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U.S. Department of State

Seychelles Country Report on Human Rights Practices for 1998

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SEYCHELLES

President France Albert Rene and his Seychelles People's Progressive Front (SPPF) have governed since a 1977 military coup. In the 1990's, the SPPF guided the return to a multiparty political system, which culminated in July 1993 in the country's first free and fair presidential and parliamentary elections since 1977. President Rene and the SPPF won in 1993 and again in the March elections. Rene was reelected president with 67 percent of the ballots cast. The SPPF won 30 of the 34 National Assembly seats, 24 by direct election and 6 by proportional representation. The President and the SPPF dominate the country through a pervasive system of political patronage and control over government jobs, contracts, and resources. The judiciary was subject to excessive interference.

The President has complete control over the security apparatus, which includes a national guard force, the army, the Presidential Protection Unit, the coast guard, the marines and the police. There is also an armed paramilitary Police Mobile Unit. There were several credible reports that the security forces abused persons in custody including continuing excesses committed by the army in its search for gunmen who committed a string of armed robberies and killed two soldiers and two civilians between April and September.

The economy provides the country's 78,000 residents with an average per capita income of more than \$6,500 per year and generally adequate social services. The Government has successfully begun to diversify the economy and move it away from its heavy reliance on tourism. Revenues from fishing rights and fish processing have grown sharply in recent years and have surpassed tourism as the most important economic activity. Overall growth has remained sluggish largely due to shortages of foreign

exchange and the pervasive presence of inefficient state enterprises. There was no progress toward privatization during the year. The Seychelles' application to join the World Trade Organization has forced it to consider reforming its trade and foreign exchange regimes, but it has made few substantive changes to date.

The human rights situation worsened, and the Government condoned violations of citizens' human rights during a law enforcement crackdown in response to a crime wave on the main island of Mahe between February and September. Despite parliamentary formalities, the President continued to wield power virtually unchecked. Security forces used excessive force in a few instances and at times abused persons in custody, although police brutality was not widespread. The authorities investigated complaints of police abuse. The military forces used excessive force and beat and arbitrarily detained citizens. Violence against women and child abuse remained problems. Discrimination against foreign workers was a problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

While there were no reports of political or other extrajudicial killings, security personnel shot and killed a man in October, allegedly during an encounter at Roche Caiman. The man had been in police custody the week before and had been questioned about an armed robbery attempt. Another man, allegedly from the same armed gang, was shot and wounded in another fight with security forces. During the year, one prisoner and one detainee were found hanging in their cells. The authorities determined that no foul play was involved in either case and both were ruled suicides.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution expressly forbids torture, but there were instances of the excessive use of force by the police and the army. In response to a growing number of armed robberies and murders on the main island of Mahe between February and September, the army carried out a large-scale operation that resulted in many cases of arbitrary arrest, illegal detention, torture, and degrading treatment. These alleged cases include such army actions as beating suspects in order to elicit confessions; strip-searching individuals at road blocks; forcing suspects to participate in strenuous physical activity while detained; cutting the hair of suspects; and forcing suspects to eat soap and raw vegetables, such as ginger. The authorities have investigated and punished offenders in the past but no action had been taken in response to these abuses at year's end.

Authorities charged two high-ranking officers and a constable with assault after an incident on March 4 at the interisland quay in Victoria. The accused police officers were suspended from duty and released on bail in the amount of about \$3,800 (SRS 20,000). The Supreme Court ruled in October that the prosecution had produced sufficient evidence to call upon the accused to present a defense to determine the merits of the case. A judgment in the case is expected in January 1999.

Conditions at the Long Island prison are Spartan. Family members are allowed monthly visits, and

prisoners have access to reading but not writing materials.

There is no regular system of independent monitoring of prisons.

d. Arbitrary Arrest, Detention, or Exile

The Constitution provides that persons arrested must be brought before a magistrate within 24 hours with allowances made for boat travel from distant islands. The law provides for detention without charge for up to 7 days if authorized by court order. Defense attorneys assert that extended periods of detention under harsh conditions are used to extort confessions from suspects.

During the September army operation (see Section 1.c.), troops allegedly detained suspect for more than 24 hours without formally charging them. Lawyers filed writs of habeas corpus to force detainees to be brought to court and charged or released. In at least 2 cases, the court agreed to hear the arguments for the writs 10 days after they were filed, but the detainees were released just as the court proceedings began. The army also detained for questioning, and then slowly released, many persons who allegedly merely were sitting on the side of the road in areas where the army and police set up road blocks to search for weapons and drugs.

