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1999 Country Reports on Human Rights Practices

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SEYCHELLES

President France Albert Rene and the Seychelles People's Progressive Front (SPPF) have governed since a 1977 military coup. In the 1990's, the SPPF guided the country's return to a multiparty political system, which culminated in 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 1998 elections. In 1998 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 is subject to executive 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. Security forces on occasion were responsible for some human rights abuses.

The economy provides the country's 80,410 residents with an average per capita income of more than \$6,800 per year and generally adequate social services. The Government in recent years has diversified the economy by increasing the revenues received from fishing rights and investing in the fish processing sector with foreign joint partners in order to move the economy away from its heavy reliance on tourism. Manufacturing now has surpassed tourism as the most important economic activity. However, no significant investments were made during the year. Overall growth 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 country's application to join the World Trade Organization has forced it to consider reforming its trade and foreign exchange regimes; however, it has made few substantive changes to date.

The human rights situation improved somewhat; however, problems remained in several

areas. President Rene, whose party dominates the legislature, continued to wield power virtually unchecked. Security forces arbitrarily arrested and detained citizens; however, such actions were limited to detention during the weekend in order to avoid compliance with the Constitution's 24-hour "charge or release" provision. The Government failed to investigate or punish those involved in the violations of citizens' human rights during a law enforcement crackdown in 1998. The judiciary is inefficient, lacks resources, and is subject to executive influence. Violence against women and child abuse remained problems. Discrimination against foreign workers also 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

There were no reports of political or other extrajudicial killings.

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, and there were no reported instances of the use of torture by the police or the army. However, the Government has failed to investigate or punish those members of the security forces who allegedly tortured suspects in custody in 1998. Several cases have been brought against the Government and the army by individuals who claimed to have been detained illegally and tortured. The Supreme Court has postponed hearing these cases until 2000. In November a citizen fled to another country and sought refugee status, claiming that members of the security forces harassed him because they believed that he maintained documentation of human rights abuses by the security forces.

One high-ranking officer and a constable were found guilty of assault after an incident on March 4, 1998, at the interisland quay in Victoria. Both are serving their sentences at the Long Island prison. As a result, the Special Supporting Unit of the police is now on duty at Long Island prison to maintain order with two convicted police officers among the prison population. 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. While there have been fewer cases of arbitrary arrest or detention during the year, the police continued in some instances to detain

individuals on a Friday or Saturday in order to allow for a longer period of detention without charge, thereby avoiding compliance with the Constitution's 24-hour "charge or release" provision. The police released such persons on a Monday before the court could rule on a writ of habeas corpus.

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 1998 to appear in court to answer charges of contempt of the Supreme Court concerning the continued illegal detention of a man who had been ordered released by the court. This case and several others, involving claims for damages related to illegal detention and torture, are expected to be heard by the court in 2000.

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 to the country were able to reacquire their property; however, several claims remain in the court system.

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 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. 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 citizens, with the exception of the Chief Justice, who is a naturalized citizen. The Seychelles Bar Association has criticized the Government for not advertising domestically that judicial positions are available, since 30 citizens practice law either domestically or abroad. 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. While in 1998 soldiers reportedly forcibly entered homes, and seized and detained citizens, no such incidents were reported during the year. 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 of the press thus are 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 eight times in the last 4 years. The most recent suit, filed in March by the Minister of Land Use and Habitat for \$190,000 (SRS 1 million) in damages, is scheduled to be heard in February 2000. Sixty percent of the requested damages are for trespassing by *Regar* photographers and 40 percent are for moral harm. The Minister obtained a court order forbidding *Regar* to publish photographs of his house, which was under construction at the time.

In February the National Assembly again rejected a motion presented 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 due to the fact that 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 largely are 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 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. However, 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." While the resident departure tax of \$95 (SRS 500) is payable in local currency, government foreign exchange regulations and the foreign exchange shortage hinder many citizens from being able to afford foreign travel, although they might have sufficient means in local currency. According to a new law in effect since May, citizens cannot possess any foreign exchange unless in possession of a receipt from a licensed foreign exchange vendor. Additionally, banks are providing only \$95 (SRS 500) to a maximum \$400 (SRS 2100) to those departing the country because of the extreme foreign exchange shortage.

