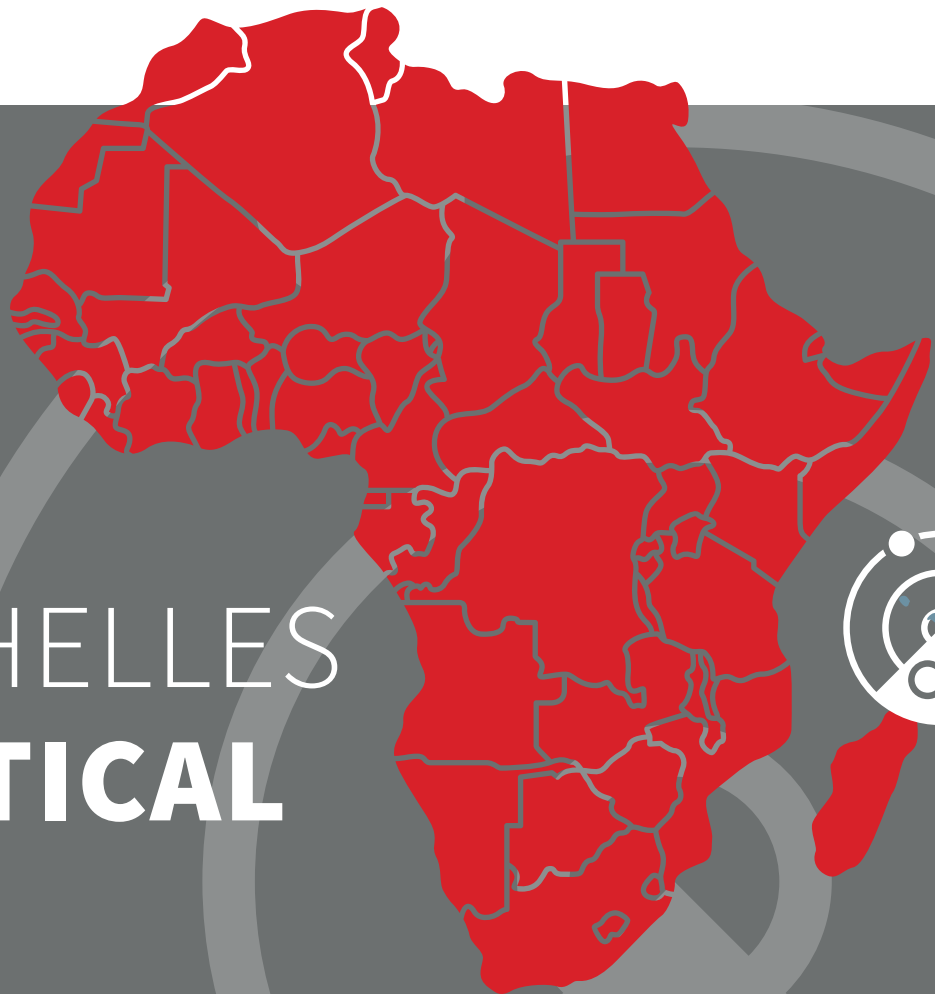
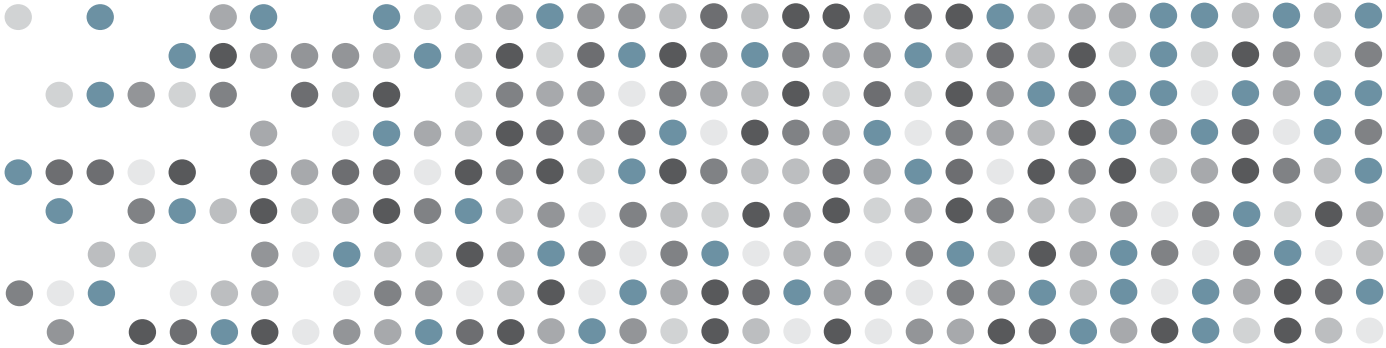


# SEYCHELLES POLITICAL SCAN





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## LEGAL FRAMEWORK AND CONTEXT

The Constitution is the supreme law of the land in the Seychelles. The legal system is a combination of common and civil law. Article 27 states “[e]very person has a right to equal protection of the law including the enjoyment of rights set out in this Charter without discrimination on any ground except as in necessary in a democratic state.” Article 27 prohibits discrimination on any ground. Article 29 guarantees the right to access to health care and the enjoyment of the highest attainable standard of physical and mental health for all its citizens. Article 29 requires progressive realisation of this right including through the provision of free primary health care, the management of diseases and the reduction of infant mortality. Article 20 guarantees the right to privacy and Article 18 guarantees the right of every person to liberty and security of the person.

The Seychelles has ratified a number of regional and international instruments, including:

- African Charter on Human and Peoples’ Rights, 1981
- African Charter on the Rights and Welfare of the Child, 1990
- Convention against Torture, 1992 (individual complaint mechanism also ratified)
- Convention on the Rights of the Child (CRC), 1989
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979 (individual complaint mechanism also ratified)
- Convention on the Rights of People with Disabilities, 2006
- International Convention on Economic, Social and Cultural Rights (ICESCR)
- International Convention on Civil and Political Rights (ICCPR), 1966 (individual complaint mechanism also ratified)

- International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1992 (individual complaint mechanism also ratified)
- ILO Convention Concerning Discrimination in Respect of Employment and Occupation, 1999
- Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, 2003

### Civil Society Context

While there are opportunities for civil society to engage in stakeholder meetings concerning law reform and other activities, some are of the view that they are not sufficiently included in implementing programmes and that their input is not adequately considered when they are able to participate. Additionally, stakeholder and other meetings are not always sufficiently publicised which is a barrier to participation. Parliamentary sessions and hearings are not always open to public.

Given the small population and limited available funding, the capacity of civil society in the Seychelles is limited. HASO is the main organisation working on HIV in Seychelles. CEPS also works on HIV-related issues and is an umbrella organisation. LGBTSey, the only LGBT organisation in the Seychelles and previously housed under CEPS, was successfully registered following decriminalisation of consensual same-sex sexual acts. Most civil society organisations are funded by the government. Some human rights advocates are in the process of developing an additional organisation which would be independently funded.

<sup>1</sup> This Political Scan and the accompanying Advocacy Opportunities Timeline were written by Drew Aiken, a consultant for the AIDS and Rights Alliance for Southern Africa (ARASA). In addition to desk research, Key Informant Interviews took place in Victoria, Seychelles from 11 to 15 July 2016.



## KEY INSTITUTIONS RELEVANT TO LAW AND POLICY REFORM

In the Seychelles, there is no law reform commission. One individual at the Attorney General's office indicated that as a result, laws tend to be reactive rather than proactive. There is a law revision commission which does not perform law reform functions. This office is independent but technically falls under the Office of the Attorney General. New legislation and amendments to existing legislation generally initiate within the relevant ministry/ies and the Attorney General's office, which are then submitted to Parliament for consideration.

### A. LEGISLATURE

#### 1. Parliament-National Assembly

The Seychellois Parliament is unicameral. The National Assembly is composed of one elected representative from each electoral area and up to ten who are elected based on proportional representation. Bills are enacted by Parliament, subject to the assent of the President.

#### 2. Standing Committee on HIV and AIDS

The Parliamentary Committee on SRHR and HIV/AIDS is relatively new. The Committee is composed of seven members and the Secretary of the Committee is appointed by the Secretariat.<sup>2</sup> As of July 2016, the Committee had only met one time and since there will be Parliamentary elections in September 2016, the Committee will not meet again until after the election. After the election, there will be new Members of Parliament appointed to the Committee.

The role and purpose of the Committee is to "advocate and influence responses on HIV/AIDS and Sexual Reproductive Health."<sup>3</sup> Tasks and responsibilities include the following:

- Coordinate HIV/AIDS and SRHR activities of the National

Assembly and provide a link between the National Assembly and the National AIDS Council/Ministry of Health in combating this epidemic in the Seychelles;

- In cooperation with the National AIDS Council of Seychelles and the Ministry of Health initiate relevant bills and motions required for combating the epidemic; and
- Examine and make recommendations on relevant bills and other matters relating to HIV/AIDS and SRHR.

The Committee on SRHR and HIV/AIDS also has an M&E tool template for researchers that identifies priority issues. Priority issues include: adolescent health services, men's health, decriminalisation of marginalised groups (sex workers, LGBTI community and individual drug users), resources and infrastructure to target high risk groups, harm reduction programmes, resource mobilisation for SRHR and HIV/AIDS, and health service delivery.<sup>4</sup> With each MP Selected Priority Issue, there are corresponding MP stated actions and desired results.<sup>5</sup>

#### Opportunity:

- Engage with Members of the Committee on SRHR and HIV/AIDS on their identified priority issues, including by:
- Providing information about identified priority issues in the form of letters and submissions.
- Contact the Committee to schedule meetings, seek attendance at Committee hearings, query how civil society can contribute to addressing the Committee's identified priority issues and other issues to address HIV/AIDS and SRHR.

#### 3. Committee on Reform and Modernisation<sup>6</sup>

The primary purpose of the Committee on Reform and Modernisation is legislative and constitutional reform.

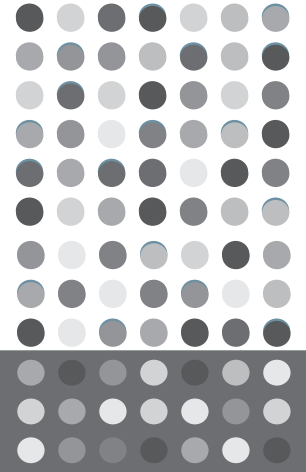
<sup>2</sup> Annex 5: Terms of Reference: The Parliamentary Committee on SRHR and HIV/AIDS.

<sup>3</sup> Id.

<sup>4</sup> M&E Tool Template for Researchers.

<sup>5</sup> Ibid.





The Committee's website indicates that the Committee "considers the Report of the Constitutional Review Committee and makes concrete proposals to the House on constitutional reform. It also considers and review[s] legislation pertaining to the National Assembly and thereon make[s] proposals to the House." There is limited information available concerning specific past or current activities of the Committee.

#### 4. Constitutional Review Committee

The Constitutional Review Committee was established by the President in 2008 to review and propose changes to the 1992 Constitution.<sup>7</sup> The Committee issued a report with recommendations.

## B. EXECUTIVE

### 1. President

The executive authority vests in the president who is responsible for execution and maintenance of the Constitution and relevant laws.<sup>8</sup> After Parliamentary approval of a Bill, the President must assent to the Bill for it to go into effect.