Detainees have the right to access to legal counsel, but security forces in hopes of eliciting a confession or other information sometimes withhold this right. Free counsel is provided to the indigent. Bail is available for most offenses.

Several persons have brought civil cases against the police for unlawful arrest or entry, with limited success. The military's Chief of Staff was subpoenaed in November to appear in court to answer charges of contempt of the Supreme Court concerning the continued illegal detention of one man who had been ordered released by the court. This case and several others, involving claims for damages related to illegal detention, are expected to be heard by the court in January 1999.

There were no cases of forced exile. Following the 1977 coup, a number of persons went into voluntary exile, and others were released from prison with the condition that they leave the country immediately. A number of these former exiles who returned were able to reacquire their property, but several claims remain in the court system. While no property was returned during the year, one compensation claim was settled for \$82,060 to be paid by the Government over the next 2 years.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, it is inefficient, lacks resources, and is subject to executive interference.

The judicial system includes magistrates' courts, the Supreme Court, the Constitutional Court, and the Court of Appeal.

Criminal cases are heard by a magistrates' court or the Supreme Court, depending on the gravity of the offense. A jury is used in cases involving murder or treason. Trials are public, and the accused is considered innocent until proven guilty. Defendants have the right to counsel, to be present at their trial, to confront witnesses, and to appeal. However, there are few well-trained lawyers. The Constitutional Court convenes weekly or as necessary to consider constitutional issues only. The Court of Appeal convenes three times per year for 2 weeks in April, August, and October to consider appeals from the Supreme Court and Constitutional Court only.

Defendants generally have the right to a fair trial. All judges are appointed for 7 years, and can be reappointed by the President on the recommendation of the Constitutional Appointment Committee. All sitting judges were hired from other Commonwealth countries, and none are Seychellois. Some observers criticized expatriate judges for a perceived lack of sensitivity on issues such as human rights. Legal organs of the Government, such as the Attorney General's Office and the Ombudsman, are reluctant to pursue charges of wrongdoing or abuse of power against senior officials.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the right to privacy and freedom from arbitrary searches. The law requires a warrant for police searches, and the authorities generally respected this requirement in practice. However, soldiers reportedly forcibly entered homes, and seized and detained citizens (see Section 1.d.). The law requires that all electronic surveillance be justified on the grounds of preventing a serious crime and be approved by a judge. The Government maintains telephone surveillance of some political figures.

Some members of opposition parties claimed that they lost their government jobs because of their political beliefs and are at a disadvantage when applying for government licenses and loans.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, but it also provides for restrictions on speech "for protecting the reputation, rights, and freedoms of private lives of persons" and "in the interest of defense, public safety, public order, public morality, or public health." Both freedom of speech and the press are thus constrained by the ease with which civil lawsuits can be filed to penalize journalists for alleged libel. In most instances, citizens speak freely, including in Parliament.

The Government has a near monopoly in the media, owning the only television and radio stations, the most important means for reaching the public, and *The Nation*, the only daily newspaper. The official media adhere closely to the Government's position on policy issues and give the opposition and news adverse to the Government only limited attention. While both opposition parties publish an assortment of newsletters and magazines, only one significant opposition newspaper, the weekly *Regar*, is in circulation. Government officials have sued *Regar* for libel seven times in the last 3 years.

The National Assembly has refused to hear a motion put forward by the leader of the opposition to reduce the license fee for a private radio or television station from \$151,200 (SRS 800,000) per year to that of a newspaper publishing license, \$760 (SRS 4,000) plus a bank guarantee of \$19,000 (SRS 100,000). The motion was refused allegedly because the majority members feared the threat of defamation to the Government, not because of the political competition that an opposition radio station would generate.

Academic freedom is limited since, for example, one cannot reach senior positions in the academic bureaucracy without demonstrating at least nominal loyalty to the SPPF. There are no universities; secondary school teachers are largely apolitical. The Government controls access to the Polytechnic, the most advanced learning institution.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly and association, and the Government generally respected these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of movement, and there was no known abridgment of domestic or international travel. The international departure tax for Seychellois was increased in August from \$19 (SRS 100) to \$95 (SRS 500) to fund airport improvements. Although it was not used to refuse a passport application, the 1991 Passport Act allows the Government to deny passports to any citizen if the Minister of Defense finds that such denial is "in the national interest."

There were no known requests for asylum, and there are no refugees in country. The Immigration Act does not discuss asylum. There are no known instances of persons being forcibly deported to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens exercised the right to change their government in the July 1993 and March National Assembly and presidential elections, which were judged by international and national observers to have been free and fair, despite the fact that President Rene and the SPPF dominated the elections.

