

**Report and Recommendations**  
on Electoral Reform in Seychelles

2013



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## **Acknowledgement**

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This report and the recommendations of the Electoral Commission have benefited greatly from the contributions of many people and organisations.

The Commission would like to thank in particular all the members of the Forum for Electoral Reform for sharing their views and making substantial contributions to the recommendations for electoral reform - namely representatives of New Democratic Party, Parti Lepep, Popular Democratic Movement, Seychelles Freedom Party and Seychelles National Party; and Citizens Democracy Watch, Seychelles representing civil society.

Thanks are also due to all citizens who participated in the consultative meetings organised by the Electoral Commission at the start of 2012; their inputs provided a comprehensive overview of voters' insights.

The Commission would also like to thank the Seychelles Media Commission for its submissions and contributions to the debates, the Attorney General's Office and the Commonwealth Secretariat for their invaluable assistance.

## Abbreviations

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EC	Electoral Commission
PL	Parti Lepep
PDM	Popular Democratic Movement
SNP	Seychelles National Party
NDP	New Democratic Party
SFP	Seychelles Freedom Party
CDWS	Citizens Democracy Watch, Seychelles
CEO	Chief Electoral Officer
SMC	Seychelles Media Commission

## Executive Summary

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The Electoral Commission, mandated under Article 116 of the Constitution (6th Amendment) to undertake electoral reforms in Seychelles, commenced the Electoral Reform process in October 2011.

The objective of the reform process is to reflect the wishes of the Government and electorate to enshrine acceptable modern democratic principles in the electoral laws of Seychelles.

Throughout the process, the Commission obtained the dedicated participation of representatives of all registered political parties to form a Forum for Electoral Reform, to discuss electoral issues and obtain views on matters which needed reforms. Supporting this process has been the wide public consultation through regional meetings, and open avenues of communication to obtain the views and wishes of the electorate on the required reforms. The Public Order Act was singled out as a stand-alone piece of legislation which needed priority attention, and it was addressed first and the Commission's recommendations were submitted to the President on 7th September 2012.

Thereafter work continued with stakeholders to address other legal instruments that have an impact on elections, namely the Elections Act (1995) and the Political Parties Act (1991) which were both promulgated in the early years of Seychelles' migration to a multiparty democracy, to bring them up to date with modern democratic multiparty principles.

This report sets out the entire process of consultation and discussions leading to the recommendations for the amendments of these two Acts.

The proposals relating to the Elections Act are primarily aimed at refining and streamlining the electoral processes and do not propose many significant departures from current practice. Credible elections are founded on a credible voters register and as part of the reforms it is proposed to undertake a voter census at periodic intervals as well as to permit continuous registration of voters, to ensure that the voters register is accurate and brought up to date and reflects as closely as possible the list of citizens who are eligible to vote. A notable departure being proposed from current practice is the need for citizens who turn 18 to present themselves for registration in accordance with Article 24 of the Constitution, rather than have automatic inclusion of their names on the voters register. Whilst this may seem a step backwards in efficiency, it is deemed vital to ensure a credible voters list.

Changes are also proposed in the nomination procedures of candidates, to facilitate the democratic process and to enhance citizens' participation in elections.

The subject of campaign financing which is covered under the current Elections Act, has been treated separately and it is being proposed to be covered under its own Act. This is a common democratic practice and the proposals being made, provide for setting limits for campaign financing, disclosure of sources of funding and disclosure of donations, monetary or in kind. Penalties are also being proposed for non-compliance.

In addressing the Political Parties Act, the proposals are aimed at making it easier and hence encouraging citizens to take part in the political life of the country and ultimately in elections. This would be facilitated by streamlining the registration procedures and requirements for registration.

A review of political party financing is also being proposed, to allow fledgling political movements to receive some financial support to further their aims and to grow, and to allow more public participation in politics. At the same time all donations made to political parties and for campaigning are to be disclosed and such disclosures will be made public, in the interest of transparency and good governance in a democratic society.

In making these recommendations, the EC has been inspired by the Constitution of the Republic of Seychelles, the UN Human Rights Charter, the International Covenant on Civil & Political Rights and numerous other international instruments as well as current international good practices in democratic societies. Above all, the Commission believes that in these recommendations, it is expressing the aspirations of the Seychellois Nation to become a modern democracy.

# 1 Background

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On its appointment in July 2011 the Electoral Commission (hereinafter referred to as “the Commission” or the EC) was mandated to “review existing legislation governing electoral matters and make recommendations to Government”. Thus a commitment to electoral reforms was made by the government and the process was started in October 2011, with the setting up of the Electoral Reform Forum and the development of a Roadmap for Electoral Reform. The review was undertaken with a view to promoting good governance and enhancing the democratic basis of the institutions, practices and culture that govern and shape the country’s electoral process.

## 1.1 Electoral Reform Forum

In consultation with all registered political parties and other key stakeholders, the Commission established an Electoral Reform Forum comprising representatives of all registered political parties and civil society organizations (Refer to Annex 1 for the list of members). Its main purpose was to enable consensus on the most appropriate changes necessary to enhance the principles and practice of democracy in the country’s electoral system. A “Roadmap for Electoral Reform, 2012” was agreed upon in December 2011, with the following mission:

***The Forum for Electoral Reform is committed to the strengthening and consolidation of democracy in Seychelles. It aims to deepen and strengthen our democratic culture and practice through consultation and a participatory approach, within a climate of greater trust and mutual respect.***

The Electoral Reform Forum had the following objectives:

1. Obtain the input of all stakeholders on the required electoral reforms that should enhance the electoral and political environment.
2. Facilitate dialogue and obtain consensus on the best means of consolidating democratic practices and processes and consequently strengthening the electoral system.
3. Propose a way forward based on consultation, dialogue and mutual respect, and taking into account demonstrated best practices internationally.

## 1.2 Public Consultation

In addition to the contributions of the Forum, the Commission organized seven regional public consultation meetings on Mahe, Praslin and La Digue during the month of February 2012, to obtain the views of voters on the current reforms. Participants commented on all aspects of the electoral process and made many proposals for change.

A summary report of the outcomes of this consultative process was produced by the Commission in March 2012 and circulated among Forum members. A copy is also available on the Commission’s website.

### ***1.3 Support and Assistance***

The Commission and the Forum were assisted in their work by a Commonwealth expert, Mr Earl Simpson. The request was initiated by the Seychelles Electoral Commission in October 2011 and Mr Simpson worked with the Commission from June to November 2012.

For most of the consultation period the Attorney General's Office provided legal assistance to the Forum working team.

## 2 Reform Procedures

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### 2.1 Overview

At the initial meetings of the Forum it was agreed that the following legislation would be reviewed:

**a) the Public Order Act (as it relates to public gatherings and the right to assemble peacefully)**

**b) the Elections Act (1991, and last revised 1996)**

**c) the Registration of Political Parties Act (1991, and last revised 1996).**

It was further agreed in a meeting of party leaders and their representatives on 30th January 2012, that the Public Order Act would be the first piece of legislation to be discussed and reviewed, and recommendations would be made to Government, as a test case for affirming the commitment of all stakeholders to this reform process.

The EC's recommendations on the Public Order Act were handed over to the President of the Republic as Head of Government, on 7th September 2012.

The present set of recommendations constitutes the remaining parts of the totality of the Electoral Reform 2012 recommendations. They should be considered as one package, including the recommendations for the Public Order Act.

The Forum completed its deliberations on all the legislation mentioned above in June 2013. As a general rule as agreed by the Forum, decisions taken during Forum meetings were by consensus; where this was not possible other modalities were used, including research into good practices internationally and considerations of expert advice.

In making the recommendations that follow the EC took into consideration:

- the Seychellois Charter of Human Rights and Freedoms – in particular civil and political rights, which include the right to participate in government (articles 24, 113 and 114), the right to freedom of peaceful assembly and association (article 23), the right to freedom of expression (articles 22 and 168), the right of access to information (article 28) and freedom of movement (article 25);
- Seychelles international and regional obligations incurred through treaties and conventions ratified by the Government of Seychelles,
- international good practices compatible with the objectives of this electoral reform,
- the recommendations of the Constitutional Review Committee (2009),
- the views of international election observers over the past decade, and
- the views of members of the public who participated in the public consultative fora organized at the start of this reform process (as mentioned above).

## ***2.2 International Obligations – through Conventions and Treaties ratified by Seychelles***

The **Universal Declaration of Human Rights** (1948, adopted by Seychelles in 1976) provides for all the civil and political rights mentioned above, as follows:

### Article 21

(1) the right of everyone to take part in the government of her/his country, directly or through freely chosen representatives.

(2) the right of everyone to have equal access to public service in her/his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

### Article 20

The right to freedom of peaceful assembly and association.

### Article 19

The right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

### Article 13

The right to freedom of movement and residence within the borders of each state, and the right to leave any country, including her/his own and to return to her/his country.

The **International Covenant on Civil and Political Rights** (1966, ratified by Seychelles in 1992) provides for the following:

### Article 25

(a) The right to take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in her/his country.

### Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

### Article 19

The right to seek, receive and impart information and ideas of all kinds, regardless of frontiers.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose her/his residence.
2. Everyone shall be free to leave any country, including her/his own.

The **Convention on the Elimination of all forms of Discrimination against Women** (1979, acceded to by Seychelles in 1992) - Article 7 provides for the right of women to participate in the political and public life of the country; in particular, it ensures to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

The **Convention on the Rights of Persons with Disabilities** (2007, and ratified by Seychelles in 2009) also provides for the civil and political rights of such persons, as follows:

Article 29

The rights of persons with disabilities to participate in political and public life, and to enjoy these rights on an equal basis with others.

Articles 9 and 21

Ensures access to information and the provision of facilities to enable access to information, including electronic information services.

Article 21

The right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice.

Article 18

The rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others.

### ***2.3 Regional Obligations – through Conventions and Treaties ratified by Seychelles***

The **African Charter on Human and People’s Rights** (1981, and ratified by Seychelles in April 1992).

Article 13

(1) Every citizen shall have the right to participate freely in the government of her/his country, either directly or through freely chosen representatives in accordance with the provisions of the law.

(2) Every citizen shall have the right of equal access to the public service of her/his country.

(3) Every individual shall have the right of access to public property and services in strict equality of all persons before the law.

Articles 10

(1) Every individual shall have the right to free association provided that he abides by the law.

(2) Subject to the obligation of solidarity provided for in 29 no one may be compelled to join an association.

Article 11

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

Article 9

Protects the right of every individual to receive information and to express and disseminate his opinions within the law.

Article 12

(1) Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.

(2) Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions, provided for by law for the protection of national security, law and order, public health or morality.

(3) Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions.

## **2.4 International Good Practices**

In addition to the Conventions and Treaties ratified by Seychelles Government, the EC also consulted the European Convention on Human Rights (1950).

The Commission took into account the views of local and international election observers, in particular the latter's recommendation that the Elections Act be reviewed broadly to ensure that it contains fair, complete and satisfactory electoral rules and procedures, as well as to ensure there is accuracy and internal consistency within the law.

The Commission also considered international norms and the recommended good practices of a number of organizations including SADC, The Venice Commission, the Office for Democratic Institutions and Human Rights (ODIHR); the International Institute for Democracy and Electoral Assistance. It has also consulted relevant legal frameworks of a number of countries, including small island states. Documents consulted are listed in the bibliography attached to this report.

## 3 Recommendations of the Electoral Commission

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### 3.1 Presentation of EC Recommendations

The recommendations that follow are made with reference to:

- **Elections Act (1995, last revised 2011)**
- **Proposal to repeal Section 94 in Part V of the Elections Act, and replacing it with a new Act on Campaign Financing, and**
- **Political Parties (Registration and Regulation) Act (1991, last revised 1996).**

For each of these three components the views of Forum members, citizens of Seychelles and international observers are given in summary, followed by the recommendations of the Electoral Commission. In presenting its recommendations the EC has also endeavoured to explain the basis on which its decisions were made.

The EC further recognizes that to implement the electoral reforms being proposed, significant administrative reforms have to be implemented alongside the recommended legislative reforms.

### ***Part A: Elections Act (1995, last revised 2011)***

The Elections Act (1995) derives from Article 114 (1) of the Constitution and its purpose is to enable the Electoral Commission to 'ensure true, fair and effective elections and referenda' (Constitution article 116(2)). It also contributes to provisions for the following rights as stated in Article 24:

#### **Article 24 of the Constitution**

- (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.*

**Members of the Electoral Reform Forum made the following proposals:**

SFP proposed that Article 24 (1) (b) should read:

To vote by secret ballot at public elections which shall be by universal and equal suffrage.

Article 24 (2)

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

SNP/NDP noted that Article 24 should provide for a right to vote; this should be specifically stated.

**EC Recommendation on Article 24 of the Constitution**

The EC recommends that there is no need to amend article 24 of the Constitution as article 24 (1) (b) already provides for the right ‘...to vote by secret ballot at public elections which shall be by universal and equal suffrage’

**Elections Act, Part II – Registration of Voters**

Most members of the Electoral Reform Forum presented their views in writing on various aspects of the Elections Act. In addition they made the following proposals:

Section 5 - Qualification for registration

SNP/NDP proposed the following amendments to Section 5 of the Elections Act, which they noted refers to article 114 of the Constitution which should be amended as follows:

Article 114

A person who is registered as a voter in an electoral area shall be entitled to vote, in accordance with law, in the electoral area –

- (a) at an election for the office of President;
- (b) at an election of the members of the National Assembly; or
- (c) in a referendum held under this Constitution;
- (d) at any election provided by law,

Unless disqualified to vote under an Act necessary in a democratic society, on the ground of –

- (a) Infirmary of mind
- (b) Criminality

Non-resident citizen of Seychelles should also be able to vote. Attach a criteria that the person residing outside of Seychelles must have a connection or interest in the district where s/he is to vote eg last place of residence, where s/he has a house, where her/his closest relative lives.

There should be voting by proxy.

SFP - There should be equal treatment for non-resident citizens to enable them to vote. Remove the 3 months requirement for a Seychellois citizen to be in Seychelles in order to register. Persons who have become citizens through obtaining economic passports should not be entitled to vote.

PL - Seychellois living abroad do have the opportunity to vote, provided they meet the requirements.

PDM - Every Seychellois whether in Seychelles or not, should be able to vote.

CDWS - Agrees with proposal that every Seychellois whether abroad or not should be able to vote.

Citizens of Seychelles had divergent views:

- Use the last census to identify the residency of voters
- Issue new IDs and then redo the whole list correctly
- Include people's photos on the register, and provide an electronic version

Some persons were in favour of the Seychellois diaspora being enabled to exercise their right to vote while overseas whereas others thought this would not be fair on resident Seychellois.

From the written proposals and the views expressed during Forum meetings the EC noted the following points of contention between the parties:-

- a) Only persons who are 18 years old should be on the register
- b) The three months' provision for registration qualification should be removed
- c) Seychellois citizens living overseas to vote in elections in Seychelles
- d) Use of postal ballots
- e) Person who have obtained economic passport should not be allowed to vote.

## EC Recommendations on Elections Act, Part II – Registration of Voters

(a) Considering that the Constitution clearly states that only persons of 18 years and older are entitled to be registered as voters and have the right to vote, the EC recommends that the revised Elections Act make clear that **only** citizens of 18 years and older should be on the voters register.

(b) The EC further recommends that the three months' qualifying provision should remain for the following reasons:-

(i) If a citizen living overseas returns to take up residence in Seychelles and wants to register as a voter and does not have a national identification card, that citizen would have to be residing in Seychelles for 3 months before a national identification card is issued.

(ii) The 3 months also prevents persons from requesting transfers from one electoral area to another close to an election, so as to influence the outcomes.

(iii) The 3 months period is an established norm in other democracies similar to ours to determine permanency of a person at a residence.

(iv) The 3 months also facilitates transfers of a person from one electoral area to another and it serves as a confirmation of where a person resides and is to vote.

(c) and (d): On the issue of Seychellois citizens living abroad exercising their right to vote, the Electoral Commission recognizes its role in facilitating the electoral process to ensure free, fair and effective elections and referenda. In this respect its role is to ensure that all Seychellois citizens have the opportunity to:

(i) Register as voters;

(ii) To be transferred from one electoral area to another;

(iii) To have their demographic data amended as necessary;

(iv) To organise for every registered voter to vote during an election.

The EC is also aware of the use of postal ballots as a means of enabling citizens living overseas to vote.

