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Case No: 049

The Truth, Reconciliation and National Unity Commission

In the Complaint of Hester Sylvia Greslé

31 December 2022

Determination on the Complaint of Hester Sylvia Greslé

Complainant:

Hester Sylvia Greslé

I. ADMISSIBILITY

1. The following determination is made pursuant to Section 11 of the Truth, Reconciliation and National Unity Commission Act, 2018, which provides that the Commission shall make decisions and recommendations. The determination made is in accordance with the mandate of the Commission as set out in Section 3(3) of the Act, "to receive complaints in respect of alleged violations, to gather, collate and analyse information and evidence with respect thereto, and to make decisions". Pursuant to Section 2(8) of the Act, a violation means a human rights abuse committed during or in relation to the Coup d'état of 5 June 1977, and includes a non-exhaustive list of enumerated acts.[1]

2. Prior to the investigation of a complaint, pursuant to Rule 25(1) of the Commission's Rules of Procedure and Evidence ("Rules"), the Commission must satisfy itself that the complaint is admissible before it for determination. To be admissible before the Commission, a number of criteria must be satisfied.

3. Pursuant to Section 3(4) of the TRNUC Act, a complaint shall be filed within six months of the Commission's commencement of mandate, and pursuant to Section 3(5), a complaint may be filed by a victim, a representative of a victim, or a close surviving relative of a deceased victim. The mandate of the Commission commenced on 9 August 2019. To be admissible, complaints must have been filed on or before 9 February 2019.

4. The complaint of Mrs. Hester Sylvia Greslé, who brings her complaint as a direct victim, and as a representative of her children and deceased husband, was filed before the Commission on 8 August 2019 to be taken up on the commencement of the mandate on 9 August 2019. Consequently, Mrs. Greslé's complaint satisfies the admissibility requirements of Sections 3(4) and 3(5) of the TRNUC Act.

5. Further, 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. The requirement that a complaint be related to the Coup d'état of 1977 requires the Commission to establish that there is an alleged connection between the allegation and the Coup d'état of 1977. Pursuant to Rule 25(2) of the Rules, a complaint "[...] will be deemed inadmissible where the information contained within the complaint falls manifestly outside the mandate of the Commission". The threshold for admissibility to be granted is low, though a complaint deemed by the Commission to be admissible may later be deemed inadmissible following investigation.

6. In her complaint, Mrs. Greslé alleges that her husband, Mr. Conrad Greslé, suffered a number human rights abuses as enumerated in Section 2(8) of the TRNUC Act, including other acts causing suffering or injury to body and mental health when he was beaten by soldiers of the Seychelles Peoples Defence Forces in 1983; unlawful imprisonment in 1991; and an abuse of office by a Government official who prevented him from traveling to South Africa for medical treatment, resulting in his premature death. These alleged violations caused both personal and economic loss

[1] "[...] (a) unlawful killing; (b) unlawful imprisonment or other deprivations of physical liberty; (c) torture; (d) rape; ()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"].

to the Greslé family. In addition, Mrs. Greslé alleged that the abuse of office by a Government official caused further harm as it resulted in property belonging to the Greslé family being purchased by the Government for insufficient value in circumstances of duress, and additional acquisition of property without compensation through the building of Government roads on the Greslé's property.

II. PROCEDURAL HISTORY

7. Satisfied that the complaint of Mrs. Greslé alleged human rights violations related to the Coup d'état of 1977, the Commission rendered her complaint prima facie admissible on 27 August 2019.

8. On 4 November 2019, the Commission began to hear evidence in the case of Mrs. Greslé. The Commission heard evidence from four (4) witnesses[2] and accessed relevant documentary evidence.

III. EVIDENCE RECEIVED

A. Evidence of Hester Sylvia Greslé

1. Background of the Greslés' lives in the Seychelles

9. On 4 November 2019,[3] Mrs. Greslé appeared before the Commission to set out her complaint before it. Mrs. Greslé advised the Commission that she met her Seychellois husband, Mr. Conrad Greslé, in South Africa, when he was completing his studies as an Accountant Auditor. At the time, she qualified as a Physiotherapist. They were married in South Africa, and their first two children were born 21 months apart. After visiting the Seychelles on two occasions, Mrs. Greslé agreed that they should return to live in the Seychelles.

10. Mr. Greslé was an only child, and it was explained to the Commission that his parents were overjoyed when Mr. and Mrs. Greslé arrived in September 1974 to settle in Seychelles. Mr. Greslé opened an accountancy practise in Victoria, and Mrs. Greslé started a Physio Department at Victoria Hospital using her own equipment. In this position, she agreed to accept SR 1000/- a month as her salary. It was the first physio department in Seychelles. Mrs. Greslé also informed the Commission that, in consultation with two British surgeons at the hospital, she and her husband decided to open the Cheshire Home for the treatment and care of disabled persons.

11. In 1981, the Greslés had another child, and by that time Mrs. Greslé had left the hospital after having worked there for five or six years.

12. Mrs. Greslé also brought her pottery wheel to Seychelles and introduced pottery at the Teachers Training College. She stated that she taught pottery for six months, but could not do that as well as her physio work. After six months, the American Volunteers took over the pottery classes and she donated the pottery wheel to them.

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[2] Hearing No. 21, 4 November 2019, Sylvia Greslé. Hearing 23, Wednesday November 6, 2019, and Hearing No. 40, Friday January 17 2020, Bernard Georges; Hearing 25, Friday November 8 2019, Dr. Maureen Kirkpatrick; Hearing No. 221 of Friday, 5 November 2021, Gaetan Didon.

[3] Hearing No. 21, 4 November 2019 Sylvia Greslé.

13. Mr. Greslé's accounting practice grew rapidly. At the time, many foreigners were investing in Seychelles and many appointed Mr. Greslé as their accountant auditor. Mrs. Greslé described Mr. Greslé as an intelligent man with integrity. Mrs. Greslé also described him as a very kind person. She said that everybody knew Mr. Greslé at Anse Royale. If anybody needed something, he always had an open hand, and he treated everyone equally. He loved fishing and he had a little fishing boat.

2. Impact of the Coup d'état of 5 June 1977

14. Mrs. Greslé recalled that in 1976, Seychelles was granted independence, and Mr. Mancham became President, and Mr. René the Prime Minister. Mrs. Greslé recalled the day when Mr. Mancham was sworn into office; they were invited to a VIP lounge. Mr. René arrived at the event with his wife, Geva, and he was dressed simply in a khaki safari suit, and looked nice and "smiley". Mrs. Geva René was a good friend of Mr. Greslé and his parents. Before Mrs. Greslé met her husband, Mr. Greslé had been briefly engaged to Mrs. René's younger sister.

15. Mrs. Greslé further recounted that a year later, on 5 June 1977, Mr. René took over the Government by force. Mrs. Greslé described everything as changing, including curfews which felt like house arrest. Immediately following this change in the Government, people were killed, some disappeared, and many were rounded up and arrested. It was required that all private weapons be forfeited. Mr. Greslé was in possession of a handgun which he had brought from South Africa, and he followed the requirement to hand it in.

16. Mrs. Greslé told the Commission that she and her husband were prepared to give the regime a chance and see what happened after the Coup d'état. Her husband had always been a Mancham supporter, and had been at the college at the same time as Mr. René.

17. Mrs. Greslé recalled that people started to become fearful of the regime, and realised that they could not freely talk anymore. They would whisper their opinions to one another for fear of being heard. Many Seychellois, who had been detained after the Coup, left the country. She said they left with nothing.

18. Mrs. Greslé informed the Commission that while she was working at the hospital, she remembered quite a few people from the UVC prison, like Robert Frichot, being brought to the hospital because they were suffering badly from stress, and sore necks and backs. They were brought under escort: men dressed in camouflage suits with AK-47s. She recalled that the escorts would stand at the door of her small department and watch her treat these people as if they were common criminals. Mrs. Greslé saw some of the ladies upstairs, who she said looked terrible, such as Ms. Carlette Tall[4] and Mrs. Katty Mason, also under escort. Mrs. Greslé recalled that it was a fearful time.

19. Mrs. Greslé explained that things became more difficult by the day. Her husband's practice shrunk considerably, and after the formation of the parastatals, Mr. Greslé never received any government business. Business became more difficult as the authorities knew her husband was pro Mancham. However, he still had some private clients who stayed with him.

20. Mrs. Greslé also noted that foreign investors were also affected; she stated that they were 'given their marching orders'. At the time, Mr. Greslé was the accountant auditor for a group of Frenchmen who had bought Silhouette Island, which Mrs. Greslé and her family would visit once

[4] *See* Case Determination No. 005: Carlette Ball (née Tall).

or twice a month. After the Coup, Silhouette Island was acquired by the Government and the French investors were forced to leave. Mrs. Greslé recalled a similar story about a German man, Mr. Mittermayer, who bought Cousin Island and began building on the Island, before it was also acquired after the Coup and he was also forced to leave. Mr. Mittermayer had also bought the L'Union Estate on La Digue and built up the old house, and when he was forced to leave the Seychelles, he had to leave everything without compensation. These were two of her late husband's clients, but she explained that there were many others as well.

21. Despite the fear many had after the Coup, Mrs. Greslé said her husband refused to leave Seychelles. This was because he would not leave his parents in Seychelles, and because they had invested and settled in Seychelles. Mrs. Greslé described Mr. Greslé's insistence on staying in Seychelles as a 'bone of contention' between them. Mrs. Greslé was of the view that if he wanted to stay in Seychelles, they would have to accept how things were and fit in, and if he could not accept the situation, they should leave, and maybe go to Australia. Her husband refused to leave.

22. Mrs. Greslé explained that while Mr. Greslé refused to leave the Seychelles after the Coup, he also refused to 'sell his soul for money'. She noted that Mr. Greslé could have been in a very favourable position after the Coup because he knew Mr. René from Seychelles College, and could have even used a confession Mr. René once made to him about being ready to be a Catholic priest to his advantage. She said that Mr. Greslé could have accepted everything that came with the Coup and life could have been uncomplicated for them, but on principle he could not accept the fact that there were people being murdered and disappearing.

23. Mr. Greslé also could not accept that the National Youth Service (NYS) programme was separating parents from their young children. Mrs. Greslé said that the new Government had initiated NYS, which removed children from their parents at the age of 15 to be indoctrinated as Marxists and to support the regime. Mrs. Greslé recounted that at the beginning, priests were not allowed at the NYS Villages, but after parents resisted, they were permitted to take their Holy Communion. Mrs. Greslé explained that her children had been small when they came to Seychelles and she had wanted them to be able to do their A levels at the college and at the convent, but the education system was completely changed.

24. Mrs. Greslé recalled a big demonstration in town where the children angrily protested the programme and stated that they did not want to go to NYS. Mrs. Greslé recalled being caught up in the protest in her red car, and having her car banged on by a protester with a stick, apparently because it was red.

25. Mrs. Greslé recalled that her children had to leave the International School when they were 12 and 13 years old, respectively, because no Seychellois was allowed to have children attending the International School. As they could no longer attend the International School, Mr. and Mrs. Greslé decided to send them to school in Johannesburg, and they went to male and female Anglican schools. The younger child stayed with Mrs. Greslé. Mrs. Greslé explained that "the whole idea of having to attend a school in the Seychelles teaching Marxism and requiring red berets and little red neck ties didn't appeal" to her, and she did not like the idea of putting her daughter there. She was very nervous about sending her children away for school. The separation from her children was very painful but it was necessary.

26. Mrs. Greslé advised the Commission that her husband did not really divulge to her what he had done, or what he had said publicly. She knew that he and others often talked and shared opinions at the old Seychelles Club, although they were not allowed to share opinions in this way. She

considered that her husband was "probably negative" about the Government. Mrs. Greslé recalled that one of the first things that Mr. René did was to completely demolish the Seychelles Club, and replace it with a new building. Therefore, after the Seychelles Club was demolished, these conversations moved to the Yacht Club. She explained that everyone gathered at the Yacht Club after work, or at lunch time, and talked, although they were not allowed to talk and share opinions as such.