Before the March elections, the National Assembly districts were redivided and 3 districts were added to bring the number of directly elected seats from 22 to 25. The electoral percentage needed for a proportional seat was increased thereby reducing the number of proportional seats in the assembly from 11 to 9. Overall, the number of seats in the National Assembly went from 33 to 34.

A joint Commonwealth/Francophone observer group for the March elections noted that the elections took place on a more level playing field than in 1993. The group's principal criticism was that the Government adopted a program of accelerated means-testing for social benefits during the final week of the campaign and approved a number of new applications in an attempt to increase political support. The group urged an improvement in the effective separation of state and party political functions.

The President's SPPF party continues to utilize its political resources and those of the Government to develop a nationwide organization that extends to the village level. The opposition parties have been unable to match the SPPF's organization and patronage, in part because of financial limitations. The Government substantially reduced funding for political parties in the 1999 budget, from \$1.8 million (SRS 9.5 million) per year to \$95,000 (SRS 500,000). Under the allocation system, the SPPF will receive \$4,940 per month, the Seychelles National Party \$1,900, and the Democratic Party \$950.

In the March parliamentary elections, the Seychelles National Party (SNP)--then known as the United Opposition--won one directly elected seat and two proportionally-elected seats, thereby becoming the leading opposition party. Former Prime Minister James Mancham's Democratic Party won only one proportional seat, and Mancham lost the role of leader of the opposition to the SNP's Wavel Ramkalawan. While critics often had alleged that Mancham's ties to the SPPF were too close and prevented him from openly criticizing the Government, Ramkalawan has played the role of chief government critic as leader of the opposition.

There are no legal restrictions on the participation of women or minority groups in politics. Women hold 3 of the 12 ministerial positions and 8 of the 34 seats in the National Assembly, 6 by direct election and 2 by proportional election. All are members of the SPPF.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Two private human rights related organizations, the first of their kind in the country, were launched in December. The anonymous Friends for a Democratic Society pledges to focus on raising awareness of individual rights in a democracy. The Center for Rights and Development aims to raise awareness and investigate allegations of human rights abuse. Historically, both the churches and some nongovernmental organizations have been strong voices for human rights and democratization, and the Government has not interfered with their activities. There were no known requests by international human rights groups to visit the country.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution affirms the right to be free from all types of discrimination, but it does not specifically prohibit discrimination based on these factors. Nevertheless, in practice there is no overt discrimination in housing, employment, education, or other social services based on race, sex, ethnicity, nationality, or religious identification.

Women

Violence against women, particularly wife beating, remains a problem. Police seldom intervene in domestic disputes, unless the dispute involves a weapon or major assault. The few cases that reach a prosecutor are often dismissed, or, if a case reaches court, the perpetrator is usually given only a light sentence. There is growing societal concern about domestic violence and increased recognition of the need to address it. While probation services recorded fewer domestic violence cases against women (184 for January through October compared with 328 in 1997), it commonly is believed that the problem is much more widespread and usually is related to alcohol abuse.

This society is largely matriarchal with 74 percent of births out-of-wedlock; the average age of women giving birth is 18 years old. The age of consent was lowered from 16 to 14 in 1993. Girls are not allowed to attend school when they are pregnant, and many do not return to school after the birth of a child. There is no officially sanctioned discrimination in employment, and women are well represented in business. Inheritance laws do not discriminate against women.

Children

Children have legal protection from labor and physical abuse and are required to attend school. Free public education is available through the secondary level. Beginning in January 1999, parents will contribute up to two-thirds of the cost of post-secondary education and training based on their income for both in country and overseas schools. Children are encouraged to attend school to the tenth grade. In 1995 the Government created an institutional framework for aiding children, and in June the National Assembly established an 18-member family tribunal to hear and determine all matters relating to the care, custody, access, and maintenance of children; only paternity cases remain under the courts. The tribunal became operational in November after the Minister of Employment and Social Affairs appointed the members.

Sexual abuse of young girls, usually in low-income families, is a serious problem. While complete statistics are not available, Ministry of Health data and press reports indicate that there are a significant number of rapes committed against girls under the age of 15. Very few child abuse cases actually are prosecuted in court. The strongest public advocate for young victims is not the Government but a semiautonomous agency, the National Council for Children. There is criticism that the police fail to investigate vigorously charges of child abuse.

People with Disabilities

The Government does not discriminate against people with disabilities in housing, jobs, or education. However, there is no legislation providing for access to public buildings, transportation, or government services.

National/Racial/Ethnic Minorities

The education gap between Creoles and Seychellois of white or Asian origin is narrowing. The Government is attempting to reduce this gap through universal access to public education.

