

# CONSTITUTION OF THE REPUBLIC OF SEYCHELLES

*Approved on 18 June 1993,  
Amended by Act No 14 of 1996*

## PREAMBLE

We, the People of Seychelles,  
*Grateful* to Almighty God that we inhabit one of the most beautiful countries in the world;  
*Ever mindful* of the uniqueness and fragility of Seychelles;  
*Conscious* of our colonial history before becoming an independent republic;  
*Aware and proud* that as descendants of different races we have learnt to live together as one nation under God and can serve as an example of a harmonious multi-racial society;  
*Having attained* national stability and political maturity despite the pressures of a sadly divided world;  
*Desirous* to build a just, fraternal and humane society in a spirit of friendship and co-operation with all peoples of the world;  
*Recognising* the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation for freedom, justice, welfare, fraternity, peace and unity;  
*Reaffirming* that these rights include the rights of the individual to life, liberty and the pursuit of happiness free from all types of discrimination;  
*Considering* that these rights are most effectively maintained and protected in a democratic society where all powers of government spring from the will of the people;  
*Exercising* our natural and inalienable right to a framework of government which shall secure for ourselves and posterity the blessings of truth, liberty, fraternity, equality of opportunity, justice, peace, stability and prosperity;  
*Evoking* the blessings of the Almighty God;  
*Solemnly declaring* our unswaying commitment, during this our Third Republic, to ...

- uphold the rule of law based on the recognition of the fundamental human rights and freedoms enshrined in this Constitution and on respect for the equality and dignity of human beings;
- develop a democratic system which will ensure the creation of an adequate and progressive social order guaranteeing food, clothing, shelter, education, health and a steadily rising standard of living for all Seychellois;
- participate actively in the sustainable economic and social development of our society;
- exercise our individual rights and freedoms with due regard to the rights and freedoms of others and the common interest;
- help preserve a safe, healthy and functioning environment for ourselves and for posterity;

*Hereby* adopt and confer upon ourselves this Constitution as the fundamental and supreme law of our Sovereign and Democratic Republic.

## CHAPTER I: THE REPUBLIC

### 1. Declaration of Republic

Seychelles is a sovereign, democratic Republic.

...

### 4. National languages

(1) The national languages of Seychelles shall be Creole, English and French.

(2) Notwithstanding clause (1), a person may use any of the national languages for any purpose but a law may provide for the use of any one or more of the national languages for any specific purpose.

### 5. Constitution is supreme law

This Constitution is the supreme law of Seychelles and any other law found to be inconsistent

with this Constitution is, to the extent of the inconsistency, void.

...

### **CHAPTER III [no heading – ed]**

#### **PART I: Seychellois Charter of Fundamental Human Rights and Freedoms**

##### **15. Right to life**

- (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.

##### **16. Right to dignity**

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.

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

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

##### **18. Right to liberty**

- (1) Every person has a right to liberty and security of the person.
- (2) The restriction, in accordance with fair procedures established by law, of the right under clause (1) in the following cases shall not be treated as an infringement of clause (1) -
  - (a) the arrest or detention in execution of a sentence or other lawful order of a court;
  - (b) the arrest or detention on reasonable suspicion of having committed or of being about to commit an offence for the purposes of investigation or preventing the commission of the offence and of producing, if necessary, the offender before a competent court;
  - (c) the arrest or detention to prevent the spread of infectious or contagious diseases which constitute a serious threat to public health;
  - (d) the arrest or detention for the treatment and rehabilitation of a person who is, or is 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 for proceedings preliminary to a trial except where the court, having regard to the following circumstances, determines otherwise -
  - (a) where the court is a magistrates' court, the offence is one of treason or murder;
  - (b) the seriousness of the offence;
  - (c) there are substantial grounds for believing that the suspect will fail to appear for the trial or

- will interfere with the witnesses or will otherwise obstruct the course of justice or will commit an offence while on release;
- (d) there is a necessity to keep the suspect in custody for the suspect's protection or where the suspect is a minor, for the minor's own welfare;
  - (e) the suspect is serving a custodial sentence;
  - (f) the suspect has been arrested pursuant to a previous breach of the conditions of release for the same offence.
- (8) A person who is detained has the right to take proceedings before the Supreme Court in order that the court may decide on the lawfulness of the detention and order the release of the person if the detention is not lawful.
- (9) Proceedings under clause (8) shall be dealt with as a matter of urgency by the Supreme Court and shall take priority over 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. Right to a fair and public hearing**

- (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. Right to privacy**

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

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

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

through any medium.

