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Case No: 327

The Truth, Reconciliation and National Unity Commission

In the Complaint of George Wong

31 December 2022

Determination on the Complaint of George Wong

Complainant:

George Wong

The Truth, Reconciliation and National Unity Commission ("Commission"), seized of the complaint of Mr. George Wong,

NOTING that the complaint of Mr. Wong, who brings his complaint as a victim, was filed on 9 February 2020, 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] and that the complainant alleged unlawful imprisonment[2] and victimisation on political grounds leading to forced exile;[3] during the primary temporal period of the Commission's mandate, from the Coup d'état of 1977 until the reintroduction of the multiparty system;

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 Mr. Wong prima facie admissible on 5 May 2020;

RECALLING that the Commission, having rendered the complaint prima facie admissible pursuant to Section 3(3) of the TRNUC Act, heard the complaint of Mr. Wong on 10 May 2021,[4] 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:

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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)(b). The Commission considers that the violation of unlawful imprisonment or other deprivation of physical liberty consists of 1) an arrest, detention, imprisonment, or other deprivation of one's physical liberty 2) executed unlawfully, arbitrarily, or without due process 3) by a perpetrator. The Commission notes that the term "detention" corresponds to the state of being under police or State custody for any amount of time, whereas "imprisonment" references being detained specifically as the result of a conviction. Hence, the "detention" prong falls into the broader "other deprivation of physical liberty" provision of Section 2(8)(b) of the TRNUC Act. This violation stems from a violation of the fundamental rights to personal liberty and to due process of law, among others, which are at the status of customary international law. *See* Universal Declaration of Human Rights [UDHR], G.A. Res. 217A (III), 10 December 1948, arts. 3, 7, 9, 10.

[3] 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* UDHR, arts. 9, 13.

[4] Hearing No. 149 of Monday, 10 May 2021.

1. The Commission recalls Mr. Wong's evidence that prior to the Coup d'état of 1977, he worked with the Seychelles Police Force and was friends with Albert René. Mr. Wong recalled that he left the police to work for Mr. René at the SPUP Headquarters. The Commission recalls Mr. Wong's evidence that on one occasion prior to the results of an election, he was with Mr. René and that Mr. René told Mr. Wong that if Mr. René won the election, there would never be another election in Seychelles again. Mr. Wong responded "Why? If you do good the people will vote for you", and Mr. René then advised Mr. Wong not to make that mistake. Mr. René allegedly said in response, "either you buy the vote or you frighten the people because when the people are scared, they will vote for you";

2. The Commission recalls Mr. Wong's evidence that after the Coup d'état, he left the SPUP and worked at the Fisherman's Cove Restaurant. In around 1978, his brother, Tony, who had been studying medicine in France, came for holidays in Seychelles, and at the time there was talk in Seychelles of abolishing the Seychelles College. Mr. Wong recalled that when he was at the airport with Tony, who was about to leave Seychelles, Mr. Wong met Jeremy Bonnelame, who was the Minister of Education at the time. Mr. Bonnelame asked Mr. Wong his opinion on the abolition of the college, and Minister Bonnelame had said it was not fair for the people as the college was only for the rich. Mr. Wong stated that he told Minister Bonnelame that there were a lot of people that were not rich going to the college. Further, Mr. Wong stated that he would personally not abolish the college and instead he would bring all the schools up to the standard of the private schools. Mr. Wong recalled that Mr. Bonnelame told him that he would share Mr. Wong's ideas with Albert René;

3. The Commission recalls Mr. Wong's evidence that he received a call to take some lobsters from the Fisherman's Cove to President René, and when he said he would send them, he was told to bring them himself as the President wanted to talk to him. Mr. Wong stated that when he arrived at President René's home with the lobsters, the President asked him what he had said to Minister Bonnelame and told Mr. Wong that "when you have shitty ideas keep them to yourself". Mr. Wong claimed that he told President René that his opinion had been requested, and the President told Mr. Wong that he did not like his ideas;