### 2. Vice President

The Vice President is selected by the President during the election process and becomes Vice President if the President wins the election.<sup>9</sup>

### 3. Cabinet

The Cabinet is composed of seven to fourteen Ministers

appointed by the President, subject to approval by the National Assembly.<sup>10</sup>

### 4. Attorney General<sup>11</sup>

The Attorney General advises the executive in all legal matters, is responsible for prosecution, and legal drafting.

### 5. Ministry of Health

The Communicable Disease and Control Unit (CDCU) within the Ministry of Health manages and administers government HIV programmes.

#### a. National AIDS Council

The National AIDS Council Act No. 13 of 2013 defines the role of the National AIDS Council. Section 4(1) delineates the functions of the Council which include to:

- Recommend to the Government policies and strategies and take measures to (i) combat HIV and AIDS; (ii) control and mitigate the effects of the HIV and AIDS epidemic; and (iii) promote, coordinate, monitor and evaluate the application of such strategies and policies;
- Mobilise and manage resources whether financial or otherwise in support of the national response;
- Act as coordinating mechanism and secretariat for all national and international funding with respect to HIV and AIDS, Hepatitis-C, STIs, tuberculosis and malaria.

### 6. Ministry of Labour

The Employment Act is under review.<sup>12</sup> The Ministry of Labour indicates that the existing provision which

<sup>6</sup> Committee on Reform and Modernisation, Role and Purpose, available at <http://nationalassembly.sc/index.php/2010/11/26/committee-on-reforms-and-modernistaion/>

<sup>7</sup> Constitution of the Seychelles, Section 66(1) and (2).

<sup>8</sup> Ibid, Section 66A.

<sup>9</sup> Constitution of the Seychelles, Sections 67-69.

<sup>10</sup> Constitution of the Seychelles, Section 76.

<sup>11</sup> Constitutional Review Committee Report, 21 December 2009, available at [http://www.statehouse.gov.sc/static.php?content\\_id=31&type=1&start=10](http://www.statehouse.gov.sc/static.php?content_id=31&type=1&start=10).

<sup>12</sup> As of July 2016.

<sup>13</sup> Employment Act of 1995, Section 46(A).

<sup>14</sup> Discussion with Alda Aumeeruddy, Director for Industrial Relations Sections, Victoria, Seychelles, July 2016.



protects against discrimination on the basis of HIV status<sup>13</sup> will remain in the new law.<sup>14</sup>

### **7. Gender Secretariat**

The Gender Secretariat falls under the Social Development Policy Division of the Ministry for Social Affairs, Community Development and Sports.<sup>15</sup>

## **C. JUDICIARY**

Chapter VIII of the Constitution sets forth the basic rules of appointment, jurisdiction, and removal for the Court of Appeals and the Supreme Court, and provides for the establishment of other Courts. Historically, the Court of Appeals was composed of foreign judges. The independence of the Judiciary is constitutionally guaranteed,<sup>16</sup> though some have questioned its independence in practice.

The judiciary has the authority to strike down laws that violate constitutional and other rights. The judiciary has exercised this authority in important cases recently, including by holding portions of the Public Order Act (No. 22 of 2013)<sup>17</sup> unconstitutional as well as its role in changing the Misuse of Drugs Act.<sup>18</sup> In appropriate cases, the Courts can be used to challenge laws that violate constitutional or other rights including in the context of HIV.

The judiciary has also undertaken a review of the Civil Code, including inheritance law and other matters. This process has involved participation of lawyers, law students and members of the public.

### **Court of Appeals**

The Court of Appeals is an appellate court—it has no original jurisdiction but only hears cases that have already been decided by the Supreme Court and other courts to the extent that jurisdiction is conferred by law.<sup>19</sup>

### **Supreme Court**

The Supreme Court has original and supervisory jurisdiction over subordinate courts, tribunals and other adjudicating authorities.<sup>20</sup>

### **Magistrates Court**

The Magistrates Court has jurisdiction to decide any civil suit except in cases in which the amount claimed or value of the subject matter exceeds the Court's limit of jurisdiction.<sup>21</sup> The Magistrate's Court does not have jurisdiction over some matters, including divorce, adoption, guardianship, civil status, amongst others.<sup>22</sup> Matters decided in the Magistrate's Court can be appealed to the Supreme Court.<sup>23</sup>

<sup>15</sup> Gender Secretariat, available at <http://www.genderseychelles.gov.sc/pages/AboutUs/gensec.aspx>.

<sup>16</sup> Constitution of the Seychelles, Section 119(2).

<sup>17</sup> Seychelles News Agency, Seychelles Constitutional Court ruling declares sections of the Public Order Act are unconstitutional, available at <http://www.seychellesnewsagency.com/articles/3284/Seychelles+Constitutional+Court+ruling+declares+sections+of+the+Public+Order+Act+are+unconstitutional>.

<sup>18</sup> Act No. 5 of 2016.

<sup>19</sup> Courts Act, Section 12; Constitution, Section 120(1).

<sup>20</sup> Courts Act, Sections 4-11.

<sup>21</sup> Id, Section 38(1).

<sup>22</sup> Id, Section 38(6).

<sup>23</sup> Id, Section 43.

### **Opportunities:**

- Participation in review of the civil code and any other future judicial review of existing laws.
- Consider litigation to challenge laws that discriminate against people living with HIV, people or groups who are disproportionately impacted by HIV, or laws or policies that otherwise interfere with or serve as barriers to HIV-related services.

Additional relevant bodies include an Employment Tribunal and a Family Tribunal.<sup>24</sup>

## **D. OTHER INSTITUTIONS**

### **1. National Human Rights Commission**

The Human Rights Commission Chairperson and two members were sworn in on 27 March 2014 in accordance with Article 3(9) of the 2009 Protection of Human Rights Act.<sup>25</sup> The Chairperson of the Commission also serves as the Ombudsman.

### **2. Office of the Ombudsman**

Chapter X and Schedule 5 of the Constitution outline the powers and responsibilities of the Office of the Ombudsman. Some individuals from government and civil society have found it challenging to engage with the Office of the Ombudsman, even to schedule appointments.<sup>26</sup>

<sup>24</sup> Ministry of Social Affairs, Community Development and Sports, Family Tribunal, available at <http://www.socialdevelopment.gov.sc/index.php/family-tribunal-secretariat/the-family-tribunal>.

<sup>25</sup> National Human Rights Commission Sworn Into Office, 27 March 2014, available at [http://www.statehouse.gov.sc/news.php?news\\_id=243](http://www.statehouse.gov.sc/news.php?news_id=243).

<sup>26</sup> Key Informant Interviews, Victoria, Seychelles, July 2016.

## OUTLINE OF PROCESSES

### A. LAW REFORM AND ENACTING NEW LEGISLATION

New proposed laws generally originate within the relevant ministry. For example, if the Ministry of Health identifies an issue with the law pertaining to public health, the ministry would create a working or policy document on the issue.<sup>27</sup> *It is essential that civil society engages with relevant Ministries, including bringing their attention to issues on the ground.* The Ministry has discretion as to whether public consultations are held and the scope of consultation. In other cases, a special Commission will be formed to make proposals on a particular issue for law reform, as was the case with electoral reform.<sup>28</sup>

After drafting the working document, the Ministry obtains approval from Cabinet and sends the working document/proposed law to the drafting section of the Office of the Attorney General. The draft Bill is sent back to the Ministry for comments. The draft Bill is then brought before Cabinet where they can approve the Bill. If approved, the Attorney General gazettes the draft Bill, which provides an opportunity for the public to comment, including by meeting with or writing to members of Parliament to provide input on the bill.

The Bill is then listed/prioritised, and is then given a first reading by the House, and a second reading, which may or may not involve setting up Subject Committees to address any arising matters. In cases in which there is an issue with a law, and it is decided that a law should be changed, generally there is an ad hoc committee set up to address the law. It is the decision of the ad hoc committee whether and to what extent the public is consulted.

If the Bill is passed by the National Assembly, the bill goes to the executive for Presidential Assent. If the President assents, the bill becomes law or an 'Act' upon publication in the Official Gazette.<sup>29</sup>

The President has the authority to refer laws to the Constitutional Court to determine constitutionality.<sup>30</sup> This power has not yet been utilised.

Appeal Justice Mathilda Twomey serves as Chair of the Civil Code Review Committee (CCRC), a commission set up under the patronage of the President of the Court of Appeal to revise the Civil Code of Seychelles.

### B. CONSTITUTIONAL REFORM

The Constitutional Reform process is not clearly set out in the Constitution. The National Assembly cannot alter Sections I, III, or Articles 91(1), 110 or 111 of the Constitution without public support through a referendum.<sup>31</sup> To alter other portions of the Constitution, requires a 2/3 vote of the National Assembly

In 1992-1993, there were elections held for a Commission who was to draft a new Constitution. The draft Constitution proposed by the Commission then went to a referendum.<sup>32</sup>

Additionally, in the past, the Constitutional Review Committee was tasked with writing a report on Constitutional reform which was considered by the Committee on Reform and Modernisation. The Committee on Reform and Modernisation then made concrete proposals to Parliament on Constitutional reform (and on legislation).

<sup>27</sup> Interview with Khalyaan Karunakaran, Office of the Attorney General, Victoria, Seychelles, 12 July 2016.

<sup>28</sup> Seychelles Nation, Commission presents report and recommendations on electoral reform, 13 July 2013, available at <http://www.nation.sc/article.html?id=239419>.

<sup>29</sup> Constitution of the Seychelles, Section 86(3) and (4).

<sup>30</sup> Id, Section 87.

<sup>31</sup> Id, Section 91(1).

<sup>32</sup> Electoral Institute for Sustainable Democracy in Africa, Seychelles: 1992/3 Constitutional Reform, available at <https://www.eisa.org.za/wep/seychelles1992constitution.htm>. In the first referendum, the proposals did not pass and a second Commission was created.





## C. THE LITIGATION PROCESS AND REQUIREMENTS

The Code of Civil Procedure outlines rules of procedure for court cases including pleading requirements,<sup>33</sup> joinder of cases<sup>34</sup> and intervention<sup>35</sup> rules. In general, a civil case is initiated when a ‘plaint’ is filed in the registry.<sup>36</sup> The Plaint must include the following:

- (a) the name of the court in which the suit is brought;
- (b) the name, description and place of residence of the plaintiff;
- (c) the name, description and place of residence of the defendant, so far as they can be ascertained;
- (d) a plain and concise statement of the circumstances constituting the cause of action and where and when it arose and of the material facts which are necessary to sustain the action;
- (e) a demand of the relief which the plaintiff claims;
- (f) if the plaintiff has allowed a set off or has relinquished a portion of his claim, the amount so allowed or relinquished.

Parties to the case (Plaintiff and Defendant) will be required to appear in Court at a summons.<sup>37</sup> If the Defendant does not admit to the claim(s), or the case is not otherwise disposed of, on a fixed day, the Parties will appear in Court for a hearing at which point the Court will hear the case.<sup>38</sup> During the hearing, the Plaintiff and Defendant will introduce evidence, including witnesses, to support their case. The Court will make a ruling on the case after hearing all the evidence and considering the arguments of the Parties. All sittings of the Court are open to the public unless specified in the law to the contrary.<sup>39</sup>

If there is a case which an individual or group identifies

as a potential court case which might meet the standing requirements outlined below, a Seychellois lawyer—ideally an individual with experience with human rights and/or HIV rights litigation—should be consulted to discuss the possibility of filing and otherwise pursuing a civil case.