Whilst acknowledging all of the above, the EC also notes the widespread nature of the Seychellois diaspora and the likely high costs involved in organizing voting for overseas citizens. Taking into consideration the complexities involved in planning, organizing and implementing overseas voting, along with the extensive electoral reform agenda being undertaken currently, the EC is of the view that more time will be needed to study and conceptualize such an activity. It therefore recommends that overseas voting for

Seychellois citizens, including the possibility of using postal ballots, will be considered as part of the EC's continuous legal reform process.

(e) As persons who have obtained economic passport are fully fledged citizens of Seychelles, they enjoy the same rights as all other Seychellois citizens. Their right cannot be limited in any way. If they register to vote and they are present during an election, they will be entitled to vote.

The EC further recommends that the data-base of information on citizens from immigration, identification card section, civil status and the office of the EC should be linked together. This will facilitate updating of the register.

## **Section 6 – Qualification to vote**

SNP/NDP stated that detainees should be allowed to vote as per the Constitutional Court judgment of Philippe Boullé vs The Government of Seychelles and The Attorney General, (Constitutional Case No. 2 of 2011) and proposed the following amendments to this Section:

Delete paragraph (b) and substitute -

“(b) Unless, the person is serving a sentence of imprisonment in excess of 6 months.”

SFP was of the view that Section 6 bars citizen if not registered in an electoral area; this section needs to be reconciled with the right to universal and equal suffrage as discussed in relation to Section 5.

PL stated that it did not matter whether the names of prisoners remain or are removed from the register.

PDM and CDW had no comments.

### **EC Recommendations on Section 6 – Qualification to vote**

1. The EC recommends that for persons on remand, the Constitutional court case judgment of Philippe Boullé vs The Government of Seychelles and The Attorney General, (Constitutional Case No. 2 of 2011) is clear that section 6 (b) should be amended by deleting “detained under a written law”. There should be provision in the revised Elections Act for the EC to facilitate voting for persons on remand. This should be stipulated clearly in the revised Act.

2. The EC recommends that the names of prisoners should not be removed from the voters register.

## **Section 7 - Register of voters**

## **Section 8 - Inspection of registers**

## **Section 9 - Certificate of register**

## **Section 10 - Certificate of inspection**

SNP/NDP proposed that Section 7 should read as follows:

Subsection (1):

- (a) the register shall be in the custody and control of the EC;
- (b) the register shall be published for the public in both hard copy and electronic form;
- (c) the register in both formats shall be made available to all registered political parties.

Subsection (4): Presently the register is revised “not less than once a year”. It is being proposed that:

- (a) The voters register should remain open, and revisions allowed throughout the year, but the register should be closed at least 2 months prior to an election.

Subsection (5) (1) (a) - The register of voters shall contain a photograph and thumbprint of the person.

EC to provide electronic copy of the voters register.

SFP proposed the following changes:

Section 7:

- Thumb prints and eye print are acceptable.
- Register should remain open all year round, and closed only 30 days prior to an election.
- Register must always remain a voters register, and must not ever be used by any government agency for any other purpose.

PL agreed that photographs should appear on the voters roll.

They also proposed that:

- The voters register should include voters who have attained the age of 18 years before election day; in between elections the voters register needs to be updated.
- Voters register should remain open until 2 months before elections; allow persons to register even on last day. If snap elections are called a shorter period to allow persons to register, and the register to close 3 weeks before election.

- They have no issue if names of prisoners remain or are removed from the register.
- EC to provide a master register in each district.
- EC to decide if they are to provide soft copies of the voters register.

PDM made the following proposals:

- Voters registers per district should be made available in a secure electronic format to all political parties.
- The Commission must provide a master voters register in electronic format to all political parties.
- An exercise must be undertaken to clean up the voters register to ensure that every voter votes in his/her respective district.
- The voters register should include only voters eligible to vote on Election Day. This is possible only if necessary changes are made on the methods and principles that guide the preparations of the final voters list at the time of elections. The procedure for the change of address of a voter must be made clear and precise.
- A picture of each voter should be included as part of the Voters' Register.
- The office of the Electoral Commission must be empowered to prepare and issue each voter with a new Identity card for the sole purpose of voting in a national election. This card will hold the necessary security measures to guarantee that there are no fraudulent actions on Election Day.

Citizens of Seychelles made the following suggestions:

- Introduce legislation/ penalties for voters who vote in an electoral area but reside in another
- Display register in the districts for inspection.

CDWS made no comments.

## **EC Recommendations on Sections 7 - 10**

The EC recommends as follows for the upkeep of the voters register:

1. Year round registration from 1 January until 31 December (holidays, Saturdays and Sundays excluded)

This will give more opportunity for qualified persons to come and register as new applicants, to request transfers from one electoral area to another and to request changes to their demographic information on the voters register.

2. The new registration process should be as follows:-

- (i) The EC will establish registration centres.
- (ii) Applicants 18 years and older desirous for their names to be added to the next published voters register, voters requesting transfers from one electoral area to another and voters wishing to have their demographic information changed on the next published voters register must make their applications in **person** at a registration centre established by the EC.
- (iii) A verification of the applicant's residence will then be done. It is only once the residence of the applicant has been verified that he or she will be registered as a voter or a transfer request granted.
- (iv) Once the residence of the applicant has been verified and confirmed, the EC will issue the applicant with a letter confirming her/his registration or accepted transfer request. The person will be required to sign a copy of the letter as acknowledgement of receipt.
- (v) During the registration process any person who has any objection will make their objections to the EC. The person against whom the objection is made will then be notified and a date for the hearing will be set by the EC and both parties will be informed. If the person who is the subject of the objection fails to appear for the hearing, her/his name will not be added to the voters register or a transfer request granted and the EC will notify the applicant/voter of the decision. The person will have an opportunity to appeal.
- (vi) There will be a registration period for new applicants, voters requesting transfers and changes to demographic data to be added to the next published voters register.
- (vii) To facilitate the publication of the voters register on 31 March every year only persons applying between 1 April and 31 December will qualify for addition to the voters register.
- (viii) New applicants and voters requesting transfers between 1 January and 31 March will not be added to the register to be published on 31 March of that year but on the register to be published the following year.

(3) The period 1 January to 31 March will see:

- (i) The publication of a "Draft Voters Register" which will have the names of all the new applicants whose residences were verified, voters who requested transfers and have had their residences verified and voters who requested changes to their demographic information and have satisfied the verification process. Additionally the EC will utilize the information provided by the various Agencies (such as Civil Status, immigration, identity card section), civil status or as listed in p16 to delete voters who have died, etc from the "Draft Voters Register".

- (ii) "The Draft Voters Register" will be posted or displayed in locations designated by the EC across electoral areas for inspection of the register.
- (iii) Political Parties will be given hard and soft copies of the "Draft Voters Register" for their scrutiny and to inform applicants/voters to visit the EC regarding any errors, omissions or concerns they may find with the "Draft Voters Register".
- (iv) There will be hearings by a Registration Officer in each electoral area for Claims and Objections.
- (v) There will be a period for the Appeal by applicants/voters who were cancelled following Claims and Objections.
- (vi) An Official Voters Register will be published by the EC on 31 March every year.
- (vii) The registered Political Parties will be given electronic copies of the published Voters Register.
- (viii) All applicants, voters requesting transfers and changes to demographic information on the voters register after 31 December will not be included on the next published voters register but on the one after that.

(4) In an election year:-

- All new applicants whose residences have been verified
- Voters requesting transfers whose residences have been verified
- Voters requesting changes to their demographic information on the register and have satisfied the verification process

will be added to the published register by way of a **revision** to the register. This revision will coincide with the date of publication of the election dates in the official gazette. The same date of closure should also apply for snap elections.

As for the dissolution of the National Assembly by the President or required votes by members of the National Assembly, the date of the dissolution shall be the closing date of the register. In the case of a by-election the date of the letter from the Speaker of the National Assembly to the chairperson of the EC will be the cut-off date.

There will be no supplementary list of Voters.

- (5) The EC will be taking the necessary steps to enhance the electoral database to include the biometrics of registered voters.

### **Voters Census**

In order to address the concerns raised by stakeholders regarding the credibility and accuracy of the current voters register the EC will conduct a Voters Census.

The EC further recommends that the revised Elections Act should include a clause on a Voters Census to be done periodically as determined by the EC.

The Voters Census will be a door to door inquiry to confirm the status of voters on the Voters Register in each electoral area.

The Verifiers appointed by the EC to carry out the house to house enquiry will establish whether voters so named on the Voters Register for an electoral area:

- (i) are still residing at the residence (address) given at registration.
- (ii) have moved from residence to a new known residence.
- (iii) have moved from residence to an unknown residence.
- (iv) are not known at given residence.
- (v) are overseas with the various reasons documented.
- (vi) are dead.
- (vii) other.

If a voter registered in another electoral area is found at a residence, and after the appropriate questions are asked and answered, as to her/his current place of residence, then that voter once permanently residing at that place of residence shall be transferred using the appropriate forms for the purpose.

If the voter is found but has had change(s) to his/her demographic information, then that information is to be captured using the appropriate forms for the purpose.

If a Verifier of the EC goes to a residence and the voter is not present, the Verifier will leave a notice advising that s/he will come again. If the Verifier returns and the voter is still not present, the Verifier will leave a second notice that s/he will come again and for the person to be present. If the Verifier goes back and the voter is still not present, the voter will be sent a letter through registered mail at her/his place of residence, summoning that person to appear before the Registration Officer in her/his Electoral Area and convince the Registration Officer by providing the requisite proof of residence. If the registration is cancelled the applicant will be given the opportunity to appeal.

If voters are not found but their names are on the existing register, their names will be published in the public domain so that they may have the opportunity to apply to remain on the register.

### House Numbering

The EC recommends that in the future the current GIS technology should be enhanced to include a house numbering system, to assist in the residence verification process.

### Section 10 – Certificate of Inspection

Section 10 of the Elections Act should be deleted to provide for the EC to, instead of giving a certificate, write to a person to inform that her/his details have been updated in the register.

### Custody of the Voters Register

The voters register will be under the custody and control of the EC.

However, there will be a distinction between the voters register as follows:

1. Register to be given to registered political parties and the one made available in the districts and other areas to identify voters; and
2. Register to be used at an election.

The EC proposes that:

- (i) The Voters Register to be given to registered political parties and for posting in electoral districts and other areas would contain the name of the person, address, electoral area and page and line number. The other information contained in the voters register is confidential and private to the person and should not be made available to everyone.

A copy of the voters register without the biographic data is to be kept at the National Library.

- (ii) The voters register with details of photograph, identification number and other demographic information of voters will remain in the custody of the EC and be made available **only** on Election Day for voting purposes.

This voter's register will be made available to polling agents for use in the identification of voters and must be returned to the Electoral Officer at the close of polling.

The revised Elections Act should make it an offence and provide for a penalty, for not returning the voters register utilized in the polling station.

## **Elections Act, Part III – Presidential Election and National Assembly Election**

### **Section 11 – Presidential Election**

SNP/NDP proposed that there should be fixed dates for Presidential election

SFP proposed the following:

Presidential elections shall be every 5 years set. The power to call elections by the president needs to be abolished to ensure greater stability and predictability to the election process. This will foster greater balance and levelling of the playing field, and will foster greater stability.

The Constitution of Seychelles should be amended to reflect this intention for Sections 11, 12, 13.

This means the power to dissolve the National Assembly under Article 110 given to the President, must be amended. It gives too much power to the Executive Branch and violates the principle of Separation of Powers, the corner stone of the principle of equality of the Three (3) Branches of Government. If one branch can dissolve another, then there is no equality. In this case, in Seychelles, the National Assembly is subservient to the Executive Branch of government.

PDM was of the view that Seychelles is stable and therefore the possibility of approving fix dates for the elections will provide greater predictability in the calling of elections. PL did not agree with fixing a date for presidential elections.

CDWS had no comments.

### **Section 12 – National Assembly Election**

SFP proposed that general elections should be set every five (5) years, and by-elections should be held only in the event of death, incapacity of an elected MNA. Any other vacancies will remain vacant, until the term is completed.

### **Section 13 – Date of Election**

SFP noted that Section 13 is ok as long as dates of elections are set in advance.

Citizens of Seychelles made the following proposals:

Election dates should be fixed well in advance.

Presidential and Parliamentary Elections should happen at the same time, on the same day.

Polling should be done over one day only, it would be less costly.

Where a system of fixed election date is set, underage voters will then be eliminated from the voters register.

International Observers proposed that voting should take place on the same day with the exception of the special vote, to enhance the credibility of the process.

## **EC Recommendations on Presidential Election and National Assembly Election**

1. With reference to fixed dates for elections the EC is satisfied with the provision of the Constitution relating to the setting of election dates.

2. The EC recommends that in the event that the elected President dies or resigns and is replaced by the Vice President, presidential election is held within ninety (90) days of the President having died or resigned. The EC notes that this is in line with the recommendations of the Constitutional Review Committee (2009).

The EC further recommends that article 79(2) of the Constitution be amended to provide for by-elections to be held within forty five (45) days after the EC receives the letter from the Speaker of the National Assembly notifying of a vacancy in the Assembly.

### **The Announcement of Election**

The EC recommends that the Elections Act be amended for:-

1. Election Day and Nomination Day to be announced at the same time.
2. There shall be at least 7 clear days between the announcement of an election and nomination day.
3. There shall be at least 21 clear days between nomination day and the day for the election.

The place for the nomination of candidates should be as provided for in section 14(2) stating:

“The Electoral Commission may, in case of a National Assembly Election, appoint the same place or different places for nomination of candidates for the election.”

## **Section 14 – Nomination Day/Section 15 – Requirements for Nomination**

SFP put forward the following proposals:

### **Section 15(1) - Submission of Nomination Paper of Candidate**

This section does not have a test for acceptance of the Nomination paper. We do not want a case like Viral Dhanjee vs. Electoral Commissioner repeated in our process. The test of nomination papers must be “Reasonable Compliance” with the Election Commission’s procedures. It is not constitutional to require that it be “Absolute Perfected Compliance”, as this will violate the Right to Participate in Government Affairs” guaranteed under the Constitution of Seychelles. The Dhanjee case highlights this rationale. But it must be

implemented and codified to empower the Constitutional Court judgment, in order that a political Court of Appeal if ever benched, does not suppress the evolution of democracy in Seychelles out of convenience and the lowly practice of political expediency found in dictatorships.

In line with this logic, SFP proposes that in Section 15(3)(a) and ((b) the word “reasonable” should be inserted before the word “satisfaction” respectively.

Section 15 (9) ...a reasonableness standard again should be inserted, to accept or reject a nomination paper by the Chief Electoral Officer. Again, the tendency under ‘Best Democratic Practice’ is to encourage participation, not discourage it. This principle has solid grounding in the universal right of suffrage and right to participate in government. Our Constitution guarantees it, as does the Universal Declaration of Human Rights, which, Seychelles is not qualified as a state to question today.

Citizens of Seychelles proposed the following:

List of names submitted as endorsement of the nomination should be checked carefully to ensure they are not from gravestones.

Candidates who have repeatedly lost an election should not be allowed to stand again.

If an elected official resigns he should not be allowed to stand again.

Candidates standing for an electoral area should have lived in that electoral area for at least five years.

International Observers proposed that:

The Elections Act to be amended with regard to the nomination process.

Longer period should be allowed for the submission of nomination papers for them to be properly verified by Chief Electoral Officer on nomination day.

The forms and requirements for nomination should be prescribed in law.

## **Section 16 – Withdrawal of Candidate/ Section 17 – Notice of Names of Candidates and Polling Stations**

At present Section 16 of the Elections Act states:

A candidate for the Presidential Election or a National Assembly Election may withdraw the nomination at any time by notice in writing to the Electoral Commission and shall, where the candidates withdraws the nomination at least 7 days before the election day, be refunded the deposit or refunded the security for the deposit specified in the notice under section 14.

## Voting Days

Citizens of Seychelles proposed that polling should be done over one day only, as it would be less costly.

SNP/NDP also proposed that presidential and National Assembly elections should be conducted in one day.

### EC Recommendations on Sections 14 – 17

The Electoral Commission recognises that the current Elections Act does not clearly address procedures for the nomination of candidates and nomination day. Section 14 (3) provides for the “Nomination Day” and the Constitution also provides for a Nomination Day. It is in the same light that the Electoral Commission recommends that there should be a “Nomination Day”, and that the whole process of nomination of candidates and confirmation of candidates is to take place in one day.