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

- (a) that is reasonably required in the interest of defence, public safety, public order, public morality, public health, the administration of government, town and country planning, nature conservation and the economic development and well-being of the country;
- (b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;
- (c) that authorises an officer or agent of the government or a local authority, or a body corporate established by law for public purposes, to enter on the premises of any person in order to inspect or value those premises or anything therein for the purpose of any tax, rate, due or duty or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the government or that authority or body corporate, as the case may be; or
- (d) that authorises, for the purpose of enforcing 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. Freedom of conscience**

(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) Nothing in this article shall 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.

## **22. Freedom of expression**

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

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

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

## **23. Right of assembly and association**

(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.

#### **24. Right to participate in government**

**(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.

#### **25. Freedom of movement**

**(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.

#### **26. Right to property**

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

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

- (a) in the public interest;
- (b) for the enforcement of an order or judgment of a court in civil or criminal proceedings;
- (c) in satisfaction of any penalty, tax, rate, duty or due;
- (d) in the case of property reasonably suspected of being acquired by the proceeds of drug trafficking or serious crime;
- (e) in respect of animals found trespassing or straying;
- (f) in consequence of a law with respect to limitation of actions or acquisitive prescription;
- (g) with respect to property of citizens of a country at war with Seychelles;
- (h) with regard to the administration of the property of persons adjudged bankrupt or of persons who have died or of persons under legal incapacity; or
- (i) for vesting in the Republic of the ownership of underground water or unextracted oil or minerals of any kind or description.

- (3) A law shall not provide for the compulsory acquisition or taking of possession of any property by the state unless -
- (a) reasonable notice of the intention to compulsorily acquire or take possession of the property and of the purpose of the intended acquisition or taking of possession are given to persons having an interest or right over the property;
  - (b) the compulsory acquisition or taking of possession is necessary in the public interest for the development or utilisation of the property to promote public welfare or benefit or for public defence, safety, order, morality or health or for town and country planning;
  - (c) there is reasonable justification for causing any hardship that may result to any person who has an interest in or over the property;
  - (d) the state pays prompt and full compensation for the property;
  - (e) any person who has an interest or right over the property has a right of access to the Supreme Court whether direct or on appeal from any other authority for the determination of the interest or right, the legality of the acquisition or taking of possession of the property, the amount of compensation payable to the person and for the purpose of obtaining prompt payment of compensation.
- (4) Where the property acquired by the state under this article is not used, within a reasonable time, for the purpose for which it was acquired, the state shall give, to the person who owned it immediately before the acquisition of the property, an option to buy the property.
- (5) A law imposing any restriction on the acquisition or disposal of property by a person who is not a citizen of Seychelles shall not be held to be inconsistent with clause (1).

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

- (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.

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

- (1) The state recognises the right of access of every person to information relating to that person and held by a public authority which is performing a governmental function and the right to have the information rectified or otherwise amended, if inaccurate.
- (2) The right of access to information contained in clause (1) shall be subject to such limitations and procedures as may be prescribed by law and are necessary in a democratic society including -
- (a) for the protection of national security;
  - (b) for the prevention and detection of crime and the enforcement of law;
  - (c) for the compliance with an order of a court or in accordance with a legal privilege;
  - (d) for the protection of the privacy or rights or freedoms of others.
- (3) The state undertakes to take appropriate measures to ensure that information collected in respect of any person for a particular purpose is used only for that purpose except where a law necessary in a democratic society or an order of a court authorises otherwise.
- (4) The state recognises the right of access by the public to information held by a public authority performing a governmental function subject to limitations contained in clause (2) and any law necessary in a democratic society.