There were no known requests for asylum, and there are no refugees in the 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 1993 and 1998 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.

A joint Commonwealth and Francophone observer group for the 1998 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 budget, from \$1.8 million (SRS 9.5 million) per year to \$95,000 (SRS 500,000). Under the allocation system, the SPPF would receive \$4,940 (SRS 25,690) per month, the Seychelles National Party (SNP) \$1,900 (SRS 9,880), and the

Democratic Party \$950 (SRS 4,940). It is expected that funding is to be reduced further in the 2000 budget.

In the March 1998 parliamentary elections, the 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 effectively the role of chief government critic as leader of the opposition.

There are no legal restrictions on the participation of women in politics; however, women are underrepresented in government and 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. There are no legal restrictions on the participation of minority groups in politics. All members of the Cabinet 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 1998. The Friends for a Democratic Society pledged to focus on raising awareness of individual rights in a democracy, but has thus far proved to be an inactive organization. The Center for Rights and Development (CEFRAD) has published a 5-year action plan that stresses respect for human rights, participation in a civil society, and sensible approaches to development. CEFRAD also established ties with other national and international nongovernmental organizations (NGO's). Historically, both the churches and some NGO's 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 prohibit discrimination based on these factors specifically. 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 often are 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. Probation services again recorded fewer domestic violence cases against women. However, a survey of six church parishes conducted by the Association for the Promotion of Solid Humane Families, an NGO, revealed that 25 percent of those surveyed stated that they have been victims of domestic violence, confirming the general belief that the problem is more widespread than official statistics indicate. Participants in the NGO survey stated that

alcohol was one of the main causes of domestic violence.

The society is largely matriarchal, with 75 percent of births out-of-wedlock in 1998. There were no reports of societal discrimination against unwed mothers, and fathers are required by law to support their children. The age of consent was lowered from 16 to 14 in 1993, and 13 percent of all births in 1998 occurred to women under 20 years of age. 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. Since January parents contributed 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. According to government figures, all children between the ages of 6 and 16 attend school, and the enrollment of boys and girls is roughly equal. In 1995 the Government created an institutional framework for aiding children, and, in June 1998, 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 1998 after the Minister of Employment and Social Affairs appointed the members. Between November 1998 and June, more than 2,000 cases were presented to the tribunal.

Sexual abuse of young girls, usually in low-income families, is a serious problem. Although only 50 cases of sexual abuse were reported as of July 31, 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 persons 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 citizens 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. Between 15 and 20 percent of the workforce is unionized.

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. However, the independent SWU was not invited by the Government to join the tripartite delegation to the annual meeting in June of the International Labor Organization (ILO).

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 normally does not 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 setting wages. In the public sector, which employs 57 percent of the labor force, the Government sets mandatory wage scales for employees. Wages in the private sector generally are 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 1987 and 1995 Employment Acts constitute the basic labor law. They authorize the Ministry of Employment and Social Affairs to establish and enforce employment terms, conditions, and benefits. Workers frequently have 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 18 companies that participate in an export processing zone known as the Seychelles International Zone (SITZ). The SITZ is bound only by the Seychelles Trade Zone Act and is not obliged to adhere to property, tax, business, immigration, and labor laws, including the Employment Act. One of the companies based in the SITZ, Indian Ocean Tuna (IOT), discharged workers who had come in from Madagascar. IOT claimed that the workers were engaging in prostitution, and they were sent back to Madagascar. The workers alleged that they were being mistreated and were not receiving their salaries.

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

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 \$1,130 (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 was disbanded in January 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 programs. 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.

The Government does not prohibit forced and bonded labor by children, but such practices are not known to occur.

e. Acceptable Conditions of Work

The complicated minimum wage scale 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 \$360 (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 regulations. Foreign workers do not enjoy the same legal protections.

The Government issued comprehensive occupational health and safety regulations in 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

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.

Trafficking in Persons

The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country.

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