3. "Other Acts" by Seychelles People's Defence Forces Soldiers

27. Mrs. Greslé recalled that one day in 1983, she was sitting, as she normally did in the late afternoon at their home, under a tree with her children and the dogs, waiting for her husband to come home. They had a long curvy driveway and she could hear his car on the driveway before she saw him. On that day, she heard the noise of vehicles driving very fast, and two army vehicles full of soldiers in camouflage suits and armed with AK-47s drove at top speed up the driveway. To her shock and horror, the soldiers jumped out of the vehicle and fanned out looking for her husband, including in their home. The commotion was heard by an older Seychellois man, who had worked for her father-in-law and had been given property just above the Greslés', and he came running down. He helped Mrs. Greslé hold the dogs, as she was worried that the soldiers might shoot her dogs.

28. The older Seychellois man spoke to the soldiers in Creole and told them that Mr. Greslé had not come home yet. They then jumped back in their jeeps and started driving down the driveway, but met Mr. Greslé as he was coming up the driveway. Mrs. Greslé recounted the soldiers stopping their vehicles and saying "Are you Conrad Greslé?" He said "yes", and then he was punched in the face. Then they said to him: "you are very lucky we didn't find you, but now you can reflect because we are coming back and we are going to blow out your brains" and then they left. This was very unnerving for the family, especially the children. Mr. Greslé told them to pack a small bag and they all went to stay the night with his aunt's who lived in Anse Royale near 'Kaz Kreol'. That night, they slept on mattresses on the floor in her sitting room.

29. The next morning, they went to see the Commissioner of Police and made a statement. Mrs. Greslé stated that at that moment, it suddenly dawned on her for the first time that they were alone. She said there was no justice, and no protection anymore. The anxiety and real sense of insecurity started. She said that she began to understand what it really was like to be so fearful.

30. Mrs. Greslé recalled that her children were badly affected by the incident. She said that they would wait anxiously for their father to return home every day, and they had panic attacks if he was late; they thought he might have disappeared between Fairyland and home. The family also began to be stopped often on their way back from town by soldiers, who Mrs. Greslé said might have been from Tanzania or Cuba, as she did not recognise them. She said they would stop them often and search their car.

4. Unlawful Detention

31. In 1991, an American man appeared at the restaurant at Kaz Kreol at Anse Royale looking for Mr. Greslé. Mrs. Greslé contacted her husband, and he came to the restaurant. He did not know the man. The man claimed to be a CIA agent sent by Mr. Mancham. He claimed that there was a plan to overthrow Mr. René, and Mr. Greslé was asked to take control of the Radio Station until Mr. Mancham returned. This man visited several times to discuss procedures with Mr. Greslé. Mrs. Greslé noted that she never sat in on their meetings so she did not know exactly what was said. She only knew little bits and pieces about the plan.

32. Mrs. Greslé recalled that one afternoon, Mr. Greslé called her to fetch him from work. He told her that he had received a call from Fisherman's Cove to pick up a parcel left by an American man. She went with her little girl in the car, and they waited for her husband outside Fisherman's Cove.

33. She recounted that Mr. Greslé was gone for a little while collecting the parcel, and when he returned to the car he was surrounded by plain-clothes policemen. He told Mrs. Greslé to go home, as he had been arrested, and they were taking him to the Central Police Station. She refused to return home. She explained that by then, she found herself to be an anxious person, and she thought she would never see him again. She told the Commission that she felt she had to keep her eye on the car, and keep her eye on him. She was not going to allow them to make him disappear, so she drove very fast behind their car.

34. When they arrived at the Police Station, she and her daughter followed them inside. They tried to stop her, but she insisted that she would wait there, because she wanted to make sure he would come back with her. As she sat outside the room, she heard them interrogating her husband and their voices were angry. She heard harsh voices and her husband replying, and this went on for some time.

35. She explained that just before midnight, they came out of the room and Mr. Greslé said that they were going to hold him at the prison, and that she needed to go home. Mrs. Greslé and her daughter were devastated, and she noted that her young daughter understood what was happening. She explained that the officials then took Mr. Greslé to the Mont Fleuri Police Station, and Mrs. Greslé returned to the police station the next morning. She claimed that her husband had been given only a chair to sleep on, no food, and a bucket was thrown in with him. She described him as being totally humiliated. Mr. Greslé told her not to worry because he would get Mr. Bernard Georges to defend him, and to negotiate his release.

36. Mrs. Greslé recalled that Mr. Greslé was kept at the police station for a few days. He was never given a proper bed, and she brought him food, saying that otherwise he would have starved. Mrs. Greslé recalled that it was very painful to stay in their big house with just herself and her daughter while her husband was detained, and her other children were at boarding school in South Africa.

37. Mr. Greslé advised the Commission that after a few days of detention, President René agreed to release Mr. Greslé and to let him go home. However, Mr. René would not let this happen until Mr. Greslé apologised to the nation on Seychelles Broadcasting Corporation (SBC) for allegedly trying to destabilise the country with Mr. Mancham. Mr. Greslé claimed her husband appeared on SBC but did not apologise, and was still permitted to go home.

38. Mrs. Greslé recalled a puzzling detail, explaining to the Commission that her husband had written down a phone number, given it to her and told her to ask her brother in Johannesburg to call the number. She said the number was meant to be the number of the CIA agent. She told the Commission that her brother called the number and got hold of a man who was in Switzerland. The man told her brother, "I do not know anything. I do not know Mr. Greslé. I do not know what you are talking about, or who you are talking about". To this, Mrs. Greslé claimed that she heard from a very reliable source, many years later after this incident, that the whole thing was a hoax. She heard that the American and his plan were in fact coordinated by Mr. René as a way for Mr. René to disgrace and humiliate Mr. Greslé and Mr. Mancham in front of the nation. Mrs. Greslé further advised the Commission that not long ago, her son-in-law told her to look at Seychelles on Wikipedia. She did and saw that it was stated that her husband was charged with treason.

39. After Mr. Greslé's release, Mrs. Greslé described life as becoming 'a hell' for them. Mrs. Greslé started getting phone calls at Kaz Kreol from unknown people, who insulted them and made lurid statements about her husband. She became afraid to answer the telephone. It was impossible to live a normal life, she said, but they tried for the sake of their children.

5. Abuse of Office – Prevention of Travel for Medical Treatment

40. During October 1992, Mr. Greslé started complaining about a stomach ache, and by December 1992, he complained of excruciating pain in his stomach. Mrs. Greslé took him to see Dr. Maureen Kirkpatrick at Anse Royale, and she advised that he should go to South Africa for a consultation. Mrs. Greslé contacted a doctor she knew in South Africa and he told her that she had to get her husband seen quickly. She booked a ticket for him to travel to South Africa the first week in January 1993.

41. On the day he was to depart for his medical visit to South Africa, a man who worked with them drove Mr. Greslé to the airport and then arrived back with him. Mrs. Greslé recalled that her husband was completely ashen and demoralised. She recalled the conversation that followed to the Commission. He came into the house, sat on the chair, and said, "They will not let me go". Mrs. Greslé asked "Why not", as she knew her husband had a letter from a doctor indicating he was travelling for medical treatment, and he said "Because they say I owed them business tax". Mrs. Greslé said she remembered responding by saying, "But that is ridiculous, even if you did owe business tax, you are not leaving, you are coming back. I am here with the children. We have assets, we do not have debts". Although Mrs. Greslé found it ridiculous, her husband was not allowed to leave for his medical visit.

42. Mrs. Greslé claimed that she and her husband pleaded with the authorities to allow his medical travel, and they did pay the small amount of tax owed. Finally, Mr. Greslé was allowed to leave in mid-March 1993. She said that he was in South Africa for one week, and she recalled that on her birthday, the 23rd of March, she had a phone call from the treating doctor, Dr. van Rooyen. He told her to sit down and advised her that her husband was diagnosed with cancer and had just four months left to live.

43. Mrs. Greslé advised the Commission that her husband had cancer of the pancreas, and the doctor told her that they could have taken it out if addressed sooner, but with the delays in travelling to South Africa for medical advice and treatment, the cancer had now spread to his liver. She explained that the cancer's spread to the liver was the reason the doctor only gave him four months to live.

44. Mr. Greslé returned to Seychelles and her husband was admitted to Victoria Hospital. She spent every day by his bedside, and it was painful to see him turn into what she described as 'a skeleton'. She tried to put life and colour into him by massaging him every day. Her son, who was then only 19, used to take over for her in the late afternoon, and he would sit with his father through the night. While she knew her husband was dying, Mrs. Greslé said she never gave up hope. Her husband was in a lot of pain, but she questioned the doctor giving him morphine because of fear he would become addicted.

45. On the 12 July 1993, Mr. Greslé passed away at Victoria Hospital at the age of 56. Mrs. Greslé was 48 years of age at his passing. Her youngest child was just 12 years of age.

46. Mrs. Greslé provided the Commission with a statement from the treating doctor in South Africa, Dr. L. H. van Rooyen, who diagnosed his cancer. The relevant parts of that statement read as follows:

> In October 1992, I was contacted by Mrs. Greslé regarding Mr. Greslé's illness which could not be identified or diagnosed by the doctors in Seychelles. He complained about unbearable stomach pain.
>
> My advice was that he should seek medical help as soon as possible in South Africa. However, due to the fact that Mr. Greslé was living in the Seychelles and the political situation impacting on him and his family and other factors which Mrs. Greslé can better testify he was not free to move when the necessary appointments with doctors in South Africa for him was made on 3 January 1993.
>
> I was contacted at a time and was requested to cancel his appointments until further notice with the doctors as he was prohibited to leave the Seychelles. He was only allowed to travel to South Africa during March 1993. After he was diagnosed with a malignant Sarcoma (cancer) of the small intestine, as far as I can remember he received radiotherapy and chemotherapy. Realising the time he had left to live he had to leave South Africa soon after the first treatment to settle and finalise matters in the Seychelles and then return to South Africa for medical treatment and follow-up which did not happen. He passed away on 12 July 1993.
>
> A few comments:
> (1) We accommodated him and his family for more than a month during his stay in South Africa. After his wife and young children joined him, I, as a medical doctor and friend was the person who broke the news, interpreting and discussing the clinical findings, the seriousness and the implications for them as a family. Mrs. Greslé, and her children were in a complete a family (sic). Mrs. Greslé, and her children were in a complete emotional shock and despair. Although Mr. Greslé was ill, death was never part of their minds. It took some time to overcome the total emotional breakdown and despair which happened after many counselling sessions.
>
> (2) Financial means lacked. They faced huge medical bills in South Africa which I eventually decided to financially support them where needed. Back home they had to face the local political situation, their financial situation and had to cope with a terminal sick Mr. Greslé. The children had only their mother for support.
>
> (3) During that time up until today the question asked to me by the family was if the diagnosis and treatment was made earlier, would it have made a difference in the outcome and survival of Mr. Greslé. In principle, we all know the earlier a cancer is diagnosed, the more effective the treatment and favourable the outcome and survival. Although we have no proof, this principle in my view still applies to Mr. Greslé's cancer. Irrespective of that, the earlier the diagnosis and treatment, the family would have had much more time to actualise and prepare for the situation. In my view 3 months and even longer would have made a huge difference.

B. Evidence of Mr. Bernard Georges

47. The Commission called Mr. Bernard Georges, Mr. Greslé's former lawyer, to appear before it, and he did so on 6 November 2019[5] and on 17 January 2020. Mr. Georges corroborated the evidence of Mrs. Greslé concerning the arrest and detention of her husband, and provided further evidence regarding the allegation that the Government prevented Mr. Greslé from travelling to receive medical treatment.

48. On Mr. Greslé's arrest and detention, Mr. Georges recalled that Mr. Greslé was detained for allegedly planning a coup d'état with a foreign government. Mr. Georges claimed that an individual

[5] Hearing No. 23 of Wednesday 6 November 2019 & Hearing No. 40 of Friday 17 January 2020.

called Mr. Habtmann had arrived in Seychelles with "compromising documents" linked to Mr. Greslé. As a result, Mr. Greslé was detained for four days, and Mr. Georges acted as his legal representative at that time. Mr. Georges explained to the Commission that he managed to get him released, but only after he was forced to speak on Government radio and television. He said that it was only after Mr. Greslé took these steps that he was released.