Section 6 Worker Rights

a. The Right of Association

Under the 1993 Industrial Relations Act (IRA), workers have the right to form and join unions of their choosing. Police, military, prison, and fire-fighting personnel may not unionize. Under the act, the former government-controlled union, the National Workers Union, lost its monopoly position.

There are two unions: One dominated by the SPPF, the Seychelles Federation of Workers Union (SFWU), and one independent, the Seychelles Workers Union (SWU). Another independent union, the Public Service Union, was disbanded in 1997 after repeated discrimination against the union's office holders, according to one independent unionist. An attempt to organize an independent union incorporating employees from both governmental ministries and government-owned entities was thwarted by government legal action.

Unions can affiliate freely with international bodies.

b. The Right to Organize and Bargain Collectively

The IRA provides workers with the right to engage in collective bargaining. However, in practice free collective bargaining does not normally take place. The Government has the right to review and approve all collective bargaining agreements in the public and private sectors. There is little flexibility in the setting of wages. In the public sector, which employs about 48 percent of the labor force, the Government sets mandatory wage scales for employees. Wages in the private sector are generally set by the employer in individual agreements with the employee, but in the few larger businesses, wage scales are subject to the Government's right of review and approval. Private employers historically have paid higher wages than the Government in order to attract qualified workers. However, economic problems during the year led to downward pressures on wages.

The Employment Acts of 1987 and 1995 constitute the basic labor law. They authorize the Ministry of Employment and Social Affairs to establish and enforce employment terms, conditions, and benefits. Workers have frequently obtained recourse against their employers through the ministry.

While the law prohibits antiunion discrimination by employers against union members, there was widespread discrimination against the members of the independent public sector union, the Public Service Union, before it was disbanded in 1997.

There are no export processing zones, but the Government is attempting to create one.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and it is not known to exist. There are no reports of children being subjected to forced or bonded labor.

d. Status of Child Labor Practices and Minimum Age for Employment

The Government does not prohibit forced and bonded labor by children, but such practices are not known to occur. Article 31 of the Constitution states that the minimum age for employment is 15, "subject to exceptions for children who are employed part time in light work prescribed by law without harm to their health, morals, or education." It is a criminal offense punishable by a fine of \$950 (SRS 6,000) to employ a child under the age of 15.

Children are encouraged to attend school until the 10th grade. The National Youth Service (NYS) is to be disbanded in January 1999 and replaced with a noncompulsory fifth year of secondary school. After completing secondary school, students can go on to the Polytechnic School for Vocational Training, abroad for university studies, or to apprenticeship or short-term work program. Children in the latter program receive a training stipend, which is below the minimum wage. The Government enforces child labor laws through inspections by the Ministry of Employment and Social Affairs.

e. Acceptable Conditions of Work

Seychelles has a complicated minimum wage scale, which is administratively regulated by the Government; it covers the public and state-owned sectors and differentiates among various job classifications. The Ministry of Employment and Social Affairs enforces minimum wage regulations. The official minimum wage is \$380 (SRS 1,900) per month. Trade unions contend that government entities pay some workers less than the legal minimum wage. Even with the free public services that are available, primarily health care and education, independent labor unions dispute that a single salary at the low end of the pay scale provides a worker and family with a minimum standard of living.

In recent years, there has been a growing trend in government policy to admit foreign workers, primarily from China, India, the Philippines, and Madagascar, to work in the construction and commercial fishing sectors because few citizens chose to work in these sectors. Although it is difficult to determine the living and working conditions of these workers, there is strong evidence that the labor laws are flouted routinely with the Government's knowledge and acquiescence. These workers are paid lower wages and forced to work longer hours than citizens.

The legal maximum workweek varies from 45 to 52 hours, depending on the economic sector, while government employees work shorter hours. Each full-time worker is entitled to a half-hour break per day and a minimum of 21 days of paid annual leave. Workers are permitted to work overtime up to 60 additional hours per month. The Government generally enforces these ceilings. Foreign workers do not enjoy the same legal protections.

The Government issued comprehensive revised occupational health and safety regulations in October

1991. The Ministry of Employment and Social Affairs has formal responsibility for enforcing these regulations; however, the Ministry of Health seeks a role in this area. An International Labor Organization (ILO) team, which visited in early 1995, found serious deficiencies in the management and effectiveness of government monitoring and enforcement efforts. Occupational injuries are most common in the construction, marine, and port industries. A worker who removes himself from a potentially dangerous situation on the job is considered to have resigned. Safety and health inspectors rarely visit job sites. In 1997 there were 5 deaths and 169 on-the-job injuries officially reported. The ministry had not released later statistics by year's end.

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