The Electoral Commission further recommends the following:-

1. That the period for the nomination of candidates on nomination day be clearly stated in the Elections Act.
  - a. The period being proposed is from 9 am to 1 pm.
  - b. The Elections Act should also state that at the end of the period specified for nomination, no further nomination shall be accepted.
2. The Electoral Commission recognises its role to facilitate the democratic process and to allow all qualified citizens to participate in an election. The Electoral Commission consulted a number of electoral legislations from various Commonwealth jurisdictions (list of countries whose legislations were consulted is at Annex 2) and recommends that:
  - a. The number of voters endorsing a candidate’s nomination should be reduced to 50 for Presidential election and 10 for National Assembly election.
  - b. The number of voters to endorse a candidate’s nomination should be placed in the Elections Act.
3. The nomination deposit will remain as per the current level set by the EC, ie, SR15,000 for Presidential Election and SR1,500 for National Assembly Election.
  - a. The nomination deposit should be stated in the Elections Act, with a proviso that the EC will review periodically to factor in inflation.
4. The nomination forms should be included in the schedule of the Elections Act.
  - a. Prospective candidates will be provided with all necessary documents and information to facilitate the nomination process.

5. The photograph specifications should be included in the Elections Act.
6. The Electoral Officer shall not accept any nomination deposit until after all steps necessary to complete the nomination of the candidate have been taken.
7. Upon her/his acceptance of the deposit s/he shall give to the person a receipt, which shall be conclusive evidence that the candidate has been duly and regularly nominated.
8. The Elections Act should be amended to state that nomination deposit be provided in Legal Tender.
9. That a candidate who withdraws his or her application at least 7 clear days before election day will be refunded the nomination deposit. This will also apply to a candidate who gets 5% or more of the total votes cast at the election.
10. The period for candidates to examine and object to the acceptance of other candidates' nomination papers should be included in the Elections Act.
11. That period for candidates to examine and object to other candidates' nominations will begin at 1 pm after the close of the nomination process and end at 2 pm.
12. The grounds for a candidate to object to the nomination of another candidate should be provided for in the Elections Act. Those grounds will be limited to the following and not prevent a candidate from filing an election petition:-
  - (i) The nomination paper does not comply with, or was not delivered in accordance with the provisions of the Elections Act.
  - (ii) The description of the candidate on the nomination paper is insufficient to identify the candidate.
  - (iii) The candidate is not registered as a voter in the last published voters register.
  - (iv) The deposit prescribed by the Elections Act has not been paid.
  - (v) The number of voters endorsing the nomination is not in accordance with the provisions of the Elections Act.
  - (vi) The candidate already stands nominated for another Electoral Area.

The amended Elections Act should include procedures to be followed if the EC upholds an objection. If the EC upholds the objection the candidate will be refunded his/her deposit.

The Electoral Commission is to give notice to the candidate against whom the objection is being made. The EC will hold a hearing as expediently as possible to determine the matter in the least possible time.

The procedures on nomination day shall be as follows:-

- (i) Opening of the nomination centre at the time specified in Elections Act.
- (ii) Verification of candidates' application forms.
- (iii) Payment of deposit and issuing of receipt.
- (iv) Closure of the nomination process at the time specified in the Elections Act.
- (v) Examination of nomination papers by candidates and objections (if any).
- (vi) Confirmation of candidates and the issuing of certificates of nomination to qualified candidates.

The Elections Act should include provisions for nomination day being interrupted or obstructed by riot, open violence or other civil disturbance or *Force Majeure*. There should be clear provisions to allow the Electoral Commission to postpone or adjourn nomination day. Similar provisions already exist for postponement or adjournment of voting in section 19 of the Elections Act.

### **Voting Days**

The EC considered the request of stakeholders to review the number of days needed to conduct the voting process, including the request to conduct the election in one day. In coming to a conclusion the EC took the following factors into consideration:-

1. One of the EC's mandates is to ensure that the voting process is so organised that every voter is guaranteed the right to cast a ballot wherever they are located on the islands that comprise the Seychelles Archipelago. Most importantly their votes are included in the count in the electoral area in which they are registered.
2. The number of islands that are currently inhabited.
3. The geographic spread of the territory.
4. The adequacy and availability of reliable means of transportation.
5. The nature and complexity of the 'special voting' process.
6. The requirement to count all ballots cast for an electoral area on the night of the election.

Having considered the above factors the EC is of the view that the current arrangement of having elections conducted over three days should remain on the understanding that the EC will review the situation in relation to transportation requirements and other related factors.

The EC further proposes that the Elections Act be amended to state that there should be one clear day between the 'special voting' days and the main election day.

## **Procedures related to the Period between Nomination and Election Day**

*(This aspect should be included as a new section in the revised Elections Act)*

### **Voter Education**

International Observers recommended improving voter and civic education to include multi-media approach.

Citizens of Seychelles proposed the following:

Voter education on voting procedures is needed to reduce/avoid rejected votes.

EC should put out leaflets, flyers and other kinds of information during and outside of election period.

Emphasis should be on voters rights, voting procedures, assisted voting, laws relating to the electoral process and the principles of democracy.

Political parties have a significant role to play in voter education.

PDM was of the view that the EC was not tasked under the law with voter education, but it does have a voter education department. They proposed that the EC is tasked under the law with responsibility to undertake voter education.

CDWS proposed that:

Voter education should be established as a continuous and long term process rather than over the short cut-off period as currently practiced.

EC and other stakeholders should undertake comprehensive voters education to inform the public of their rights and responsibilities throughout the whole process.

### **Recruitment and Training of electoral officers**

PL proposed that names of Electoral Officers should be published beforehand for people to comment.

With reference to Training Manuals and Training, CDWS also suggested that clear standard operational procedures (SOP) manual should be developed and adequate training be conducted to allow all electoral officials to fully understand and apply the electoral procedures.

Electoral Officers and their teams need to undertake more process oriented training for better operational and procedure-based performance during polling day.

### **Election Supplies**

International observers proposed the introduction of translucent ballot boxes to enhance transparency.

SNP/NDP also proposed that Section 21 (3) should provide for ballot boxes that shall be transparent so as to readily reveal its contents.

### **Quality of ballot paper**

CDWS proposed that ballot paper thickness and size should be reviewed to ensure secrecy of the ballot.

## **EC Recommendations on Procedures related to the Period between Nomination and Election Day**

In its deliberations the EC took into consideration the recommendations and suggestions of all the stakeholders. To further strengthen and streamline the electoral process the EC makes the following recommendations:-

1. a. The Elections Act to be amended to include the appointment of a Deputy Electoral Officer.  
  
b. The list of Electoral Officers and Deputy Electoral Officers for the polling stations will be given to the registered political parties contesting the Electoral Area or Presidency, no later than seven days prior to the nomination day;  
  
c. The list of Assistants for the polling station to be given to the candidates contesting the Electoral Area or Presidency no later than seven days prior to Election Day.
2. The Elections Act to include that registered political parties and candidates have three days after receiving the list of Electoral Officers, Deputy Electoral Officers and their Assistants to lodge objection against persons on the list. The objection must be in writing and reasons for objection stated. The EC if necessary will convene a hearing or take appropriate action.
3. The EC will be placing more emphasis on voter education, in particular on the proper marking of the ballot paper and polling procedures generally. The EC is concerned with the high number of rejected ballots in past elections.
4. There is a need for more dialogue with the Police on their role and function in an election. The EC strongly recommends that the Police are included in its training programmes for election.
5. The EC will invest in the compilation of proper training manuals for election workers.
6. The positions for the Electoral Officer, Deputy Electoral Officer and their Assistants will be advertised.
7. Electoral Officers, Deputy Electoral Officers and their Assistants will be properly screened, trained and assessed before selection.

8. The Elections Act schedule will include the format of the ballot paper and other election forms.
9. With reference to ballot papers, preprinted security paper with serial number affixed will be ordered from overseas for accountability, control and security.
  - (i) The ballot paper will be perforated down the right hand side to separate the ballot paper from the stub.
  - (ii) The serial number will be affixed on the stub of the ballot paper.
  - (iii) Once the ballot paper is separated from the stub and given to the voter to vote, that ballot paper cannot be traced to that voter. Hence the secrecy of the vote is protected.
  - (iv) The EC after nomination day will add candidates' particulars to the preprinted ballot papers.
10. The EC will explore the printing of ballot papers internally.

The same system could be used to print voters register and other electoral documents.

## **Election Campaigning**

PL made the following proposals:

Electrical poles should not be excluded for the placement of posters.

Private individuals should not be prohibited from placing billboards and posters on their property, whatever the size.

Billboards should be removed within 48 hours of election day, and mega billboards should be allowed.

SNP/DP proposed doing away with small posters, and that there should be a fixed time period for removing all bill boards.

SFP suggested that specific locations should be prepare in and around Victoria where billboards/posters (campaigning material) can be put up.

Citizens of Seychelles made the following proposals:

Billboards and posters should only be placed in designated areas.

The distance of posters and billboards from polling stations should be more clearly specified.

Unused government land should be used by political parties to place billboards and posters.

Penalties should be imposed on anyone illegally removing billboards and posters.

Private home owners should be allowed to display billboards.

## Cooling-off Period

PDM proposed that campaigning should cease three days before election day. The cooling off period needs to be abolished.

Citizens of Seychelles had divergent views:

The EC should abolish the cooling off period.

What can and cannot happen during this period must be clearly stated.

Cooling off period to be limited to 24 hours before election day.

International Observers stated that there should be application and observation of the cooling off period by all stakeholders, including the media.

PL proposed that the cooling off period should be maintained but to only allow soft campaigning during the period. No rallies should be organized.

SNP/DP Agreed with the proposal to carry out soft campaigning.

SFP proposed that the cooling off period should be abolished as no political party respects it.

## EC Recommendations on Election Campaigning and Cooling-off Period

The EC having considered the concerns of stakeholders regarding the cooling –off period and taking into account that there is no reference to a ‘cooling-off period’ in the Constitution or Elections Act, reference to the cooling-off period will be discontinued and emphasis placed on election campaigning.

The EC recommends that the Elections Act be amended to state that the following campaign activities are not permitted 24 hours prior to the start of the Special Voting Day:

- (a) Motorcades
- (b) Rallies
- (c) Public Meetings
- (d) Stage shows
- (e) Parties
- (f) Picnics
- (g) Political Broadcasts
- (h) Political advertisements on TV, radio and in newspapers
- (i) No opinion polls

The EC further recommends that all political party offices within the 100 metre perimeter of polling stations and all District Administration Offices shall remain closed on the day of the election.

There should be clear regulations relating to campaign materials, including mega-billboards.

### **Special Voting Process**

The EC recommends that the special voting process be included in the Schedule of the Elections Act. The following steps will comprise the special voting process:-

1. Special voting to be arranged for all persons already stated in the Elections Act and persons on remand. The EC will set up such number of voting facilities as it deems necessary.
2. The notice of voting facilities shall be published in such form as to ensure that each voter is made aware of the voting facility to which he/she is allocated.
3. The Chief Electoral Officer shall supply to the Electoral Officer for each voting facility:-
  - (a) So many copies as he/she thinks necessary of the special list of voters to vote at the voting facility.
  - (b) A sufficient number of ballot papers to enable every voter who is entitled to vote in accordance with the provisions of this schedule at the voting facilities.
  - (c) An equal number of envelopes addressed to the Electoral Officer for the Electoral Area to which the ballot papers relate.
  - (d) The Electoral Ink.
  - (e) Prescribed equipment.
  - (f) An occurrence book for the purpose of noting matters required by this schedule to be noted.
  - (g) Declaration of voter
  - (h) The oath of secrecy
  - (i) Ballot boxes
  - (j) Any other documents so prescribed by the EC.
4. Every candidate may appoint agents or representatives for each voting facility during the time the poll remains open and may observe the procedures therein.

A candidate may appoint more than one person as a polling agent but not more than one such person shall at any one time be posted at a polling station as the polling agent of the candidate.

5. The major procedures for voting from start to finish currently being utilized will be included in the Elections Act. Some of these procedures will include:-

- (a) Placement of marked ballot paper in envelope with the Electoral Area written on the envelope, which is then sealed and placed in ballot boxes by the voters.
- (b) Transportation of all ballot boxes by Electoral Officers should be accompanied by polling agents and escorted by the police.
- (c) Sealed ballot boxes are then transported to area designated by EC for the sorting, counting and packaging of envelopes for each Electoral Area.
- (d) The Chief Electoral Officer (CEO) at a designated time will open ballot boxes, sort envelopes by Electoral Area in clear view of agents, representatives of candidates and any other persons authorized by EC. The EC shall not open any envelope contained in ballot boxes.
- (e) The CEO shall record the number of envelopes for each Electoral Area; and provide agents of candidates with totals.
- (f) The envelopes shall then be placed in larger envelopes for each Electoral Area, sealed and secured.
- (g) The CEO shall compile a list of voters who have already voted for delivery to the Electoral Officer in each Electoral Area.
- (h) A copy of the list of voters who have already voted should be given to the polling agents.
- (i) On main polling day the CEO shall deliver to Electoral Officers the larger envelopes containing envelopes with ballots for persons who have already voted. Or they may be delivered to Designated Electoral Officers who shall deliver to the Electoral Officers at the respective polling stations.

The Electoral Officers shall acknowledge receipt of the envelopes and document in the occurrence book. This process should be done in the presence of polling agents and persons authorised by the EC.

- (j) The applicable procedure for Electoral Officers to follow, upon receiving envelopes containing ballots for persons who have already voted, will be regulated in the Elections Act.

## Section 18 - Polling for the Elections

SNP/NDP proposed the following changes to this section:

Subsection (1) polling for a Presidential and or National Assembly election to be conducted during one and the same day, throughout the Republic, including in the outer islands.

Subsection (4) to include “approved election observers”.

SFP is of the view that Seychelles does an effective and peaceful polling on election day; perhaps too peaceful, due to the culture of intimidation and victimization which prevails.

## Sections 19 - 25

**Section 19 - Power to Postpone or Adjourn Voting/Section 20 - Polling Agents and Counting Agents/Section 21 - Arrangements at Polling/Section 22 - Admission to Polling Station/Section 23 - Form of Ballot Paper/Section 24 - Procedure before Commencement of Election/Section 25 - Procedures for Voting**

With reference to Section 25, SNP/NDP proposed the following amendments:

Subsection (1) (a) (iii) the voter may produce a voters registration identity card in the prescribed form i.e. including a photograph, on the said card of the voter.

Subsection (3) for incapacitated voters -

- (a) the said voter may not be assisted by officials or agents of a registered political party;
- (b) any person, not disqualified, may assist two voters only, at one election.

SNP/NDP further proposed that:

- More Electoral Officers are to be engaged.
- Announce the results as and when the counting is completed in the respective districts.
- Need to define what is a vote: votes cast and valid votes.
- Encourage the participation of international and local observers.

SFP proposed the following changes to Section 25:

Section 25 (1) (a)...add “(iii) thumb print identification shall be provided”, as per suggestion of the EC. SFP suggested that this technology is readily available and costs are inconsequential today.

Section 25 (1) (c) which deals with voting and 25 (3) which deals with assisted voters who are incapacitated, must be reconciled. No person should be assisted in casting a vote.

Section 25 (3): Provision for illiterate voters is not applicable to Seychelles as everyone can read and write. Additionally, pictures of candidates assist voters. On the issue of blind voters, if someone is certified legally blind, then they should be allowed to vote with assistance by an Election Commission official only. Hence Section 25 (3) must be amended and rewritten to reflect this Best Practice Standard.

PDM's proposals were that:

The office of the Electoral Commission must be empowered to prepare and issue, each voter with a new identity card for the sole purpose of voting in a National Election. This card will hold the necessary security measures to guarantee no fraudulent actions on Election Day.

Review when is a voter considered as incapable of voting alone, and who can accompany that voter to the polling booth. Furthermore, there should be clear definition as to when an eligible voter can be disqualified to vote.

PL proposed that:

A voter who is old or illiterate or has an incapacity, should be the one choosing who will accompany and assist him to vote.

Voting procedure should facilitate a person who does not have his identity card to vote.

## **Sections 26 - 34**

**Section 26 - Allegation of irregularities/Section 27 - Declaration of voter/Section 28 - No communication with a voter at the polling station/Section 29 - Procedure on the close of poll/Section 30 - Electoral area consisting of islands other than Mahe and Praslin/Section 31 – Enumerators/Section 32 - Person who may be present at counting of votes/Section 33 - Procedure before counting of votes/Section 34 - Counting**

SFP made the following comments with regard to Section 34:

The issue of votes cast must be counted in spite of them being votes spoilt. The spoilt votes are in fact a cast vote. Hence this matter must be codified to reflect the reality of the vote to give each vote its voice.