4. The Commissions recalls Mr. Wong's evidence that a few months later, the 1979 Constitution was adopted, and President René called Mr. Wong and asked him if he had read it and what he thought. Mr. Wong stated he told the President that he thought the President did not want to hear Mr. Wong's stupid ideas, but the President pushed him to answer the question about the Constitution. Mr. Wong recalled he responded that "it was good if you were the President because the President has all the power", and Mr. Wong told President René that money and power are the two things that affect people. Mr. Wong claimed that President René asked him if Mr. Wong thought the President would abuse his power, and Mr. Wong told the President that he did not know;

5. The Commission recalls Mr. Wong's evidence that one day, President René called Mr. Wong in relation to the National Youth Service (NYS) and Mr. Wong told President René that he would permit his children to be taken to NYS "over his dead body";

6. The Commission recalls Mr. Wong's evidence that on 17 October 1979, he was at home preparing some spare ribs when the police, accompanied by two soldiers, arrived at his home. Mr. Wong claimed that they informed him that they had a warrant for his arrest, and when his young children

saw him being escorted out of the house with a gun to his back, they started to scream. Mr. Wong recalled that he was taken to Central Police Station and then taken in a van to Union Vale Prison;

7. The Commission recalls Mr. Wong's evidence that on the first night of his detention, he was in a cell with six others, and that he heard Ogilvy Berlouis's voice say, "there he is, it will be easy to get him where he is". Mr. Wong stated that he pretended to be sleeping but he saw Minister Berlouis place something near his cell and leave;

8. The Commission recalls Mr. Wong's evidence that while he was detained, he heard a soldier saying "put these people outside that make trouble and I will remove their brains and cut out their mouths". Mr. Wong claimed on another occasion, Donald Bertin, a soldier guarding the prison, passed Mr. Wong and hit Mr. Wong. He told Mr. Wong to "open your mouth you cunt of your mother and say something", and the next day, Mr. Bertin did the same thing;

9. The Commission recalls that it put this allegation to Mr. Bertin, and on 4 August 2022, a Commission investigator took a statement from him. In that statement, Mr. Bertin claimed as follows:

> For the record, I want to tell you that I knew Mr. George Wong very well. He comes from La Digue. I believe, he had a brother and sister; Yvonne and Yvon Ladouce. He was a police officer. However, he was one of the most arrogant, or let me say a man who was extremely aggressive. You could not even have a proper conversation with him. I recall one day, we went to La Digue and George was involved in a fight with a mistress of his father. He beat up on that poor woman. I tell you he was aggressive.
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> So to respond to what he said about me. I knew he was detained, but I was never in contact with Mr. Wong. No one would have dared to approach a guy like Wong. He was a strong guy, anyone who would have had the guts to challenge him, would have had to think twice. That is all I can tell you. However, I will not sign this statement. I will not.

10. The Commission recalls Mr. Wong's evidence that he changed places in the cell and the soldiers came into the cell at night and went to the place where he had been. He recalled that they said, "it's not him, he had changed places". Mr. Wong claimed that during the nights, Mr. Wong would feel something like a spirit on his shoulder, and that when he felt this with his hands, he felt a sensation like there was something shaking inside his bones. He said that when he stood up, he could not see anything, and that this sensation was persistent all night and the following night, and he could not sleep at all;

11. The Commission recalls Mr. Wong's evidence that a day or so later, he heard the soldiers talking and saying that Mr. Wong was not sleeping at all and to stop putting sleeping pills in his water. Mr. Wong claimed that he then asked for a transfer out of the cell as he did not trust anyone, and he was placed in the hospital section of the prison;

12. The Commission recalls that Raymond Bonte was one of the soldiers identified by Mr. Wong who was at the Union Vale Prison and threatened Mr. Wong. On 17 May 2022, Mr. Bonte provided a statement to the Commission, in which he stated as follows:

> I knew Mr. Wong very well and we were very good friends. I was aware that he was arrested and then he left the country. Years later he came for holidays, we met on one occasion and we had a chat

> like friends would normally do. I was not responsible for arresting him. I do not have any information regarding his arrest at the time. I was not also aware about his involvement at the time. I do not even know for what reasons he was arrested. I do not recall anything that we talked about as well. As a friend, I never knew that George was asked to leave the country at the time. I also do not remember that anything happened during the detention of Mr. Wong.
> After he returned to the Seychelles, I do not recall the year, but we met and I asked for his forgiveness and apologized to him for what he went through. I also informed him that I was not responsible for what happened to him.

