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Case No: 213

The Truth, Reconciliation and National Unity Commission

In the Complaint of Christine Dias

31 December 2022

Determination on the Complaint of Christine Dias

Complainant:

Christine Dias

The Truth, Reconciliation and National Unity Commission ("Commission"), seized of the complaint of Ms. Christine Dias,

OBSERVING that the complaint of Ms. Dias, who brings her complaint as a victim, was filed on 16 October 2019, in conformity with Sections 3(4) and 3(5) of the Truth Reconciliation and National Unity Act, 2018 ("TRNUC Act");

NOTING that pursuant to Section 2(8) of the TRNUC Act, the complaint must allege an abuse of human rights that was committed during or in relation to the Coup d'état of 1977,[1] in the current case, Ms. Dias alleged victimisation leading to forced exile,[2] during the primary temporal period of the Commission's mandate from the Coup d'état of 1977 until the reintroduction of the multiparty system in 1993;

RECALLING that pursuant to Rule 25 of the Rules of Procedure and Evidence of the Commission, the test for admissibility is low but a "complaint will be deemed inadmissible where the information contained within the complaint falls manifestly outside the mandate of the Commission", and in this case, the Commission rendered the complaint of Ms. Dias prima facie admissible on 15 November 2019;

RECALLING FURTHER that the Commission, having rendered the complaint prima facie admissible pursuant to Section 3(3) of the TRNUC Act, heard the complaint of Ms. Dias on Friday 12 June 2020[3], and investigated the veracity of the complaint as evidenced by the hearing record and the file in this case;

CONSIDERING the evidence heard by the Commission, coupled with the Commission's consideration of similar cases;

HEREBY determines, pursuant to Section 11 of the Truth, Reconciliation and National Unity Commission Act, 2018 ("TRNUC Act"), as follows:

1. The Commission recalls the evidence of Ms. Dias that her family were supporters of the Democratic Party, and that they were systematically harassed and targeted by the regime of Albert René. Ms. Dias informed the Commission that Royce Dias was her uncle, and that on 15 November 1979, her uncle was arrested and detained at Union Vale together with his brother-in-law Paul Chow and Gerard Hoarau, subsequently spending ten months in Union Vale Prison without charge.

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[1] "[…] (a) unlawful killing; (b) unlawful imprisonment or other deprivations of physical liberty; (c) torture; (d) rape; (e) enforced disappearance of persons; (f) kidnapping; (g) forceful eviction from legally owned building or land; (h) unjustified acquisition or loss of property or business; (i) wrongful denial of the right to employment; (j) wrongful termination of employment; (k) forced exile; (l) abuse of office by a Government official, including the executive, judiciary or legislature; or (m) other acts of a similar character causing suffering or injury to body or to mental or physical health". Truth, Reconciliation and National Unity Commission Act, 2018, Act 9 of 2018 (14 September), sec. 2(8) [hereinafter "TRNUC Act"].

[2] TRNUC Act, sec. 2(8)(k). The Commission considers that forced exile involves 1) the expulsion, deprivation of access to re-enter, or removal of a national from his or her country 2) unlawfully or arbitrarily through either direct deportation or expulsion or by making living conditions unbearable for the national to stay in the country due to ongoing or potential persecution, victimisation, violence, or other difficulties, 3) by a perpetrator. The violation of forced exile is fundamentally a violation of the customary rights freedom of movement and to re-enter one's country. *See* Universal Declaration of Human Rights [UDHR], G.A. Res. 217A (III), 10 December 1948, arts. 9 (freedom from arbitrary exile), 13 (freedom of movement and right to return to one's country).

[3] Hearing No.74 of Friday 12 June 2020.