49. Mr. Georges told the Commission that on his release, Mr. Greslé immediately requested that Mr. Georges take action against the Government. In regards to these instructions, Mr. Georges produced before the Commission a letter written to him by Mr. Greslé, dated 25 June 1992, which read as follows:

> Dear Bernard,
> For reference I enclose a photocopy of the Nation reporting my arrest, detention and release. Points to remember: (i) Among the exhibits there was a tape supposedly a speech from David Joubert which was partly played on the media and they left out the part when the speaker said 11yrs and martyr, which makes the tape 4 years old. (ii) The speech of the President in December 1991 tantamount to clemency to anyone who were in exile and plotting against the State.

50. The *Nation* article referenced in Mr. Greslé's letter to Mr. Georges was titled, "Police question two in coup d'etat allegations", and set out the following:

> The Seychelles Police have released a foreign national and a Seychellois after questioning them in connection with investigations into an alleged plot to overthrow the Government. According to a police communique published yesterday, the foreign national, Mr. Michael Habtmann who holds an Austrian passport, was detained on Friday on arrival at the international airport after the Security Services discovered that the man was in possession of what the communique said was incriminating evidence. This included a tape recording of an address which was to be broadcast over Radio Seychelles following the planned coup d'etat. The communique said the tapes recording contained an address by a man who identified himself as Mr. David Joubert. According to the communique, the Police believe that Mr. David Joubert is the same person who heads the Seychelles Democratic Party from London. The Seychellois detained is Mr. Conrad Greslé of Anse Royale who collected the documents from Mr. Michael Habtmann. The Police allowed Radio Television Seychelles (RTS) to interview Mr. Habtmann and Mr. Greslé shortly before they were released on Monday evening. The documents seised on them were also shown on television last night. Mr. Habtmann said he was simply a messenger. He told RTS that he had been given a parcel in Munich by a person who had pleaded with him to carry it to Seychelles. He said at first he had hesitated fearing it may have contained drugs. He had later agreed to take it, satisfied that it did not contain drugs although he did not make a thorough search of the parcel. Mr. Grese denied any involvement. He said on RTS that he was satisfied with the transition calendar announced by President France Albert Rene to move the country to multi-party politics and found there was no reason for a coup d'etat.

51. Mr. Georges advised the Commission that on 20 July 1992, he wrote to the Government, and in particular to the Attorney-General, to put the Government on notice of his client's views that the arrest and detention were illegal, as was the condition of release requiring that Mr. Greslé give an interview to be released.

52. Mr. Georges provided the Commission with a copy of the letter, dated 20 July 1992, which read as follows:

> We act for Mr. Conrad Greslé who was arrested on 21 February 1992 and detained for four days by the police in connection with an alleged attempt to overthrow the Government. We are instructed that it was obvious to any person with any degree of intelligence that the facts on the basis of which are client was arrested either were obviously false, or were made up to discredit him, or even if they had been real (which is not admitted) they no longer held good at the time

> of arrest. Given the foregoing we are to say that the arrest was illegal in the circumstances and even if it were proper (which in not admitted), the detention of our client for a period of four days was excessive and amounted to a false imprisonment. To make matters worse, our client was only released from detention on agreeing to be interviewed by the Government Television Station RTS. Our client feels that he was treated in a most cavalier manner and his rights were trodden on by authority. His detention was stressful and it had affected him both personally and professionally. We are thus instructed to claim the sum of R 200.000 as moral damages from the Government. [...]

53. Mr. Georges advised the Commission that the Government denied any wrongdoing and instead asserted that the matter did not proceed due to the health condition of Mr. Greslé. To this, Mr. Georges expressed his opinion to the Commission that Mr. Greslé had been detained without valid cause or reason. He also expressed concerns that Mr. Greslé was never charged, and held in detention for four days, which contravened the requirement that he be brought before a judge within 24 hours.

54. The Commission notes that the proceedings file by Mr. Greslé were adjourned sine die on 30 November 1993, following the death of Mr. Greslé.

55. Mr. Georges also provided the Commission with evidence in regards to the allegations that the authorities refused Mr. Greslé the ability to travel for medical treatment without having cleared his tax obligations. Mr. Georges advised the Commission that the tax authorities were very strict in those days, and recalled that Mr. Greslé was not the only person who was affected in this manner, such that he was effectively prevented from leaving the country. Mr. Georges noted that he had to intervene in many such cases, and that at the time, to get through immigration, the travelling person needed a tax clearance, which was only given if the individual did not owe any taxes. Mr. Georges explained that if an individual did owe taxes or was under investigation, the person would not be given clearance and would not be allowed to leave the country.

56. Mr. Georges recalled that Mr. Greslé had applied for tax clearance to go and be treated abroad in South Africa, which was denied. Mr. Georges detailed that he made representations on Mr. Greslé's behalf to the tax authorities, requesting that Mr. Greslé be permitted to temporarily leave the country for medical treatment, but that these submissions were unsuccessful. According to Mr. Georges, the tax authorities in those days were a law unto themselves, and although they were assisted by an arrangement with a tax consultant from Australia, who Mr. Georges described as very efficient, he stated that occasionally, and in the case of Mr. Greslé, the tax authorities "went overboard".

C. Legal Files

57. The Commission sought access to the file of the proceedings from the Supreme Court and from the Attorney-General's Office and received that file from the Supreme Court although it was not complete. The Commission notes that it received the file which showed that Mr. Greslé had filed proceedings against the Commissioner of Police and the Government of Seychelles for unlawful arrest, alleging that the facts leading up to his arrest were made up by the second defendant for the purpose of discrediting Mr. Greslé for "ends of its own", and that if his arrest was unlawful, his detention for four days was unlawful and malicious and caused Mr. Greslé untold prejudice and stress, which affected him personally and professionally.[6]

D. Evidence of Gaetan Didon

[6] Civil side No. 150 of 1992.

58. On 5 November 2021, Mr Gaetan Didon,[7] a police officer and former Assistant Commissioner of Police, also gave evidence relevant to the arrest of Mr. Greslé. Mr. Didon claimed that Mr. Greslé was set up by the authorities and that they orchestrated the whole thing. According to Mr. Didon, the authorities had prepared some documents, which they gave to a man and told him to call Mr. Greslé and tell him to come to the Coral Strand and pick up the documents that he was bringing from Mr. Joubert. According to Mr. Didon, Mr. Didon was instructed to go on television and allege that a man had brought documents into Seychelles from Mr. Joubert which revealed that he would be doing actions against the army camps in an attempted coup. Mr. Didon stated that he said whatever Mr. Michel told him to say, but that he knew that Mr. Greslé was innocent. He claimed that he had been set up by the authorities.

59. On 26 May 2022, Mr. Didon gave further evidence, clarifying and expanding upon his earlier evidence, as to the circumstances of the arrest of Mr. Greslé. Mr. Didon stated as follows:

> One day, I do not recall the exact years, but maybe 1989-1991, just right before Mr. Mancham returned to Seychelles. I was in charge of the CID officer at the time. I was called to the office of the Commissioner of Police; who was Mr. Anthony Camille. It was a Friday, I remember that very well. He called me into his office and so I went in, and upon entering I saw Mr. Michel, at the time he was, if I am not mistaken the Vice President or a Minster at the time. But James Michel was present as well as a man; a foreigner. He was sloppily dressed as if he was someone that had just received a good beating from someone. I later understood that he was in a cell downstairs, but I had not seen him. So Mr. Camille told me that Mr. Michel had a task for me. So Mr. Michel informed me that the night prior, they had arrested this man at the airport after some documents which he was carrying were confiscated. It was a map of Seychelles which consisted of the location of all the military camps. There was also a letter from Mr. David Joubert, which was addressed to Mr. Conrad Greslé, which the man had to contact upon his arrival on the island. There was also a gold-plated pen.
>
> So Mr. Michel advised me to take a few police officers and a car and be on standby outside of Mr. Greslé's office at Kingsgate house. So he advised the man to phone Mr. Greslé to inform him that the package had arrived. The man pretended that he was staying at the Coral strand Hotel at Beau Vallon. He also provided the hotel room number. He advised Mr. Greslé to come to the hotel so that he could hand over to him the documents.
>
> Mr. Greslé was not aware that in fact, the man was at the Central Police station, as we had used a phone with no identification number from the station to make the call. He thought that the man was at the hotel. The time was approximately 4 PM, the conversation was put on speaker and we could hear clearly what was said. The conversation was done in English and so Mr. Greslé advised the man to give him at least half an hour to get himself organised to collect the documents as he was busy. He affirmed that he was going to collect the package.
>
> As he was about the pick up his car, he was instantaneously arrested by the CID officers. He was arrested and taken to the Central Police Station. Subsequently, I was asked to do an interview with the RTS on television after the incident. I did the interview and had to explain what happened.

60. Mr. Didon said that this was before the arrival of Mr. Joubert and Mr. Mancham to Seychelles, and that Mr. Joubert was in England at the time. He continued as follows:

> From what I understood, this was a setup after I investigated the matter. What happened was, that Albert Rene, got into contact with a businessman, Sergio; if I remember his name well; George Sergio was the owner of the Auberge Louis XVII restaurant at La Louise. This restaurant is now closed.
>
> [...]
>
> Yes, he was the owner of the restaurant, and so this was orchestrated from State House. They gave Mr. George Segio a package to bring to Belgium. George Sergio was in contact with

[7] Hearing No. 221 of Friday, 5 November 2021.

> the man who was arrested at the airport. The airfares, accommodation, and every other expense were paid for. George Sergio gave the document to the man. It appeared to me that a member of the airport security was alerted prior, and was advised to search that particular individual upon his arrival in Seychelles. This man was well aware of what he was doing. He was a transporter and thought that the document came from David Joubert and was to be delivered to Mr. Greslé. But this was a lie, and in fact, the document came from Seychelles, from the statehouse.
>
> The intent of all of this was to raise awareness that the Seychelles security system was vigilant and that if anyone had any intention to sabotage or topple the government, then they will be dealt with accordingly. However, I could not establish the link between Mr. David Joubert and Mr. Greslé. I also do not know whether they had a connection or not.
>
> Additionally, I am confident to say that Mr. Greslé was aware that he was about to receive a document. But I do not know what type of document he was about to receive. I believe that someone called Greslé and informed him that he was about to receive a document. He was not even aware that he was being set up and did not even know what the document was. It is only until he was arrested and brought to the Central Police Station that he was shown the document. He denied all of the accusations. Mr. Greslé was also not aware that the phone call he received was from the Central Police Station and that it was in fact from the Commissioner of Police office and James Michel was instructing the man to inform him of what to do next. This is how the setup happened.
>
> I later learned that this was a staged scheme by the government to tell the population that people from abroad, such as David Joubert were organizing or plotting against the Government. Doing so, gave the system more credits. Like I said before, Mr. Greslé probably knew that he was about to receive a package but, never knew what it was. He had no idea, so definitely this was a setup.
>
> Later, I personally talked to George Sergio. He was a double agent, and he was also deported. So he went to Mauritius and opened up a business at Grand Baie.

61. When asked as to his thoughts on the cause of Mr. Sergio's deportation, Mr. Didon stated that he did not know, but that Mr. Sergio had been involved with Ogilvy Berlouis after he had been sacked, and at one point Mr. Didon witnessed one of their meetings held at Auberge Louis XVII, of which he said Albert René was also aware that a meeting had taken place. Mr. Didon said that there were a few others who attended the meeting, including some former army soldiers, and repeated that Mr. Sergio had a connection to all this but that he did not know if this was related to his deportation. When asked as to whether he thought President René had ordered Mr. Sergio to do the job and then deported him, Mr. Didon said "Well probably, yes. This is how Albert René used to do things. He would ask for you to do a job and after that, he would offer you a sum of money or would ask for you to leave".