### Locus Standi

Locus Standi, or standing is the right to bring a court case challenging a law or on a particular matter. One must have locus standi for their case to be heard. If a Court finds that a Plaintiff or Petitioner does not meet locus standi requirements, the case will be dismissed.

Article 130(1) of the Constitution provides additional rules in cases not involving fundamental rights guaranteed by Section III of the Constitution, stating:

A person who alleges that any provisions of this Constitution, other than a provision of Chapter III, has been contravened and that the person’s interest is being or is likely to be affected by the contravention may, subject to this article, apply to the Constitutional Court for redress.

Under a strict definition of locus standi, only an individual who has experienced direct injury from a law, policy, or practice would be permitted to challenge a law in a court case. However, in recent years, some courts have permitted relaxed locus standi in cases of public interest litigation as this is seen as being in the public interest.

While there have been few public interest litigation cases in the Seychelles, in the recent case challenging

<sup>33</sup> Section 71.

<sup>34</sup> Sections 105-116.

<sup>35</sup> Sections 117-120.

<sup>36</sup> Section 23. <sup>37</sup> Section 63.

<sup>38</sup> Section 129.

<sup>39</sup> Section 145.

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provisions of the Public Order Act, in holding the Petitioners have standing to challenge the law, the Constitutional Court indicated that a shift towards relaxing locus standi requirements is appropriate, explaining:

One of the principles the Constitutional Court applied in the past on locus standi, is that only a person whose interest or right is directly affected by a law can challenge its constitutionality. A person cannot impeach a law because someone else is hurt. It is the fact of injury to the complainant himself, and not to others which justifies judicial interference. This has been the approach of the Constitutional Court of Seychelles in the last decade of the 20th century. This conventional approach – however suited to the social-economic-political conditions of that time – is not suited to the changing and challenging socio-economic-political necessities of the twenty-first century Seychelles. But this rule of locus standi, is now subject to the growth of the concept of Public Interest Litigation, which has indeed, greatly contributed to the ever-growing “constitutionalism” in the rest of the advanced democratic societies of the West and the East.<sup>40</sup>

The Court held that the Petitioners met standing requirements to bring a case challenging provisions of the Public Order Act, including the 2nd Petitioner whose standing rests primarily on his citizenship and articulated interest in a future career in politics (as opposed to having experienced a rights violation or other more direct injury as a result of the law).

The Attorney General’s office reports that as of yet, there have been no class action cases. Perhaps in the future such cases would be possible for public interest litigation.

#### **D. POLICY FORMULATION**

After the need for a policy is identified, the policy generally initiates within the relevant Ministry, such as the Ministry of Health or Labour. The Ministry has discretion concerning the scope of consultation and research. In some cases, there will be notice in newspapers or otherwise concerning public consultations but this is not always the case. Additionally, if there are known entities (NGOs or other) that work on particular issues, the Ministry may contact such stakeholders for input.

The Ministry of Employment<sup>41</sup> described the process as follows:

*Normally the need to develop a policy is identified. This is followed by consultations with stakeholders and research. A technical report is drafted whereby the policy issues and challenges are identified. Thereafter the policy is formulated based on the technical report. A validation is also held with relevant stakeholders. Note this process can be undertaken by the Ministry or through the services of a consultant. The policy is then submitted to the Cabinet of Ministers for approval. Once approved, the policy can be implemented.*

Where necessary the legal implications of the policy are considered afterwards and discussed with relevant parties. The legal provisions are then submitted to Cabinet for approval and then to the Attorney General’s office and where necessary the proposals are re-submitted to Cabinet. Finally, if it is an Act, this is submitted to the National Assembly for approval. If it is a Regulation, it is not required to be submitted to the National Assembly.

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<sup>40</sup> Constitutional Court of the Seychelles, *Seychelles National Party & Ors. v Government of Seychelles & Ano.* // Dhanjee v Michel & Ano, available at <http://www.seylii.org/sc/judgment/constitutional-court/2015/2>.

<sup>41</sup> Susan Morel, Ministry of Employment.

## RELEVANT LAWS AND POLICIES

(see 2013 Legal Environment Assessment (LEA) for comprehensive analysis of laws and recommendations)

### A. CHANGES IN THE LAW, POLICY AND RELATED PROGRAMMING SINCE THE 2013 LEGAL ENVIRONMENT ASSESSMENT (LEA)

There have been notable changes in the law since the 2013 LEA.<sup>42</sup> In 2016, consensual sexual acts between adults of the same sex were decriminalised<sup>43</sup> and there was a change in the Misuse of Drugs Act,<sup>44</sup> including with regard to mandatory minimum sentences for drug users. Key informants indicate that under the previous law, there were wide scale arrests and imprisonment for personal use of drugs. It has been reported that—partially due to the strict enforcement of punitive drug laws—the Seychelles had the highest proportion of inmates per capita in the world.<sup>45</sup> Amendments to the Misuse of Drugs Act<sup>46</sup> mean that those arrested for drug use will now be referred to rehabilitation for at least their first two offences. Key informants report that under the new law, if an individual is arrested a third time, they may serve jail time but there are no longer any mandatory minimum sentences. While personal drug use remains criminalised, the law reform reflects a welcome shift from a punitive to a more rehabilitative approach in addressing drug use.

Through the changes in the Misuse of Drugs Act,<sup>47</sup> the government has implemented rehabilitation and harm reduction programmes. While informants indicate that there was some access to methadone prior to the change in the law, there is now also a needle exchange programme.<sup>48</sup> There are five sites for the needle exchange programme including on Mahe, La Digue, and Praslin. The CDCU unit in the Ministry of Health

indicate that a mobile needle exchange programme will begin in August 2016.<sup>49</sup>

As of April 2016, there is a new Policy on HIV AIDS in the Workplace. The policy replaces the 2007 policy and specifically prohibits screening solely for purposes of exclusion from employment or work processes.

### B. RELEVANT LAWS AND POLICIES

#### Constitution

Article 29 of the Constitution guarantees the right to the highest attainable standard of physical and mental health, providing:

The State recognises the right of every citizen to protection of health and to the enjoyment of the highest attainable standards of physical and mental health and with a view to ensuring the effective exercise of this right, the State undertakes:

- To take steps to provide for free primary health care in state institutions for all its citizens
- To take appropriate measures to prevent, treat and control epidemic, endemic and other diseases
- To take steps to reduce infant mortality and promote the healthy development of the child
- To promote individual responsibility in health matters
- To allow, subject to such supervision and conditions as are necessary in a democratic society, for the establishment of private medical service

*Some Major Legal barriers identified in the LEA that have not yet been implemented or addressed (discussed in more detail below)*

- There is no general non-discrimination or equality law (similar to South Africa's Promotion of Equality and

<sup>42</sup> Ministry of Health et al, Situation Analysis of Legal and Regulatory Framework for HIV and AIDS in Seychelles (2013), at 13, available at <http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/legal-environment-assessments.html>.

<sup>43</sup> Seychelles News Agency, Seychelles parliament passes bill to decriminalize sodomy, 18 May 2016, available at <http://www.seychellesnewsagency.com/articles/5198/Seychelles+parliament+passes+bill+to+decriminalize+sodomy>. This law went into effect in June 2016.

<sup>44</sup> Act No. 5 of 2016.

<sup>45</sup> World Prison Brief, available at [http://www.prisonstudies.org/highest-to-lowest/prison\\_population\\_rate?field\\_region\\_taxonomy\\_tid=All](http://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=All).

<sup>46</sup> Act No. 5 of 2016.

<sup>47</sup> Id.

<sup>48</sup> This programme is implemented by the Communicable Disease Control Unit of the Ministry of Health. The rehabilitation programme falls under the Ministry of Foreign Affairs.

<sup>49</sup> Dr. Morel, Communicable Disease and Control Unit of Ministry of Health, Victoria, Seychelles, July 2016.



#### Prevention of Unfair Discrimination Act)

- Health rights in the context of HIV and AIDS are not clearly set out in law. They are protected in various broad constitutional rights and further developed in various HIV-related policies, strategies and plans. As a result, at times there is legal uncertainty, as well as limited legally binding provision for specific matters relating to HIV and AIDS.
- Aspects of sex work and personal drug use remain criminalised

#### Equality and Non-Discrimination Law

The LEA recommends:

The law must protect and promote human rights in the context of HIV and AIDS and prohibit all forms of discrimination on the basis of actual or perceived HIV status. Protection from HIV-related discrimination should be included within any proposed HIV law; alternatively, consideration should be given to the enactment of general anti-discrimination legislation which includes HIV as a prohibited ground of discrimination. Existing human rights and constitutional guarantees should be enforced. The State may also wish to consider an amendment to the Constitution to include HIV as a prohibited ground of non-discrimination.

#### Health Laws<sup>50</sup> and Policy Framework

##### Public Health Act<sup>51</sup>

Under the Public Health Act, HIV/AIDS is a notifiable disease and Section 35 prohibits exposure of infectious disease, but is not HIV-specific (nor is HIV listed as an infectious disease in Schedule I).

##### The Draft Charter for Health

The Draft Charter for Health (dated April 2016)

recognises that health is a state of “complete physical, mental, spiritual and social well-being and living harmoniously with nature, and not merely the absence of disease or infirmity.”

##### National Health Policy of 201

Affirms the government’s commitment to the constitutional right to the highest attainable standard of health. The policy identifies the following policy objectives:

- Improve the health status of the Seychellois population through policy actions in all sectors and by expanding preventive, promotive, curative, palliative and rehabilitative health programmes strategies;
- Provide comprehensive, high quality integrated health care services and free primary health care at the point of use;
- Strengthen the governance and accountability of the health care system;
- Achieve self-sufficiency in human resources for health;
- Achieve sustainability of the health-system;
- Promote research, data and information management and innovation to improve the nation’s health; and
- Support the growth of the private health sector and public private partnership for health development.

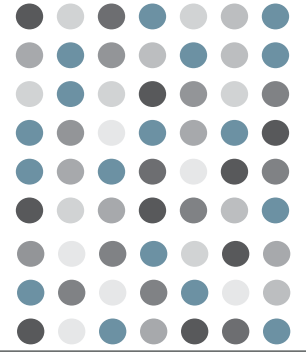
The National Strategic Plan for 2006-2016 also provides a general health framework.

The National Strategic Framework for HIV & AIDS and STIs 2012-2016 prioritises the needs of key populations. The plan includes specific programmes and services for people who inject drugs, men who have sex with men, sex workers, pregnant women and young people.

For example, under the goal of halting new infections, the following are objectives:

<sup>50</sup> See <http://www.health.gov.sc/index.php/health-care-laws/> for a list of Health laws.

<sup>51</sup> Act No. 25 of 1959



- To reduce HIV transmission through sexual contacts in young persons aged 15 to 24 years and in men who have sex with men by 50% by 2016;
- To reduce HIV transmission through the sharing of contaminated injecting equipment by 50% in people who inject drugs; and
- To create supportive and protective legal, institutional and structural environments for prevention and behaviour change programmes by 2016.

Priorities under this goal include:

- Targeting key populations, such as men who have sex with men, people who inject drugs and sex workers; and
- Studying the needs of sex workers, prison inmates and migrants

**Opportunity:**

Since the current National Strategic Framework for HIV & AIDS and STIs (NSF) will end in 2016, there is an opportunity to hold the government accountable for commitments made in the document. For example, the document includes key population-specific and other priorities and goals and outlines plans for key population-specific and other programming. Review this language and highlight the extent to which these priorities, goals and programmes have been realised or implemented in a letter or memo to the Ministry of Health, NAC, relevant Parliamentary Committees, individual members of Parliament, and other stakeholders. Since the NSF is still in effect, this gives government an opportunity to address these issues before the end of the year. Utilise this letter or memo to push for language in the next NSF that will adequately commit the government to meeting programming gaps, address legal and policy barriers, and any other issues.