A spoilt vote can be a protest vote, or it can be a vote cast in error. In any case, it is in fact a cast vote and consequently, must be counted, to determine percentage of support base of a candidate or party.

The valid casting of a vote takes place as the ballot breaks into the open slit of the ballot box and is released from the left or right hand of the voter viewed by all those legally present.

Any other interpretation of a cast vote is either fraudulent, or misrepresentation of the realities of democratic procedure to suit political expediency. This is a common practice in dictatorships.

Citizens of Seychelles made the following proposals:

- ID card requirement for voting to be made clear to Electoral Officers as the interpretation vary from one polling station to the next.
- Clear standards should be established for the type of ID documents voters should take to the polling station.
- If a voter does not have an ID other identification process should be utilised to allow the person to vote.

- More local observers should be encouraged to participate in the election process.
- International observers should work alongside local observers.
- Clear procedure for who should be inside a polling station.
- Mobile phones should not be allowed inside a polling station as photos can be taken to confirm their vote to collect inducements.
- The police must enforce the 200 meters requirement for polling stations, adjust base on location of polling station.
- Enough time should be given for people to vote.
- Polling booths should be more private, so that others are not able to see how one votes.
- No political activist should be allowed inside the polling station.
- The EC to define what is meant by assisted voting.
- There should not be any restriction on the number of voters a witness is allowed to accompany.
- Incapacitated voters should be questioned by the Presiding Officer in the presence of the polling agents to establish their state of mind, to determine whether they should be allowed to vote with a witness or otherwise.
- Consider vote counting at a central location for all stations at the close of poll.
- All political parties to invite their own observers, even overseas ones to observe the counting process.

International Observers proposed that:

The EC should consider the posting of results at the respective polling stations after counting for purposes of transparency.

In view of the critical role that domestic observation plays in the democratic process, we urge the EC and civil society to work together to agree on the modalities and institutional framework that would facilitate domestic electoral observation.

CDWS made no comments.

## **EC Recommendations on Sections 26 - 34**

The EC reviewed the sections of the Elections Act that relate to polling procedures and related activities on Election Day and identified areas of weakness in the Act. The EC also discussed the recommendations and suggestions of all stakeholders and where appropriate incorporated those recommendations and suggestions that will add value and improve the electoral process.

The EC therefore recommends:

1. Every employer should on the day designated for the taking of the poll, provide every registered voter three consecutive hours for voting.
2. There should be no deductions from pay or other remuneration of the voter, or any penalties by reason of his/her absence during the period.
3. Any employer who directly or indirectly refuses, or uses intimidation or inducements to interfere with the granting to the voter, of the time as specified in 1. above, is guilty of an offence and liable to a fine or imprisonment.
4. The equipment and supplies that the Chief Electoral Officer should provide the Electoral Officer for use in the polling station and the conduct of the poll to be clearly outlined.
5. The Electoral Officer is responsible and should take every precaution to safe guard all equipment and election supplies given to him/her prior to the opening of the poll.
6. The procedures to be carried out by Electoral Officers and Assistants prior to the opening of the polls should be clearly outlined.
7. The poll shall be taken by secret ballot between the hours of 7 am to 7 pm.
8. Provisions should be included for the EC to extend voting in a polling station in the event that the polling station opened late or voting had to be discontinued for reasons stated in the Act, thus guaranteeing that the 12 hours for voting was met.
9. The general procedures for voting to be outlined.
10. Full description of the ballot paper to be used to be included in the Act. (Refer to type and process of producing ballot papers in EC Recommendations on Procedures related to Period between Nomination Day and Election Day, points 8 to 10).
11. The procedure for Electoral Officers to properly instruct voters on how to record the vote on ballot papers should be clearly outlined.

12. The Act is to state that only the agents of candidates, candidates, Electoral Officer, Deputy Electoral Officer, Assistant Electoral Officers, Police Officers on duty, Electoral Commissioners, Chief Electoral Officer or any person authorised by the EC and voters should be inside the polling station on election day.
13. A Candidate and his/her Agent should not be allowed to be in the polling station together during polling hours.
14. The Act should distinguish between a blind voter and an incapacitated voter. The voting procedure for blind voters should be as follows:-
  - (i) The blind voter will be allowed to be accompanied by a person of his/her choice up to the door of the polling station.
  - (ii) A Designated Electoral Official will take the blind voter from that person to be processed for voting.
  - (iii) The blind voter will be required to make a declaration stating that he/she is blind and has given permission for the designated Electoral Official to mark his/her ballot paper in the presence of another Electoral Official acting as a witness.
  - (iv) The designated Electoral Official will mark the ballot paper for the blind voter in the presence of the witness inside the voting compartment.
  - (v) After the blind voter has voted, the designated Electoral Official will escort the blind voter to the exit.
  - (vi) No person other than the two designated Electoral Officials will be allowed during election to act as a witness for any blind voter.
  - (vii) The Electoral Officer is to record the particulars of the blind voter in the Occurrence Book.
15. The voting procedures for incapacitated voters should be as follows:-
  - (i) The Electoral Officer to satisfy himself/herself that the voter is incapacitated by any physical cause other than blindness.
  - (ii) Will require the incapacitated voter to make a declaration in the form set out in the schedule which states that because of his/her incapacity assistance to vote is requested.
  - (iii) The Electoral Officer may designate two Electoral Officials to assist the voter, where one official will mark the ballot paper as directed by the incapacitated voter, witnessed by the second.
  - (iv) No person other than the two designated electoral officials will accompany the incapacitated voter inside the polling booth.

16. Provisions should be included for the EC to invite and accredit election observers.
17. The provisions will allow election observers to enter any polling location and polling station for the purpose of observing any procedure and the voting process carried out at the polling station. In addition, to observe the counting of votes after the poll has closed.
18. The provisions to state that election observers once inside the polling station should act in accordance with the terms and conditions that are agreed to with the EC and shall be subject to such direction as the Electoral Officer at the polling station may give.
19. The Act to be amended to rearrange the sections relating to procedures for the closing of the polling station at the end of voting.
20. The following election related terms to be defined in the Act as follows:-
  - (i) Spoiled ballot paper - Means a ballot paper which on polling day has not been deposited into the ballot box but has been found by the Electoral Officer to be spoiled, improperly printed or has been spoiled by the voter and handed back to the Electoral officer in exchange for another.
  - (ii) Rejected Ballot Paper – Means a ballot paper which at the time of counting has been found in the ballot box unmarked or so improperly marked that the intention of the voter cannot be clearly identified.
  - (iii) Total Votes Cast – Means the total number of ballot papers found in the ballot box at the time of an election.
  - (iv) Total Votes Polled - Means the total number of ballot papers found in the ballot box at the time of an election.
  - (v) Valid Votes Cast – Means the total number of ballots found in the ballot box, minus those ballots that are unmarked or so improperly marked that in the opinion of the Electoral Officer they cannot be counted.
  - (vi) Votes polled for a candidate - Means all valid votes cast in favour of a candidate, found in the ballot box at the time of an election.
21. The Act to provide for the Electoral Officer to consult with the Chief Electoral Officer prior to any action being taken to adjourn or postpone voting on Election Day.
22. Provisions for mobile telephones, digital cameras and other recording devices, unless authorised by the EC, not to be carried into the polling station or inside the voting compartment, to be included in the Elections Act.

## **Section 43 – Avoidance of Elections/ Section 44 – Election petition**

All members of the Forum agreed that:

- (a) Petition with respect to an election before the Constitutional Court, shall be heard and determined as a matter of urgency.
- (b) Elections not to be questioned – “or in a criminal trial, in a court of law conducted as against a candidate or a political party for an offence under this Act.”
- (c) Court can declare if a person no longer has a seat, no need to go before the Constitutional Court.

With reference to Section 44 (3) - The Ten Day Rule to challenge an Election Result – all members of the Forum also agreed that:

- (a) This should be extended to Fourteen (14) working days, to allow sufficient time to challenge a result. In the case of financial election fraud, it should be extended beyond the 45 day rule under Section 94 (1) in addition to the Fourteen (14) days.
- (b) The rationale behind this request is that after elections, there is a bit of franticness prevailing, and many offices remain closed for a few days. Extending the time period for filing a petition to 14 days is not an unreasonable request and will strengthen the reform process.

SNP gave the following example: we had three presidential candidates that claimed the presidential elections were a sham, but they missed the Ten (10) day period to file a case before the Constitutional Courts. Their rights on the matter are hung forever to remain silent forever. These issues, which caused them to claim “Sham Elections”, which they participated in collectively, are silent, forever. The people live with the results of this silence. The reform can do better than this.

### **EC Recommendation on Sections 43 – 44**

The EC reviewed the section of the Elections Act that addresses election petition and is recommending that section 44(4) be amended for the petitioner to have 14 days to file his/her election petition before the Constitutional Court.

### **EC Recommendation on Section 50 – Electoral Campaign**

In addition to its recommendations with regard to ‘Electoral Campaigning and Cooling-off Period’, the EC proposes that Section 50(2) of the Elections Act be amended for the radius around polling stations to be reduced to 100 metres.

Consequential amendments should also be made to other sections of the Elections Act to read 100 metres radius.

The EC further notes that various aspects of electoral campaigning are covered under different parts of the present Elections Act (such as sections 50, 88, 95). It is recommended that all matters related to Election Campaigns are dealt with under one section covering the ‘Period between Nomination and Election Day’.

## **Elections Act: Part IV – Referendum**

### **EC Recommendation on Elections Act: Part IV – Referendum**

The EC is satisfied with the major provisions in the Elections Act relating to the holding of a Referendum.

The EC’s proposed recommendations on Elections Day above related to Employers’ legal requirements, Election Day Procedures, Assisted Voting, Election Observers and Powers to adjourn or postpone voting, and related procedures are sufficient to cover the voting process on the day of a referendum, including who may be inside the polling station on Election Day.

## **Part V – Miscellaneous**

### **Section 94 – Statement of Receipts and Expenses**

#### **EC Recommendation on Section 94 – Statement of Receipts and Expenses**

The EC recommends that Section 94 is repealed and replaced by a new Act on Campaign Financing. The EC’s recommendations with regard to this proposed new Act are presented on pages 48 to 62, under Section B, entitled ‘Campaign Financing’.

## **Section 95 - Right to Campaign and Right to Broadcast in Respect of an Election**

SNP/NDP proposed that this right should be exercised during the 3 months period immediately preceding elections day.

PDM stated that it is essential that there should be free, healthy and responsible press.

## **Section 97 - Political Broadcast**

With reference to Section 97 (1) and (2) SFP proposed that:

Each party is entitled to equal airtime during campaign season. However, prior to that, there is no equal air time or practically, even access. The ruling party enjoys a monopoly on SBC access this is highly detrimental to democracy taking root in Seychelles.

This position has been highlighted in countless Commonwealth Observer Reports since 1993 and the Reilly Report of 2006.

Election Reform must codify the role of SBC in the country, and access to the broadcast network must be resolved.

Seychelles Media Commission (SMC) proposed the following:

- There should be annual quota, for political parties to have airtime
- EC should have a committee for broadcasting during election
- There should be a media subcommittee during election period consisting of three members chaired by the EC.
- The media subcommittee would hear and arbitrate campaign related incidents.
- Equal airtime for all political parties and candidates including independent candidates.
- Boycott lobby to be given access to airtime.
- No live broadcasting of a political nature by anyone to influence the voter Election Day.
- EC to work with the media to plan voter education.
- The EC to allow the media to receive from electoral officers the results of the election once the counting is completed.
- Want counting procedures to be filmed live at selected polling stations.
- The Media to be present to witness the counting of the votes.

Citizens of Seychelles made the following proposals:

- Criteria for allocating time for public broadcast to be made clearer.
- Broadcast should be in Kreol.
- Time allocation for independent candidates must be different from political parties' representatives.

### **EC Recommendations on Sections 95 - 97**

The EC reviewed the suggestions and proposals from the Seychelles Media Commission (SMC), Members of the Electoral Reform Forum and Citizens of Seychelles and makes the following recommendations:

1. The body most qualified and competent to provide oversight and regulation of the public and private media is the Seychelles Media Commission (SMC).
2. The EC recommends that SMC should review its legislation to ensure that issues relating to electoral matters are adequately addressed, as may be required from time to time by the EC.
3. Continuing dialogue should be held between the SMC and the EC to:-
  - (a) Ensure that electoral related issues are incorporated into the SMC legislation and regulations.
  - (b) Provide electoral advice and guidance to the SMC during and outside of elections.
  - (c) Working in unison with the SMC to plan and execute a robust voter education programme.
  - (d) Provide the SMC with information regarding breaches of the SMC legislation and regulations for the appropriate investigation and actions to be taken.
4. In regard to broadcast time the EC is recommending that Section 97(i) be amended to read as follows:-

For the exercise of the right to broadcast under section 95(ii) the Electoral Commission shall in consultation with the Seychelles Media Commission and all Broadcasters, allocate free and paid broadcast time to each registered political party and each candidate.

Section 97(2) to be amended as follows:-

In allocating free broadcast time under subsection (i) the Electoral Commission shall allocate:

(a) Presidential Election

To each candidate nominated to contest a Presidential Election, equal broadcast time.

(b) National Assembly Elections

- (i) To each registered political party contesting the election, equal broadcast time.
- (ii) To each nominated candidate, equal broadcast time.

(c) Referendum

To the lobby for or against the issue to be determined by the referendum, equal broadcast time.

(d) By-election

To nominated candidates, equal broadcast time.

**Time Allocation for Free Political Broadcast**

The EC recommends that the following should be regulated:

***Presidential Election***

Each candidate to be allocated TV 134 minutes; Radio 149 minutes, free broadcast time.

***National Assembly Election***

Each candidate to be allocated TV 75 minutes, Radio 75 minutes, free broadcast time.

Each Political Party to be allocated TV 26 minutes; Radio 26 minutes, free broadcast time.

***Referendum***

For the issue lobby to be allocated TV 134 minutes, Radio 149 minutes, free broadcast time.

Against the issue lobby to be allocated TV 134 minutes, Radio 149. minutes, free broadcast time.

***By-Election***

Each candidate to be allocated TV 15 minutes, Radio 15 minutes, free broadcast time.

### ***Additional recommendations***

The EC further recommends that the allocation of free and paid political broadcast time to political parties and candidates be included in the schedule of the Elections Act.

The EC after reviewing Section 97(6) of the Elections Act recommends that the time line for parties and candidates to submit their text to the broadcasters should remain at not less than 24 hours before broadcast time.

The EC recommends that the word 'Text' in Section 97(6) of the Elections Act should be defined in the interpretation section of the Elections Act.

The EC further recommends that all matters related to Elections Campaigning are dealt with under one section that deals with the Procedures for the Period between Nomination Day and Election Day.

## **Elections Act – Part III**

### **Elections Act – Part III**

#### **Section 51 - Offences and Section 52 – Penalties**

SNP/NDP proposed the following changes:

In section 51 (3) (a) payment of money or any consideration, favours, privileges, the giving of any movables whatsoever, by a political party, its candidates, officers, agents or member to a voter in order to influence the voters' decision at an election, shall be a criminal offence. The political party would itself face criminal charges, through its officers as well, as the candidate himself.

Section 52

- (a) Imprisonment to increase from 3 years to 5 years;
- (b) Fines to a person to remain at SR20,000;
- (c) Fines to a political party to increase to SR100,000;
- (d) Any candidate to an election found guilty of any offence shall further be disqualified and shall not be confirmed to the said electoral position in the election if the said candidate achieves the required majority vote and wins the election.

SFP proposed that:

Section 51 - This section highlights numerous actions that cause an offence but in reality very few cases arise from this section. Include a new section "Section 51 (s)" which shall provide for

the Electoral Commission to have the power of appointing a special independent prosecutor, under its own control, independent of the Attorney General, who has failed to prosecute diligently, these cases for the past eighteen (18) years.

Section 51 (2) Financial Consideration - the role of money in elections:-

This section makes a lot of noise, but has no impact in practice.

With the appointment of an independent prosecutor with adequate finance and structure to deal with campaign fraud at election periods, we will add a bit of teeth to what we legislate and mean what we say as opposed to not meaning what we say, as practice and history has clearly demonstrated to us and the world.

