

CHAPTER 2



The Legislative Framework

Seychelles was proclaimed a one-party state under the Constitution of 1979. Basic changes had to be made in order to implement the move to multi-party democracy. The Constitutional Amendment which came into force on 27 December 1991 abolished the one-party doctrine and laid the foundation for change. The Political Parties (Registration and Regulation) Act 1991, also enacted in December 1991, established the machinery for the registration of political parties. A Registrar of Political Parties was appointed. By the end of April 1992, eight political parties (SPPF and the seven opposition parties), had been registered. They all contested the election in July.

The Constitution of the Republic of Seychelles (Preparation and Promulgation) Act 1991, which came into effect in April 1992, provided the detailed scheme for the implementation of the three-stage transitional process. It established the Constitutional Commission which had the task of preparing the draft constitution.

The Commission commenced its work on 27 August, sitting for a total of 19 sessions until 16 October. Meetings were not open to the public but the Commission was empowered to invite any person to attend a particular meeting in order to assist the Commission. Only the Director of Elections, acting in his private capacity, and one other person made submissions before the Commission. A technical secretariat was established to prepare the draft. It consisted, at least for a time, of representatives of both parties, as well as the Attorney-General and a legal drafter recruited, with assistance from the Commonwealth Secretariat, to assist with the drafting process. Under the Act, the Commission was required to submit a draft constitution to the President within three months from the date of its first meeting. An extension of time not exceeding 30 days was also provided for.

Within the times stipulated under the Act, the Director of Elections was required to set the dates for the holding of the Referendum. He was also to determine the question to be put to the voters at the Referendum. It was to be clear, precise and so framed that the voters were required to vote in the affirmative, if they approved the draft constitution, or in the negative, if they did not.

If the first draft was rejected, the Act required the President to re-convene the same Constitutional Commission to prepare a fresh draft constitution. It provided for the President to determine both the date for reconvening the Commission and the date by which it is to submit a fresh draft to him.

The procedures prescribed for the workings of the Commission had

incurred strong criticism from opposition groups, the churches as well as members of the public and the media. The primary attack had been aimed at the chairmanship of the Commission, occupied by a senior SPPF member. A view now widely held, admittedly with the benefit of experience, is that it would have greatly enhanced the impartiality and integrity of the Commission and its proceedings if the chairperson had been an independent person acceptable to all parties. We ourselves are firmly of this view. Given the divisiveness and distrust so pervasive in Seychelles today, we believe that an independent chairperson would have helped promote more consensual decision making and bridge the gulf between the two sides. We urge that this matter be given the highest consideration in the plans to reconvene the Constitutional Commission next year.

We note, too, that the existing legislation does not prescribe a specific time frame for the reconvened Commission. Nevertheless, the transition process is now well established and the clear commitment exists to move the country forward to multi-party democracy. We can therefore be hopeful that the new-found democratic goals of Seychelles can be reached without undue delay.

The provision for the meetings of the Commission to be closed to the public was also severely criticised. It was explained to us that closed-door hearings ensured that the Commission was a place for working out a difficult and technical document, not a platform for political grandstanding. On the other hand, the fact remains that the work of the Commission is a legitimate subject of public interest and an obvious focus of media attention. Our observation of the Referendum leads us to believe that there exists a genuine public desire to play a part and to be kept informed in the formulation of such an important document, one which affects not only the lives of all Seychellois but also the lives of future generations. We would therefore urge that due consideration be given to this matter to ensure that these important public concerns are given the serious attention they deserve, by formal and informal consultations, so that the next round of discussions can be brought to a successful conclusion.