**National Reproductive Health Policy (January 2012)**

The Policy goal of the Reproductive Health Policy is to ensure that all Seychellois have the best possible chance of enjoying safe and satisfying sexual relationship/s, can determine whether and how often they have children, and give their children the best possible start in life.

The Reproductive Health Policy also affirms that under common law, an action can be taken for breaches in confidentiality. The policy defines (i) respect for human rights; (ii) equity in service; (iii) ensuring access to high quality services; and (iv) gender equity and equality as guiding principles in promoting the reproductive health of Seychellois.

The 2011 National Policy for the Prevention and Control of HIV & AIDS and STIs (“National HIV Policy”) provides guidance for the health rights in the context of HIV and AIDS and recognises:

“In line with the UNAIDS 2011 – 2015 Strategy: Getting to Zero, one of the key thrusts is to advance human rights and gender equality for the HIV response. It is considered essential to address the issue of social and legal environments that fail to protect against stigma and discrimination or to facilitate access to HIV programmes continue as they block universal access. In particular, greater efforts are needed to realize and protect HIV-related human rights of women and girls, of PLWHAs, Key Populations, MARPS and most vulnerable communities.”<sup>52</sup>

As summarised by the LEA:  
The National HIV Policy provides for access to

<sup>52</sup> Para. 6.3.2 Guiding Principles.



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appropriate and quality care for people living with HIV, including effective treatment of opportunistic infections, without discrimination, and specifically provides that anti-retroviral therapy will be made available to all HIV-positive patients. It furthermore states that “[s]pecial focus will also be placed on ensuring that all seropositive persons’ sexual and reproductive health rights shall be upheld.”<sup>53</sup>

The policy also recognises that there has been inadequate focus on key and vulnerable populations and includes a focus on prevention, including harm reduction measures, for key populations.

While some recommendations of the LEA have been implemented, others are yet to be addressed. In the context of the health law and policy framework in Seychelles, the 2013 LEA found:

Health rights in the context of HIV and AIDS are not clearly set out in law. They are protected in various broad constitutional rights and further developed in various HIV-related policies, strategies and plans. This means that there is at times legal uncertainty, as well as limited legally binding provision for specific matters relating to HIV and AIDS.

While some LEA recommendations have been incorporated into policies, they have not been enacted into law, which is recommended to strengthen human rights protections and to clarify legal rights.

LEA recommendations yet to be addressed in the context of health laws, policies and plans:

- Legal and provision for HIV testing to take place only on the basis of voluntary and informed consent

(save for exceptional circumstances such as unlinked surveillance testing), as is currently provided for in the National HIV Policy.

- Law and policy review and reform to create legal certainty on the age of consent for medical testing and treatment, and to align the age of consent to sexual and reproductive health services to that of consent to sexual intercourse, in accordance with the provisions of the National HIV Policy and Reproductive Health Policy.

- Make clear provision in law for the right of all people to medical confidentiality, including in the case of HIV and AIDS (High priority)

*The Reproductive Health Policy states that under common law, an action can be taken for breaches in confidentiality. Additionally, professional codes place a duty on doctors, nurses and health professionals not to disclose information about an individual without their consent, except in exceptional circumstances. However, the right to medical confidentiality should be guaranteed by the law.*

- the rights of children to medical confidentiality with regard to their HIV status, and for children who are able to consent independently in law to HIV testing to receive the results of their HIV tests

*The Reproductive Health Policy, Section 6.2, provides:*  
*I. Young people (under 18) have the same right to confidentiality as other patients and*  
*II. If certain criteria are met, persons under 18 can consent to contraceptive and other services, though HIV services are not specifically mentioned.*

*These policy guidelines should be enacted into law, through reform of the Children’s Act or otherwise, including in the context of HIV-related services, to address the age of consent discrepancy (under the*

<sup>53</sup> At 56.



law, a young person aged 15 to 17 years can legally consent to sex, but requires parental consent in circumstances where they may require HIV testing, treatment for sexually transmitted infections, hormonal contraceptives and other sexual or reproductive health services)<sup>54</sup>

- the right to be protected from disclosure of confidential medical information and for disclosure of confidential medical information, including HIV status, only on the basis of the informed consent of the person him or herself / person with the capacity to provide consent or by a qualified health care professional to an identified, third party where a real risk of HIV transmission exists after following step-by-step procedures, and after ensuring that there is no risk of harm to the patient, as recommended in the International Guidelines on HIV/AIDS and Human Rights (High priority)
- Legal provision for measures to ensure that the blood/tissue/organ supply is free of HIV and other blood-borne diseases.
- Legal provision for the right of all people to available, accessible, appropriate, affordable and quality medicines, diagnostics and related technologies for HIV and AIDS, without discrimination, for prevention, treatment, care and support of HIV and AIDS, as is currently set out in the National Strategic Framework for HIV & AIDS and STIs 2012-2016. (High priority)
- Legal provision for employers to be responsible for the cost of treatment of migrant worker employees.
- Legal provision for the prioritisation of the needs of particularly vulnerable populations in access to health care services, as is currently set out in the National Strategic Framework for HIV & AIDS and STIs 2012-2016.

### **Opportunities:**

(see Section V Forms of Engagement with Legal, Policy, Political and Other Processes for more comprehensive list of types of engagement)

- Engage with and develop relationships with decision and policy makers (Parliament, National AIDS Council and other Ministries) and national human rights bodies (ombudsman, human rights commission).
- Share information and encourage the sharing of relevant dates, upcoming activities (law and policy review, other).
- Request a regular meeting space (town hall or other) where stakeholders (government, CSOs, the community) can come together to discuss HIV, human rights and related issues.
- In meetings of this nature, outline tasks for each person/entity and concrete objectives. Hold everyone accountable for their tasks by reporting back on progress at the next meeting.
- Engage with the Committee on SRHR and HIV/AIDS as soon as the new Parliament is elected and Members are assigned to the Committee. Utilise M&E tool template for researchers that identifies priority issues.
- Engage with National AIDS Council on outstanding law and policy reform recommendations

### **Isolation and Detention of Patients**

One issue of concern is that the involuntary isolation and detention of patients who are believed to be suffering from infectious diseases, though additional research is needed to assess the situation on the ground.

The Public Health Tuberculosis Regulations from the previous Public Health Act which allowed for persons infected with tuberculosis to be detained in a hospital

<sup>54</sup> Ministry of Health et al., Situation Analysis of Legal and Regulatory Framework for HIV and AIDS in Seychelles (2013), at 62.



or sanatorium for the purposes of treatment, with or without their consent, until they are medically certified for discharge without danger to public health are not included in the new Public Health Act of 2015.<sup>55</sup> Under the old TB Regulations, any attempt to escape amounted to an offence.

While the provisions that allowed for detention for prevention and control of infectious diseases have been altered, Section 30 under the 2015 Act still allows for non-consensual detention and isolation for purposes of treatment of persons believed to be suffering from infectious diseases.

LEA recommendation yet to be implemented:

- A clear prohibition on the use of coercive public health measures such as isolation, detention or quarantine in the response to HIV or AIDS.

The LEA also recommended:

- The review of the Public Health TB Regulations to ensure that patients subjected to involuntary detention for TB are accorded due process and that detention does not take place without appropriate justification. *Although the TB regulations are no longer in force, there should be safeguards put into place to ensure persons isolated and detained under Section 30 or otherwise are accorded due process and that detention does not take place without appropriate justification.*

## RELEVANT CRIMINAL LAWS

### Sodomy Laws

While the criminal law on sodomy (which criminalised sex between men but not women) was repealed in 2016, men who have sex with men are still stigmatised and at high risk of HIV. A 2011 survey found that HIV

prevalence among men who have sex with men in the Seychelles was 13.2% (compared to 0.1% prevalence in the general population).<sup>56</sup>

Some recommendations of the LEA that are yet to be implemented and/or require ongoing efforts:

- Given the high percentage of men who have sex with men who inject drugs, there should be linkages to injecting drug use services, including evidence-based risk reduction programs such as syringe exchange and opiate substitution therapy.
- Law enforcement officials, and health and social care providers need to be trained to recognise and uphold the human rights of men who have sex with men, and should be held accountable if they violate the rights of men who have sex with men, including the perpetration of violence.

### Opportunities:

Given the recent decriminalisation of sodomy, now is the time to push for interventions and programming to address the needs of men who have sex with men including the recommendations above from the LEA.

- Collect information from individuals and communities about gaps in access to HIV-related services for men who have sex with men and other LGBTI people.
- Analyse to provide specific recommendations for programming.
- Advocate for: (i) evidence-based men who have sex with men and other lesbian, gay, bisexual, transgender and intersex people-targeted programming and interventions and (ii) human rights trainings for law enforcement and health and social care workers that include information about lesbian, gay, bisexual, transgender and intersex rights and HIV.
- Provide recommendations to the Ministry of Health for

<sup>55</sup> The TB Regulations are not expressly included in the Public Health Act of 2015 and the new Act repeals and replaces the previous Public Health Act. It is not entirely clear if the TB Regulations are still in effect.

<sup>56</sup> Ministry of Health et al., Situation Analysis of Legal and Regulatory Framework for HIV and AIDS in Seychelles (2013), at 13.





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effective programming that link men who have sex with men and other lesbian, gay, bisexual, transgender and intersex people with drug use services including harm reduction.

### **Sex Work**

The Penal Code criminalises aspects of sex work, including buying of sex, solicitation, owning a brothel and living off the earnings of sex work.<sup>57</sup> It also criminalises offences relating to being an “idle and disorderly” person which are used to harass and arrest sex workers. All 33 sex workers interviewed in a 2010 Drug and Alcohol Council survey were people who inject drugs.<sup>58</sup>

Criminal laws used to target, arrest and harass sex workers as outlined in the 2012 LEA:

In terms of section 143 of the Penal Code: “Whoever for purposes of gain -

(a) procures, entices or leads away, for purposes of prostitution, another person (even with the consent of that other person); or (b) exploits, or is an accessory in, the prostitution of another person (even with the consent of that other person), or the illicit carnal connection of two other persons, is guilty of a misdemeanour.

Section 144 prohibits procurement or enticement of persons under the age of 21 as well as trafficking: “Whoever -

(a) procures, entices or leads away, for purposes prostitution, another person (even with the consent of that other person); or  
(b) exploits, or is an accessory in, the prostitution of

another person (even with the consent of that other person), where the person procured, enticed, led away or exploited is less than twenty-one years old at the time of the offence, or is procured, enticed, led away or exploited for the purpose of being sent abroad, or by the use of fraud, deceit, threat, violence or any other means of duress, is guilty of a misdemeanour.