Section 52 (1) Fine and Penalty set at Sr. 20,000.00.

SFP advocates a fine of Sr. 250,000.00 – Sr. 500,000.00 per incident of election fraud inclusive of the Three (3) year prison term.

With reference to penalties and fines International Observers proposed that:

Adequate funding to be given to EC so there can be strict enforcement of the elections law particularly with regard to the enforcement of penalties for electoral offences and fraudulent acts, including voter inducement.

### **EC Recommendations on Section 51 - Offences /Section 52 – Penalties**

The EC reviewed the provisions in the Elections Act relating to offences and penalties and found in a number of instances that:-

- There are areas in the Elections Act not covered by offences and penalties.
- The majority of offences are grouped together and the same punishment prescribed.
- There is no distinction made between an offence that is akin to a misdemeanour and another that is similar to a major crime.

The EC is therefore recommending that the Elections Act be amended as follows:-

1. The under-mentioned offences should be liable to a fine of not more than SR25,000 and/or imprisonment of not more than 12 months:
  - (a) Refusal of Registration Officer to hand over electoral documents and materials given by Chief Registration Officer.

- (b) Registration Officer who ascertains or influences the political views of persons visited at a residence.
  - (c) Persons who obstruct a Registration Officer/Electoral Officer in the performance of his/her duties.
  - (d) Persons' refusal to obey instructions of Electoral Officer or Police on duty at a polling station.
  - (e) Persons who illegally assemble or congregate within the 100-meter radius of a polling station.
  - (f) Persons illegally entering a polling station.
  - (g) Failure to include name, address and printer on posters, placards and flyers.
2. The under-mentioned offences should be liable to a fine of not more than SR40,000 and/or imprisonment of not more than 3 years:
- (a) Police on duty refusing to obey or carry out the request or instruction of Electoral Officer.
  - (b) Any person who attempts to be registered more than once on the voters register.
  - (c) Persons impersonating a Registration Officer at a residence.
  - (d) Persons who provide or make false statements to a Registration Officer.
  - (e) Persons who have in their possession any weapon or noxious substance which is capable of inflicting or causing injury at a polling station.
  - (f) Persons who forge or fraudulently deface or fraudulently destroy a register of voters or any part thereof.
  - (g) Police on duty failing to assist Electoral Officer in the execution of his/her responsibilities at a polling station.
  - (h) On polling day persons who seek to influence the voter on any public road or within the perimeter of the polling station to vote for a candidate or to ascertain for which candidate the voter intends to vote or has voted.
  - (i) Members of the Police Force while on duty seeking to influence any voter to vote for a candidate or in any manner seeking to improperly influence the outcome of the election.

- (j) Damaging or destroying identification document of voter or any prescribed election documents.
- (k) Persons in possession of false identification document.
- (l) Persons making statements to an Electoral officer that are known to be false.
- (m) Persons who wilfully damage or destroy or without lawful authority take away the equipment, article or material of a registration officer.
- (n) Any person who wilfully destroys or cause damage to or takes away, without lawful authority any equipment article, material or document used in, or provided for use in the conduct of an election.
- (o) Any person attempting to commit or aid and abet any other person in the commission of an offence.
- (p) Electioneers in connection with an election contrary to section 50(1) or fails to comply with section 50(2).
- (q) After a lawful demand to the person has been made under section 3(5) fails to give such information as the person possesses or unreasonably delays in giving the information.
- (r) Without lawful authority, destroys, mutilates, defaces or removes a notice which is exhibited or any document which is made available for inspection, under this Act in connection with any election.
- (s) Forges or counterfeits or fraudulently destroys a ballot paper or any official mark relating to any election.
- (t) Every election officer who –
  - (i) Makes in any record, returns or other documents which he/she is required to keep or make under this Act, any entry which s/he knows or has reasonable cause to believe to be false, or does not believe to be true; or
  - (ii) Permits any person whom he knows or has reasonable cause to believe not to be a blind person or an incapacitated person to vote in the manner provided for blind persons or incapacitated persons, as the cause may be; or
  - (iii) Refuses to permit any person whom he/she knows or has reasonable cause to believe to be a blind person or an incapacitated person to vote in the manner provided for blind persons or incapacitated persons, as the case may be; or

- (iv) Prevents any person from voting at the polling station at which he/she knows or has reasonable cause to believe such person is entitled to vote; or
  - (v) Rejects or refuses to count any ballot paper which he knows or has reasonable cause to believe is validly cast for any candidate in accordance with the provisions of this Act; or
  - (vi) Counts any ballot paper as being cast for any candidate, which he/she knows or has reasonable cause to believe was not validly cast for such candidate, shall be guilty of an offence.
3. The under-mentioned offences should be liable to a fine of not more than SR100,000 and imprisonment of not more than 5 years.
- (a) Persons committing illegal practices under Section 51(3) a – m of the existing Elections Act.
  - (b) Persons committing bribery and treating.
  - (c) Persons who use or threaten to use any force, violence, or restraint, or inflicts, or threatens to inflict by himself/herself or by any other person, any injury, damage, harm or loss, upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting, at any election, or who by abduction, duress or any fraudulent contrivance, impedes or prevents the free exercise of the right of any voter, or therefore compels, induces or prevails upon, any voter either to give or refrain from giving his/her vote at any election, shall be guilty of undue influence.
  - (d) Every person who at an election applies for a ballot paper in the name of another person, whether that name be the name of a person living or dead, or of a fictitious person, or who having voted once at any election applies at the same election for a ballot paper in his/her own name, shall be guilty of impersonation.
  - (e) Any person who induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, shall be guilty of illegal payment, and any person withdrawing, in pursuance of such inducement or procurement shall also be guilty of illegal payment.
  - (f) Any person who induces or procures any other person to withdraw from being a candidate at any election by use of threat, force, violence or inflict or threaten to inflict such violence by himself or herself is guilty of undue influence.

The EC agrees that where a person is found guilty in 3 above, that person shall in addition to the penalty be disqualified for a period of 5 years from being registered as a voter and from voting in any election called during his/her period of disqualification.

## ***Part B: Proposal to repeal Section 94 in Part V of the Elections Act, and replacing it with a new Act on Campaign Financing***

It is widely acknowledged that campaign financing is a vital aspect of elections, to the extent that it can determine the results of elections. Consequently it is equally important to establish effective regulatory frameworks that should help to ensure equal opportunities amongst political parties and candidates participating in an election, in the interest of promoting democratic governance. While no system can be fool proof the set of rules to be applied should aim for transparency and encouragement to comply; it should have public support, backed by a strong authority endowed with sufficient legal powers to ensure compliance.

This section provides a range of views on Campaign Financing and makes recommendations that should help to achieve the aims stated above.

### **Campaign Financing**

SNP/NDP proposed that:

No political party or candidate may spend a sum in excess of SR5,000,000, directly or indirectly towards a Presidential election campaign and or the sum of SR250,000 per candidate, towards a National Assembly election campaign, per electoral district.

Make it illegal for individuals to fund political parties, but individuals willing to support democracy can make a donation to a democracy fund, to be administered by EC, who will share the funds equally among the political parties.

SFP proposed:

- A cap on Presidential elections at SR 5 million as proposed by SNP.
- A cap on National Assembly elections at SR 250,000 as proposed by SNP.
- Additionally, which SNP, NDP, PL, PDM are silent on, a full restriction on foreigners and foreign entities financing any political party or political agenda in Seychelles.
- Seychellois must endorse, by vote and finance, their political leadership
- Finance of political parties by government to be re-instated, set at SR100,000 per month across the board, but excluding the ruling party.
- Program of matching finance should be implemented for Presidential candidates and National Assembly candidates to curtail fraud and foreign financing.

PDM made the following proposals:

Parties receive public funding from a fund administered by the Electoral Commission in proportion to their performance in the previous National Assembly election. This discourages other small parties and hence needs to be reviewed.

Regarding the use of public funds: there needs to be a clause to prohibit the use of public funds for, and institutions being involved in election campaigning.

There should be a limit to the funds (capital) used during the election period for campaigning.

We are of the view that in the future we should eliminate donations by corporations and by big businesses. Politicians should not be beholden to those with deep pockets. This may help to ensure that our democratic institutions represent all Seychellois.

The use of state facilities and institutions during the election campaign period should be banned and this should be overseen by the Electoral Commission which is independent.

PL proposed that a limit should be established for expenses during elections, by the political parties.

Citizens of Seychelles proposed the following:

- State resources, in particular government vehicles and buildings, should not be used for campaign purposes.
- Ambulances should not be used to transport patients to voting stations.
- Use of District Offices for political campaigning should be stopped.
- Use of state resources in the filming of PPBs is not acceptable.
- Establish a special fund for the purposes of political campaigning.
- Political parties should not be assisted with funds for campaigning.
- The amount of fund to be spent should be determined and parties held accountable if they overspend.
- Donations in kind should be declared.

International Observers recommended that:

- Existing legal requirements to declare campaign expenditure and the declaration of political contributions should be strictly enforced.
- The National Assembly should consider removing from the Elections Act the specific exemption from reporting the identity of the person or source of the contribution and the person in respect of whom the expense was incurred.
- In the interest of transparency in the use of funds that are used to contest elections, it is suggested that the election law be amended to include a requirement for parties and candidates to publicly disclose the source of political contributions, as well as the amount.
- The National Assembly should consider limiting the amount of contributions that can be received or the amount of funds that can be spent or both.
- In the interest of reducing outside influence on the electoral affairs of Seychelles, the Assembly should consider restricting the source of political contributions to persons eligible to vote in Seychelles elections.
- In order to improve the ability of the Electoral Commission to enforce campaign finance laws, reports required to be filed should first be audited by a professional

auditor and the EC should be given additional resources to review and investigate suspect reporting.

## **EC Views and Recommendations on Campaign Financing**

A strong democracy requires vibrant candidates competing for political office with not only the capacity to represent the citizenry but also the ability to provide viable policy choices that demonstrate the capacity to govern for the public good. Invariably, candidates need to access funds from other than their own resources, in order to contest elections. Financial support for election campaigns from other than the candidates who contest elections is, therefore, an inherent, essential and legitimate part of the electoral process.

However, the unregulated flow of money into campaigns often has negative consequences. Existing studies on the subject identifies four main risks that attend unregulated financing of election campaigns:

- (1) Co-opted candidates: the risk that those who donate funds will control the elected representatives they finance.
- (2) Tainted politics: the risk that dirty or illicit money will corrupt the system and undermine the rule of law.
- (3) Unequal access to office: the risk that those without money or access to money are prevented from running for office or getting meaningful representation.
- (4) Uneven playing field: the risk that large sums of money in election campaigns can give undue advantage to some candidates and constrain competition.

Money for election campaigns is an important element in defining the quality of representation and how the citizens perceive their governments and standards of accountability and transparency. Ultimately it influences the outcomes of elections. The ways, therefore, in which election campaigns are funded, have fundamental implications not only for the fairness of the electoral process but also for the governance of the country.

The EC is therefore recommending that section 94 of the Elections Act be repealed and replaced by a new stand-alone Act in line with Articles 117 of the Constitution.

It is further recommended that this new Act includes the following sections:

### **DEFINITIONS**

#### **1. Campaign Period**

For the purposes of campaign financing the campaign period means 90 days prior to the period designated for the holding of an election and lasting until the day on which the poll is taken. For a by-election the campaign financing period begins on the day the Speaker of the National Assembly informs the EC of a vacancy of the seat of an elected member, and lasting until the day on which the poll is taken.

## **2. Contribution**

A contribution is any donation or gift of money (whether wholly or in part) or non-monetary resources (goods, services, or use of facilities or equipment), or any loan of funds that is made or provided to a candidate or political party or affiliated group, or organization, or to any other person or entity for the purpose of supporting or opposing the candidature of another person or for the purpose of influencing an election.

## **3. Donation**

A donation is:

- (a) Any gift of property or services to a candidate or political party;
- (b) Any sponsorship provided in relation to a candidate or political party;
- (c) Money spent otherwise than by, or on behalf of, a candidate or political party in paying any expenses incurred directly, or indirectly, by a candidate or political party.

## **4. Donor**

The interpretation of the word “donor” as used in the context of these provisions is intended to accord with the definition of the term “connected persons” as used in the Banking Act and also with the definition of the word “affiliated” as used in the Companies Act.

## **5. Acceptance of contributions/donations**

- (a) A contribution is deemed to have been accepted by a candidate if it is received and retained by the candidate for the purposes of his or her campaign activities.
- (b) A contribution is deemed to have been accepted by a political party if it is received and retained by the party candidate for the purposes of his or her campaign activities.

## **6. Subscription**

Any charge or other fee paid for affiliation to, or membership in, a political party.

## **7. Income**

Any amount received by a political party, including, but not limited to gifts of money, gifts-in-kind of services or goods, membership subscriptions, loan monies received, returns on investments, proceeds from the sale of assets, Public funding provided from the Consolidated Fund by the State.

## **8. Expenditure**

Any amount paid to a political party, including, but not limited to salaries, administrative expenses, purchase of assets, electoral expenses, loan repayments, bank charges, gifts received but subsequently returned or forfeited to the State

The enactment of ‘Campaign Financing’ must include measures to deal with disclosure, monitoring and enforcement. The measures proposed in these recommendations include these three elements and three others. Given the relatively small size of

Seychelles and, therefore, its vulnerability to external influences of various origins, the elements of Sources and Permissible donor are also included. Constrained by limited resources and the amount of financing consumed in elections, the greater the risks of corrupting the system by undue influence. Therefore the element of limits on contributions and expenditure should also be included.

The specific recommendations with regard to the proposed Campaign Financing Act are set out under the following headings:

- 1. Sources of Contributions and Donations**
- 2. Impermissible donors**
- 3. Limits on Contributions to Candidates and Political Parties**
- 4. Limits on Election Expenditure of Candidates and of Political Parties**
- 5. Disclosure by Candidates and Political Parties**
- 6. Monitoring and Enforcement**
- 7. Campaign Advertising and Political Broadcast**
- 8. Additional Capacity for Electoral Commission.**

## **1. Sources of contributions and donations**

Political parties and candidates can receive contributions and donations from the following sources: legal entities, Citizens of Seychelles and Seychellois diaspora groups wishing to support the democratic process in Seychelles.

### **Tax deductibility**

All contributions and donations to political parties /candidates contesting an election shall be considered as a tax deductible expense. However such contributions/donations must be disclosed.

## **2. Impermissible donors**

In order to minimize or regulate influence peddling, as well as obviate the possibility of the state and its policies being hijacked and dictated to by narrow interest groups, and in seeking to prevent malevolent forces from undermining the Rule of Law, the following are banned from making donations to campaigns for political office:

1. Foreign Governments or their Agents or Agencies, whether directly or indirectly.
  - i. No political party, member of a political party, or candidate, shall accept any donation from Foreign States whether directly from the donor, or, indirectly, through a third person (natural or legal).
  - ii. Any donation accepted by a member of a political party shall be deemed to be accepted by the political party, unless the member wilfully fails to disclose to the political party, in which case the member shall be liable for prosecution.

iii. A political party, or member of a political party, or candidate, shall be deemed not to have accepted a donation if within thirty days of receiving the donation, the party, or member, or candidate, returns the donation to the donor.

2. Public institutions, statutory bodies, government and quasi-government organizations or any company with government capital shares regardless of the size of such shares.
3. Private companies performing a public service pursuant to a contract with a Government body or public office, whether as principals or sub-contractors, in circumstances where such contracts came into force within a period of one year prior to, or within a period of one year subsequent to, the making of a donation unless such donation is made subject to full disclosure.
4. Enterprises and other organizations exercising public authority;
5. Legal entities with due but unsettled payments to public revenue (i.e. companies and other entities that are not tax compliant).
6. Donations passed through an intermediary or falsely reported in the name of another person or entity.
7. Foreign Individuals and foreign legal entities.

A legal or natural person providing services or selling a product to a candidate or political party shall make out an invoice, showing the market value of the services or product, to that candidate or that political party, regardless of who is liable for payment for the services or product or whether the services were provided or the product given free of charge.

### **3. Limits on contributions/ donations to candidates and political parties**

1. The total amount of contribution/donation given by a donor shall not exceed in a single campaign period an amount of SR10,000 to a single candidate, or an amount of SR10,000 multiplied by the number of constituencies being contested by a political party.
2. Any contribution/donation that is made by a permissible donor shall be regarded as an expense that is tax exempt.
3. Any contribution/donation made by a donor must be accompanied by a declaration to the candidate or political party stating the full name, address, occupation or nature of business and that the donor qualifies to make a donation under the regulations. A person, whether legal or natural, who knowingly, or recklessly, makes a false declaration commits an offence.