## **29. Right to health care**

The state recognises 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.

## **30. Rights of working mothers**

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.

### **31. Rights of minors**

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

- (a) to provide that the minimum age of admission to employment shall be fifteen years, subject to exceptions for children who are employed part-time in light work prescribed by law without harm to their health, morals or education;
- (b) to provide for a higher minimum age of admission to employment with respect to occupations prescribed by law which the state regards as dangerous, unhealthy or likely to impair the normal development of a child or young person;
- (c) to ensure special protection against social and economic exploitation and physical and moral dangers to which children and young persons are exposed;
- (d) to ensure, save in exceptional and judicially recognised circumstances, that a child of young age is not separated from his parents.

### **32. Protection of families**

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

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

### **33. Right to education**

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

- (a) to provide compulsory education, which shall be free in state schools, for such minimum period, which shall not be less than ten years, as may be prescribed by law;
- (b) to ensure that the educational 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, organisation or institution to establish and maintain a private school;
- (e) to respect the right of parents to choose whether to send their children to a state or private school.

### **34. Right to shelter**

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

### **35. Right to work**

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;
- (a) subject to such restrictions as are necessary in a democratic society, to protect effectively the right of a citizen to earn a dignified living in a freely chosen occupation, profession or trade;
- (c) to promote vocational guidance and training;
- (d) to make and enforce statutory provisions for safe, healthy and fair conditions of work, including reasonable rest, leisure, paid holidays, remuneration which guarantees, as a minimum, dignified and decent living conditions for the workers and their families, fair and equal wages for work of equal value without distinction and stability of employment;
- (e) to promote machinery for voluntary negotiations between employers and workers or their



- organisations with a view to the regulation of conditions of employment by means of collective agreements;
- (f) to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitrations for the settlement of labour disputes;
  - (g) subject to such restrictions as are necessary in a democratic society, and necessary for safeguarding public order, for the protection of health or morals and the rights and freedoms of others, to ensure the right of workers to organise trade unions and to guarantee the right to strike.

### **36. Rights of the aged and the disabled**

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

- (a) to make reasonable provision for improving the quality of life of and for the welfare and maintenance of the aged and disabled;
- (b) to promote programmes specifically aimed at achieving the greatest possible development of the disabled.

### **37. Right to social security**

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.

### **38. Right to safe environment**

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

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

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

(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. Fundamental duties**

It shall be the duty of every citizen of Seychelles -

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

## **PART III: State of Emergency and Savings**

### **41. Declaration of state of emergency**

- (1) The President may, where the President has reason to believe that -

- (a) a grave threat to national security or public order has arisen or is imminent; or
  - (b) a grave civil emergency has arisen or is imminent, in Seychelles or in any part of Seychelles,
- by a Proclamation published in the *Gazette*, declare that a state of emergency exists in Seychelles or that part of Seychelles, as the case may be.
- (2) A declaration made under clause (1) shall cease to have effect on the expiration of a period of seven days beginning with the date of the publication of the declaration unless, before the expiration of the period, it is approved by a resolution passed by not less than two-thirds of the number of members of the National Assembly.
- (3) The President shall, within seventy-two hours after the publication of the Proclamation under clause (1), send to the Speaker of the National Assembly the facts and circumstances leading to the declaration of the state of emergency and the Speaker shall, within seven days after the publication, cause the declaration and the facts and circumstances leading to the declaration to be considered by the Assembly.
- (4) Subject to clause (5), a declaration of emergency approved by the National Assembly under clause (2) shall continue in force until the expiration of a period of three months beginning with the date of its approval or until such earlier date as may be specified in the resolution.
- (5) The National Assembly may, by a resolution passed by the votes of a majority of members of the National Assembly, at any time revoke a declaration approved by the National Assembly under this article.
- (6) Whenever an election to the office of the President results in a change in the holder of that office a declaration under this article which is in force immediately before the day on which the President assumes office shall cease to have effect on the expiration of seven days beginning with that day.
- (7) Notwithstanding clause (1), where the National Assembly resolves under clause (2) that the declaration of a state of emergency should not continue or revokes a declaration of state of emergency under clause (5), the President shall not, within thirty days of the resolution or revocation, declare a state of emergency based wholly or mainly on the same facts unless the National Assembly has, by a resolution passed by the votes of a majority of its members, authorised the making of the declaration.
- (8) Where due to circumstances prevailing at the time of a declaration of a state of emergency under clause (1) it is impracticable to publish in the *Gazette* the Proclamation under that clause, the Proclamation may be published in such manner as the President may determine so as to give it as much publicity as is possible and such publication shall be deemed to be a sufficient compliance with clause (1) for the purposes of this article.
- (9) Clauses (2) to (6) and (8) shall apply in respect of a declaration of emergency made under clause (7).