62. When asked whether Mr. Greslé had been involved in any political activities, Mr. Didon said yes, he had been very vocal and a staunch supporter of the Democratic Party. Mr. Didon claimed that Mr. Greslé disliked the Coup that had occurred, so "they had to do this in order to arrest him". Mr. Didon recalled that he was later ordered by James Michel to do an interview for RTS, which he said he knew was wrong, but at the time he "had no other choice but to follow the order of the day". Mr. Didon repeated that this was definitely a setup, and stated that it happened right in front of him. He said that even the Commissioner of Police could not say anything, and they never exchanged words on the subject.

E. Statement of Steve Jardin

63. In response to the evidence of Mr. Georges, the Commission requested information from the Tax Office as to whether it was a practice to deny the ability to leave the country to an individual who owed taxes, even in cases of medical care being sought abroad. On 27 May 2022, the Commission received a statement from Mr. Steve Jardin, who used to work at the Tax Office, albeit in the late 1990s, after the time period in the present case. Mr. Jardin stated as follows:

> I joined the office in 1998, so to my knowledge, according to what was stipulated in the Business Tax Act of 1987, the Departure Prohibition Order made such provisions that in certain circumstances, people were not allowed to travel overseas, if they had not adhered to the tax payment requirements. I do believe that there have been instances where the Commissioner has executed such an order to prevent a citizen from traveling abroad, be it for medical treatment or a holiday. In 1993, with the enactment of the third Constitution, the Order became unconstitutional as it infringed the right of movement outlined in the 1993 Constitution. From anecdotal evidence, some people might have been denied the right to travel due to their failure or delay to pay their taxes. You will be guided if you do refer to the Business Tax Act of 1987, it has been a few decades ago for me.

64. The Commission also referenced the provisions of the Business Tax Act, 1987,[8] which did contain some provisions as to the departure from Seychelles of a person owing taxes. In particular, the Act provides specific remedies and procedure in the event that a person with outstanding tax liability plans to leave or leaves Seychelles. Under the Act, the Commissioner of Taxes may require such a person to pay their outstanding tax on a date determined by the Commissioner.[9] The Commission may also make an application to the Supreme Court together with an affidavit for an order preventing the person from leaving Seychelles, and such order shall be sufficient authority to prevent the person from leaving the country.[10] There are also provisions under the Act for penalties in the event of unpaid tax.[11] The Commission notes that this was the extent of the relevant provisions identified by its search of the Act.

F. Evidence of Dr. Maureen Kirkpatrick-Vandemerver

65. The Commission called the doctor who first examined Mr. Greslé and recommended he seek medical treatment in South Africa, Dr. Maureen Vandemerver (née Kirkpatrick), and she appeared before the Commission on 8 November 2019.[12] Dr. Kirkpatrick advised the Commission that Mr. Greslé had been diagnosed with an extremely rare and aggressive tumour of the small intestine, called leiomyosarcoma. She advised that he was due to return to have follow-up treatment in South Africa, which would have been in the form of radiotherapy, chemotherapy, and, if unsuccessful, palliative treatment.

66. She informed the Commission that Mr. Greslé and his family told her that he was not allowed to fly back to South Africa. She stated that they did not have the treatment required in Seychelles, and eventually it was his family who did his home care until it became too difficult. At that point, Mr. Greslé was admitted to Victoria Hospital by Dr. Leste, the surgeon, and he later died there. Dr. Kirkpatrick stated that if Mr. Greslé had been permitted to travel to South Africa expeditiously, she believed his life would have been prolonged. She could not recall exactly how far the tumours had grown, or whether they had spread to secondary cancers, but she offered the opinion that expeditious treatment could have prolonged his life from six months to a year.

G. Property Issues

1. Evidence of Mrs. Greslé

[8] Business Tax Act, 1987, Act 10 of 1987.
[9] *Id.*, sec. 121(1).
[10] *Id.*, secs. 121(2) and (3).
[11] *See id.*, secs. 123-125.
[12] Hearing No. 25 of Friday, 8 November 2019.

67. In addition, Mrs. Greslé told the Commission that not long after their return to Seychelles in 1974, she and Mr. Greslé started building their dream house on her husband's parents' property, which spanned over 50 acres. It took them about three years to build this home, which was built around the existing rocks. It was a big house of about 600 square metres, and was constructed out of tinder, rock, a bit of cement, and latanier palm.

68. Mrs. Greslé recounted the efforts she and her husband made to improve the property on which they built their home. Although the property had sea and mountain views, at the time the house was built, there was no electricity, no water system, and no road access to their home. They built the road to the house, constructed two water basins, and originally relied on a generator before finally having the electricity installed. Mrs. Greslé's father-in-law, who was a farmer, and her mother-in-law, did not have many properties, but it was their property on which Mrs. Greslé and her husband built their home.

69. Mrs. Greslé explained that their home was an ideal place to raise their children. Mr. Greslé was also interested in farming, and had a small farm on the property which produced vegetables, fruits, chicken, pigs, cinnamon, and coconuts. It was his hobby, she said, and the family sold their produce at the market. They were not rich, but they were young and worked hard to achieve their dreams. They enjoyed their life as young people and nobody expected anything but peace in the Seychelles.

70. Mrs. Greslé also advised the Commission that Kaz Kreol at Anse Royale was first the property of her husband's aunt, and then he inherited the property from her. They decided to start a restaurant on the property and to try to live a normal life. It took three or four years to develop the property, but finally they had Kaz Kreol standing. They had one small loan with the Development Bank totalling SR 100,000/-, but beyond this, they worked to develop the property and paid cash for any other improvements. The restaurant opened in 1989, and Mrs. Greslé managed it and they employed quite a few people.

71. Mrs. Greslé recalled to the Commission one incident in 1980 whereby their property was surveyed for potential confiscation. She stated that one day in approximately early 1980, a government landscaper came to their home. He was South African and was called Mr. Hurst, and he was a friend of Mr. and Mrs. Greslé. He told them that he was instructed by Mr. René to visit their farm because the property had water access which could be suitable for the Orchid Business the Government planned. Mrs. Greslé explained that had the Government found their property to be suitable, it would have confiscated the land, and left them the house with a small plot around it.

72. Mrs. Greslé stated that it was clear that Mr. Hurst felt very bad about the visit, and as he was a friend, he returned a negative suitability report. The Greslés therefore escaped having their property confiscated, but the incident caused them to be anxious and fearful.

73. Despite this, Mrs. Greslé also provided details of other issues concerning the acquisition and use of their property during the period when Mr. Greslé was in the hospital and after his death. She noted this initially when Mr. Greslé was in Victoria Hospital as he was dying. Most days, when she returned home from the hospital, she saw that her farm animals were disappearing. On one particular day when she came back from the hospital, she saw that all of her chickens had been slaughtered on the spot. There were feathers and blood everywhere, and she described it as being horrible.

74. After Mr. Greslé's passing on 12 July 1993, Mrs. Greslé recalled how miserable it was the night he passed away to come back to their big house, knowing that "it was over". Mrs. Greslé claimed

that following the death of her husband, the victimisation increased. She was already suffering from anxiety and panic attacks, and now it increased and she was alone. Eventually, Mrs. Greslé stated that she could not take it anymore, and in January 1994, she packed a small bag and told the children that they were leaving. Mr. Antoine Mondon, who had worked with the family for a long time, drove them to the airport, and they returned to South Africa. Mrs. Greslé informed the Commission that they walked away from 20 years of hard work.

75. Mrs. Greslé advised the Commission that she would come back to Seychelles once a year, sometimes even twice a year, to check on their family home that she had left behind with everything in it. Unfortunately, parts of the house and furniture had been stolen in her absence. She recalled that the sliding doors were taken away, as were the bathroom and kitchen fittings and the furniture.

76. At the time, Mrs. Greslé coped with the theft of her property by rationalising that it was better to be alive than to have all these possessions, and that it was her responsibility to stay alive for her children. Nonetheless, she informed the Commission that her family's lives had been torn apart, and that Mrs. Greslé and her children suffered from anxiety and panic attacks. She said that her eldest daughter had depression.

77. Mrs. Greslé recalled that on one of her visits, she saw her neighbours, the Marie family, who included Mr. Antoine Marie, his wife, sons and daughter. She noted that all except for one in the Marie family had previously worked for the Greslés. Mrs. Greslé told the Commission that during this visit, the family told Mrs. Greslé that they wanted access to their property. Mr. Greslé had previously agreed that they could drive their car up to the point where it branched off to both of their houses, but that he did not want them to make a road. However, she said they could make a footpath. Mrs. Greslé noted that when Mr. Greslé formerly communicated this arrangement to the Marie family, they agreed, but when her husband was still dying in the hospital, they brought in a road scraper and constructed a wide road from the point of the branch up to their houses, and across their property, without asking for permission.

78. Mrs. Greslé explained that she called the police about the Marie family's actions, and when they arrived, the Marie family swore at Mrs. Greslé and screamed derogatory remarks, including that she was a white South African pig, and that the property did not belong to her. When Mrs. Greslé told the family, "but I have 3 Seychellois children, what about them", she recounted that their reply was, "Take them, you do not belong here, go back to your country". Mrs. Greslé recalled that the police were standing there while they were insulting and verbally abusing her, but did not intervene. Mrs. Greslé asked the police if she could go to the police station and file a case, but the case, when she did so, was never addressed by the police.

79. Mrs. Greslé claimed that the Marie family was also taking water away from the water basin she and Mr. Greslé had built. As a result, there was no water in her house. She expressed this as being terrible for her and very demoralising.

80. Mrs. Greslé also explained to the Commission that she had to sell both the family home and surrounding land, as well as, Kaz Kreol, for prices below their value.

81. Mrs. Greslé explained that in January 1994 when she left Seychelles for South Africa, she had no choice but to sell Kaz Kreol. She had promised her husband that she would never sell their family home, so she had to sell Kaz Kreol for a pittance to pay the social security owed to their workers. Mrs. Greslé claimed that she was warned by friends and colleagues of her husband that the

Government was planning on how they would take over Kaz Kreol, including by forcing repayment of the SR 100,000 owed to the Development Bank. This moved Mrs. Greslé to sell Kaz Kreol for a low amount to repay her debts.

82. She explained that after discharging her debts and obligations to her workers, there was little left. Mrs. Greslé had to obtain employment in South Africa to sustain her family, and received emotional support from her family there.

83. In 1998, Mrs. Greslé found herself in a position where she felt forced to sell their family home and surrounding property in Seychelles. Mrs. Greslé claimed that in 1998, when she visited Seychelles, Mr. Antoine Mondon handed a letter that was addressed to her from the Government. The letter informed Mrs. Greslé that the Government wanted road access on her property because they wanted to put up a home for troubled boys. Mrs. Greslé had heard that if nobody answered such a letter, the Government would then confiscate the property because they would say the property had been abandoned. Mrs. Greslé felt fortunate that she was there to receive the letter, and she decided to speak to the Government about the request made.

84. Mrs. Greslé spoke to an English surveyor who worked for the Government, and he came to see the property. He saw the house and commented that it was a beautiful house, even in its state of decline, because it was "still solid". She informed him that she was putting her children through education and did not have the means to look after the property or to keep traveling back and forth to Seychelles to check on it. He advised her that it was better that she try to sell it to the Government. She decided to break the promise to her husband never to sell her family home.

85. Mrs. Greslé requested that the Government make her an offer for her 50-acre land and home. The Government offered her SR 3.5 million to be paid over a year. At the time, there were prohibitions against taking forex out of Seychelles, and it was only allowed that US $200 could be removed from the country at a time. She agreed to the sale at the price offered because she needed the money; however, despite efforts made with the bank and a letter to the President, she was unable to take the money out of the country.

86. Prior to selling the property, Mrs. Greslé was required to go to the court because she was the executrix of her husband's estate, and according to her husband's will, the property had to be divided equally between herself and her children. Mrs. Greslé told the Commission that her children agreed to the sale because they could see what she was going through, but noted the effect on her children even today, including that her son dreamt about buying the house back even though he could not afford it.

