

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

(Act 9 of 2018)

ARRANGEMENT OF SECTIONS

SECTIONS

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

(Act 9 of 2018)

I assent

Danny Faure
President

6th September, 2018



AN ACT to enable the President of Seychelles to establish a Truth, Reconciliation and National Unity Commission to unite the people of Seychelles around a common agenda that will help them move forward in confidence and with a sense of common purpose.

ENACTED by the President and the National Assembly.

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

Short title and
commencement

Interpretation

2. In this Act —

- (1) “Commissioner” means a member of the Commission and includes the Chairperson and Vice-Chairperson;
- (2) “Perpetrator” means a person who the Commission has found to have committed any violation and includes a person who has given an order, or materially assisted someone, to commit a violation;
- (3) “Rehabilitation” means the psychological or mental support offered to both victims and perpetrators in need of such support, with a view to their achieving complete closure, including restoring their credibility in society;
- (4) “Reparation” means the compensation, facility or concession made to a victim;
- (5) “Suspect” means a person who is suspected of having committed any violation and includes a person who is suspected of giving orders, or materially assisting someone, to commit a violation;
- (6) “Commission” means the Truth, Reconciliation and National Unity Commission established by the President, pursuant to this Act;
- (7) “Victim” means a person who has suffered any harm or detriment as a result of any violation;
- (8) “Violation” means human rights abuse committed during, or in relation to, the Coup D'état of 5 June 1977 and includes the following acts —
 - (a) unlawful killing;

- (b) unlawful imprisonment or other deprivation of physical liberty;
- (c) torture;
- (d) rape;
- (e) enforced disappearance of persons;
- (f) kidnapping;
- (g) forceful eviction from legally owned building or land;
- (h) unjustified acquisition or loss of property or business;
- (i) wrongful denial of the right to employment;
- (j) wrongful termination of employment;
- (k) forced exile;
- (l) abuse of office by a Government official, including the executive, judiciary or legislature; or
- (m) other acts of a similar character causing suffering, or injury to body or to mental or physical health.

3.(1) There is hereby established a Truth, Reconciliation and National Unity Commission.

Establishment,
mandate and
purpose

(2) The Commission shall be a body corporate.

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

(4) A complaint shall be filed within six months of the Commission commencing its mandate.

(5) A complaint may be filed by a victim, a representative of the victim or a close surviving relative of a deceased victim.

(6) Any person wishing to be heard by the Commission may apply in writing to the Commission at any time during the mandate of the Commission.

(7) The objectives of the Commission are—

(a) to ascertain the truth with respect to complaints of alleged violations;

(b) to create an accurate and objective public record of the complaints of alleged violations;

(c) to help bridge divisions caused by any violations;

(d) to provide closure for the victims and perpetrators of the violations;

(e) to determine—

(i) the appropriate reparations for victims;

(ii) the appropriate rehabilitation for victims and perpetrators; and

(iii) whether or not to grant amnesty; and

(f) to unite the people of Seychelles around a common agenda that will help them move forward in confidence and with a sense of common purpose, and ensure that such violations do not recur.

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

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

4.(1) The Commission shall consist of seven Commissioners, namely a Chairperson, a Vice-Chairperson and five other Commissioners, two of whom shall be non-Seychellois who are not resident in Seychelles.

Appointment
of the
Commissioners

(2) The President shall appoint the Chairperson and six Commissioners from candidates proposed by the Constitutional Appointments Authority.

(3) The Commissioners shall designate the Vice-Chairperson from amongst their number.

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

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

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

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

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

Removal of the
Commissioners

(2) The President may after consulting the Constitutional Appointments Authority, remove any Commissioner for gross misconduct.

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

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

Meeting,
hearings and
decisions

6.(1) The meetings and hearings of the Commission shall be held at such place and on such dates and times as designated by the Chairperson.

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

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

(4) The meetings of the Commission shall be open to the public. The Commission may hold non-public meetings if, after consulting with the parties concerned, the Commission is of the opinion that —

(a) it is in the interest of justice;

(b) there is a likelihood that harm may ensue to any person; or

(c) reconciliation between the parties may not be achieved by the proceedings being conducted in public.

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

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

(7) The Commission shall keep and maintain complete written and audio-visual records of its proceedings and exhibits produced before it. The public shall be entitled to have access to the records of proceedings of the Commission held in public.