#### **42. Provisions where National Assembly is not sitting or in session**

- (1) Where the National Assembly is in session but not sitting when a declaration is made under article 41(1) or (7), the Speaker shall immediately summon the Assembly to meet on a date that is not more than seven days after the publication of the declaration.
- (2) Where the National Assembly stands dissolved when a declaration is made under article 41(1) or (7), the President shall, in the Proclamation making the declaration, summon the members of the dissolved Assembly to meet on a date that is not more than seven days after the making of the declaration and the members may, until a new National Assembly first meets, meet and continue to meet for the purpose of discharging the functions of the National Assembly for the purposes of article 41.
- (3) For the purposes of clause (2), the Speaker or Deputy Speaker immediately before the dissolution of the National Assembly shall preside over the sittings of the National Assembly.

#### **43. Restrictions of rights and freedoms during a period of public emergency**

- (1) This article shall apply during any period of public emergency.
- (2) Notwithstanding this Chapter but subject to clause (3), a law may provide for the taking during a period of public emergency of such measures as are strictly required to meet the exigencies of the situation.
- (3) A law referred to in clause (2) shall not provide for the taking of measures that are inconsistent with articles 15, 16, 17, 18(3), 19(2) to (6) and (11), 21 and 27.
- (4) Where a law referred to in clause (2) provides for the detention of persons provision shall be made in the law -
- (a) that, as soon as is reasonably practicable and in any case not more than seven days after

- the commencement of the detention, the person detained shall be furnished with a statement in writing, in, as far as practicable a language that the person understands, specifying in detail the grounds upon which the person is detained;
- (b) that not more than seven days after the commencement of the detention, a notice shall be published in the *Gazette* and a local daily newspaper of wide circulation in Seychelles stating the name of the person detained and the particulars of the law under which the detention was made;
  - (c) that not more than a month after the detention and thereafter at intervals of not more than three months the detention of the person shall be reviewed by an independent and impartial tribunal appointed by the President from candidates proposed by the Constitutional Appointments Authority for this purpose;
  - (d) that the person detained shall be entitled to choose and be afforded reasonable facilities to consult a legal practitioner, to appear, in person or through the legal practitioner, before the tribunal, and that where the law so provides the services of the legal practitioner shall be at public expense;
  - (e) that the person detained shall be released forthwith if the tribunal reviewing the detention is satisfied that it is not reasonably necessary or expedient for the purpose of the emergency to continue with the detention;
  - (f) where the tribunal reviewing the detention of a person does not order the release of the person the tribunal may make recommendation to the authority detaining the person concerning the necessity or expediency of continuing with the detention and a copy of the recommendation shall be served on the person detained.
- (5) A tribunal appointed under clause (4)(c) shall have a Judge as chairman.

#### **44. Savings in relation to disciplinary force**

- (1) A law made in relation to a disciplinary force of Seychelles may, in so far as it is necessary in a democratic society, provide for derogation against the provisions of the Charter, other than articles 15, 16 and 17.
- (2) A law of a country other than Seychelles whose disciplinary force is lawfully in Seychelles in pursuance of arrangements made between the Government of Seychelles and another government or an international organisation shall, in so far as the law applies to that disciplinary force, not be held to be inconsistent or in contravention of the provisions of the Charter.
- (3) A law which authorises the taking of any measure against a member of a disciplinary force of a country with which Seychelles is at war shall not be held to be inconsistent with the Charter.
- (4) A law referred to in clause (3) shall not provide for the doing of anything which constitutes the crime of genocide or a crime against humanity.