87. Mrs. Greslé noted that despite being told at the time she decided to sell, that the Government was inquiring about the property and road access to build a home for troubled boys and that the Government might confiscate the property if she took no action, these proposed plans were never carried out, and instead the property was subdivided and sold off. She noted that Mr. Barry Faure now had their family house, and that he had built another house at the back of it. She noted that lovely properties had been built on her land, huge beautiful mansions.

88. Mrs. Greslé informed the Commission that for her children's sake, she presently wants an evaluation done on the value of her property as at the time she sold it, because she believes she sold it for far under value, under duress. She also informed the Commission that she would like to negotiate for three small properties for her children as there are four plots of land, which are still in the name of her late mother-in-law, Mariette Greslé, for which estate she is also the executrix.

Mrs. Greslé also stated that there were four portions of road that were actually going over her property.

2. Documents from Mrs. Greslé

89. Mrs. Greslé provided the Commission with a number of documents relevant to the land issues she raised in her complaint. From these, the Commission was able to confirm that on 31 July 1998, Mrs. Greslé sold five parcels of land to the Government, including parcels that were allocated the titles C4098, C4099, C4159, C4160, and C4161, for SR 3.5 million.

90. Mrs. Greslé also provided the Commission with correspondence of communications between her and a lawyer. Mrs. Greslé claimed that she was advised to contact a lawyer, Mrs. Samantha Aglae, to whom she wrote more than a year before she gave evidence to the Commission. She described that since writing to Mrs. Aglae to represent her in communications with the Government, the matter had dragged on with no resolution, and by the time of Mrs. Greslé's appearance, Mrs. Aglae had left her position.

91. On 21 November 2018, the Commission notes that Mrs. Samantha Algae acted as Mrs. Greslé's attorney in writing to Mr. Valmont at the Ministry of Habitat, Infrastructure and Land Transport. Mrs. Algae advised that Mrs. Hester Greslé was the executor of the estate of Mariette Alice Greslé, Mrs. Greslé's mother-in-law. The communication written by Mrs. Algae informed the Ministry that Mrs. Greslé sold five parcels of land to the Government of Seychelles for SR 3.5 million, which was not the true value of the land even at that time. Mrs. Algae's communication claimed that there are four other parcels of land that were not sold to the Government of Seychelles, and which continue to belong to the estate of Mariette Alice Greslé, on which the Government of Seychelles has constructed a right-of-way without the permission of Mrs. Hester Greslé as executor. The communication notes that these parcels were being used by the public and persons accessing their property. The parcels are C4162, C3244, C2289, and C2193.

92. Ms. Algae's communication further advised that Mrs. Greslé did not wish to go through the court process but wished to come to an amicable solution with the Government of Seychelles. In exchange for not going back to court on the issue of the value of the properties sold to the Government of Seychelles and road access built on family land, Mrs. Greslé proposed through her lawyer to forgo legal proceedings for the provision of either four parcels of land where the Government had constructed public roads, or four parcels from those subdivided on the family land where the family had built their house (and which she sold to the Government of Seychelles), for the benefit of her children who do not have any property. It was explained that the land sold had sentimental value for Mrs. Greslé and her family, as the land was owned by the family for many generations. Mr. Valmont responded to Mrs. Algae's request on 22 November 2018, proposing a meeting be held to discuss the matter. Mrs. Algae did not reply to that response until 7 January 2019, advising that she had been away.

93. On 18 February 2019, Mrs. Algae wrote to Ms. Pamela Charlette, Ministry of Habitat, Infrastructure & Land Transport, as legal representative for Mrs. Greslé. Mrs. Algae repeated the claims made in her email of 21 November 2018, and the fact that her client wished to negotiate with the Government with respect to parcels C4162, C3244, C2289, and C2193, on which the Government of Seychelles had constructed rights-of-way on land belonging to the estate of Mrs. Mariette Alice Greslé, without the permission of Mrs. Greslé, the executrix of the estate. The letter stated as follows:

> Mrs. Greslé is aware that the 5 plots sold to the Government have been further sub-divided and in exchange for no litigation, Mrs. Greslé is proposing for the Government to give her 3 plots of land out of the land that is still available (as the land has family sentimental value and have been in the family for generations), and she will further transfer the parcels where the right of way are located to Government.

94. On 26 February 2019, a letter sent on behalf of the Minister of the Ministry of Habitat, Infrastructure and Land Transport purported to be in response to a letter sent by Ms. Algae, which was dated 18 February 2019, in relation to parcels C4098, C4099, C4159, C4660, and C46161. The Minister's letter advised that the contents of the letter had been noted and Ms. Algae would be informed of the outcome in due course. No further correspondence was provided by Mrs. Greslé.

3. Land File

95. On 24 May 2022 the Commission requested access to the land files in relation to all of the above parcels of land so it could ascertain the veracity of the claims of Mrs. Greslé and made numerous follow up requests thereafter.

96. The Commission accessed the land file on 8 June 2022. The Commission notes a letter on file from the Ministry of Employment and Social Affairs, dated 1 August 1996, which referred to a site for a Juvenile Centre and requested that arrangements be made to provide the Ministry with a suitable site in the Anse Royale area. The Commission notes a letter on file, referenced LAU/M/40/96 but undated, addressed to Mrs. Greslé and entitled "Site for Juvenile Centre", requested that Mrs. Greslé call at the Land and Survey Division to see the Director General (Land and Surveys).

97. Additional documents on the land file showed that on 25 November 1997, the Director General of Land and Survey sent a fax to Mr. Greslé advising her that the Government would like to negotiate an access across her land at Anse Royale to its property further inland for a development project, and asked for her representative in Seychelles or advice as to how to communicate in relation to the matter. On 4 February 1998, a Lands Officer valued parcels C4098, C4099, C4158, C4159, C4160, and C4161 for the purpose of Government purchase at SR 2.7 million, and on 5 February 1998, the Director General of Land and Survey faxed Mrs. Greslé and requested her asking price for the properties. On 5 February 1998, Mrs. Greslé responded that she would accept SR 8,231,500 for the sale of her properties.

98. On 13 February 1998, the Director of Lands faxed Mrs. Greslé and informed that there was a big difference between their valuation and the asking price, and requested to be informed of the lowest price Mrs. Greslé was prepared to accept. On 24 February 1998, Mrs. Greslé responded that she would come to Seychelles and discuss the matter in person. A note on the file from the Director of Lands informed the Principal Secretary that he had seen Mrs. Greslé and that she was prepared to accept a sale of her property, stating as follows:

> The Purchase price to be Rs 3650000 with an immediate payment of Rands 200 000 and the remainder to be paid in three equal payments at four monthly intervals with interest payable at Bank Rate which I understand at the moment is 141/2%.
> The envisaged problem of having to pay other landowners lower down in order to widen the access road will not arise as we are also purchasing the land in question.

99. By letter dated 24 March 1998, the Principal Secretary of Lands wrote to Mrs. Greslé and informed her that approval had been given for Government to purchase her property, and the agreed terms were the total price to be set at SR 3,700,000, including an initial payment of ZAR 200,000 (SR 216,284) to be made at the time of transfer with the balance to be paid in three instalments at four-

monthly intervals and interest at 8% of the reducing balance. It was also noted that it was agreed that Mrs. Greslé would retain the store with her belongings until her return to Seychelles in one month's time. By response dated 30 March 1998, Mrs. Greslé advised that Mr. Phillipe Boulle was Mrs. Greslé's power of attorney and that he was awaiting the receipt of documentation by the Government so that the sale could proceed.

100. A letter dated 26 June 1998, from the Principal Secretary of Lands to the Principal Secretary of Finance, made reference to the difficulty of making the first payment in South African rand and advised that Mrs. Greslé had agreed to advancing the payment of the first rupee instalment due in July to the end of June 1998 and staggering the South African rand component that could also be paid by instalment, or alternatively in another foreign currency. Prompt attention was requested, it being noted that the properties being purchased would provide for the physical infrastructure of the Juvenile Centre, under the auspices of the Ministry of Social Affairs and Manpower Development.

101. A memo from the Assistant Director of Lands for the Principal Secretary to the Attorney-General noted the agreement of sale made with Mrs. Greslé and informed the Attorney-General that a search of the Land Registry revealed that Mrs. Greslé had already sold Parcel C4148 to Mrs. Christine Eveline Pejackovic (née Lebon) on 4 September 1997 for SR 180,000, and that Mrs. Greslé had agreed to reduce the sale price to the Government by SR 200,000, reducing the purchase price for C4098, C4099, C4159, C4160, and C4161 to SR 3.5 million. The transfer of the parcels C4098, C4099, C4159, C4160 and C4161 for SR 3.5 million was made to the Government on 31 July 1998.

102. The Commission notes that the payment of ZAR 200,000 posed difficulties due to the forex controls at the time. In light of this, the documents indicated that Mrs. Greslé subsequently agreed to advancing payment of the first rupees (SR) instalment due in July to the end of June 1998, and staggering the South African rand (ZAR) component, which it was agreed could be paid by instalment or in another currency. The ZAR 200,000 component was received by Mrs. Greslé on 24 September 1998.

103. The Commission also notes a letter on file, dated 20 December 2000, to the Principal Secretary of the Ministry of Social Affairs and Manpower from the Director of Land Management, advising that it had been agreed that the Juvenile Centre should not be located in the midst of a residential zone, considering certain planning provisions that should apply to complement such a project, and that the site should be reviewed in liaison with the District Community in order to try to find an alternative.

104. With respect to the purchase by Mr. Barry Faure from the Government of Parcel C6406, the Commission can find no evidence of anything improper. It notes that in August 2003, Mr. Faure sought to exchange two parcels of land he owned at Les Canelles, namely C3614 and C4720, as "current circumstances" did not favour his continued development of his house at Les Cannelles for Government-owned land from the land bank. Mr. Faure had suggested a land bank plot in the ex-Deltel area, and various plots were examined and certain plots of the former Deltel owners were found too difficult to build upon, although Mr. Faure did pursue other plots held by the land bank from the ex-Deltel property. It was not until July 2004 that Mr. Faure requested to purchase the ex-Greslé House, Parcel C4098, instead of the ex-Deltel plot, in exchange for his plots at Les Cannelles. A note on file, dated 28 July 2004, referred to Mr. Faure's request and noted that originally, Parcel C4098, along with other properties like C4099, C4159, C4160, and C4161, was

to be developed as a Juvenile Centre, but to date that had not materialised, and C4159 had already been sold to Mr. Rowny Vidot.

105. The Commission notes that on 14 February 2005, Parcel C6406 was valued at SR 415,000, and that C3614 and C4720 were valued on 2 February 2005 at SR 375,000. A memorandum on the land file, dated 18 October 2005, stated that from Mr. Faure's property, the Government could assist 24 families by demolishing the existing structure and building 24 unit apartments, and that the purchase of Mr. Faure's property for a social housing project was recommended.

106. The Commission notes that on 25 January 2006, the AG Director General for Lands and Territories offered an exchange to Mr. Faure of his property at Les Canelles for Parcel C6406 on the condition that if Mr. Faure decided to sell C6406 within the first seven years, the Government would have the right of first refusal. It was further stipulated that if Mr. Faure did decide to sell the property back to Government within the first seven years, the property would only be purchased back at SR 375,000, excluding any improvements made on the land.

107. The Commission notes that by letter dated 17 November 2006, Mr. Faure referred to a meeting with the Minister Joel Morgan and stated that he agreed to the swap of properties on the understanding that Government would pay Mr. Faure SR 60,000 balance from the exchange.

108. The Commission notes a further correspondence between Mr. Faure and Mr. Patrick Lablache, from the Ministry of Lands, that the exchange would take place with a payment of SR 15,000 to Mr. Faure, and that this payment was made on 12 December 2007. The stamp duty and registration fees were waived on the exchange.

109. The Commission notes that on 28 March 2008, Mr. Faure contacted the Lands Department and advised that he had found a private buyer for his property at Les Canelles, and that he wished to rescind the earlier agreement to exchange. He wrote that he would sell his property at Les Canelles before purchasing Parcel C6406.