13. The Commission recall that Mr. Wong also identified Mr. Rolly Marie as one of the soldiers at Union Vale Camp. On 12 May 2022, Mr. Marie provided a statement to the Commission, stating as follows:

> There was no surveliance (sic) done under my command. It was in 1979. I do not know what were his problems. He was a member of the Seychelles Police Force and after that he left to join the SPUP bureau. He worked at the SPUP Headquarters. After that I do not know what happened to him. I never heard anything else, as to what happened to him. Altogether, I was not involved in any matter with him.

14. The Commission recalls Mr. Wong's evidence that Tyte Morin came to interview other detainees, and the first question they were asked was whether they knew Mr. Wong. Eventually, Mr. Wong was taken for an interview;

15. The Commission recalls Mr. Wong's evidence that he was about to be taken to Mr. Morin when he said he wanted the Commissioner of Police to interview him. Mr. Wong recalled he was taken to the Commissioner, James Pillay. Mr. Wong stated that Commissioner Pillay asked him whether he had ever circulated a letter against the Government and Mr. Wong responded that he had one of those letters, but someone had placed it on the table in Mr. Wong's office. Mr. Wong said he did not know who put it there. Mr. Wong recalled that Commissioner Pillay asked Mr. Wong what he knew about a coup d'état, and Mr. Wong told the Commissioner to give him some respect, asking how he could be involved in a coup with a machete when the Government had all the guns. Mr. Wong claimed that Commissioner Pillay asked Mr. Wong why he had told the other detainees not to talk at their interviews with police, and Mr. Wong responded that he may have said, "Don't talk my friend" but that would have been in a different context;

16. The Commission recalls Mr. Wong's evidence that Commissioner Pillay asked Mr. Wong what he would do if he was released, and Mr. Wong responded that he did not know what Commissioner Pillay meant. Further, Mr. Wong told the Commissioner he had never heard of a coup, and had never distributed papers against the Government. Mr. Wong claimed that Commissioner Pillay then asked him whether he would stay in Seychelles, and told Mr. Wong that he wanted Mr. Wong to leave the country;

17. The Commission recalls Mr. Wong's evidence that he was returned to the prison after the interview. Mr. Wong alleged that night, he heard two soldiers talking, James Michel and Ogilvy Berlouis, and they said that if Mr. Wong did not die that night, they would release him;

18. The Commission recalls Mr. Wong's evidence that he was suffering from heat inside his body and he thought they were using microwave heat on him. Mr. Wong stated that he slept under the bed,

next to the toilet that night, and he did not wake up until 9.30 A.M. He thought it was strange that nobody had come to wake him earlier;

19. The Commission recalls Mr. Wong's evidence that on 6 December 1979, after six weeks of imprisonment, he was released along with five other detainees, and that when he was leaving in the van, a solider told him, "you will be killed, you will be killed". Mr. Wong claimed that he was taken first to see Commissioner Pillay;

20. The Commission recalls the evidence of Mr. Wong that Commissioner Pillay told Mr. Wong that they had released him and that Mr. Wong had promised to leave the country. Mr. Wong claimed Commissioner Pillay told Mr. Wong not to leave his home once released and not to go out because his safety would not be guaranteed. Mr. Wong recalled that he went home and was sitting in his living room, and he felt the same heat going through his body that he had felt in prison;

21. While the Commission notes it is unclear whether Mr. Wong was detained pursuant to a Detention Order, the Commission finds that it is established that the police did not investigate to ascertain whether there was any evidentiary basis to detain him or that he had been involved in the distribution of pamphlets, or had engaged in acts prejudicial to public safety and the maintenance of public order.[5] Further, the Commission finds it established that Mr. Wong was not accorded any of his due process rights, including the right to legal counsel, and was not brought before a court within a reasonable time, or before the Detention Review Tribunal within 30 days as its establishing Act provided.[6] Further, the Commission also notes that he was denied visits from his family as well;

22. The Commission finds on a balance of probabilities that Mr. Wong thus suffered the violation of unlawful imprisonment or other deprivation of physical liberty under Section 2(8)(b) of the TRNUC Act, with respect to his arbitrary detention of approximately six weeks;