### **PART IV: Remedies**

#### **45. Abuse of rights or freedoms**

This Chapter shall not be interpreted so as to confer on any person or group the right to engage in any activity aimed at the suppression of a right or freedom contained in the Charter.

#### **46. Remedies for infringement of the Charter**

- (1) A person who claims that a provision of this Charter has been or is likely to be contravened in relation to the person by any law, act or omission may, subject to this article, apply to the Constitutional Court for redress.
- (2) An application under clause (1) may, where the Constitutional Court is satisfied that the person whose right or freedom has been or is likely to be contravened is unable to do so, be made by another person acting on behalf of that person, with or without that person's authority.
- (3) The Constitutional Court may decline to entertain an application under clause (1) where the court is satisfied that the applicant has obtained redress for the contravention under any law and where the applicant has obtained redress in the Constitutional Court for any matter for which an application may be made under clause (1), a court shall not entertain any application for redress for such matter except on appeal from a decision of such a court.
- (4) Where the Constitutional Court on an application under clause (1) is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned in any other court under any other law, the court may hear the application or transfer the application to the appropriate court for grant of redress in accordance with law.
- (5) Upon hearing of an application under clause (1) the Constitutional Court may -
  - (a) declare any act or omission which is the subject of the application to be a contravention of

- the Charter;
- (b) declare any law or the provision of any law which contravenes the Charter void;
- (c) make such declaration or order, issue such writ and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of the Charter and disposing of all the issues relating to the application;
- (d) award any damages for the purpose of compensating the person concerned for any damages suffered;
- (e) make such additional order under this Constitution or as may be prescribed by law.
- (6) Where the Constitutional Court makes a declaration under clause (5)(b) the court shall, subject to any decision in appeal therefrom, send a copy of the declaration to the President and the Speaker.
- (7) Where in the course of any proceedings in any court, other than the Constitutional Court or the Court of Appeal, a question arises with regard to whether there has been or is likely to be a contravention of the Charter, the court shall, if it is satisfied that the question is not frivolous or vexatious or has already been the subject of a decision of the Constitutional Court or the Court of Appeal, immediately adjourn the proceedings and refer the question for determination by the Constitutional Court.
- (8) Where in an application under clause (1) or where a matter is referred to the Constitutional Court under clause (7), the person alleging the contravention or risk of contravention shall, where the allegation is against the state, be on the state.
- (9) The court in which the question referred to in clause (7) arose shall dispose of the case in accordance with the decision of the Constitutional Court, or if that decision is the subject of an appeal to the Court of Appeal, in accordance with the decision of the Court of Appeal.
- (10) The Chief Justice may make rules for the purpose of this article with respect to the practice and procedure of the Constitutional Court in relation to the jurisdiction and power conferred upon it by or under this article, including rules with respect to the time within which an application or a reference may be made or brought.

## **PART V: Principles of Interpretation**

### **47. Scope of exceptions**

Where a right or freedom contained in this Charter is subject to any limitation, restriction or qualification, that limitation, restriction or qualification -

- (a) shall have no wider effect than is strictly necessary in the circumstances; and
- (b) shall not be applied for any purpose other than that for which it has been prescribed.

### **48. Consistency with international obligations of Seychelles**

This Chapter shall be interpreted in such a way so as not to be inconsistent with any international obligations of Seychelles relating to human rights and freedoms and a court shall, when interpreting the provisions of this Chapter, take judicial note of -

- (a) the international instruments containing these obligations;
- (b) the reports and expression of views of bodies administering or enforcing these instruments;
- (c) the reports, decisions or opinions of international and regional institutions administering or enforcing Conventions on human rights and freedoms;
- (d) the Constitutions of other democratic states or nations and decisions of the courts of the states or nations in respect of their Constitutions.