110. The Commission notes that on 28 May 2008, Mr. Faure was offered the purchase of C6406 for SR 501,360.00. He was informed that he would have to pay stamp duty and registration fees, and that the offer was conditional on the Government having right of first refusal should he wish to sell the property within seven years. It was again agreed that the Government would re-purchase for the same price as sold, subject to any legal developments on the property.

111. A note on the file dated 26 August 2008 from the Senior Technical Officer made reference to the issue of the right to live in the existing house and right to draw water in favour of Mrs. Auguste Greslé on State land parcels C4099, C4161, C6874, C6877, C6876, C6915, C6406, C7108, C7109, and C7110, and stated that the Senior Technical Officer had also discussed the issue of the access reserve parcel C4162, which was privately owned with DVS, and that the Senior Technical Officer had been advised that Heirs Mariette Alice Greslé (born Laporte) did owe the Government an access reserve to serve the properties at C4160, C4098, C4099, C4159, and C4161, which they sold to the Government, and thus the issue of access would not be much of a problem.

112. A letter dated 20 March 2009, addressed to the District Administrator of Anse Royale from the Assistant Lands Officer, referred to the removal of encumbrances on Parcels C4098, C4099, C4160, and C4161 at Sweet Escott Anse Royale, and sought a response; a further reminder was sent to make a response dated 26 January 2010.

113. A land transfer document on file transferred parcel C6406 to Mr. Barry Faure for SR 501,360.00 on 3 June 2009.

114. A letter dated 8 March 2022, from Mrs. Greslé to the Minister of Land Use, with the subject of "Parcels C4162, C3244, C2193 and C2289", informed that all of the noted parcels were the property of the Greslé family and were relatively narrow portions of land, two of which had been metalled and were being used as public roads to access the properties developed in that area of Anse Royale. Mrs. Greslé stated that the roads were made without consultation with, or the permission of, the Greslé family, and it would make sense for the Government to take ownership of these portions and to maintain the roads. The Greslé family proposed that the Government exchanged other land in their ownership for the above four portions.

115. A further letter, dated 8 March 2022 from Mrs. Greslé to the Minister of Land Use, referred to Parcel T35, "Desert", and stated that that parcel belonged to the Greslé family and was rezoned by the previous Government as forestry without consultation with the Greslé family, and as such it had no value to its owners. Mrs. Greslé stated that in essence, it had made a national park for the Government, without any compensation to the Greslé family for its use as such, and that a recent test case in Seychelles ruled that this was not lawful. Mrs. Greslé stated that if the Government wished to keep the property as forestry, then the Greslé family proposed that the Government exchange it for other property in their ownership, offer the Greslé family reasonable compensation, or rezone the property again so that it has value.

116. A final letter, dated 8 March 2022 from Mrs. Greslé to the Minister of Land Use, entitled "Compensation", stated as follows:

> After the death of her husband, Mrs. Greslé was eventually forced to sell the family property at Anse Royale to the government for a ridiculously low amount. The house in the property was being systematically robbed and wrecked by various people and on the occasions Mrs. Greslé returned to visit or to stay at the house, she was threatened and intimidated. An expatriate surveyor who was working for government at that time, advised her to sell, or the government would anyway take the property with minimal compensation.
>
> The property was approximately 200,000 m2 and the government paid Mrs. Greslé SCR 3,500,000 paid over a year and she was not able to obtain forex. We estimate SCR 3,500,000 in 1998 would be approximately SCR 10,000,000 in today's money. The property was sub divided by the government and the parcels were either sold or given to themselves or their friends. We estimate that as development land the property would be valued at SCR 100,000,000 to SCR 120,000,000 at today's prices.
>
> The government recently announced that they would return undeveloped land to owners who had their properties confiscated, or as in this case, were paid under market value.
>
> There are still properties owned by the government, that were before owned by the Greslé family, that have not been developed. The Greslé family proposes that these properties are returned to them as at least some form of compensation, although it is obviously not sufficient.
>
> The Greslé family appreciate that the property was taken/sold to the government after the cut-off date of your recent proposal but surely this does not have to be cast in stone, as presumably, the government can dispose of property it owns in anyway it thinks reasonable.
>
> Although it is not directly related to the above, you may want to investigate the sale of the Greslé family home by the previous government to Mr. Barry Faure.

117. The Commission notes that it received a compilation of documents in addition to the original land file upon which that compilation was based which concerned the road access issue over Parcels C4162, C3244, C2193, and C2289. That compilation, verified by the documents on the land file, provided as follows:

Case 2

Access road matter at Sweet Escott (Enfoncement) involving several parcels of land (C C4162, C3244, C2193 & C2289)

The road parcels given to an Officer of the Ministry by Mrs. Greslé's Agent were identified as C4162, C3244, C2193 & C2289.

Survey records retained by the Ministry reveal the following:

Parcel C3244 (SR94/250)

This was a parcel of land that was created and designated as an access reserve by private Land Surveyor Alain Savy in a cadastral survey exercise that started in August 1994 and was completed on 7th July 1995. The cadastral survey exercise was effected by the private Land Surveyor with full knowledge and permission of a Mrs. S Greslé, after she obtained Planning Authority approval to subdivide her land (parcel C2345 – 141,755 square metres) at Anse Royale, Mahe. The subdivision was primarily to excise 4 plots from C2345. Eventually, parcel C3244 (1,015 sq. m) was designated as access reserve to purposely serve the 4 parcels of land. This was a prerequisite condition for all subdivisions applications approved by Planning Authority. This practice graciously remains today. Exhibit 45 Copies of folios 9/1, 9/2, & entire 1/4 from SR94/350

Parcel C2289 (SR91/09)

This was a parcel of land which was created and purposely designated as an access reserve by private Land Surveyor Michel Leong in a cadastral survey exercise that started in November 1990 and completed on 10th July 1991. The cadastral survey exercise was effected by the private Land Suveyor under the full authority of a Mr. C Greslé, whom the Land Surveyor reported then, was representing a Mrs. M.A. Greslé. Mr. Conrad Greslé applied in October 1990 and obtained Planning Authority approval to subdivide his land (parcel C2192 – 8,422 square metres) at Anse Royale, Mahe. The subdivision was primarily to excise 3 plots from C2192. Parcel C3244 (1,015 sq. m) was eventually designated as access reserve to purposely serve the 3 parcels of land. Exhibit 46 Copies of documents for Survey File SR91/09.

Parcel C4162

Details of this parcel could not be traced in view of absence of Survey file for same.

Parcel C2193

Details of this parcel could not be traced in view of absence of Survey file for same.

Remarks

From the above two findings, which are more than likely, to reflect details for the survey of parcels C4162 and C2193 (both designated as parcels for access(es)), these parcels were purposely created for accesses. No records from the Planning Authority database could be traced to ascertain whether or not the access roads on these parcels ever obtained planning authority approvals. Relevant Planning Authority files to that effect, could have perhaps given an indication as to who might have applied to construct the access(es) there. It is important to note that in his report while subdividing parcel C3244, Mr. Savy reported that '*a **public road** goes through parcel C2345, the road shall be allocated a parcel number* – SR94/350'.

It is obvious that there was a requirement for proprietors wishing to create plots for them to ensure that dedicated accesses (private or not) are provided (or plots) purposely earmarked for such. This is what the Greslé did in these two cases. It is felt that it was their responsibility and duty to provide accesses to newly created plots, although she opted for these parcels to remain in the Greslé's ownership.

Now if these provisions for access have now become public entities (used by all), then Government will have to decide if it wishes to '*acquire*' these plots on which these access(es) are located. This could be an option since it is evident that maintenance of these accesses would never be undertaken by the Greslés, although we know that in many cases, people complain when Government agencies move on site to upgrade or improve these despite doing so at its own costs. To note that it was Mrs. Greslé who sold plots in the locality privately and then moved out of this area. It is and has been a common practice all along, for land sellers not seeing it their duty to maintain these accesses despite having collected money from the plots sold. This is coupled with the fact that and (sic) the very same properties (access plots) still remain in their names today. I believe to be fair to all, sellers can opt to relinquish these plots for free to Government, since the latter has been and would be the entity maintaining these on behalf of their previous sellers.

This is a decision for the Government to make. Depending on what it decides, the options are to either consider purchasing these plots for a nominal sum, or at market value or an exchange of land. Whatever Government decides, in so doing, it must be aware of the economic consequences that the decision will pose in addition perhaps, to possibly opening a 'floodgate' if it decides to purchase (at market value) many other access plots henceforth; those that are now in private ownership, nationwide.

Exhibit 47 Copies of orthophotos for C3244, C2289, C4193, C2193 and copies of their diagrams

Case 3
Restrictions on property at Desert (Parcel T35)

Synopsis

In her meeting with the Minister, Mrs. Hester Sylvia Greslé informed that Government placed development restrictions on her land at Desert without her permission or consent.

Parcel T35 was identified as the parcel in question. See exhibit 48 – copy of orthophoto for T35 and Cadastral plan of T35. It is a 13.6 or so acre landlocked property located at Desert, Anse Royale. The property is located on high grounds in between contour lines 250 and 320 metres (70m difference).

This parcel of land was surveyed way back in 1971 (colonial times) and as at 8th April 2022, it is registered in the name of Mariette Greslé who apparently was Conrad Greslé's mother. Mrs. Hester Sylvia Greslé is the registered Executrix for this property. There is no registered documentation to prove that this parcel of land belongs to her solely.

Planning Authority has confirmed that it moved in 2012 to classify this parcel of land as '*forest reserve*' under a draft land use classification for the area. Information received from the Land Use Planning Unit in the Planning Authority, confirmed that they received (although they did not report when) a request from a Mr. (nor Mrs.) Greslé to reclassify the parcel but this has not yet been fully entertained. According to the Land Use Planning Unit, the Department of Environment had problems to access the site for an assessment for the purpose of 're-classification'. To note from plans for this parcel, there does not seem to be a dedicated or proper access to reach this site. (Exhibit 49 email from Planning)

On further consultations with Planning Authority and PUC, the latter has confirmed that parcel '*T35 lies partially within the Dame Le Roi drinking water catchment, at its hydrological boundary. In view that the Dame Le Roi drinking watch catchment is still part of the PUC's supply, we intend to exercise control within the catchment so as to ensure source water protection. Source water protection is a major component towards ensuring the safety of drinking-water, as recommended in the WHO Guidelines for Drinking-water Quality and as reflected in the Water Safety Plan concept. The control we exercise will come in the form the control of activities that may or may not take place on the part of T35 that lies within the Dame Le Roi drinking water catchment. We have no adverse comments towards any development that*

will situate on the part of T35 that lies outside the hydrological boundary of the catchment.' (Exhibit 50 – email from PUC)

The above effectively suggests that part of parcel T35 is required to remain with its present land use classification, as this is needed to safeguard the livelihood of many citizens of this country, a matter than perhaps cannot and should not be compromised in any way.

However, should the lady insist on developing parcel T35, then perhaps the catchment section can be excised from the parcel and acquired (purchase/donation/exchange) by Government whilst the remainder (subject to 'reclassification if planning authority agree), is allowed to be developed by Mrs. Greslé. This shall be subject to strict PUC and Planning Authority scrutiny and guidelines as indicate (sic) in their email at Exhibit 50. I doubt whether anything can be done with the remainder of this plot (after excising the catchment area) given that right now, T35 is almost inaccessible.

General remarks from other findings

It has to be reported that it transpired while perusing documents presented to the Ministry, that the late Conrad Greslé (Hester Sylvia Greslé's husband), was the son of Mrs Mariette Greslé (nee Laporte). The late Conrad Greslé left behind three children (Yvette Mariette Greslé, Neville Conrad Greslé and Natasha Sylvia Greslé). In his last Will and Testament transcribed in volume 79 No. 108 (Exhibit 51), the late Conrad Greslé devised and bequeathed (1) to his wife Hester Sylvia Greslé, the disposable portion of his succession being an undivided one-quarter share and (2) to his three children (Yvette, Neville and Natasha Greslé), the remainder

4. Evidence of Patrick Lablache

118. The Commission further called Patrick Lablache to answer specifically the allegation that SR 3.5 million was an undervaluation of properties C4098, C4099, C4159, C4160 and C4161. Mr. Lablache directed the Commission to Gerard Hoareau, and the analysis he had prepared on the matter which was being considered by the Government and which had already been provided to the Commission.