2. Ms. Dias claimed that the only thing her uncle was guilty of was disagreeing with Albert René. Ms. Dias stated that Albert René did not like her family, and her family did not support Albert René;

3. The Commission recalls Ms. Dias's evidence that her father and her uncle were monitored by the Government, and that they were followed everywhere. She recalled that her uncle lived in the same house as Ms. Dias and her family, and that Ms. Dias was aged between 13 to 16 years when she started to be followed by the spies of Albert René. The Commission recalls Ms. Dias's evidence that she was followed everywhere she went, such as to the market, the Sainte Elizabeth Convent, and the stadium where Ms. Dias used to train for athletics;

4. The Commission recalls Ms. Dias's evidence that one day when she was going to town, she felt that something was wrong when she reached Bel-Air Cemetery; she said she felt as if someone was following her, and that when she looked over her shoulder, she saw a red coloured car driving slowly behind her. The car had tinted windows, and it was a Honda, with licence plate number S232. The Commission recalls Ms. Dias's evidence that she was frightened and began to walk faster, and the car continued to follow her, so she ran to the market side and tried to find an alternate route home. She stated that as she ran home, she believed she was running for her life;

5. The Commission recalls Ms. Dias's evidence that once she reached home, she informed her mother of what had happened, and her mother called the police and spoke to a police officer called Isnard. The Commission recalls Ms. Dias's evidence that the police officer assured her mother that he would help Ms. Dias and sort the matter out, but he did not. She claimed the car was always following her; even when she would come out of school at Bel Eau, the car was there;

6. The Commission recalls Ms. Dias's evidence that on a Saturday at around 5.00 P.M., Ms. Dias, her mother, and her brother always went to Mass. While they were walking to Mass, near the Bel-Air Cemetery, Ms. Dias saw the car S232 behind them, and when the driver saw that Ms. Dias was with her mother, he drove next to them, wound down his window, looked at them, smiled, and then continued driving. The Commission recalls Ms. Dias's evidence that she was petrified by the experience, and that the driver of the vehicle was Phillipe Lucas, a Coup participant, and one of the commanders in the army;

7. The Commission recalls Ms. Dias's evidence that on another occasion, Ms. Dias was going to her step-great-grandmother's place with her sister, and when she was at Malakof Street, not far from the Honey Pot Ciub, she saw car S232 parked outside a little house. She stated that she believed the house was owned by a man named Naropen, who was living there. Ms. Dias stated that she also saw car S1122 parked at the house. Ms. Dias claimed that Philipe Lucas saw her, so she ran to her step-great-grandmother's place. She said that she had been very frightened;

8. The Commission recalls Ms. Dias's evidence that on 28 June 1985, her uncle Royce Dias was sentenced to imprisonment as an innocent man, after drugs were placed into his car by Andre Kilindo a police officer. She claimed that he was falsely accused. Then, on 29 June 1985, which was National Sports Day, Ms. Dias went to the stadium to take part in the sports game. When she came out from the stadium, she saw car S1122 and felt very scared, as she was on her own, so she ran. When she got closer to home, she saw the red Honda S232 and she stated that she "truly believed that this was the end" for her, that she was going to be taken and made to disappear;

9. The Commission notes that it contacted the Licensing Authority and ascertained that car S232 was registered in the name of the Seychelles People's Defence Forces (SPDF) and allocated to Mr. Phillipe Lucas from May 1982 until its transfer to the President's Office on 6 October 1986;

10. The Commission recalls that in response to the suspect notification served on him, Mr. Lucas appeared before the Commission on 6 August 2021.[4] Mr. Lucas informed the Commission that car S232 was allocated to him in 1979 until 1982, and after that time, the car was left at Bel Eau and then later it was allocated to State House;

11. The Commission recalls Mr. Lucas's evidence that he never followed Ms. Dias. Mr. Lucas claimed that he left Seychelles in November 1985 for the United States, and that he came back in February 1986. He claimed that on 27 July 1986, he went to Tanzania, and then he left the Defence Forces in September 1986. He thus alleged that he was not even in the country at the times Ms. Dias alleged she was followed;

12. The Commission recalls that Mr. Lucas's army file established that on 7 July 1980, Major Lucas accompanied the Chief of the Defence Forces on an official tour overseas, and that on 25 September 1983, Major Lucas led a delegation to Tanzania, and while the length of that mission was not identified, Mr. Lucas was back in Seychelles at least as of 9 January 1984, when he was appointed to the Military Training Centre at Grande Police. There was no evidence on the file of any further absences from Seychelles;