4. A political party, or a candidate, shall not accept any contribution/donation from an impermissible donor.
5. A person who knowingly makes a contribution/donation to a candidate or political party which includes a contribution from an impermissible donor shall commit an offence.
6. A contribution/donation accepted by a candidate cannot be used for personal, family or business expenses.
7. A contribution/donation accepted by a political party cannot be used for the regular operations of the party.
8. Where a contribution/donation is accepted, the political party, or the candidate, shall issue a receipt for the donation to the donor in the form prescribed by the Electoral Commission.
9. Where in relation to a political party or a candidate –
  - (a) money is lent otherwise than on commercial terms; or
  - (b) any property, services or facilities are provided otherwise than on commercial terms, the value of the donation shall be taken to be the amount representing the difference between the actual cost and the cost that would have been incurred by the political party, or the candidate, as the case may be, had the loan been made, or the property, services or facilities been provided on commercial terms.
10. Where a contribution/donation is received by a political party, or a candidate, and it is not immediately clear that the political party/ candidate should refuse the contribution/donation, all reasonable steps shall be taken without delay by, or on behalf of, the political party or candidate to verify or ascertain:
  - (a) the identity of the donor;
  - (b) whether the donor is a permissible donor; and
  - (c) if the donor is a permissible donor, all such details in respect of the donor as may be required by the Electoral Commission to be received and given in respect of the donor in the donation report.
11. Where a political party or a candidate receives a contribution/donation from an impermissible or anonymous donor, the donation or an equivalent amount, must not be used, and it should be returned within 30 days.
12. Any contribution/donation received whose donor is anonymous or unidentifiable shall:

- (a) if the donor has used a facility provided by an identifiable financial institution, be returned to that financial institution; or, otherwise,
  - (b) be sent to the Comptroller of Finance for lodgement to the Consolidated Fund.
- 13. Where a contribution/donation which is disallowed has been knowingly accepted by a political party or candidate and not timely returned in accordance with paragraph 10 above, the Electoral Commission may order the forfeiture of such contribution/donation, in addition to any other penalty that may be imposed by a Court of law.
- 14. Every political party and each candidate shall submit separately to the Electoral Commission, during a campaign period, monthly reports of contributions or donations received, giving all such details in respect of each donor as may be required by the Electoral Commission.
- 15. Political parties and candidates contesting an election shall, within 45 days of Election Day, submit to the Electoral Commission a consolidated report, in the prescribed form, detailing all contributions/donations received within the campaign period. In addition every candidate shall submit to the Electoral Commission a declaration in the prescribed form stating that, to the best of his or her knowledge and belief:
  - (a) No contribution/donation from a person who is not a permissible donor has been accepted by him or her during the campaign period.
  - (b) No anonymous contributions/donations have been accepted by him or her during the campaign period.
- 16. Upon receipt of a contribution/donation report and declaration, the Electoral Commission shall, no later than 21 days, issue the candidate concerned with a certificate stating that the person has complied.
- 17. Submission of this report does not relieve political parties and candidates of the responsibility to submit an election expense report within 60 days after Election Day.

#### **4. Limits on expenditure by candidates and political parties**

Democracy is premised on the belief that all should have equal opportunity to compete for political office. Arising from this belief, democracies have always sought to establish mechanisms to regulate the flow of money into politics and control spending limits. In parliamentary democracy models most countries tend to establish spending limits for individual candidates.

It is therefore widely recognized that to achieve a fair and competitive system a country should create a level playing field in which any political actor can participate. Allowing unfettered campaign spending enables well-financed candidates to drown out the voices of their opponents, reducing the overall quality and diversity of opportunities for exposure. In the present political landscape, the past few years have been characterized by massive spending on election campaigns, such that there is heightened public perception that the scope for corruption and improper influence as a corollary to big spending has increased at an alarming rate.

Currently, the Elections Act allows for a candidate to spend an unlimited amount in promoting his/her candidature. The consensus among representatives of political parties is that this unlimited spending is not in keeping with contemporary realities.

There is, therefore, the strong need for the Electoral Commission to be legally empowered to prohibit certain types of expenditure in order to limit the undue impact of money in the democratic process and the outcome of an election. It should also be empowered to ensure that proper election expenses returns are submitted on time by individual candidates and political parties, to inspect party accounts and to oblige individual candidates, political parties and affiliated groups to submit properly audited and verified financial statements.

It is, therefore, recommended as follows:

1. Where a registered political party contests the Presidential Elections or one or more electoral area in the National Assembly Election, or Referendum or a By-Election the limit applying to campaign expenditure which is incurred by, or on behalf of, a party during the campaign period shall be SR250,000 multiplied by the number of electoral areas contested by that party.
2. Where an independent candidate contests the Presidential Election the limit applying to campaign expenditure which is incurred by, or on behalf of, the independent candidate shall be SR250,000 multiplied by the number of electoral areas contested by that candidate.
3. Where at an election a candidate stands for election in any electoral area on behalf of a registered party, or as an independent candidate, the limit applied to campaign expenditure shall not exceed SR250,000. This amount is inclusive of any amount received from any political party.
4. During a campaign period, each candidate and each political party shall submit to the Electoral Commission, Interim and Final Campaign Expenditure Reports. The Interim Report shall cover the period from the commencement of the campaign period to the day on which the election is announced and shall be submitted to the Electoral Commission not later than eight days after Nomination Day. The Final Report shall cover the entire campaign period and shall be submitted by a political party and candidate not later than 60 days after Election Day. Both the Interim and Final Reports should be submitted to the Electoral Commission in the prescribed form and must show every donation received, whether in cash or kind, and detail all income and expenditure incurred during the campaign period.

5. Where a report is not submitted to the Electoral Commission within the time specified, the candidate, or in the case of a political party, every member of that Executive of the political party, each commits an offence and shall be liable to a fine not exceeding SR5000 for every day beyond the prescribed deadline.
6. Any candidate or party official who makes a false declaration shall commit an offence and shall be liable on conviction therefore to a fine not exceeding SR150,000 or in default of payment and or to a term of imprisonment not exceeding three years.
7. The Electoral Commission shall have the power to require disclosure. This power shall apply to the following organizations and individuals:
  - (a) A registered party i.e. the accounting unit or responsible accounting officer;
  - (b) A regulated donor, that is, organization, group or individual.
  - (c) A candidate at an election.
  - (d) The Election agent of such a candidate.

The Electoral Commission may give a disclosure notice to a person who is, or has been at any time during the period of five years immediately preceding the day on which the notice is given, the treasurer or any other officer of a political party, or group, to which the above paragraph applies.

A disclosure notice is a notice requiring the person to whom it is given to produce for inspection by the Electoral Commission or its agents, any document which:

- (i) relates to the income and expenditure of the organization or the individual in question and is reasonably required by the Electoral Commission for the purpose of carrying out its auditing functions; or
- (ii) may provide the Electoral Commission, or its agents, with any information or explanation which relates to income and expenditure and is reasonably required by the Electoral Commission for purposes of identifying sources of political finance.

A person to whom a disclosure notice is given shall comply with such notice within the time specified in the said notice.

8. The Commission is further recommending that all the limits and fees prescribed above shall be subject to review and adjustment by the Electoral Commission from time to time.

### **5. Disclosure of candidates and political parties**

The foregoing recommendations can only be effective if there are adequate rules for disclosure and enforcement.

Disclosure emerges as a sine-qua-non for any system of public control of political finance. It is widely accepted that financial disclosure contributes to an overall transparency of the electoral process and that requirements to disclose sources of funding are likely to cause political actors to raise and also spend their financial resources in ways that are acceptable to a majority of voters and which do not provoke political scandals.

Disclosure refers to the timely dissemination of information about political parties and candidates' receipts and expenditure of material resources. The Electoral Commission is of the firm belief that political parties and candidates should be guided by principles of financial transparency and credible accounting and in this regard it is hereby proposing the following:

1. Political Parties, affiliate groups and or organizations, (e.g. youth arm) shall submit report to the Electoral Commission on the amount and nature of all contributions, expenditure, liabilities and assets. Contributions may be cash, cheques, credit card based or in kind. In kind contributions consist of goods and services. The cash values of such contribution should be reported at current market value.
2. The report shall detail the full identity, address and occupation of each contributor.
3. Where permissible organizations/corporations make donations/ contributions, the identity, address and industry of the entity shall be provided.
4. The report shall include all spending over SR5,000 by the candidate or his/her agent, the date of the expenditure, the person who incurred it, and the beneficiary. Expenditures shall also include debts and liabilities incurred.
5. The report shall disclose all loans and advances from whom (individual or organization) the loan was received, the date of the loan and the date of repayment.
6. The report shall disclose the assets of the parties. Assets consist of bank accounts, sizes of credit lines and values of capital investments including, but not limited to, real estate and vehicles.
7. Political parties and candidates are obliged to keep proper financial records to include:
  - (a) Copies of all cheques, bank statements, money orders and bank cards records appropriately signed.
  - (b) Written loan agreements and copies of the cheques, money orders, bank card records or receipts for cash connected to the receipt and repayment of loans.
  - (c) Copies of all bills, invoices and receipts for goods and services purchased.

- (d) Copies of the cheques, money orders or bank cards receipts used to pay for goods and services.
  - (e) Documentation of what services were provided in connection with the payment of wages and salaries.
  - (f) Billing statements for any debit or credit card used and corresponding receipts identifying the vendors of goods and services purchased.
  - (g) Declaration of donors.
8. Every candidate at an election, whether such candidate is contesting on behalf of a political party or as an independent candidate, shall submit to the Electoral Commission, a disclosure report (similar to report required in section for political parties above) detailing income and expenditure, and all contributions/donations received within a campaign period. If a candidate did not receive any donation/contribution, or did not expend any resources, this should be declared.
9. Any person who makes a false declaration commits an offence, and in addition to any penalty which the court may impose, shall be liable to be disqualified from contesting an election for a period of seven years.
10. The Electoral Commission, having received Disclosure Reports, shall maintain records at its office and shall issue Public Reports disclosing the total contribution to each party and the number of contributors. Where the total contribution of a donor exceeds SR50,000 all details of such disclosure shall be made public.
11. Every political party shall disclose to the Electoral Commission:
- (a) A consolidated monthly statement of all contributions, gifts and donations received.
  - (b) A monthly statement listing all fund raising events held on its behalf including the date, place and sponsor(s) of the events and the amounts raised.
  - (c) An itemized monthly statement of all contributions in cash or kind, gifts and donations of value of SR50,000 or more received for the purpose of campaigning inclusive of the name, address and NIN/Tax Identification Number of the donor.
  - (d) All expenditures made in conduct of an election campaign each month.
  - (e) A consolidated total income and expenditure statement no later than 90 days after Election Day.
12. The Electoral Commission shall publish its findings within a period of 60 days after receiving the Final Report of political parties.

## 6. Monitoring and enforcement

The Electoral Commission shall be empowered to monitor and enforce the legislation and accompanying Regulations. Such powers shall be the direct responsibility of the Chairperson of the Electoral Commission. Accordingly, it is proposed as follows:

1. For all offences involving contraventions of the regulatory provisions relating to Campaign Financing, the Electoral Commission shall have the power to impose sanctions and penalties on political parties and candidates. Such sanctions and penalties shall include, but shall not be limited to, public apologies, return of contributions, fines, being debarred from participating in elections whether temporarily for a fixed period of time or permanently, being disqualified from being a candidate, forfeiting contributions or donations, being suspended as a registered political party and being struck off the list of registered political parties.
2. An imposition of a sanction or penalty by the Electoral Commission shall not preclude institution of criminal proceedings for contravening the campaign financing provisions.
3. The Electoral Commission shall have the power to investigate any report if it has reason to believe may be false.

If the Electoral Commission has reasonable grounds to believe that there are documents relating to the income and expenditure of a contributor (whether organisation or individual) and permission to inspect such documents has been requested by the Electoral Commission and has been unreasonably refused, the Electoral Commission may apply, or cause an application to be made, to the relevant authority for an inspection warrant authorizing inspection of the premises of such a contributor.

An inspection warrant is a warrant authorizing a member of the Electoral Commission's staff at any reasonable time to enter the premises specified in the warrant and, having entered the premises, to inspect documents.

An inspection warrant also authorizes the person who executes the warrant to be accompanied by such other persons as the Electoral Commission may consider are reasonably required for effecting the execution of the said warrant.

An inspection warrant shall remain in force for thirty days beginning with the day on which it was issued.

In carrying out its monitoring and enforcement functions the Electoral Commission should endeavour to work cooperatively and constructively with the Offices of the Ombudsman, the Attorney General, the Financial Services Commission, the Seychelles Media Commission and any other public or private organization that can contribute to its effective operation.

## **7. Campaign advertising and political broadcasts**

1. All broadcast media shall have a duty to be fair and balanced in their reporting and not biased in favour of, or against, any one political party or candidate.
2. Disproportionate use of State media by one political party or candidate to the disadvantage of other political parties or candidates shall be treated as a contribution from an impermissible donor or an ineligible promoter.
3. Air time offered to any registered political party or candidate shall be made available on financial terms no different from that offered to any other political party or candidate.

## **8. Additional capacity of the electoral commission**

Further, pursuant to the additional responsibilities related to Campaign Financing and the Registration and Financing of Political Parties, the Electoral Commission shall establish a Political Party and Campaign Finance Department comprised of a Registry of Political Parties headed by a Registrar and an Audit Department headed by a Chief Auditor. The Electoral Commission should also have the authority to conduct forensic audits, where necessary, which should include the employment of temporary personnel to carry out the same.

## ***Part C: Political Parties (Registration and Regulation) Act (1991, last revised 1996)***

The Political Parties Act derives from Article 118 of the Constitution and it enables the registration and operations of political parties in the country. Since it was last revised in 1996, significant changes have taken place nationally and internationally, especially in terms of political party financing and disclosure.

### **Sections 5 – 7**

#### **Section 5 – Application for Registration/Section 6 – Registration/Section 7 – Refusal to register**

SNP/DP made the following proposals:

- The EC should consider increasing the number of supporters backing an application, and it should review the age to register as a member of a political party, and they proposed the age of 15 years.
- Before a political party is actually registered, the required documents should be made public so that people may object or comment.
- Political parties should not be allowed to take part in an election less than one year after registration. Within six months of an election, no registration of political parties should take place.
- Under section 7(1)(b)(iii) - The word ‘provocative’ is so wide and vague and that it should be re-looked at.

PL made the following comments and proposals:

- There are no provisions in the Constitution to provide for political parties. There is however article 118 of the Constitution, referring to Registrar of political parties. They called for maintaining the status quo on this point as increasing the number of signatures from its current level of 100 will defeat this underlying democratic principle; and also the Constitution does not allow for lowering of the minimum age for becoming members of a political Party.
- There is no need for public inspection as any member of the public can lodge an objection under existing provisions of the laws.
- It is for the Court to interpret the meaning of the word “provocative” and political parties cannot deny them that freedom by striking the word from the Act.

PDM proposed that:

- The application process should be transparent for members of the public to comment on and object.
- Members should not be restricted to 18 years but the age should go down to 16 years. Public servants above the rank of director, Minister, member of executive committee etc.. for the purpose of declaration of asset should resign from their posts if they want to stand as candidates in an election.

PDM did not agree that political parties that registered in less than 1 year should not take part in an election. As all political parties should be allowed to participate in an election, provided all the criteria for registration are met. The SNP idea is anti-democratic and discriminatory (it favours' independent candidates).

### **EC Recommendations on Sections 5 – 7**

1. The EC recommends that the definition in Section 5(1) should read: A political party consisting of not less than 100 registered members, who are registered voters and are 18 years or above may apply in the prescribed form to the Registrar for registration under this Act.
2. In the application for registration, the political party shall specify the leader, secretary and Treasurer.
3. Once approved, the new party's constitution and the party officials will be made public.

### **Section 8: Appeal against refusal to register**

SNP/DP suggested that appeals should not be restricted to the Supreme Court; from the Supreme Court the law should enable further appeal to the Court of Appeal.

PL was of the view that appeals to the Court of Appeal must be on a points of law only.

PDM agreed that appeals should not be restricted to the Supreme Court only. The opportunity should be given to go before Court of Appeal.