Under Section 154, soliciting is an offence: “*A person who solicits another person in a public place for prostitution is guilty of an offence and liable to imprisonment for 2 years.*”

Section 155 makes it a criminal offence “to keep or manage a brothel or to permit any premises to be used as a brothel:

(1) A person who -

(a) keeps or manages, or acts or assists in the keeping or management of a brothel;

(b) being the owner, tenant, lessee or occupier or person in charge of any premises, knowingly permits the premises or any part of the premises to be used as a brothel;

(c) being the owner, lessor or landlord or the agent of the owner, lessor or landlord, of any premises -

(i) lets out the premises or any part of the premises knowing that the premises or any part of the premises is to be used as a brothel; or

(ii) is wilfully a party to the continued use of the premises or any part of the premises as a brothel, is guilty of an offence and liable to imprisonment for three years.

(2) In this section “brothel” means any premises or

any part of any premises resorted to or used by any person for the purposes of prostitution or lewd sexual practices.”

Section 156 provides that:

“A person who –

- (a) procures, entices or leads away, for the purposes of prostitution, another person;
- (b) knowingly lives wholly or in part on the earnings of prostitution of another person;
- (c) knowingly exploits the prostitution of another person;
- (d) for the purposes of gain, exercises control, direction or influence over the movements or action of another person in a manner as to show that the person is aiding, abetting, encouraging or compelling the prostitution of that other person, is guilty of an offence and liable to imprisonment for five years.”

Section 173 of the Penal code provides:

The following persons –

- (a) every common prostitute behaving in a disorderly or indecent manner in any public place;
- (b) every person wandering or placing himself in any public place to beg or gather alms, or causing or procuring or encouraging any child or children so to do;
- (c) every person playing at any game of chance for money or money’s worth in any public place, or on private property without the consent of the occupier;
- (d) every person who in any public place conducts himself in a manner likely to cause a breach of the peace;
- (e) every person wandering about and endeavouring by the exposure of wounds or deformation to obtain or gather alms;
- (f) every person found drunk and incapable or drunk

and disorderly in any street or public place;

(g) every person who in any public place uses any indecent or obscene language;

(h) every person found in a public place wandering or placing himself so as to cause an obstruction, shall be deemed idle and disorderly persons, and shall be liable to imprisonment for one year or to a fine not exceeding Rs.1, 000 or to both.

The LEA made a number of recommendations concerning laws criminalising aspects of sex work and interventions and programmes for sex workers which are yet to be implemented and/or require ongoing efforts:

- Consideration should be given to decriminalising consensual sex work and the elimination of unjust application of non-criminal laws and regulations against sex workers for harm reduction purposes.
- Consideration should be given to discontinuing the use of public order statutes and the “Idle and Disorderly” provisions of the Penal Code currently used as the basis to arrest sex workers in public places.
- Law should be enacted to protect against discrimination and violence, and other violations of rights faced by sex workers in order to realize their human rights and reduce their vulnerability to HIV infection and the impact of AIDS. Antidiscrimination laws and regulations should guarantee sex workers’ right to social, health and financial services.
- Programmes should be put in place to provide legal literacy and legal services to sex workers so that they know their rights and applicable laws, and can be supported to access the justice system when aggrieved.
- Health services should be made available, accessible and acceptable to sex workers based on the principles of avoidance of stigma, non-discrimination and the

<sup>57</sup> Id, at 76-78.

<sup>58</sup> Republic of Seychelles; National AIDS Council (2011) Evaluation Report of the HIV and AIDS National Strategic Plan 2005-2009 and Roadmap for the National Strategic Plan 2012-2016 at 17.

right to health.

- Programmes should be put in place to sensitize and educate health-care providers on non-discrimination and sex workers' right to high-quality and non-coercive care, confidentiality and informed consent.
- Sex workers' groups and organizations should be made essential partners and leaders in designing, planning, implementing and evaluating health services.
- Essential health services for sex workers must include universal access to male and female condoms and lubricants, as well as access to comprehensive sexual and reproductive health services, and equitable access to all available health-care services including primary health care.
- Violence against sex workers is a risk factor for HIV and must be prevented and addressed in partnership with sex workers and sex worker led organizations.
- Violence against sex workers needs to be monitored and reported, and redress mechanisms established to provide justice to sex workers.
- Law enforcement officials, and health and social care providers need to be trained to recognize and uphold the human rights of sex workers, and held accountable if they violate the rights of sex workers, including the perpetration of violence.
- Support services need to be provided to sex workers who experience violence.

### **Opportunities:**

The first national study on sex workers was completed in 2015, but will not be released until other countries in the region complete their assessments.<sup>59</sup> However, the study found that sex workers have higher HIV prevalence than the general population—slightly less than 5%.<sup>60</sup>

- While the criminal laws make it difficult to access sex workers, CSOs should continue to collect information and document barriers in access to HIV-related services for sex workers.
- Make recommendations to MOH, NAC and other stakeholders in terms of programming to address the health needs of sex workers, including programmes that address the needs of sex workers who inject drugs.
- See also, Section V, Forms of Engagement with Legal, Policy, Political and Other Processes.

### **Misuse of Drugs Act**

As mentioned above, the Misuse of Drugs Act was amended in 2016 and some important recommendations from the 2013 LEA have been implemented. The new law marks a shift from a primarily punitive law to a law that incorporates rehabilitation and harm reduction programmes. These are important steps to safeguard the rights, health and well-being of people who use drugs and to more effectively address HIV and AIDS in Seychelles. In addition to providing for rehabilitation and harm reduction programmes, the new law does not include the lengthy mandatory minimum sentences for those convicted of personal drug use.<sup>61</sup>

Not all the recommendations from the LEA were incorporated into the new law and there are recommendations from the LEA that will require ongoing efforts. While the change in the law and the new harm reduction programmes are significant steps, implementation of effective programming to scale will take time and there remain challenges.

<sup>59</sup> Interview with Dr. Gabriel, NAC, Victoria, Seychelles, July 2016.

<sup>60</sup> Interview with Ronny Arnephy, CEPS, Victoria, Seychelles, July 2016.

<sup>61</sup> See Misuse of Drugs Act of 1990, Schedule II.

*Recommendations not incorporated into the Misuse of Drugs Act of 2016:*

- Consideration should be given to decriminalise possession of drugs for own use; and Halt the practice of arresting and imprisoning people who use drugs but do no harm to others.

There is a need for ongoing efforts and programming with respect to these recommendations:

- Build the capacity of law enforcement officials, judicial officers and health care service providers on the importance of evidence-based and rights affirming interventions proven to meaningfully reduce the negative individual and community consequences of drug use.
- Scale up evidence based strategies to reduce HIV infection and protect the health of persons who use drugs, including sterile syringe distribution and other safer injecting programmes.
- Invest in an easily accessible range of evidence-based options for the treatment and care for drug dependence, including substitution and heroin-assisted treatment.

**Opportunities:**

Since the law has just taken effect and programmes are in an early stage, 2016 is a prime opportunity for collaboration with programme implementers and engagement with government to improve the effectiveness of programmes.

- Collect evidence on the effectiveness of the programmes and gaps and issues including logistical, informational or other. Make evidence-based recommendations to CDCU, MOH and other decision-makers and programme implementers that would address issues on the ground.
- Engage and work closely with the CDCU unit of the

MOH on harm reduction programmes by (i) providing information on challenges and issues on the ground; (ii) making recommendations to improve the rehabilitation and harm reduction programmes In particular, make recommendations to increase access to services and knowledge of available services in the communities.

- Outreach programmes to de-stigmatise people who use drugs, share information, and promote a human rights-based approach to addressing the needs of people who use drugs, in general and in the context of HIV.
- Conduct outreach programmes in communities to sensitise and increase knowledge of (i) harm reduction and rehabilitation programmes, including information on where and how to receive services and commodities and (ii) the changes in the law under the 2016 Misuse of Drugs Act and related programming.
- Promote the inclusion of people who use drugs in decision making with regard to programming and in any policy and law reform in future.
- Collaborate and correspond with stakeholders in other countries in the region and internationally who have implemented harm reduction programmes (for example Mauritius and Tanzania).

**Immigration**

There are unwritten policies that require HIV testing in the event of a proposed marriage between a Seychellois and a foreign national<sup>62</sup> If the test is positive, the couple is not permitted to marry in the Seychelles.<sup>63</sup>

Section 19(1)(a) of the Immigration Decree, 1981 states that applicants for a dependent's permit, a residence permit, a visitors permit and a gainful occupation

<sup>62</sup> U.S. Department of State, 2015 Human Rights Reports: Seychelles, available at <http://www.state.gov/j/drl/rls/hrrpt/2015/af/252723.htm>.

<sup>63</sup> Ibid.

permit may be refused the above-mentioned permits if they are “Prohibited Immigrants”. Prohibited immigrants include, amongst others:

- any person who is infected or inflicted with or is a carrier of a prescribed disease and who is capable or likely to become capable of infecting any other person with such disease or of transmitting to him such disease;
- any prostitute or any person who in Seychelles has knowingly lived wholly or in part on the earnings of prostitution or has procured any other person for immoral purposes;
- any person who is likely to become a charge on the Republic in consequence of his inability to support himself or any of his dependants in Seychelles and to provide for the removal of himself or such dependants from Seychelles, and
- any person who has been sentenced in any country including Seychelles to a term of imprisonment following on his conviction for an offence and has not received a free pardon.

A permit may be revoked for similar reasons.

Additionally, the *Policy/procedure for HIV Testing of Foreign Workers in Seychelles*<sup>64</sup> requires HIV testing to receive a medical fitness certificate for foreign workers. A medical fitness certificate is required for foreigners to be authorised for employment in the Seychelles.

The policy provides:

1.1.1. In Seychelles, it is a requirement to submit a medical fitness certificate with an application for Gainful Occupational Permit for foreign workers. The procedure is such that the migrant workers are required to undergo a medical test in their country of origin, which includes HIV testing.

1.1.2. The results are then sent to the Ministry of Health where a fitness certificate is issued and forwarded to the Immigration Division, without stating details of the tests undertaken. There are circumstances where medical test including HIV/AIDS test is done locally for migrant workers who are already in the country. The medical examination is required to be renewed upon renewal of the Gainful Occupational Permit and regular medical tests may be required depending on the type of employment (e.g. food handlers) on the basis of public health requirements.

Similarly, applicants for dependents, visitors, residence permits must submit a medical fitness certificate to accompany their application and include the results of the HIV test. Applicants with HIV have been refused entry to Seychelles or asked to leave. The scope of this issue is not clear.

#### **Opportunity:**

- Collect and document information about the application of immigration policies and procedures including how many persons and in what context persons have been denied permits on the basis of HIV status, refused entry, or asked to leave.
- Advocate for repealing or revising any laws or policies on mandatory, compulsory or coercive HIV testing and disclosure in all contexts, including in the context of immigration and employment.

## **EMPLOYMENT AND LABOUR**

### **Employment Act**

Currently the Employment Act is under review. The Ministry of Labour indicates that the existing provision which protects against discrimination on the basis of HIV status will remain in the new law.<sup>66</sup> Section 46(A) states

<sup>64</sup> The Ministry of Employment provided a copy of the policy/procedure, July 2016.

<sup>65</sup> ARASA, 2014 Report: HIV and Human Rights in Southern and East Africa, at 110.

<sup>66</sup> Discussion with Alda Aumeeruddy, Director for Industrial Relations Sections, Victoria, Seychelles, July 2016; Employment Act of 1995, Section 46(A).

“[w]here an employer makes an employment decision against a worker on the grounds of the worker’s age, gender, race, colour, nationality, language, religion, disability, HIV status, sexual orientation or political, trade union or other association, the worker may make a complaint to the Chief Executive stating all the relevant particulars.”

