access to official information**

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

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

- (a) for the protection of national security;

- (b) for the prevention and detection of crime and the enforcement of law;
  - (c) for the compliance with an order of a court or in accordance with a legal privilege;
  - (d) for the protection of the privacy or rights or freedoms of others;
- (3) The State undertakes to take appropriate measures to ensure that information collected in respect of any person for a particular purpose issued only for that purpose except where a law necessary in a democratic society or an order of a court authorizes otherwise.
- (4) The State recognizes the right of access by the public to information held by a public authority performing a governmental function subject to limitations contained in clause (2) and any law necessary in a democratic society.

**Right to health care**

- 29.** The State recognizes the right of every citizen to protection of health and to the enjoyment of the highest attainable standard of physical and mental health and with a view to ensuring the effective exercise of this right the State undertakes –
- (a) to take steps to provide for free primary health care in State institutions for all its citizens.
  - (b) to take appropriate measures to prevent, treat and control epidemic, endemic and other diseases;
  - (c) to take steps to reduce infant mortality and promote the healthy development of the child;
  - (d) to promote individual responsibility in health matters;
  - (e) to allow, subject to such supervision and conditions as are necessary in a democratic society, for the establishment of private medical services.



**Right of working mothers**

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

**Right of minors**

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

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

(b) to provide for a higher minimum age of admission to employment with respect to occupations prescribed by

law which the State regards as dangerous, unhealthy or likely to impair the normal development of a child or young person;

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

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

**Protection of families**

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

(2) The right contained in clause (1) may be subject to such restrictions as may be

prescribed by law and necessary in a democratic society including the prevention of marriage between persons of the same sex or persons within certain family degrees.

**Right to education**

- 33.** The State recognizes the right of every citizen to education and with a view to ensuring the effective realization of this right undertakes -
- (a) to provide compulsory education, which shall be free in State schools, for such minimum period, which shall not be less than ten years, as may be prescribed by law;
  - (b) to ensure that the educational programmes in all schools are aimed at the complete development of the person;
  - (c) to afford, on the basis of intellectual capability, every citizen equal access to educational opportunities and facilities beyond the period of compulsory education;
  - (d) to allow, subject to such reasonable restrictions, supervision and conditions as are necessary in a democratic society, any person, organization or institution to establish and maintain a private school.
  - (e) to respect the right of parents to choose whether to send their children to a State or private school.

**Right to shelter**

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

**Right to work**

- 35.** The State recognises the right of every citizen to work and to just and favourable conditions of work and with a view to ensuring the effective exercise of these rights the State undertakes –
- (a) to take necessary measures to achieve and maintain a high and stable level of

employment, as is practicable, with a view to attaining full employment;

- (b) subject to such restrictions as are necessary in a democratic society, to protect effectively the right of a citizen to earn a dignified living in a freely chosen occupation, profession or trade;
- (c) to promote vocational guidance and training;
- (d) to make and enforce statutory provisions for safe, healthy and fair conditions of work, including reasonable rest, leisure, paid holidays, remuneration which guarantees, as a minimum, dignified and decent living conditions for the workers and their families, fair and equal wages for work or equal value without distinction and stability of employment;
- (e) to promote machinery for voluntary negotiations between employees and workers or their organizations with a view to the regulation of conditions of employment by means of collective agreements;
- (f) to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitrations for the settlement of labour disputes;
- (g) subject to such restrictions as are necessary in a democratic society, and necessary for safeguarding public order, for the protection of health or morals and the rights and freedoms of others, to ensure the right of workers to organise trade unions and to guarantee the right to strike.

**Right of the aged  
and the disabled**

- 36.** The State recognizes the right of every person to live in and enjoy a clean, healthy and ecologically balanced environment and with a view to ensuring the effective realization of this right the State undertakes -

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

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

**Right to social security**

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

**Right to safe environment**

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

(a) to take measures to promote the protection, preservation and improvement of the environment;

(b) to ensure a sustainable socio-economic development of Seychelles by a judicious use and management of the resources of Seychelles;

(c) to promote public awareness of the need to protect, preserve and improve the environment.

**Right to cultural life and values**

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

(a) the protection of public order, public morals and public health;

(b) the prevention of crime;

(c) the protection of the rights and freedoms of other persons.

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

## **PART II**

### **FUNDAMENTAL DUTIES**

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