### **EC Recommendation on Section 8: Appeal against refusal to register**

The EC recommends that for any appeal the applicant must be afforded the decision of the Court of Appeal, on the Registrar's refusal to register.

### **Section 24: Accounts and audit**

SNP/DP proposed that the registrar of political parties needs to have a say in, and needs to be able to look at the accounts of political parties. The auditing of the money that political parties receive from the State should be done by the office of the Auditor General.

PL stated that this is already taken care of under Article 118 of the Constitution which empowers the Registrar to submit a report on the accounts of political parties to the National Assembly. Therefore, PL calls for maintaining the status quo. The auditing is done by the Registrar of Political Parties who submits a report to the National Assembly where the Finance and Public Accounts Committee scrutinizes the report. There is no need to duplicate the auditing process by getting the Office of the Auditor General to do it over again.

## **EC Recommendations on Section 24: Accounts and audit**

As noted in Part B (Campaign Financing) financial support for political parties contesting elections is an inherent, essential and legitimate part of the electoral process. Funding for political parties is an important element in defining the quality of representation. However citizens perceive their governments and standards of accountability and transparency through the usage of such funding. The ways, therefore, in which political parties are funded, have fundamental implications not only for the fairness of the electoral process but also for the governance of the country.

The unregulated flow of money into political parties often has negative consequences. Existing literature on the subject identifies four main risks that attend unregulated financing of Political parties:

- a) Co-opted candidates: the risk that those who donate funds will control the elected representatives they finance.
- b) Tainted politics: the risk that dirty or illicit money will corrupt the system and undermine the rule of law
- c) Unequal access to office: the risk that those without money or access to money are prevented from running for office or getting meaningful representation
- d) Uneven playing field: the risk that large sums of money in election campaigns can give undue advantage to some candidates and constrain competition.

Political parties receive state funding, under the political parties Financial Support Fund. In line with good governance and transparency, the funds received under that Fund shall form part of the disclosure scheme and the information should be included in the political parties disclosure return.

Considering that high standards of accountability and transparency can only be effective if there are adequate rules for disclosure and enforcement, the EC therefore recommends that the following procedures are included in the Act:

### **1. DISCLOSURE SCHEME**

Disclosure refers to the timely dissemination of information about political parties, candidates' and associate entities' receipts and expenditure of material resources.

Disclosure emerges as a sine-qua-non for any system of public control of political finance. It is widely accepted that financial disclosure contributes to an overall transparency of the electoral process and that requirements to disclose sources of funding are likely to cause political actors to raise and also spend their financial resources in ways that are acceptable to a majority of voters and which do not provoke political scandals.

The Electoral Commission is of the firm belief that political parties should be guided by principles of financial transparency and credible accounting and it is in this regard that these recommendations are being proposed.

The disclosure scheme aims to improve overall transparency and inform the public about the financial dealings of political parties and others involved in the electoral process, so that people may know where money comes from and how it is spent.

The disclosure scheme requires registered political parties, and their associated entities, donors and other participants in the electoral process to lodge annual financial disclosure returns with the Electoral Commission.

The disclosure returns are then made available for public inspection.

## **2. ACCOUNTS AND AUDIT**

A registered political party shall keep proper accounts of all money received and paid by the political party in each year, in such manner as the Registrar of Political Parties may direct. The following should apply:

### **a. Closing of Accounts**

For the purposes of this proposal, all accounts shall close as at 31 December of each year. The registered political party shall prepare a statement made up to the 31 December of the immediately preceding year, of all its receipts and expenditure in that preceding year and of all its assets and liabilities existing on the 31 December of that preceding year.

### **b. Auditing of Accounts**

The accounts of a registered party shall be audited by a licensed auditor, appointed by the registered political party, before the 31 March of each year.

### **c. Contents of Audited Accounts**

The audited accounts shall comprise of, but not limited to:

1. Report by the Executive Committee
2. Auditor's Report
3. Balance sheet
4. Statement of income/receipts and expenditure
5. Cash flow statement
6. Notes to the financial statement
7. List all bank accounts, the name of the bank and their account number.

The audited accounts will be made available for public disclosure.

## **3. ANNUAL DISCLOSURE**

### **a. Responsibility for lodging returns**

Responsibility for lodging returns lies with the Treasurer of the political party who should have the legal responsibility for lodging the returns. In the absence of the Treasurer, all members of the political party executive committee should have legal responsibility for lodging the returns.

A registered political party must on or before the 30 June in each year send to the Registrar a copy of the audited accounts together with a copy of the Political Party Disclosure Return (Form ECS1).

The name of any political party that fails to submit a return by the due date will be published on the EC website and/or in the EC report to the National Assembly.

#### **b. Reporting Period**

The return covers the financial year from 1 January to 31 December. For a political party that became registered during the financial year, the period commences on the date of registration and ends on 31 December

#### **c. Political Party Disclosure Return**

The Political Party Disclosure Return (hereafter referred to as 'the return') requires disclosure of the following information covering the financial year from 1 January to 31 December:

- total receipts
- details of amounts received that are more than the disclosure threshold
- total payments
- total debts as at 31 December
- details of debts outstanding as at 31 December that total more than the disclosure threshold
- Amount received from Consolidated Fund

#### **d. Nil Return**

A 'nil' return should be lodged or a 'nil' entry disclosed where a political party has no transactions or no transactions applicable to a particular part of the return.

### **4. ASSOCIATED ENTITIES (SEE ADDENDUM FOR INTERPRETATION) & DONORS**

Associated entities, donors to political parties and 'third parties' that incur political expenditure, and/ or expenditure on behalf of a political party also have annual disclosure obligations.

Political parties and their associated entities may be subject to a compliance review by the EC to assess the completeness and accuracy of lodged disclosure returns.

### **5. POLITICAL PARTY FINANCING**

The enactment of Political Party Financing must include measures to deal with disclosure, monitoring and enforcement. The measures proposed in these recommendations include these three elements. Given the relatively small size of Seychelles and, therefore, its vulnerability to external influences of various origins, the elements of Sources, Permissible and Impermissible donors is included here.

**a. Contribution**

A contribution is any donation or gift of money (whether wholly or in part) or non-monetary resources (goods, services, or use of facilities or equipment), or any loan of funds that is made or provided to a political party or affiliated group, or organization, or to any other person or entity for the purpose of supporting a political party.

**b. Donation**

A donation is:

- (a) Any gift of property and services to a political party;
- (b) Any sponsorship provided to a political party;
- (c) Money spent otherwise than by, or on behalf of, a political party in paying any expenses incurred directly, or indirectly, by a political party

**c. Subscription**

Any charge or other fee paid for affiliation to, or membership in, a political party

**6. SOURCES OF CONTRIBUTIONS AND DONATIONS**

**a. Permissible Donors**

Political parties can receive contributions and donations from the following sources: - legal entities including International Organisations, Affiliated International Political Parties, Citizens of Seychelles and Seychellois diaspora groups wishing to support the democratic process in Seychelles.

**b. Impermissible Donors**

In order to minimize or regulate influence peddling, as well as obviate the possibility of the state and its policies being hijacked and dictated by narrow interest groups and in seeking to prevent malevolent forces from undermining the Rule of Law the following are banned from making donations to Political Parties:

- (a) Foreign Governments or their Agents or Agencies, whether directly or indirectly.
  - i. No political party, member of a political party, shall accept any donation from Foreign State whether directly from the donor, or, indirectly, through a third person (natural or legal).
  - ii. Any donation accepted by a member of a political party shall be deemed to be accepted by the political party, unless the member wilfully fails to disclose to the political party, in which case the member shall be liable for prosecution.
  - iii. A political party, or member of a political party, shall be deemed not to have accepted a donation if within thirty days of receiving the donation, the party, or member, returns the donation to the donor.
- (b) Public institutions, statutory bodies, government and quasi-government organizations or any company with government capital shares regardless of the size of such shares.
- (c) Private companies performing a public service pursuant to a contract with a Government body or public office, whether as principals or sub-contractors, in circumstances where such contracts came into force within a period of one year

prior to, or within a period of one year subsequent to, the making of a donation unless such donation is made subject to full disclosure.

- (d) Enterprises and other organizations exercising public authority;
- (e) Legal entities with due but unsettled payments to public revenue (i.e. companies and other entities that are not tax compliant).
- (f) Donations passed through an intermediary or falsely reported in the name of another person or entity.
- (g) Foreign Individuals and Foreign Legal entities.

A legal or natural person providing services or selling a product to a political party shall make out an invoice, showing the market value of the services or product, to that political party, regardless of who is liable for payment for the services or product or whether the services were provided or the product given free of charge.

### **c. Unlawful gifts**

The EC recommends that a political party is not permitted to receive certain gifts. Such gifts are sometimes referred to as 'anonymous donations'. It further proposes that it should be illegal for a political party, or a person acting on behalf of a political party, to receive a gift, made to or for the benefit of the political party, by another person unless the name and address of the person making the gift are known to the person receiving the gift.

Unlawful gifts (anonymous donations) should be payable to the Consolidated Fund.

## **7. TAX DEDUCTIBILITY**

Any donations and or contributions that are made by a permissible donor to political parties shall be considered as a tax deductible expense. However such donations and or contributions must be disclosed

## **8. INFORMATION TO BE DISCLOSED IN THE POLITICAL PARTY DISCLOSURE RETURN (PART 1A – Form ECS1)**

a. The political party must disclose all transactions that result in amounts, both above and below the disclosure threshold, being received from external entities.

Amounts received include, but are not limited to the following:

- gifts of money -
- gifts-in-kind of services or goods
- membership subscriptions
- loan monies received
- returns on investments
- proceeds from the sale of assets
- Public funding provided from Consolidated Fund by the State.

Examples of receipts that are required to be included in total receipts:

- Cash gifts of R10,000 from a donor
- Interest of R3,000 on deposit or other investment
- Loan of cash of R 5,000 received from party member
- Two or more gifts of R5,000 received from one donor on different days
- A donation in kind of office supplies valued at R1000 if purchased commercially
- R1500 relating to a sale of an asset of a political party

#### **b. Disclosure of gross figures, not net figures**

The EC recommends that the disclosure of amounts received, not of income or profit. The return, therefore, must be completed on a gross basis inclusive of VAT. Transactions are to be reported separately, not netted off against each other.

Example : If a person or a member has raised a sum of R20,000 on behalf of the party but in the process has incurred an expense of R8,000, the transactions are to be reported separately, i.e a receipt of R20,000 and an expense (payment) of R8,000.

#### **c. Transactions not to be disclosed in the return**

Internal transactions are not required to be reported.

Examples of internal transactions:

- Transfers between banks accounts where both are held by a party
- Transfer from a bank account to an investment account where both are held by a party.

#### **d. Amounts calculated to be the value of gifts-in-kind**

This is the amount calculated to be the value of gifts-in-kind which would have been included in the 'total receipts' amount disclosed.

Gifts-in-kind may be goods or services received for which no payment (in cash or in kind) or inadequate consideration is made. Inadequate consideration is where the benefits that are provided are clearly of a lesser value than the payment made. Inadequate consideration includes discounts provided that are over and above those that would be offered under normal commercial arrangements.

These gifts are to be disclosed for an amount that reflects the fair value. That is, the normal commercial or sale value of the item or service as evidenced by arms-length transaction or comparative quotations or expert assessment.

Examples of gifts in kind:

- free or discounted services such as legal advice, accounting services
- free use of a motor vehicle, or free fuel or servicing of a motor vehicle,
- free air travel
- loans provided interest free

- free or discounted goods or services for use in raffles or other fundraising activities.
- Rent free commercial properties

**e. Amounts of more than the disclosure threshold received in financial year 1 January to 31 December**

If the **sum of all amounts** received by, or on behalf of, the political **party from a person or organisation** during the financial year is more than the **disclosure threshold**, details of that sum must be disclosed.

The details to be disclosed are:

- Full name and address details of the person or organisation from whom the money or gift-in-kind was received.
- The sum of amounts received from that person or organisation.
- Whether the receipt is a 'gift/donation' or 'other receipt'.

In the case of a trust or foundation, the names and addresses of the trustees, along with the name and description of the trust or foundation must be disclosed.

This proposal requires that where the sum received was the result of a loan the following disclosure must be made: Threshold R 50,000

- For loans from non-financial institutions the sum of all amounts and the name of the institution.
- For loans received from a financial institution, the sum of all amounts and the name of the institution.
- For loans received from a person, the sum of all amounts and the name and address of the person.

A political party may provide additional clarifying information in situations where disclosure does not provide a clear picture of the underlying transactions.

**f. Total payments for financial year 1 January to 31 December**

This proposal requires that the **total amount paid** by, or on behalf of, the political party during the financial year must be disclosed.

The political party must disclose **all transactions** that result in amounts, **both above and below the disclosure threshold**, being paid to external entities.

**Amounts paid** should include, but are not limited to the following:

- salaries
- administrative expenses
- purchase of assets
- electoral expenses
- loan repayments
- bank charges
- gifts received but subsequently returned or forfeited to the State

**g. Total debts as at 31 December**

The political party must disclose all debts that are outstanding as at 31 December.

**Debts** include, but are not limited to the following:

- loans
- overdrafts
- unpaid accounts.

#### **h. Debts of more than SR50,000 as at 31 December**

This proposal requires that if the **sum of all outstanding debts** incurred by, or on behalf of, the political party **to a person or organisation** during a financial year is more than the **disclosure threshold** details of that sum must be disclosed.

All **outstanding debts** owed to an individual or organisation, including amounts that are **individually less** than the disclosure threshold, must be considered in calculating whether the total debt to that person or organisation exceeds the disclosure threshold.

For debts outstanding that meet the criteria for disclosure the following details must be disclosed:

- Full name and address details of the person or organisation that the debt is owed to.
- The amount that is owed.
- Whether the debt is to a financial institution or non-financial institution

In the case of an association, the name of the association, along with the name and address of each member of the executive committee of the association must be disclosed.

In the case of a trust or foundation, the names and addresses of the trustees, along with the name and description of the trust or foundation must be disclosed.

#### **i. Receipts and debts from a representative or a person acting on behalf of a principal**

Care must be exercised to ensure that disclosure is made of the correct person or organisation. A donation made by a person from their personal account must be disclosed as having been received from that person. This is regardless of whether that person nominated that the donation was made on behalf of their company and irrespective of whether the person was subsequently reimbursed by the company. The only exception to this rule is where one person, organisation or other entity has acted as a legal representative (for example, carried out transactions) for or on behalf of another (the latter is referred to as a principal).

An amount may be received from a person or organisation acting as the legal representative of another person or organisation (the principal). The identity of the principal itself, rather than the identity of the agent is to be disclosed, where the amount received from the principal is more than the disclosure threshold.

#### **j. Disclosure of loans - terms and conditions**

The EC recommends that it is unlawful for a political party or a person acting on behalf of a political party to receive a loan of more than the disclosure threshold from a person or entity other than a financial institution unless a record of the loan is kept.

A financial institution means an entity which carries on a business that consists of, or includes, the provision of financial services or financial products and which is:

- a bank, credit union, building society or
- a special service provider registered with the Central Bank of Seychelles.

The EC recommends that where a political party or a person acting on behalf of a political party receives a loan from a person or entity that is not a financial institution, that is more than SR50,000, the following details must be kept:

- Terms and conditions of the loan.

For a loan from a registered organisation other than a financial institution:

- the name of the organisation
- the name and address of each member of the executive committee of the organisation.

For a loan from an unregistered association:

- the name of the association or organisation
- The name and address of each member of the executive committee of the association or organisation.

For a loan from a trust fund or out of funds of a foundation:

- the names and addresses of the trustees
- The name and description of the trust or foundation.

For a loan from a person or other organisation:

- The name and address of the person or organisation.

#### **k. Loans not to be received**

The EC recommends that it should be unlawful for a political party or a branch of a political party or a person acting on behalf of a political party or branch of a political party to receive a loan of more than SR50,000 from a person or entity other than a financial institution, unless the loan is made in accordance with the disclosure scheme specified above. Where such a loan is received and the loan is not documented in accordance with the requirements of this proposal, the amount of the loan is payable to the Consolidated Fund.

#### **l. Loans written off**

Where a loan is written off by a lender, the outstanding loan amount is considered as a donation and must be disclosed as a donation under part 1a and part 2 of the disclosure return if the amount is in excess of the disclosure threshold of SR50,000.