### **The HIV/AIDS Workplace Policy**

In April 2016, the HIV/AIDS Workplace Policy was updated. The new (draft) policy seeks to align the domestic policy with ILO **Recommendations and Codes of Practice**.

#### **Opportunity:**

Since the Employment Act is currently under review, this is an opportunity to advocate for:

(i) alignment with international instruments including the ILO recommendation concerning HIV and AIDS in the World of Work (number 200), as well as ILO codes of practice on: HIV/AIDS and the World of Work of 2001; on the Protection of workers’ personal data of 1997; and on Managing Disability in the Workplace of 2002 (the HIV/AIDS Workplace Policy also sought to align itself with these ILO instruments); and

(ii) The inclusion of protective provisions present in the Policy on HIV and AIDS in the workplace that are not protected under the law, to provide stronger safeguards in the context of employment.

### **PRISONS AND INMATES**

In 2010, HIV prevalence rates amongst detainees were estimated as twice to fifty times higher than prevalence amongst the general adult population.<sup>67</sup> The LEA found that despite recognition of the needs of inmates in the HIV and AIDS policy, neither condoms nor clean needles were available in prisons.

While there is still no access to condoms nor harm reduction services in prisons, NAC indicated that both programmes would begin soon as part of implementing Minimum Standards for HIV and AIDS, TB, Hepatitis B and C, and Sexually Transmitted Infections Prevention, Treatment, Care and Support in Prisons in the SADC Region.<sup>68</sup> Additionally, there will be a government study/survey on prisons and HIV in the near future.<sup>69</sup> There was also a study that informed development of the Prison Service Management and Rehabilitation Plan (2012-2016), though it is not available to the public.<sup>70</sup>

### **Prisons Act**

In 2013, the Prisons Act was under review and it appears that this is still the case.

The Seychelles Prison Service Management and Rehabilitation Plan 2012-2016 aims “to develop and implement a human rights approach to prison management which meets minimum international standards.” Since the Plan expires in 2016, it will be up for review and renewal.

#### **Opportunity:**

Participate in review of the 2012-2016 policy and formulating the new policy including through submissions and engagement with the Prison Services, NAC, Members of Parliament and Parliamentary Committees.

LEA recommendations with respect to prisons and inmates:

*It is recommended that all prisoners convicted and on remand, are afforded access to acceptable, affordable and accessible quality HIV voluntary testing and counselling and prevention, treatment and care services including:*

<sup>67</sup> International HIV/AIDS Alliance and Commonwealth HIV and AIDS Action Group, (2010) Enabling legal environments for effective HIV responses: A leadership challenge for the Commonwealth Available at: <http://www.hivpolicy.org/Library/HPP001810.pdf>

<sup>68</sup> Interview with Dr. Gabriel, NAC, Victoria, Seychelles, July 2016.

<sup>69</sup> Id.

<sup>70</sup> Shella Mohideen, University of Seychelles, Victoria, Seychelles, July 2016.

- Information, education and communication
- HIV testing and counselling
- Treatment, care and support
- Prevention, diagnosis and treatment of tuberculosis
- Prevention of mother-to-child transmission of HIV
- Condom programmes
- Prevention and treatment of sexually transmitted infections
- Prevention of sexual violence
- Drug dependence treatment
- Needle and syringe programmes
- Vaccination, diagnosis and treatment of viral hepatitis
- Post-exposure prophylaxis
- Prevention of transmission through medical or dental services
- Prevention of transmission through tattooing, piercing and other forms of skin penetration
- Protecting staff from occupational hazards

#### **Opportunities:**

- Collect information and document the situation on the ground for inmates with respect to access to HIV-related health services and commodities. Disseminate findings to relevant stakeholders and decision-makers to push for LEA recommendations above.
- Given the recent changes in law in terms of sodomy and harm reduction and indication from NAC that services will be made available in the future in line with implementation of Minimum Standards for HIV and AIDS, TB, Hepatitis B and C, and Sexually Transmitted Infections Prevention, Treatment, Care and Support in Prisons in the SADC Region, there is an opportunity to push for immediate access to (i) harm reduction services and (ii) condoms in prisons.
- The National AIDS Council prison study (to take place in the near future) will provide specific evidence for advocacy.

- When the government study/survey findings are made available, utilise information from upcoming survey to push for LEA recommendations and Minimum Standards for HIV and AIDS, TB, Hepatitis B and C, and Sexually Transmitted Infections Prevention, Treatment, Care and Support in Prisons in the SADC Region.

#### **INTELLECTUAL PROPERTY AND TRIPS FLEXIBILITY**

In 2014, Seychelles became a member of the WTO and is in the process of revising its Patent legislation to comply with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

#### **Opportunity:**

- Engage with Members of Parliament, the Office of the Attorney General, MOH and other stakeholders to advocate for (i) full use of available TRIPS flexibilities to safeguard access to medicines and (ii) to ensure that the government does not adopt TRIPS-plus provisions that would restrict access to essential medicines.
- Draft a brief, memo, letter or other document that outlines the importance of the use of TRIPS flexibilities and disseminate to the public, civil society, government and other stakeholders.

## FORMS OF ENGAGEMENT WITH LEGAL, POLICY, POLITICAL AND OTHER PROCESSES

Below is a non-exhaustive list of forms of engagement, in general and for specific processes.

### DOMESTIC

#### General

- Engage with and develop relationships with decision and policy makers and national human rights bodies (Office of the Ombudsman, Human Rights Commission) identified in this report.
- Share information and encourage the sharing of relevant dates, upcoming activities (law and policy review, other).
- Request a regular meeting space (town hall or other) where stakeholders (Government, CSOs, the community) can come together to discuss HIV, human rights and related issues.
- In meetings of this nature, outline tasks for each person/entity and concrete objectives. Hold everyone accountable for their tasks by reporting back on progress at the next meeting.
- Engage with the Committee on SRHR and HIV/AIDS as soon as the new Parliament is elected and Members are assigned to the Committee. Utilise M&E tool template for researchers that identifies priority issues.
- Engage with National AIDS Council on outstanding law and policy reform recommendations
- Engage with and develop relationships with members of the judiciary and other legal experts including through outreach, sensitisation and information sharing (the Attorney General's Chambers, private and public practitioners, law societies, law schools, and other legal institutions).
- National AIDS Council on outstanding law and policy reform recommendations
- Engage with and develop relationships with members of the judiciary and other legal experts including through outreach, sensitisation and information sharing (the Office of the Attorney General, private and public practitioners, law schools, other legal institutions).
- Engage with and develop relationships with police officers, health providers and others, including through outreach, sensitisation and sharing of information.
- Remain informed about the legal and policy environment and the situation on the ground.
- Regularly engage with stakeholders, through outreach, knowledge sharing, and other events and activities.
- Regularly engage with the public through outreach and sensitisation, including on human rights and HIV, legal and policy barriers, issues facing key populations and other pertinent issues.
- Research, document and disseminate information on the human rights situation on the ground with respect to HIV.
- National and district-specific research to document the impact of laws and policies, including criminal laws and discrimination on the basis of HIV status, sexual orientation, profession (sex workers, migrants), gender, age, and drug use.
- Utilise the evidence to advocate for law and policy changes and programming that addresses gaps.
- Produce pamphlets and other user-friendly materials to distribute for sensitisation and information sharing.
- Facilitate training programmes on HIV and human rights, including relevant laws and policies.
- Facilitate trainings on human rights and issues facing key populations including lesbian, gay, bisexual, transgender and intersex persons, sex workers and people who use drugs, as well as other vulnerable and marginalised groups.
- Implement systems to systematically document HIV-related human rights violations.





- Write and publish an annual violations report.
- Share documented violations when appropriate, including through the media, reports and publications at the domestic, regional and international levels.
- Utilise the evidence to push for law and policy reform and programming to address gaps.

### **Law Reform, Review**

- Engage with and foster relationships with Members of Parliament, relevant Ministries, the Executive, the office of the Attorney General and other individuals and entities involved in law and policy reform.
- Submissions to decision and policy-making bodies (Parliament, Ministries) on barriers in access to HIV-related health services. These can be specific or general, including issues facing particular groups.
- Request meetings to follow up after submissions.
- Submissions to the office of the Attorney General on how existing laws and policies impact people living with HIV, key populations and other vulnerable groups.
- Request meetings to follow up after submissions.
- When a pertinent law is under review, collaborate with partner organisations and other stakeholders to provide written input on the draft to Members of Parliament, relevant Ministries, the Executive, the office of the Attorney General and other individuals involved in law and policy reform.
- Ensure that you are aware of any public consultations for law review/reform and that there is good attendance and meaningful participation.
- Hold government accountable for ensuring law reform is consultative in a meaningful way. For example, if neither the input nor the recommendations from a public consultation are considered or incorporated, then this may not be a meaningful consultation and government should explain why the public input was

not included.

- Make formal law reform and review proposals to Members of Parliament, relevant Ministries, the Executive, the Office of the Attorney General, including on legal and policy issues identified in this report.
- When appropriate, publicise the proposal including through the media.
- Request meetings to follow up and discuss the proposal(s).

### **Elections (Presidential, Parliamentary or other)**

- Engage with candidates on legal and policy barriers and gaps in programming for HIV-related services.
- Support and rally additional support for candidates who are responsive and committed to addressing these issues.
- Request/push for manifestos from individuals, parties or others in which candidates outline their priority issues, including on HIV and human rights. Hold candidates accountable to election promises if elected.
- Given the recent decriminalisation of sodomy and the changes in the Misuse of Drugs Act, candidates should be informed about these issues. Candidates should be questioned and have meaningful, specific responses about policies, programming and other concrete actions to ensure lesbian, gay, bisexual, transgender and intersex persons, sex workers, people who use drugs and prisoners, as well as other vulnerable and marginalised groups, have meaningful access to HIV-related and other health services.
- If elected, candidates should be held accountable to promises and pledges to address key population and other HIV issues.



### **Constitutional Reform**

- Engage with and foster relationships with Members of Parliament, Parliamentary Committees, relevant Ministries, the Executive, the Office of the Attorney General and other individuals involved in constitutional reform.
- Research and submit proposals on relevant constitutional reform, for example on the inclusion of HIV and AIDS as a prohibited ground of discrimination.
- If constitutional reform relevant to HIV rights and/or discrimination is proposed, participate in the process including through public consultations and other engagement.

### **Litigation**

- Systematically document individual violations experienced on the basis of HIV or health status or other grounds of discrimination (for example against lesbian, gay, bisexual, transgender and intersex persons, sex workers and people who use drugs) for example, in the context of health, labour and/or education.
- Keep a list of specific laws and policies that result in discrimination, or are otherwise barriers to access. This should include specific cases in which individuals have experienced discrimination or there is other impact on access to HIV-related services.
- For example, if an individual is denied health services because she is thought to be a person who uses drugs, this would be a violation.
- Another example, if an individual experiences a breach in confidentiality (concerning for example, HIV status), this would be a violation.
- Identify cases that may be appropriate for litigation. These may include cases in which the government has been notified of and given an opportunity to address discrimination or other issues and has failed to act,

adequately or whatsoever.

If there is a case in which an individual or group identifies as a potential court case which might meet the standing requirements outlined above, a Seychellois lawyer—ideally an individual with experience with human rights and/or HIV rights litigation—should be consulted to discuss the possibility of filing and otherwise pursuing a case.