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

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

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

Functions
of the
Commission

- (a) gathering evidence pertaining to violations, including hearing of witnesses;
- (b) determining the responsibility of individuals in respect of any violations, providing its reasons and proposing measures to prevent the recurrence of such violations;
- (c) preparing reports of its activities, findings and decisions, based on evidence it has assessed to be credible and reliable and submitting the same to the President;

- (d) determining and recommending appropriate remedies or reparations; and
- (e) discharging other functions referred to in this Act.

Powers of the
Commission

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

(2) The Commission may —

- (a) visit any establishment or place, enter on land or premises to gather information or inspect property;
- (b) have access to public or private archives regardless of restrictions contained in the laws of Seychelles and make copies of any documents found therein;
- (c) hold any hearing it deems necessary;
- (d) summon any witness or suspect, examine him or her on oath, and compel the production of any document or article. A spouse of a suspect may be compelled to testify against the suspect;
- (e) seek assistance from relevant authorities, including the Police and Judiciary to achieve its objectives, including the provision of security to any witness;
- (f) establish such sub-committees as it deems necessary and determine the seat thereof;
- (g) hold meetings at any place, within or outside Seychelles; and

- (h) in consultation with the appropriate government authorities, obtain permission from a foreign country to receive evidence from, or gather information in, that country.

(3) For the purposes of effectively exercising its functions and powers, the Commission is hereby vested with all the powers and rights of the Supreme Court.

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

Secretary, staff
and experts

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

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

Status of
evidence and
testimony

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

Reports and
Recommendations

(2) The Commission shall submit interim reports every six months and shall submit its final report within three months after it has completed its inquiries.

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

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

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

President, who shall cause them to be deposited with the Curator of the Seychelles Archives.

Amnesty

12.(1) Any person seeking an amnesty shall file a petition for amnesty with the Commission within the time-limit set by the Commission and may do so before testifying before the Commission.

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

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

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

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

(5) In determining whether —

- (a) the perpetrator has provided full disclosure of his or her culpable acts; and
- (b) the apology is sincere;

the Commission shall as far as reasonably practicable hear testimony from the complainant,

victim or victims, or the close relative of the victim or victims where the complaint is made by a close relative of the victim or victims, petitioner, perpetrator and any other person it deems appropriate.

(6) Notwithstanding any written law —

- (a) a criminal investigation or criminal or civil prosecution shall not be commenced or shall be discontinued, as the case may be, in respect of any matter for which an amnesty has been sought, until the final determination thereof by the Commission; and
- (b) a perpetrator who has been granted amnesty in respect of a violation shall not be criminally or civilly liable in respect of the acts or omissions that were part of the disclosure and apology. The amnesty shall not affect any order by the Commission for remedies, reparations or rehabilitation.

13. A person who —

Offences

- (a) fails to attend the Commission after having been summoned;
- (b) refuses to take an oath before the Commission;
- (c) refuses, except in the exercise of his or her right against self-incrimination, to answer fully and satisfactorily to the best of his or her knowledge and belief, any question put to him or her by the Commission during the hearing;
- (d) refuses to produce any document when required to do so by the Commission;

- (e) knowingly gives false evidence, or evidence which he or she knows to be misleading;
- (f) insults a Commissioner during a hearing; or
- (g) does anything in relation to the Commission which, if done in relation to a court of law, would constitute contempt of court;

commits an offence and shall be liable to a fine of SCR50,000 and to a term of imprisonment of 10 years.

Duration

14.(1) The mandate of the Commission shall commence three months after the first Commissioners take the oath in accordance with Section 4(5) and shall end upon the delivery to the President of its final report.

(2) Subject to subsection (1), the mandate of the Commission shall come to an end after a period of three years.

**Budget and
auditing of
the
Commission**

15.(1) The Commission shall prepare a budget and submit it to the Minister of Finance for approval.

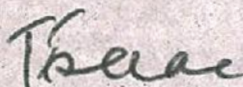
(2) The Commission shall be allocated a budget from the Consolidated Fund to cover its operation, including the remuneration of Commissioners and support staff.

(3) The Commission may receive donations through the Ministry of Finance from local and foreign agencies or associations that do not have any vested interest in the outcome of any proceedings of the Commission.

(4) The remuneration, allowance and other benefits, if any, of the Commissioners shall be prescribed by the Minister responsible for Public Administration prior to the appointment of the Commissioners.

(5) The accounts of the Commission shall be audited by the Auditor-General.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 2nd August, 2018.



Mrs. Tania Isaac
Deputy Clerk to the National Assembly