### **9. INCOMPLETE RETURNS**

Where a registered political party is unable to obtain all the information required to fully complete a return, a **Notice of Incomplete Return** will be completed and lodged with the Political Party Disclosure Return.

Where it is necessary to submit a Notice of Incomplete Return the designated person must:

- complete the Political Party Disclosure Return as fully as possible
- complete the Notice of Incomplete Return
- lodge the Notice of Incomplete Return and the incomplete Political Party Disclosure Return with the EC at the same time.

The Notice of Incomplete Return should contain the following:

Part 1

- the full details of the information believed to be missing from the return.

Part 2

- the reason(s) the particulars listed in Part 1 were unable to be obtained; and
- the details of all attempts made to obtain the missing information.

Part 3:

- the full name/s and address details of the person/s believed to possess the missing particulars; and
- the reason why it is believed this person/s possesses the required information.

Lodgement of a Notice of Incomplete Return does not relieve the registered political party of the responsibility of making reasonable efforts to obtain financial information that belongs to the political party.

This proposal demands due diligence from persons completing disclosure returns. Complete and accurate disclosure should be a requirement and meeting that responsibility must be treated as an essential activity and accorded the necessary priority.

It is the responsibility of the person/s seeking to rely upon a Notice of Incomplete Return to prove that they have, in fact, been 'unable' to obtain the financial information. The EC will need to be satisfied that all reasonable attempts have been made to obtain the missing financial information before it accepts a Notice of Incomplete Return.

The EC may assess whether the lodgement of a Notice of Incomplete Return was used by a registered political party to avoid their responsibilities under the Act. In any such case the executive of the registered political party will be considered as having committed an offence of having lodged an incomplete return.

## **10. RECORD KEEPING**

Political parties must give consideration to the financial recording systems and procedures that are appropriate to their needs and circumstances. Financial recording systems and procedures must be sufficient to enable the return to be properly completed.

All transactions should be supported by source documents recording the details of individual transactions.

Examples of source documents are:

- receipts
- invoices
- loan documents
- wages records
- bank deposit books and cheque stubs
- bank account statements
- credit card statements.

Source documents should contain information required to complete the return, such as the:

- date of the transaction
- name of person and/or organisation from whom a receipt was received
- name of person and/or organisation to whom a payment was made
- name and address of organisation that has provided a loan to the party
- total payment made or amount received

A cash book may be used to record all receipts and payments, whether by cash, cheque, credit card, direct debit, direct credit, EFTPOS (Electronic Funds Transfer at Point Of Sale) or other payment or receipt method. An example of another type of payment or receipt method is where the party has received a gift-in-kind.

While all amounts received and paid can be recorded in a cash book, the cash book may be incomplete. Therefore the cash book should be reconciled to external bank statements to ensure transactions that have been made directly to all the party's bank accounts are included.

## **11. RETENTION OF RECORDS**

All relevant records, whether formal or informal, should be retained for a minimum of five years. Receipt books, bank records, receipt registers, source documents and working papers documenting how figures disclosed in the return were derived must be kept for this period.

## **12. COMPLIANCE REVIEWS**

The EC will conduct compliance reviews of all annual returns lodged by political parties and their associated entities to verify the accuracy and completeness of disclosures. The reviews should be undertaken 'off-site' with copies of records, documents and other information relating to matters that should be included in the return delivered to the EC.

Officers of the EC may still attend political party premises to inspect original documentation and to hold an exit interview to discuss the review. A written report will be issued to the party detailing any findings.

## Section 27: Political Parties Financial Support Fund

### Section 29: Payment to political parties

SNP/DP were of the view that if there is funding from state funds, then there needs to be specific budget lines specifying how this money can be used. The present system is believed to be totally unfair, giving public money only to parties that are represented in the National Assembly. They suggested that a minimum amount should be given to all registered political parties to ensure they can fulfil their responsibilities. SNP also suggested that SR6.5 million be the bench mark for political parties, subject to increase based on inflation.

PL did not agree with the idea of having separate budget lines specifying how the money is to be used as it impinges on the independence of political parties, and besides the auditing of the accounts suffices to deter any misuse of the funds coming from state funding. PL called for maintaining the status quo; they were against the suggestions of a minimum requirement for all parties and of using the 6.5 million rupees benchmark as they believe it would tie the hands of the Government and it would not take into consideration the economic situation of the country and the availability of financial resources.

PDM proposed that the SR6.5 million benchmark should be kept but to increase in case of inflation and taking into consideration other factors that may affect the increase. Money given by the state to political parties should be audited by the auditor general. There should be transparency.

CDWS suggested that once registered all political parties should have equal funding, provided that take part in an election.

### EC Recommendations on Sections 27- 29

1. In the interest of promoting democracy and good governance the EC recommends that all registered political parties which had nominated candidates for the immediately preceding general election of the National Assembly shall be entitled to receive funds from the Political Parties Financial Support Fund, proportional to the votes polled in favour of each party. This fund should be set at SR 6.5 million in total, and to be adjusted annually for inflation, and it will be disbursed on a quarterly basis.

Should there be a general election after January, then there should be a proviso that the remaining amount will be recalculated on the basis of the results of that election, and the adjustments will be reflected as from the following quarter.

2. In order to promote greater participation and democracy (in the light of citizens' right to participate in government, article 24 of the Constitution), there shall be equal financing available to all the registered political parties to support basic costs of rent, electricity, telephone, and general administration.

Funds will be disbursed on a quarterly basis, provided political parties submit quarterly financial expenditure reports for the previous quarter, justifying all expenditure to the EC. If the funds cannot be appropriately accounted for, no further funds will be disbursed.

Participation in elections will determine eligibility for such funding. In the event that a party does not contest an election the funding (under 2 above) will be withheld until the party shows proof of having sought redress through an election petition in a court of law.

3. The EC further recommends that Section 29 (3) is deleted.

## Formation of Political Alliances

SNP/DP proposed that:

- It is important that in the law dealing with registration of political parties there is the possibility for political parties to form alliances before an election without having to form a new political party with a new name.
- In the present system of election there is the first past the post and proportional representation. The 10% needed for a proportional seat needs to be re-looked into.
- Democracy should cater for small parties to come to the Assembly to broaden opportunities for them to have a voice.

PL pointed out that the Constitution makes no mention of political alliances and speaks only of political parties; yet this constitutional silence has not hampered the formation of electoral/political alliances in the third Republic. In view of such circumstances, there is no need for a separate piece of legislation to cater for the formation of political alliances. The status quo should be maintained.

PL also pointed out that there seems to be a contradiction between this proposition to get small parties in the National Assembly and the SNP's earlier proposition to increase the number of signatures for party registration. The size of political parties cannot be legally fine-tuned but should be politically determined by the electorate.

PDM proposed that the 10% for proportional seats should be maintained and 5% to be allocated to the best loser.

## EC Recommendations on Formation of Political Alliances

In view of the fact that the Constitution already provides for the right to associate, and other laws provide for political parties to register and participate in elections, a political party wishing to form an alliance with another is enabled to do so under the present laws, provided the alliance is registered as a new political party. The EC therefore recommends that this position is maintained.

## Section 31: Annual Accounts

SNP/DP proposed that annual accounts should be opened to inspection and the source of funding is clear, to ensure that there is no underhand possibilities of criminal funding of political parties.

PL felt that there was no need for this as the accounts are audited and submitted to the National Assembly.

### EC Recommendations on Section 31: Annual Accounts

In line with the EC's earlier recommendations on the importance of disclosure it further recommends that:

1. An annual report is produced by the EC which will be made available for public inspection on or before the 31 March of each year.
2. The Report will be made available on the EC website ([www.ecs.sc](http://www.ecs.sc)) or at the Electoral Commission's Office.
3. The EC's annual report will include the annual audited accounts and the disclosure returns. (to be referred to as ECS6 in regulations under section 31)

### EC Recommendations on Section 30: Offences

The EC further recommends that it may, however, refer matters to the Attorney General for offences against the disclosure provisions when no response or an unsatisfactory response to resolve non-compliance needs to be escalated.

The EC also recommends that the following are included in regulations:

Regulations under Section 24

#### Disclosure Forms

- a. ECS1 - Political Party Disclosure form
- b. ECS2 – Request for Amendment - Political Party Disclosure Return
- c. ECS3 - Donor to Political Party Disclosure Return – Individuals
- d. ECS4 - Donor to Political Party Disclosure Return – Organisations
- e. ECS5 – Associated Entity Disclosure Return

Regulation under Section 31

Schedule - Prescribed Form

ECS6 - Electoral Commission report on Political Parties receipts and expenditure

## Addendum to Political Parties (Registration and Regulation) Act

### Interpretations

**In this Act:**

***associated entity* means:**

- (a) an entity that is controlled by one or more registered political parties; or
- (b) an entity that operates wholly, or to a significant extent, for the benefit of one or more registered political parties; or
- (c) an entity that is a financial member of a registered political party; or
- (d) an entity on whose behalf another person is a financial member of a registered political party; or
- (e) an entity that has voting rights in a registered political party; or
- (f) an entity on whose behalf another person has voting rights in a registered political party.

***entity* means:**

- (a) an incorporated or unincorporated body;
- (b) the trustee of a trust.

***financial controller* means:**

The person responsible for maintaining the financial records of the entity

***Member* means:**

in relation to a registered political party, member means a person or entity that pays an annual subscription to the party

***gift* means:**

any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration, but does not include:

- (a) a payment under Consolidated fund; or
- (b) an annual subscription paid to a political party, to a branch of a political party or by a person in respect of the person's membership of the party, or branch

***disposition of property* means:**

any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes:

- (a) the allotment of shares in a company;
- (b) the creation of a trust in property;
- (c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property;
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property;
- (e) the exercise by a person of a general power of appointment of property in favour of any other person; and
- (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person.

**loan** means:

any of the following:

- a. an advance of money;
- b. a provision of credit or any other form of financial accommodation;
- c. a payment of an amount for, on account of, on behalf of or at the request of, an entity, if there is an express or implied obligation to repay the amount;
- d. a transaction (whatever its terms or form) which in substance effects a loan of money.

**Annual returns by associated entities**

(1) If an entity is an associated entity at any time during a financial year, the entity's financial controller must furnish a return to the Electoral Commission, in the approved form, on or before 30 June after the end of the financial year, setting out:

- (a) the total amount received by, or on behalf of, the entity during the financial year, together with the details required. and
- (b) the total amount paid by, or on behalf of, the entity during the financial year; and
- (c) if the entity is an associated entity at the end of the financial year - the total outstanding amount, as at the end of the financial year, of all debts incurred by or on behalf of the entity.

(2) Amounts received or paid at a time when the entity was not an associated entity are not to be counted for the purposes of paragraphs (1)(a) and (b).

(3) If any amount required to be set out under paragraph (1)(b):

- (a) was paid to or for the benefit of one or more registered political parties; and
- (b) was paid out of funds generated from capital of the associated entity;
- (c) the return must also set out the following details about each person who contributed to that capital after the commencement of this section:
- (d) the name and address of the person;
- (e) the total amount of the person's contributions to that capital, up to the end of the financial year.

(4) Subsection (3) does not apply to contributions that have been set out in a previous return under this section.



## 4 Annexes

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### ***Annex 1: Members of the Forum for Electoral Reform 2012-2013***

**Members of the Forum for Electoral Reform – 2012 and 2013 are as follows:**

#### **The Electoral Commission**

Mr Hendrick Gappy	Chair
Dr Marie-Therese Purvis	Member
Mr Gerard Lafortune	Member
Mr Beatty Hoarau	Member
Mr Bernard Elizabeth	Member

#### **Representatives of registered political parties**

##### **New Democratic Party (NDP)**

Mr Ralph Volcere	Party Leader
Mr Philippe Boullé	Representative

##### **Popular Democratic Movement (PDM)**

Mr David Pierre	<i>Party Leader</i>
Mrs Jane Carpin	<i>Representative</i>

##### **Seychelles National Party (SNP)**

Mr Wavel Ramkalawan	<i>Party Leader</i>
Mr Anthony Derjacques	<i>Representative</i>
Mr Brian Julie	<i>Consultant</i>

##### **Seychelles Freedom Party (SFP)**

Mr Christopher Gill	<i>Party Leader</i>
Mr Jean-Paul Isaac	<i>Representative</i>

##### **PartiLepep (PL)**

Mr Simon Gill	<i>Delegated Leader</i>
Mr William Herminie	<i>Representative</i>
Mr Ralph Agrippine	<i>Consultant</i>

#### **Representatives of civil society**

##### **Citizens Democracy Watch, Seychelles**

Represented by:  
Mr Michael Padayachy  
Ms Eline Moses  
Mr Steve Lalande

##### **Representatives of the AG's Chambers**

Mrs N Vasunthera *Legislative Draftsperson and CFTC Consultant*  
Mr Victor Pool

**Representative of the Commonwealth**

Mr Earl Simpson

**Electoral Commission Secretariat**

Ms Jenny Adrienne

*Chief Registration Officer*

Ms Jacqueline Simeon

*Secretary*

Mrs Samantha Aglae

*Legislative Draftsperson/ Consultant*

**Annex 2: Nomination Requirements in Commonwealth Countries****NOMINATION PROCESS IN COMMONWEALTH COUNTRIES**

COUNTRY	POPULATION	# OF ELECTORS ON VOTERS REG	NOMINATION DAY & TIME IN ACT	# OF ELECTORS TO SIGN NOMINATION FORM NOMINATION FREE	NOMINATION FEE	QUALIFICATION TO BE A CANDIDATE	REMARKS
Antigua & Barbuda	85,000	53,000	8am-6pm	10 electors-Parliamentary	\$500	21 years	2 of 10 electors are proposer & seconder
Australia	21,250,000	14,200,000	No	50 electors-Parliamentary 1 elector- senate Elections	\$1000-senate \$1000-parliamentary	18 years	Nomination open from writ is issued to 12 noon on day closes.
Bahamas	355,000	235,000	No	5 electors-Parliamentary	\$400 parliamentary	21 years	5-day period for nomination
Bangladesh	158,571,000	90,000,000		1% of electorate-Parliamentary	10,000 taka	21 years	Person can be nominated for not more than 5 constituencies.  Commission determines nomination days & time
Barbados	287,7000	243,000	10am-2pm	4 electors-Parliamentary	\$250 legal tender	21 years	
Belize	327,7000	200,000	10am-4pm	6 electors-Parliamentary	\$250 legal tender		2 electors proposer & seconder
Botswana	2,100,000	1,200,000	Did no find	90 electors-Parliamentary	P500 cash- Presidential P500 cash- parliamentary		2 electors proposer & seconder 2 electors proposer & seconder Nomination deposit returned if nomination invalid
Canada	34,000,000	24,000,000	No	1000 electors-Presidential 9 electors-Parliamentary	\$1000	18 years	Accept nomination paper from election is called to 21 days before election

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Dominica	73,1000	45,000	9am – 4pm	6 electors	\$500		
Zambia	14,300,000	5,200,000	No	200 electors-Presidential			Commission determines nomination day and fee
Gambia	1,840,000	1,300,000	8am – 4pm	500 electors-Presidential 300 electors-Nat Assembly	10,000 Dalasis-Presidential 5,000 Dalasis-Nat Assembly		
Ghana	23,300,000	14,000,000	No	2 electors per electoral district - Presidential	Sum determine by Commission		Commission appoint nomination day
Grenada	109,000	65,200	9am – 12noon	6 electors-Parliamentary	\$300 cash	21 years	
India	1,205,000,000	670,000,000	Did not find	1 elector if party candidate 10 electors if Independent candidate	R5,000 Parliamentary	30 years	
Jamaica	2,890,000	1,680,000	10am – 2pm	10 electors – Parliamentary	JA\$8,000	21 years	
Kenya	43,000,000	20,100,000	Presidential & Parliamentary 8am – 1pm & 2pm – 4pm	27 electors - Presidential	100,000 shillings 5000 shillings		2 electors in both elections are proposer and seconder. Nomination days are determined by the Commission.
Maldives	394,000	214,000	Did not find	50 electors – Parliamentary	Did not find		
Tanzania	43,602,000	20,100,000	No	200 electors per district for Presidential 25 electors - Parliamentary	1 million T. Shilling 50,000 T. Shilling	40 years 21 years	Candidates have to be members of political party. Nominated by party
Solomon Island	595,000	448,000	No	3 electors-Parliamentary	\$2,000		Voters register for 2010 election
South Africa	48,810,000	23,274,000	No				Only part can nominate candidates to contest elections of any kind