23. The Commission further finds that as established in other cases, President René and the Commissioner of Police, Mr. Pillay, each bear individual responsibility for the unlawful deprivation of liberty, on the basis that President René more likely than not ordered the detention, and Commissioner Pillay ensured it was completed despite there being no evidentiary basis. As both President René and the Commissioner of Police were acting in their official capacities as representatives of the State, the Commission finds that the unlawful imprisonment of Mr. Wong gives rise to State responsibility;

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[5] The Commission notes that whether an individual was suspected of engaging in acts prejudicial to public safety and the maintenance of public order was the standard the State relied on to issue Detention Orders.

[6] The Commission recalls the Detention Review Tribunal Decree of 1978 provided for such procedural safeguards including legal review within 30 days of the commencement of detention. Detention Review Tribunal Decree (Cap. 62), 19 May 1978. The Commission finds that the failure to bring Mr. Wong before the Detention Review Tribunal as required by law and his denial of his right to counsel were violations of his rights under the Detention Review Tribunal Decree. Further, the Commission considers that even had Mr. Wong been brought before the Detention Review Tribunal as he should have been, the protection offered by that body would still have been insufficient due process, as the Tribunal could only recommend that a detainee be released and had no power, as an independent court presumably would have, to order the release of Mr. Wong. *See* Case Determination No. 003: Daniel Auguste.

24. The Commission recalls Mr. Wong's evidence that after his release, he went to see Commissioner Pillay and Commissioner Pillay called President René. Mr. Wong recalled that President René told Commissioner Pillay that Mr. Wong would be permitted to leave Seychelles in peace, so Mr. Wong called the US Ambassador, as he and his wife had family in the United States. Mr. Wong recalled that after everything was arranged, on 13 September 1980, Mr. Wong and his family left Seychelles and eventually obtained citizenship through his wife's mother;

25. The Commission recalls Mr. Wong's evidence that prior to leaving for the US, they sold everything they owned in Seychelles and arrived in the US with the clothes on their backs, and they had to start again, which was very hard;

26. The Commission finds that Mr. Wong's exile to the US was forced, having been instructed to leave, upon his release from his unlawful detention. While the Commission notes that the family did not need to apply for asylum due to their familial relations, they likely had a strong claim given the persecution Mr. Wong faced was due to him having expressed criticism of President René, and this persecution would likely have increased had he remained.[7] On the basis of the above evidence, the Commission is satisfied that Mr. Wong suffered the violation of forced exile under Section 2(8)(k) of the TRNUC Act;

27. The Commission finds that President René bears responsibility for Mr. Wong's forced exile, as the Commission finds it more likely than not that President René had directed those around him to persecute Mr. Wong, and later ordered Mr. Wong to leave Seychelles. The Commission finds that as President René was acting in his official capacity on behalf of Seychelles, responsibility is also imputed to the State;

28. The Commission recalls Mr. Wong's evidence that he did not return to Seychelles until 1991, when his mother was hospitalised and then passed, and that each time Mr. Wong returned to Seychelles, he continued to be victimised and was treated as a foreigner. He stated that he was told that if he wanted a Seychellois passport, he had to buy one;

29. The Commission finds that Mr. Wong suffered the following violations: unlawful imprisonment or other deprivation of liberty, under section 2(8)(b) of the TRNUC Act; and forced exile under Section 2(8)(k) of the TRNUC Act;

30. 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;

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[7] The Commission recalls 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 a 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 a finding of a successful refugee or asylum claim is not a required element of the violation of forced exile under the TRNUC Act, the Commission considers such evidence to be particularly persuasive.

31. Therefore, the Commission finds that the complainant should be awarded monetary and symbolic reparations in accordance with the recommendations set out in the Commission's Reparations policy, which reflects the views of the victims as to appropriate recommendations due for the human rights violations established above.

Each of the undersigned Commissioners swears or affirms that he or she has comprehensively familiarised him or herself with the record in Case 327.

On this 31 December 2022

The Commission

Gabrielle McIntyre, Chairperson

Michael Green, Vice Chairperson

Marie-Therese Purvis, Commissioner

Jacques Koui Gbilimou, Commissioner

Archbishop James Wong, Commissioner