IV. FINDINGS OF THE COMMISSION

A. Mandate and Applicable Law

119. The Truth, Reconciliation and National Unity Commission Act, 2018 ("Act") directs that the Commission shall "abide by universally recognised legal principles and human rights norms" and is "to observe applicable and appropriate rules of natural justice and international fair trial standards".[13] These principles must guide the Commission's determination of whether the conduct alleged constitutes a human rights abuse pursuant to its Act.[14]

120. The reference to "universally recognized legal principles and human rights norms" within section 3(9) of the Act directs the Commission to consider international human rights standards as the substantive applicable law, while the reference to "applicable and appropriate rules of natural justice and international fair trial standards" within section 6(8)(a) of the Act primarily concerns the procedures for the Commission's determinations, particularly where it is determining perpetrator status.[15]

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[13] TRNUC Act, Act 9 of 2018 (14 September), sections 3(9), 6(8)(a).
[14] *Id.*, section 2(8).
[15] Hearing of Attorney-General Frank Ally, TRNUC, 6 July 2020 ("This law is giving you the opportunity for you to fly right over whatever thing had been done by a law, and will tell the Commission, Commission you can make

121. The Commission recalls that pursuant to Section 7(b) of the TRNUC Act, in order to achieve its objectives the Commission may "determin[e] the responsibility of individuals in respect of any violations".[16] Any finding of individual responsibility is to a balance of probabilities standard.[17] In that regard, the Commission, underscores that any such determination of individual responsibility is not made in a criminal legal sense, but rather to reveal the truth about events that occurred during or in relation to the Coup d'état of 1977. Thus, the Commission interprets Sections 3(9) and 6(8)(a) of the Act discussed above to direct it to provide certain due process guarantees, such as notice of determination of suspect and perpetrator status, the right to reply before the Commission, and respect for a perpetrator's assertion of the right against self-incrimination, among others.

122. The Commission further notes that a person who admits responsibility or is found by the Commission to bear perpetrator status may, pursuant to Section 12 of the TRNUC Act, petition the Commission for amnesty upon providing "a full and frank disclosure of his or her culpable acts in relation to any violation and [offering] sincere apologies to the victim or victims".[18] The Commission considers that these provisions, in light of Sections 3(9) and 6(8)(a), provide sufficient protection for the human rights of individuals holding suspect or perpetrator status within the context of the Commission's proceedings.

123. The Commission notes that while an alleged human rights violation will be assessed by reference to universally recognised legal standards and human rights norms, that enquiry does not render the domestic legal framework in which the alleged violation took place irrelevant. The domestic legal framework is instead an important starting point for the examination as to whether the act complained of was legal and then whether it breached human rights standards and norms.

124. In this respect, one important universally recognised human rights norm relevant to the Commission's identification of the substantive standard, but also pertinent to issues of natural justice and fair trial standards, is the prohibition on the retroactive application of the law. Pursuant to this principle the conduct complained must have been criminalised by some source of law that was previously applicable and which was sufficiently accessible and foreseeable to the individual. At the heart of this principle is the notion of fairness. A person should not be held to account for conduct that was not criminal at the time it took place.

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whatever findings that you feel if there was...if there are violations of human rights. This was the reason why there have been the Truth, Reconciliation Commissions in those countries. In South Africa also apartheid was legal, it was legal, but it was obvious for the national reconciliation of South Africa that the law that made apartheid legal infringed - it was a gross violation of one's human rights and therefore when it made a finding it did not take it into consideration. So you are not there to take into consideration if a law was a lawful or it was not. You are here to see whether that action taken in relation to that complainant is a violation or not, and when you will define that violation you will have to define it in relation to that definition and that provision which tells you have to look at universal human rights".).

[16] TRNUC Act, sec. 7(b).

[17] *Id.*, sec. 6(8)(c).

[18] *Id.*, sec. 12(4). However, should the perpetrator exercise their right against self-incrimination, Section 12 would not be applicable as the requirement of a "full and frank disclosure" would not be met. Notably, where a perpetrator petitions for amnesty before the Commission, Section 12(6) provides that regardless of any other written law, "(a) a criminal investigation or criminal or civil proceeding shall not be commenced or shall be discontinued, as the case may be, in respect of any matter for which an amnesty has been sought, until the final determination of the Commission" and Section 12(6)(b) provides that "a perpetrator who has been granted amnesty in respect of a violation shall not be criminally or civilly liable in respect of the acts or omissions that were part of the disclosure and apology. The amnesty shall not affect any order by the Commission for remedies, reparations or rehabilitation". *Id.*, sec. 12(6).

125. The Commission considers that this principle of non-retroactivity is equally applicable to its consideration of allegations that an act constituted a violation of human rights. As human rights are evolving rights, the Commission considers that when determining whether the conduct complained of breached international human rights standards, fairness requires it to assess that conduct by reference to human rights principles applicable at the time of the alleged violation.

126. Accordingly, the Commission will consider, where relevant, the domestic legal framework under which the alleged act occurred and the consistency of that framework with "universally recognised legal principles and human rights norms" at the time of the act complained. This approach will render the Universal Declaration of Human Rights applicable in all cases along with early co-existing principles of customary international law. Additionally, and by reference to the temporal scope of the allegation, the Commission will consider domestic constitutions and laws and applicable treaties to which Seychelles has committed.

B. Approach to the Evidence

127. Pursuant to Section 6(8) of the Act, the TRNUC is not bound by evidentiary rules. All evidence deemed probative is admissible, including hearsay evidence. The Commission has been careful to assess the evidence of all witnesses in determining the veracity of their testimonies. In so doing, the Commission has been mindful that the vagaries of perception and human recollection, especially when there is a long passage of time between the event and the witnesses' evidence before the Commission, may impact on the reliability of the evidence given, even though a witness is honestly giving that evidence before the Commission.

128. Nonetheless, as a matter of principle, provided the witness has recounted the essence of the incident in acceptable details, the Commission does not consider discrepancies in peripheral details in the evidence of a witness, or between the evidence of various witnesses, as necessarily undermining the establishment of the basic allegations made. In this respect, the Commission finds that due to the passage of time, witnesses cannot be expected to recall with complete accuracy the precise time or dates of events or other peripheral details.

129. The Commission may rely on the uncorroborated evidence of a single witness as establishing a fact alleged, provided it is satisfied of both the credibility and reliability of that witness's evidence. The Commission may also accept accomplice evidence to establish a fact, provided it is satisfied that a motive to lie has been reasonably excluded.

130. The standard of proof applicable to establishing findings of the Commission is the balance of probabilities. The Commission must be satisfied that it is more likely than not that a fact alleged is true.

C. Merits of the Case

1. Other Acts – Victimisation by the SPDF

131. The Commission finds on the balance of probabilities that Mrs. Greslé and her family suffered the violation of other acts of a similar character causing suffering, or injury to body or to mental or physical health under Section 2(8)(m) of the TRNUC Act.[19]

[19] TRNUC Act, sec. 2(8)(m).

132. Regarding the required admissibility nexus to the Coup d'état of 1977, the Commission recalls that the alleged victimisation started in 1983 and continued thereafter, during the time of the one-party State and thus during the Commission's primary temporal mandate. Moreover, the Commission recalls that Mrs. Greslé alleged the victimisation was done at the hands of soldiers of the Seychelles People's Defence Forces (SPDF), and that the Greslé family had been supporters of James Mancham and had many ideological objections to the René regime, though for a long time they tried to accept it and live with it. In light of the evidence the Commission has received of the Government installed by the Coup d'état of 1977 targeting perceived opponents of the Government and enemies of the revolution, which the Commission considers virtually all Mancham supporters to have been identified as, the Commission is satisfied that the SPDF's conduct was more likely than not done for that purpose here. As such, the Commission finds that the claim is admissible under its thematic mandate as well.

133. The Commission has considered the violation of other acts to be a catch-all provision intended to include any other conduct not immediately defined or covered by the other violations enumerated in the TRNUC Act, and generally contemplates a human rights violation of sufficient significance as to warrant redress. It generally requires 1) the infliction of suffering or injury to body or to mental or physical health, 2) by a perpetrator. The conduct must be sufficiently grave or severe so as to be a cognisable violation of comparable magnitude to the other violations in the Act, such as victimisation by the State that causes physical, mental, economic, or other damage.[20]

134. Regarding the first element, the Commission recalls the evidence from Mrs. Greslé that Mr. Greslé suffered injury to his body and to his mental health, and that she and her children suffered injury to their mental health as a result of actions by the SPDF soldiers. In particular, the Commission recalls that Mrs. Greslé claimed in regards to the incident in 1983 that soldiers in army vehicles, camouflage suits, and carrying AK-47 weapons arrived at their family home and searched their property and house looking for Mr. Greslé. She recounted that the soldiers intersected Mr. Greslé as he returned home, where they physically assaulted him by punching him in the face and threatened his life on their return, saying "you are very lucky we didn't find you, but now you can reflect because we are coming back and we are going to blow out your brains". This treatment was witnessed by Mrs. Greslé and her children.

135. Mrs. Greslé further detailed that, in addition to the physical assault on Mr. Greslé, the incident had a significant impact on the mental health of all members of the Greslé family, including intense feelings of anxiety and insecurity. The Commission heard evidence that after the Greslés attempted to report the incident to the Commissioner of Police, with no action taken by the police, and when the family experienced increased traffic stops and searches thereafter, there was an ongoing sense of injustice and lack of protection that caused significant fear among the family. Mrs. Greslé provided evidence that her children were badly affected, and suffered panic attacks caused by worry for their father's safety and security.

136. Faced with this evidence, and mindful of the threshold required in finding severe suffering or injury to body or to mental or physical health,[21] the Commission finds that while these acts were no doubt

[20] Violating the customary principles of human rights as reflected in the Universal Declaration of Human Rights [UDHR], G.A. Res. 217 (III), 10 December 1948, arts. 3 (right to life), 4 (prohibition of slavery), 5 (freedom from torture), 7 (equal protection), 12 (protection from arbitrary interference and attacks upon honour and reputation).
[21] The Commission recalls that in many cases before it, complainants have alleged acts that in other circumstances would have constituted torture or ill-treatment, including shootings, beatings to the point of loss of consciousness, being tied upside-down and beaten, continuous threats to life, severe injuries that may in a criminal setting amount to attempted murder, and other such heinous acts. *See, e.g.*, Case Determination No. 010: Roy Beeharry; Case

impactful to the family and caused some suffering, they do not rise to the level of acts causing suffering on par with the other violations of the TRNUC Act. In particular, the Commission is not convinced that by itself, one physical assault to the face that did not evidently result in injury is sufficient to meet this standard.

137. As such, as the Commission finds that the first element has not been made out, it finds on the balance of evidence that the Greslé family did not suffer the violation of other acts with regard to the above event.

2. Unlawful Imprisonment or Other Deprivation of Physical Liberty

138. On the evidence presented, the Commission is satisfied that it has been established that Mr. Greslé was arrested and unlawfully detained sometime in 1991 for four days, amounting to the violation of unlawful imprisonment or other deprivation of physical liberty under Section 2(8)(b) of the TRNUC Act.[22]

139. Regarding the admissibility nexus of this violation to the Coup d'état of 1977, the Commission finds that the detention occurred in 1991, during the time of the one-party State and thus during the Commission's primary temporal mandate. The Commission finds that the claim is admissible on that basis.

140. The Commission has considered 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.[23]

141. Regarding the first element, on the evidence submitted, the Commission is satisfied that Mr. Greslé was arrested by the police and detained at Central Police Station and then Mont Fleuri Police Station for a total period of four days in the year 1991. It thus considers the element of an arrest, detention, imprisonment, or other deprivation of one's physical liberty to be met.