...

## **CHAPTER IV: THE PRESIDENT**

...

### **64. Diplomatic representation and execution of treaties**

...

(4) A treaty, agreement or convention in respect of international relations which is to be or is executed by or under the authority of the President shall not bind the Republic unless it is ratified by -

- (a) an Act; or
- (b) a resolution passed by the votes of a majority of the members of the National Assembly.

(5) Clause (4) shall not apply where a written law confers upon the President the authority to execute or authorise the execution of any treaty, agreement or convention;

...

## **CHAPTER VI: THE LEGISLATURE**

...

### **PART II: Legislative Power and its Exercise**

...

#### **87. Referral of Bills to Constitutional Court by President**

(1) Where the President is of the opinion that a Bill presented for assent infringes or may infringe this Constitution, the President shall not assent to the Bill and, as soon as is practicable within fourteen days of the presentation of the Bill -

- (a) advise the Speaker accordingly; and
  - (b) refer the Bill to the Constitutional Court for a decision in this respect.
- ...

### **PART III: Alteration of the Constitution**

#### **91. Alteration of the Constitution**

(1) The National Assembly shall not proceed on a Bill to alter Chapter I [or] Chapter III ... unless -

- (a) the proposed alteration contained in the Bill has been approved by a referendum by not less than sixty percent of the votes cast in the referendum; and
- (b) the Speaker signifies that such approval has been so given.

(2) A Bill to alter this Constitution shall, in the long title state that it is a Bill to alter the Constitution, and shall not be passed by the National Assembly unless it is supported by the votes of not less than two-thirds of the number of members of the Assembly at any stage at which, pursuant to the Standing Orders, the Bill as a whole is put to the vote in the Assembly.

(3) In this article -

- (a) a reference to this Constitution includes a reference to a law that amends or replaces any provision of this Constitution; and
  - (b) a reference to the alteration of this Constitution includes a reference to the amendment, modification or re-enactment, with or without amendment or modification, of any provision of this Constitution, the suspension or repeal of any such provision and the making of different provision in lieu of such provisions, and the addition or a new provision to this Constitution.
- ...

## **CHAPTER VII: ELECTORAL AREAS, FRANCHISE AND ELECTORAL COMMISSIONER**

...

#### **113. Right to vote**

A citizen of Seychelles who is registered as a voter in an electoral area shall be entitled to vote ...

...

#### **115.**

(1) There shall be an Electoral Commissioner who shall be appointed by the President ...

...

## **CHAPTER VIII: JUDICIARY**

### **PART I: General**

#### **119. Judicial power of Seychelles**

(1) The judicial power of Seychelles shall be vested in the Judiciary ...

...

### **PART II: Court of Appeal**

#### **120. Establishment and jurisdiction of Court of Appeal**

(1) There shall be a Court of Appeal which shall, subject to this Constitution, have jurisdiction to hear and determine appeals from a judgment, direction, decision, declaration, decree, writ or order of the Supreme Court and such other appellate jurisdiction as may be conferred upon the Court of Appeal by this Constitution and by or under an Act.

...

## **PART III: Supreme Court**

### **125. Establishment and jurisdiction of Supreme Court**

- (1) There shall be a Supreme Court which shall, in addition to the jurisdiction and powers conferred by this Constitution, have -
- (a) original jurisdiction in matters relating to the application, contravention, enforcement or interpretation of this Constitution;

...

## **PART IV: Constitutional Questions**

### **129. Supreme Court as Constitutional Court**

- (1) The jurisdiction and powers of the Supreme Court in respect of matters relating to the application, contravention, enforcement or interpretation of the Constitution shall be exercised by not less than two judges sitting together.

...

- (3) Any reference to the Constitutional Court in this Constitution shall be a reference to the court sitting under Clause (1).

...

## **CHAPTER X: OMBUDSMAN**

### **143. Ombudsman**

- (1) There shall be an Ombudsman ...