13. The Commission recalls Ms. Dias's evidence that because of her trauma resulting from the victimisation of her family and being followed by car S232, her mother had no choice but to send her to the United Kingdom to live with her Auntie, Lucy Chow, and her uncle, Paul Chow, who had already been forced into exile.[5] The Commission recalls Ms. Dias' evidence that she was taken to the United Kingdom and granted political asylum;

14. The Commission recalls the evidence of Ms. Dias that she was hurt very much by her forced separation from her parents, her grandparents, and her only brother, but that she strongly believed that if she had not gone into exile, she would not be alive today;

15. The Commission recalls the evidence of Ms. Dias that after multipartyism was reintroduced, she decided to face her fears and to return to Seychelles, and she then came back to see her family for the first time since going into exile. The Commission recalls Ms. Dias's evidence that on the first day that she arrived back in Seychelles, Ms. Dias visited her husband's family at Mont Buxton, where she saw car S232. Ms. Dias recalled having an anxiety attack, believing that she was still being followed, but was later assured that the car now belonged to someone else;

16. The Commission finds it established to a balance of probabilities on the evidence adduced that Ms. Dias's conditions of life in Seychelles had become unbearable for her, and that this resulted from the victimisation of her family members that she observed and that she directly experienced. The Commission recalls as notable in this regard the terror she personally suffered as a young girl as a result of being followed by members of the regime. Noting that Ms. Dias was also granted political asylum

[4] Hearing No. 192 of Friday, 6 August 2021.
[5] *See* Case Determination No. 017: Paul Chow.

in the United Kingdom, a fact on which the Commission places great weight,[6] the Commission is satisfied that her exile was forced, thereby meeting the requirements of the violation of forced exile pursuant to Section 2(8)(k) of the TRNUC Act;

17. Considering the perpetrators who bear responsibility for this violation, the Commission finds that the conditions of life were made unbearable for Ms. Dias due to the victimisation of her family and herself by members of the SPDF. The Commission finds that these acts of victimisation against Ms. Dias directly, which the Commission finds more likely than not to have been perpetrated by Phillip Lucas, were also more likely than not ordered by President René, who would have known that he was not supported by the Dias family and therefore identified them as enemies of the revolution. The Commission finds that both Mr. Lucas and President René bear responsibility for this violation; and as both Mr. Lucas and President René were acting in their official capacities, their responsibility can be attributed to the State;

18. On the basis of the above, the Commission finds that Ms. Dias suffered the violation of forced exile under Section 2(8)(k) of the TRNUC Act;

19. The Commission recalls that it is mandated pursuant to Section 3(7) of its Act to make recommendations for reparations for victims for human rights violation it has determined to have been established as a result of its investigations;

20. The Commission finds, therefore, that the complainant is this case shall be awarded compensation in accordance with the recommendations set out in the Commission's Reparations Policy, which reflects the views of the victims and international human rights principles as to appropriate recommendations due for the human rights violations established above.

Each of the undersigned Commissioners swears and affirms that he or she has comprehensively familiarised him or herself with the record in Case 213.

On this 31 December 2022

The Commission

Gabrielle McIntyre, Chairperson G. McIntyre

Michael Green, Vice Chairperson I dissent.

Marie-Therese Purvis, Commissioner MTPurvis

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[6] The Commission notes that under international law, those who fled the Seychelles due to persecution, victimisation, or other forms of discrimination would be considered refugees. *See* Convention and Protocol Relating to the Status of Refugees, 28 July 1951, 189 U.N.T.S. 137. Seychelles ratified both the Convention and Protocol on 23 April 1980. Under the 1951 Refugee Convention, a refugee is a person "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear is unwilling to return to it". *Id.,* art. 1(A)(2). Although this is not a required element of the violation of forced exile under the TRNUC Act, the Commission considers evidence of asylum or successful refugee claims to be particularly persuasive.

Jacques Koui Gbilimou, Commissioner

Archbishop James Wong, Commissioner