## **REGIONAL AND INTERNATIONAL**

### **United Nations Treaty Monitoring Bodies**

- Research and draft shadow letters to the United Nations Treaty Monitoring bodies when Seychelles is under review (Human Rights Committee, CEDAW Committee, CRC Committee, Committee on the Elimination of Racial Discrimination, Committee against Torture, Committee on Economic, Social and Cultural Rights). Conduct advocacy with the relevant Commissioners, Committee or working group.
- Shadow letters should provide information to the UN Committee about the situation on the ground, information on the extent to which Seychelles has implemented domestic, regional and international laws and information on the extent to which Seychelles has met their obligations to address HIV.
- Letters can also include suggested questions for the Committee to ask the Seychelles delegation and suggested recommendations for the Committee to make to the Seychelles delegation.
- In cases in which domestic remedies have been exhausted (through the Courts or otherwise) consider filing an individual complaint to international treaty monitoring bodies (where Seychelles has ratified the relevant treaty). Seychelles has ratified treaties that allow for individual complaints to go before



(i) the Committee Against Torture which oversees implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; (ii) the Human Rights Committee which oversees implementation of the ICCPR; (iii) the CEDAW Committee which oversees implementation of the Convention on the Elimination of All Forms of Discrimination Against Women

**African Commission on Human and Peoples’ Rights**

- Research and draft shadow letters to the African Commission on Human and Peoples’ Rights when Seychelles is under review. Letters can include information on the situation on the ground, suggested questions for Commissioners to ask the delegation, and proposed recommendations.
- Rule 74 (2) of the Rules of Procedure of the Commission provides, “Institutions, organizations or any interested party wishing to contribute to the examination of a State Report and the human rights situation in the country concerned, shall send their contributions, including shadow reports, to the Secretary of the Commission at least 60 days prior to the examination of the Report.”<sup>71</sup>

**Southern African Development Community (SADC)**

The SADC Parliamentary Forum Plenary Sessions<sup>72</sup> holds bi-annual meetings (March/April and November)

Some functions of the Plenary Assembly:

- Policy making and deliberative body
- Approve annual budget and audited accounts
- Make recommendations to SADC authorities on any matter
- Advise SADC Summit on matters of overall policy
- Scrutinise and make recommendations on SADC budget and Annual Reports
- Consider and make recommendations on any treaties and draft treaties referred to it by SADC
- Promote objectives and programmes of SADC
- Study, be briefed and make recommendations on all SADC Sectoral Reports
- Observer representation in SADC Summit Meetings
- Consulted by any SADC institution on any major activity
- Exercise power to send for person(s), papers and records of any SADC official or SADC institution
- Debate issues

<sup>71</sup> African Commission on Human and Peoples’ Rights, available at <http://www.achpr.org/>.

<sup>72</sup> SADC Parliamentary Forum, available at [http://www.sadcpf.org/index.php?option=com\\_content&view=article&id=74&Itemid=119](http://www.sadcpf.org/index.php?option=com_content&view=article&id=74&Itemid=119).

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In its strategic plan for 2011-2015 <sup>73</sup> (the updated plan is not yet available), the SADC Parliamentary Forum prioritises the following interventions in the context of HIV:

#### **Intervention Areas**

1. Facilitation of Legislation review on HIV/AIDS and key public health issues;
2. Capacity development on HIV/AIDS and key Public health interventions;
3. Oversight on key HIV/AIDS interventions and health systems strengthening;
4. M&E of service delivery on key HIV/AIDS programmes and Public health issues;
5. Strengthening of the institutional capacity of Parliament in mainstreaming HIV/AIDS;
6. Strengthening Constituency interventions as part of representative democracy and political leadership on HIV/AIDS for MARPS (Most at Risk Populations) among others;
7. Demonstrate leadership in holding government to account for Malaria, tuberculosis and other disease outbreaks;
8. Repackaging of relevant information in the form of tool kits, policy briefs among others; and
9. Facilitation of key Prevention, Treatment care and support interventions, towards zero new HIV infections, zero discrimination, and gender sensitive interventions.

#### **Strategic Outcome**

Greater Parliamentary awareness and political leadership on HIV/ Aids management as well as on other Public health related issues.

#### **Opportunity:**

Engage with SADC PF including through submissions and dialogue to provide updates on key concerns and push for priority interventions. SADC PF priorities in the context of HIV include review of relevant legislation and health system strengthening. As such, highlighting priority law and policy reform for Seychelles in this forum may be strategic.

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<sup>73</sup> Available at [http://www.sadcpf.org/index.php?option=com\\_content&view=article&id=83&Itemid=121](http://www.sadcpf.org/index.php?option=com_content&view=article&id=83&Itemid=121), at 15-16.

# ADVOCACY OPPORTUNITIES TIMELINE

## SEYCHELLES

2016

### PRESIDENTIAL ELECTIONS

JANUARY 2015

#### Opportunity:

Submit a mid-term shadow report.

### LAST UPR

25 JANUARY 2016

### CHANGES IN LAWS PERTINENT TO SERVICES AND COMMODITIES FOR INMATES (SODOMY LAW AND HARM REDUCTION)

APRIL 2016 ONWARDS

Upcoming study on HIV-related services and barriers for inmates, and indication by NAC that services will be available in prisons in future

#### Opportunity:

- Given the recent changes in law in terms of sodomy and harm reduction and indication from NAC that services will be made available in the future in line with implementation of SADC Minimum Standards, there is an opportunity to push for immediate access to (i) harm reduction services and (ii) condoms and protective barriers in prisons.
- Collect information and document the situation on the ground for inmates with respect to access to HIV-related health services. Disseminate findings to relevant stakeholders and decision-makers to push for LEA recommendations not yet implemented.
- The National AIDS Council prison study (to take place in the near future) will provide specific evidence for advocacy.
- When the government study/survey findings are made available, utilise information from upcoming survey to push for LEA recommendations and SADC Minimum Standards.

### DECRIMINALISATION OF SODOMY

MAY ONWARDS

Given the recent decriminalisation of sodomy, now is the time to push for interventions and programming to address the needs of MSM including recommendations in the LEA:

#### Opportunities:

- Given the high percentage of MSM who inject drugs, there should be linkages to injecting drug use services, including evidence-based risk reduction programmes such as syringe exchange and opiate substitution therapy.
- Law enforcement officials, and health and social care providers need to be trained to recognise and uphold the human rights of MSM, and should be held accountable if they violate the rights of sex workers, including the perpetration of violence.
- Outreach and engagement with the prison service, decision and policy makers to ensure all prisoners have access to comprehensive, high quality HIV-related services.

#### Additional Opportunities:

- Collect information from individuals and communities about gaps in access to HIV-related services for MSM and other LGBTI people. Analyse to provide specific recommendations for programming.
- Advocate for: (i) evidence-based MSM and LGBTI-targeted programming and interventions and (ii) human rights trainings for law enforcement and health and social care workers that include information about LGBTI rights and HIV.
- Provide recommendations to MOH for effective programming that link MSM and LGBTI with drug use services including harm reduction.

# 2016

## REVIEW/RENEWAL OF SEYCHELLES PRISON SERVICE MANAGEMENT AND REHABILITATION PLAN

2012 - 2016

Since the current plan expires in 2016, the plan will be under review and a new plan will be formulated and enacted.

### Opportunity:

Participate in review of the 2012-2016 policy and formulating the new policy including through submissions and engagement with the Prison Services, NAC, Members of Parliament and Parliamentary Committees.

## REVIEW OF THE EMPLOYMENT ACT

JULY ONWARD

### Opportunity:

Since the Employment Act is currently under review, this is an opportunity to advocate for:

- (i) Alignment with international instruments including ILO recommendation concerning HIV and AIDS in the World of Work (number 200), as well as ILO codes of practice on: HIV/AIDS and the World of Work of 2001; on the Protection of workers' personal data of 1997; and on Managing Disability in the Workplace of 2002 (the HIV/AIDS Workplace Policy also sought to align itself with these ILO instruments).
- (ii) Inclusion of protective provisions present in the Policy on HIV and AIDS in the workplace that are not protected under the law, to provide stronger safeguards in the context of employment.

## WORLD POPULATION DAY

11 JULY

### Opportunity:

Advocate for relevant issues concerning HIV and human rights including in the context of law, policy and programming.

## ENACTMENT OF THE MISUSE OF DRUGS ACT OF 2016 JUNE ONWARDS

### Opportunities:

Since the law has just taken effect and programmes are in an early stage, 2016 is a prime opportunity for collaboration with programme implementers and engagement with government to improve the effectiveness of programmes.

- Collect evidence on the effectiveness of the programmes and gaps and issues including logistical, informational or other. Make evidence-based recommendations to CDCU, MOH and other decision-makers and programme implementers that would address issues on the ground.
- Engage and work closely with the CDCU unit of the MOH on harm reduction programmes by (i) providing information on challenges and issues on the ground; (ii) making recommendations to improve the rehabilitation and harm reduction programmes
- In particular, make recommendations to increase access to services and knowledge of available services in the communities.
- Outreach programmes to de-stigmatise IDUs and other PWUD, share information, and promote a human rights-based approach to addressing the needs of IDUs and other PWUD, in general and in the context of HIV.
- Conduct outreach programmes in communities to sensitise and increase knowledge of (i) harm reduction and rehabilitation programmes, including information on where and how to receive services and commodities and (ii) the changes in the law under the 2016 Misuse of Drugs Act and related programming.
- Promote the inclusion of PWUD in decision making with regard to programming and in any policy and law reform in future.
- Collaborate and correspond with stakeholders in other countries in the region and internationally who have implemented harm reduction programmes (for example Mauritius and Tanzania)

<sup>1</sup> Interview with Dr. Gabriel, NAC, Victoria, Seychelles, July 2016.

<sup>2</sup> Interview with Ronny Arnephy, CEPS, Victoria, Seychelles, July 2016.

# 2016

## SEX WORKER STUDY FINDS HIGH PREVALENCE RATES AUGUST-ONWARD (INCLUDING USING ELECTIONS)

### Opportunities:

The first national study on sex workers was completed in 2015, but full findings will not be released until neighbouring countries complete their assessments.<sup>1</sup> The study found that sex workers have higher HIV prevalence than the general population—slightly less than 5%.<sup>2</sup>

- While the criminal laws make it difficult to access sex workers, CSOs should continue to collect information and document barriers in access to HIV-related services for sex workers.
  - Make recommendations to MOH, NAC and other stakeholders in terms of programming to address the health needs of sex workers, including programmes that address the needs of sex workers who inject drugs.
  - Use the Parliamentary Elections to push for decriminalisation and for programming that meets the needs of sex workers (see below on Parliamentary Elections).

## PARLIAMENTARY ELECTIONS 8 - 10 SEPTEMBER

### Opportunities:

- Engage with candidates on legal and policy barriers and gaps in programming for HIV-related services.
- Support and rally additional support for who are responsive and committed to addressing these issues.
- Request/push for manifestos from individuals, parties or others in which candidates outline their priority issues, including on HIV and human rights. Hold candidates accountable to election promises if elected.
- Given the recent decriminalisation of sodomy and the change in the Misuse of Drugs Act, candidates should be informed about these issues. Candidates should be questioned and have meaningful, specific responses about policies, programming and other concrete actions to ensure MSM and IDUs have meaningful access to HIV-related and other health services.
- If elected, candidates should be held accountable to promises and pledges to address KP and other HIV issues.

## PARLIAMENTARY SITTINGS FOR 2016 SECOND TERM

MAY	17, 24, 31
JUNE	7, 14, 21, 28
JULY	5, 12, 19, 26
AUGUST	2, 9
RECESS:	10 AUGUST - 19 SEPTEMBER

## THIRD TERM

SEPTEMBER	20, 27
OCTOBER	4, 11, 18, 25
NOVEMBER	8, 15, 22, 29
DECEMBER	6, 13, 20

### Opportunities:

Since the law has just taken effect and programmes

- Advocacy with MPs on priority issues including: (i) decriminalisation of aspects of sex work (ii) other legal barriers identified in the report.
- Engage with National AIDS Council on outstanding law and policy reform recommendations. The Committee on SRHR and HIV/AIDS also has an M&E tool template for researchers that identifies priority issues.
- Engage with the Committee on SRHR and HIV/AIDS as soon as the new Parliament is elected on their identified priority issues (See M&E Tool Template) including by
- Providing information about identified priority issues in the form of letters and submissions.
- Contact the Committee to schedule meetings, seek attendance at Committee hearings, ask how civil society can contribute to addressing the Committee's identified priority issues.

## JUDICIARY TBD

### Opportunity:

Strategic litigation if appropriate.

# 2016

## AFRICAN COMMISSION 59TH ORDINARY SESSION

21 OCTOBER - 4 NOVEMBER

Information on which countries are under review will be available several months prior.

### Opportunities

- If Seychelles is under review (now or in the future), consider writing a shadow report on barriers to HIV-related services and HIV-related human rights concerns and issues.

## REVIEW OF PATENT LAWS

2016 - 2017

In 2014, Seychelles became a member of the WTO and is in the process of revising its Patent legislation to comply with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

### Opportunities

- Engage with Members of Parliament, the Office of the Attorney General, MOH and other stakeholders to advocate for (i) full use of available TRIPS flexibilities to safeguard access to medicines and (ii) to ensure that the government does not adopt TRIPS-plus provisions that would restrict access to essential medicines.
- Draft a brief, memo, letter or other document that outlines the need for use of TRIPS flexibilities and disseminate to the public, civil society, government and other stakeholders.

## 15TH ANNUAL INDIAN OCEAN COLLOQUIUM ON HIV AND HEPATITIS

OCTOBER

Madagascar<sup>3</sup>

### Opportunities:

- Share information with civil society and government
  - Collaborate with civil society organisations and stakeholders in the region

<sup>3</sup> See <http://www.civilsociety.sc/2015/10/the-closing-ceremony-of-the-14th-indian-ocean-colloquium/>.

## SADC PF PLENARY SESSION

NOVEMBER (AND SUBSEQUENT BI-YEARLY MEETINGS)

### Opportunities:

Engage with SADC PF including through submissions and dialogue to provide updates about key concerns and push for priority interventions. SADC PF priorities in the context of HIV include review of relevant legislation and health system strengthening. Highlighting priority law and policy reform areas in this forum may be strategic.

## NATIONAL STRATEGIC FRAMEWORK ENDS IN 2016

AUGUST 2016 - EARLY 2017

### Opportunities:

Since the current NSF will end in 2016, there is an opportunity to hold the government accountable for commitments made in the document. For example, the document includes KP-specific and other priorities, goals and outlines plans for KP-specific and other programming. Review this language and highlight the extent to which these priorities, goals and programmes have been realised or implemented in a letter or memo to the Ministry of Health, NAC and Parliamentary Committees, individual members of Parliament, and other stakeholders. Since the NSF is still in effect, this gives government an opportunity to address these issues before the end of the year. Utilise this letter or memo to push for language in the next NSF that will adequately commit the government to meeting programming gaps, address legal and policy barriers, and any other concerns.

## WORLD AIDS DAY

1 DECEMBER

### Opportunities:

- Advocate for relevant issues concerning HIV, AIDS and human rights including in the context of law, policy and programming.
- Disseminate information to the public, stakeholders and decision makers.



# 2017

## **CEDAW REVIEW OF SEYCHELLES** SPECIFIC DATES TBD

The UN CEDAW state report is due in October 2017. This means that the CEDAW review will likely be in 2018.

### **Opportunity:**

Research and draft shadow report prior to the CEDAW Committee review of the Seychelles. Include information about implementation of CEDAW obligations, particularly with respect to access to HIV-related services for women and girls. Conduct advocacy with members of the Committee.

## **PARLIAMENTARY SITTINGS** TBD

### **Opportunities:**

- Advocacy with MPs on priority issues including: (i) decriminalisation of aspects of sex work (ii) other legal barriers identified in the report.
- Continue to engage with the Committee on SRHR and HIV/AIDS on outstanding law and policy reform recommendations from the LEA (see report).
- Engage with National AIDS Council on outstanding law and policy reform recommendations.

## **WORLD POPULATION DAY** 11 JULY

### **Opportunity:**

- Advocate for relevant issues concerning HIV and human rights including in the context of law, policy and programming.

## **WORLD AIDS DAY** 1 DECEMBER

### **Opportunities:**

- Advocate for relevant issues concerning HIV, AIDS and human rights including in the context of law, policy and programming.
- Disseminate information to the public, stakeholders and decision makers.

## **SADC PF PLENARY SESSION**

MARCH/APRIL (AND SUBSEQUENT BI-YEARLY MEETINGS)

### **Opportunity:**

Engage with SADC PF including through submissions and dialogue to provide updates about key concerns and push for priority interventions. SADC PF priorities in the context of HIV include review of relevant legislation and health system strengthening. Highlighting priority law and policy reform areas in this forum may be strategic.

## **JUDICIARY**

TBD

### **Opportunities:**

- Strategic litigation if appropriate.

## **16TH ANNUAL INDIAN OCEAN COLLOQUIUM ON HIV AND HEPATITIS**

OCTOBER

### **Opportunities:**

- Advocate for relevant issues concerning HIV, AIDS and human rights including in the context of law, policy and programming.
- Disseminate information to the public, stakeholders and decision makers.

# 2018

## **CEDAW REVIEW OF SEYCHELLES** SPECIFIC DATES TBD

The UN CEDAW state report is due in October 2017. This means that the CEDAW review will likely be in 2018.

### **Opportunity:**

Research and draft shadow report prior to the CEDAW Committee review of the Seychelles. Include information about implementation of CEDAW obligations, particularly with respect to access to HIV-related services for women and girls. Conduct advocacy with members of the Committee.

## **JUDICIARY** TBD

### **Opportunities:**

- Strategic litigation if appropriate.

## **17TH ANNUAL INDIAN OCEAN COLLOQUIUM ON HIV AND HEPATITIS** OCTOBER

### **Opportunities:**

- Share information with civil society and government
- Collaborate with civil society organisations in the region

## **PARLIAMENTARY SITTINGS** TBD

### **Opportunities:**

- Advocacy with MPs on priority issues and policy barriers
- Continue to engage with the Committee on SRHR and HIV/AIDS on outstanding law and policy reform recommendations from the LEA.
- Engage with National AIDS Council on outstanding law and policy reform recommendations.

## **WORLD POPULATION DAY** 11 JULY

### **Opportunity:**

- Advocate for relevant issues concerning HIV and human rights including in the context of law, policy and programming.

## **WORLD AIDS DAY** 1 DECEMBER

### **Opportunities:**

- Advocate for relevant issues concerning HIV, AIDS and human rights including in the context of law, policy and programming.
- Disseminate information to the public, stakeholders and decision makers.

# 2019

## UPR MID-TERM REPORTING

JANUARY 2019

## UPR NATIONAL CONSULTATION

JULY 2019 - MARCH 2020

## PARLIAMENTARY SITTINGS

TBD

### Opportunities:

- Advocacy with MPs on priority issues including outstanding legal and policy barriers identified in the report.
- Continue to engage with the Committee on SRHR and HIV/AIDS on outstanding law and policy reform recommendations from the LEA.
- Engage with National AIDS Council on outstanding law and policy reform recommendations.

## WORLD AIDS DAY

1 DECEMBER

### Opportunities:

- Advocate for relevant issues concerning HIV, AIDS and human rights including in the context of law, policy and programming.
- Disseminate information to the public, stakeholders and decision makers.

## WORLD POPULATION DAY

11 JULY

### Opportunity:

- Advocate for relevant issues concerning HIV and human rights including in the context of law, policy and programming.

## JUDICIARY

TBD

### Opportunities:

- Strategic litigation if appropriate.

## 18TH ANNUAL INDIAN OCEAN COLLOQUIUM ON HIV AND HEPATITIS

OCTOBER

### Opportunities:

- Advocate for relevant issues concerning HIV, AIDS and human rights including in the context of law, policy and programming.
- Disseminate information to the public, stakeholders and decision makers.

# 2020

## UPR NGO REPORT DRAFTING MARCH - 18 JUNE

### Opportunity:

- Draft shadow letter on the human rights situation concerning HIV in the Seychelles and submit by 18 June.

## WORLD POPULATION DAY 11 JULY

### Opportunity:

- Advocate for relevant issues concerning HIV and human rights including in the context of law, policy and programming.

## PARLIAMENTARY SITTINGS TBD

### Opportunities:

- Advocacy with MPs on priority issues including outstanding legal and policy barriers identified in the report.
- Continue to engage with the Committee on SRHR and HIV/AIDS on outstanding law and policy reform recommendations from the LEA.
- Engage with National AIDS Council on outstanding law and policy reform recommendations.

## PRESIDENTIAL ELECTIONS TBD

## WORLD AIDS DAY 1 DECEMBER

### Opportunities:

- Advocate for relevant issues concerning HIV, AIDS and human rights including in the context of law, policy and programming.
- Disseminate information to the public, stakeholders and decision makers.

## UPR NGO SUBMISSION 18 JUNE

## UPR LOBBYING 18 JUNE - JANUARY 2021

### Opportunity:

- Lobby members of the working group.

## JUDICIARY TBD

### Opportunity:

- Strategic litigation if appropriate.

## 19TH ANNUAL INDIAN OCEAN COLLOQUIUM ON HIV AND HEPATITIS OCTOBER

### Opportunities:

- Advocate for relevant issues concerning HIV, AIDS and human rights including in the context of law, policy and programming.
- Disseminate information to the public, stakeholders and decision makers.

# 2021

**NEXT UPR**  
JANUARY

**PARLIAMENTARY SITTINGS**  
TBD

**Opportunities:**

- Advocacy with MPs on priority issues including outstanding legal and policy barriers identified in the report.
- Continue to engage with the Committee on SRHR and HIV/AIDS on outstanding law and policy reform recommendations from the LEA.
- Engage with National AIDS Council on outstanding law and policy reform recommendations.

**JUDICIARY**  
TBD

**Opportunity:**

- Strategic litigation if appropriate.

**PARLIAMENTARY ELECTIONS**  
TBD

**WORLD POPULATION DAY**  
11 JULY

**Opportunity:**

- Advocate for relevant issues concerning HIV and human rights including in the context of law, policy and programming.

**20TH ANNUAL INDIAN OCEAN COLLOQUIUM ON HIV AND HEPATITIS**  
OCTOBER

**Opportunities:**

- Advocate for relevant issues concerning HIV, AIDS and human rights including in the context of law, policy and programming.
- Disseminate information to the public, stakeholders and decision makers.

**WORLD AIDS DAY**  
1 DECEMBER

**Opportunities:**

- Advocate for relevant issues concerning HIV, AIDS and human rights including in the context of law, policy and programming.
- Disseminate information to the public, stakeholders and decision makers.