142. Turning to the second element of unlawfulness or arbitrariness, the Commission finds that Mr. Greslé's fair trial and due process rights were violated, including that he was arrested without charge, he was unable to promptly access legal counsel particularly during interrogations, he was never brought before a judge or competent tribunal, and his release was conditioned on a public statement which effectively served to victimise him further.

143. The Commission recalls the evidence of Mrs. Greslé, who was present at the location where Mr. Greslé was arrested by plainclothes police officers and who not only witnessed Mr. Greslé being escorted by officers to a police vehicle, but also received confirmation that he was being taken to the Central Police Station and followed the vehicle to this police station. Mrs. Greslé stated that

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Determination No. 016: Brian Victor, *joined with* Case No. 026: William Elizabeth and Case No. 108: Myrna Issack; Case Determination No. 090: Livette Hermitte, *joined with* Case No. 270: Gaetan Didon.

[22] TRNUC Act, sec. 2(8)(b).

[23] 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. The violation broadly stems from a violation of the rights to personal liberty and to due process of law, among others, which are at the level of customary international law. *See* UDHR, arts. 3 (right to liberty and security of person), 7 (equal protection of the law), 9 (freedom from arbitrary arrest, detention, or exile), 10 (right to fair and public hearing by impartial tribunal).

she was informed that Mr. Greslé would then be transferred to Mont Fleuri Police Station where he would be further held, and confirmed his detention at this facility with a visit the next day.

144. The Commission also recalls that the evidence of Mr. Georges corroborates that Mr. Greslé was arrested and detained by police, purportedly on the allegation that he had planned a coup d'état with a foreign government, but was detained for four days ultimately without charge. Mr. Georges expressed concern in his evidence as to whether there were valid reasons for Mr. Greslé's arrest, and he gave evidence submitting that Mr. Greslé's arrest and detention were illegal under domestic law, having provided his submissions to the Attorney-General after Mr. Greslé's release which outlined his client's concerns as to his arrest as violating domestic procedure, as Mr. Greslé was deprived of his right to come before a judge within 24 hours of his arrest.

145. The Commission recalls that while access to a judge within 24 hours of arrest was indeed a right pursuant to the Criminal Procedure Code, the police had some discretion with regard to ascertaining whether the offence in question was serious, requiring further detention beyond the first 24 hours.[24] Further, the Commission notes that specific exceptions were made to this provision, including for the offences of murder or treason.[25] In that regard, the Commission recalls that the allegations against Mr. Greslé would support the offence of treason, namely that he was allegedly planning a coup with a foreign government. On that basis, the Commission considers that a four-day detention is not unreasonable or arbitrary or unlawful.

146. However, the Commission recalls the evidence of Gaetan Didon, a police officer and former Assistant Commissioner of Police, that Mr. Greslé was set up by the authorities, who, he alleged, orchestrated "the whole thing", including by fabricating the letter, which originated from State House and which contained a map of the military bases in Seychelles, and making up the purported role played by Mr. David Joubert, who was in England at the time, of sending the document to Mr. Greslé for the purpose of planning a coup attempt in Seychelles. Mr. Greslé was then called by the police under an alias and told to come to the Coral Strand and pick up the documents, which Mr. Greslé accepted that he had to do and started to leave, at which time he was arrested. Mr. Didon claimed that then he was instructed by James Michel to go on television and allege that a man had brought documents into Seychelles, and that Mr. Didon said whatever Mr. Michel told him to say even though he knew that Mr. Greslé had been set up. The Commission accepts this evidence as true on the balance of probabilities, given Mr. Didon's rank and corresponding potential to have this information and given the notable emphasis by the Government in having the various participants, including Mr. Didon and Mr. Greslé, the latter in order for him to be released from detention as discussed below, go to the media to give interviews. The Commission finds that the publicised nature of the circumstances of Mr. Greslé's case was indeed more likely than not to send a message to the broader population, as claimed by Mr. Didon, that those who would plot coup attempts and assist actors from abroad in so doing would be punished. In that regard, the Commission considers Mr. Greslé's involvement to have been somewhat random, and that as Mr. Didon claimed, any link between Mr. Joubert and Mr. Greslé was unclear, suggesting that Mr. Greslé's name may have been used by the Government likely based on public knowledge of his support of James Mancham and the Democratic Party. Therefore, the Commission finds that there

[24] Laws of Seychelles, Title V A, Cap. 45: CRIMINAL PROCEDURE CODE, sec. 24 (1 February 1955) ("When any person has been taken into custody without a warrant for an offence other than murder or treason, the officer charge of the police station to which such person shall be brought may in any case and shall, if it does not appear practicable to bring such person before an appropriate court within twenty-four hours after he was so taken into custody, inquire into the case, and unless the offence appears to the officer to be of a serious nature, release the person on his executing a bond...").
[25] *Ibid.*

was never a legitimate basis on which to hold Mr. Greslé, the reasons for his arrest and detention having been completely fabricated, rendering the actions by the police in arresting and detaining him arbitrary and unlawful.

147. The Commission is also concerned in this regard by evidence from both Mrs. Greslé and Mr. Georges that Mr. Greslé's release from detention was conditioned on his appearance on radio and Government television, through which he was made to issue a public apology. Mr. Georges's letter to the Attorney-General of 20 July 1992 outlined his client's concerns of conditioning the release of an individual on giving a public interview. In particular, while not illegal, the Commission takes issue with a public apology due to its implication as an admission of guilt, and notes that such is not part of the legal process whereby Mr. Greslé should have been brought before a court and pleaded his case; instead, he was subject to a skewed version of the truth in the court of public opinion, in which circumstances he could easily have been victimised further thereafter.

148. On the basis of the foregoing factors, the Commission finds that the second element has been met, that Mr. Greslé's arrest and detention were arbitrary and thus unlawful.

149. Considering the perpetrator(s) who bear responsibility for this violation of Mr. Greslé's rights, the Commission finds that here, too, President René bears primary responsibility. In that regard, the Commission recalls the evidence it has received in myriad cases that the President generally knew of and had control over the detentions being made, and that the President was ultimately the one who granted Mr. Greslé's release in this case. The Commission further recalls that the President had authority over the police as the Commissioner of Police answered directly to him.

150. Further, as the President and police were acting in their official capacities, the Commission finds that responsibility for this violation can be attributed to the State.

151. Therefore, the Commission finds that Mr. Greslé suffered the violation of unlawful imprisonment or other deprivation of physical liberty under the TRNUC Act, in violation of his human rights.

3. Abuse of Office by a Government Official – Prevention of Travel for Medical Treatment

152. With respect to the evidence the Commission received concerning Mr. Greslé's cancer diagnosis and his inability to access necessary medical care, the Commission finds that these events constitute the violation of abuse of office by a Government official under Section 2(8)(l) of the TRNUC Act.

153. Regarding the admissibility of this alleged violation, the Commission recalls that Mr. Greslé began experiencing the symptoms of his cancer in late 1992, and sought medical attention, and then tried to seek advanced medical care in South Africa in early 1993—all during the time of the one-party State, and thus during the Commission's primary temporal mandate. The Commission is satisfied that the present claim is thus admissible on that basis.

154. The Commission has determined that the violation of abuse of office consists of 1) the use of the capacity and powers of a public office 2) to restrict the specific rights or freedoms of a persons or persons 3) in a manner that strayed from the proper purpose of the law or of the official's position 4) by a State official. Broadly, the Commission considers that this violation commonly, though not exclusively, includes discrimination or victimisation based on real or perceived political opinion or that is otherwise legally baseless or arbitrary. It recalls that equality before the law, non-discrimination, and freedom from fear of Government abuse are basic principles of human rights

law under the International Covenant on Civil and Political Rights,[26] rising to the level of customary international law as enshrined in the UDHR,[27] and that these rights may be violated when a government official abuses the power of their office.

155. Regarding the first element, the Commission recalls that on the day that Mr. Greslé sought to temporarily leave Seychelles for advanced medical treatment in South Africa, he was told at the airport by the Government that he could not leave the country as he had outstanding business taxes owing. As the Government thus prevented him from leaving, the Commission finds that there was use of the capacity and powers of a public office in satisfaction of the first element.

156. Turning to the second element, the restriction of a specific right(s) or freedom(s) of Mr. Greslé, the Commission recalls that Mr. Greslé had a fundamental human right to freedom to leave any country, including his own.[28] The Commission notes that while this was the primary right affected, as the Government prevented him from leaving based on an outstanding tax repayment rather than with the purpose of disallowing his medical care, Mr. Greslé's fundamental right to "the enjoyment of the highest attainable standard of physical and mental health" was also nevertheless indirectly impacted by these actions.[29] On the basis of the evidence of both of Mr. Greslé's doctors, the Commission finds that the delay to Mr. Greslé's travel for medical treatment caused by the Government's actions affected Mr. Greslé's ability to receive, at least, life-prolonging treatment.[30] As such, the Commission finds that Mr. Greslé's rights were restricted by the Government's lack of authorisation for Mr. Greslé to leave, in light of apparently outstanding taxes. The Commission thus finds the second element to be satisfied.

157. Considering the third element, whether the rights were restricted either arbitrarily or unlawfully, the Commission recalls the evidence before it that the Seychellois doctors could not diagnose Mr. Greslé, and so he sought the expertise of the doctors in South Africa as a matter of urgency.[31] The Commission notes that while a State is within its rights to derogate from the above two rights and prevent one of its citizens from leaving on a lawful basis, such as, *e.g.*, when taxes are outstanding,[32] here the circumstances were such that fairness would have required a waiver of this requirement in order to provide the Greslé family with a more likely prospect of extending Mr. Greslé's life. In this regard, the Commission recalls the evidence of Mr. Jardin that to his knowledge, some individuals were prevented from leaving the country even for medical reasons, if they had taxes owing, and it further recalls the options available under the Business Tax Act, 1987, when the Commissioner of Taxes was aware that a person intended to leave Seychelles

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[26] International Covenant on Civil and Political Rights [ICCPR], 16 December 1966, 999 U.N.T.S. 171, arts. 2, 14, 17, *ratified* 5 May 1992.
[27] UDHR, arts. 1, 2, 7, 12.
[28] ICCPR, art. 12(2).
[29] International Covenant on Economic, Social and Cultural Rights [ICESCR], 19 December 1966, 993 U.N.T.S. 3, art. 12.
[30] The Commission recalls that while Dr. Vendomova told the Commission that the expeditious treatment would have prolonged Mr. Greslé's life from six months to a year, Dr. L H van Rooyen submitted that the "3 months and even longer would have made a huge difference" as earlier access to the doctors in South Africa would have allowed more effective treatment and the potential for a more favourable outcome.
[31] The Commission recalls in this respect that after receiving medical advice to seek diagnosis and treatment as soon as possible, Mr. Greslé arranged medical appointments in early January 1993 in South Africa.
[32] The Commission recalls the evidence of Mr. Georges that at the time, the tax authorities were strict about ensuring taxes were properly paid and regularly denied individuals permission to travel, by not granting tax clearance, due to unpaid tax, which was in accordance with section 146 of the Income Tax Assessment Decree 197[197X or 19X7]. While his evidence, and reference to domestic law, makes clear that the strict nature of this domestic law was widely applied by the Government, Mr. Georges also submitted that the tax department sometimes went overboard in enforcing their policy.

without paying their full tax owed. To that effect, the Commission notes that the provisions of the Business Tax Act did contain due process requirements, and that it is unclear whether they were followed in the present case. For instance, the Business Tax Act provided that the Commissioner of Taxes "*may* make an application to the Supreme Court together with an affidavit for an order preventing the person from so leaving Seychelles".[33] That is, the Commissioner had discretion as to whether or not to make such an application to the Supreme Court; the Commissioner instead or in addition could have simply required Mr. Greslé to pay in full the taxes owing before his departure.[34] The Commission has received no evidence that such an application to the Supreme Court was made or that an order was granted preventing Mr. Greslé to leave; rather, the Commission finds based on the evidence adduced that Mr. Greslé went to the airport and was prevented by officials there from leaving on the basis of the outstanding taxes owed.

158. Therefore, the Commission has received no evidence to suggest that the lawful process under the Business Tax Act, 1987, was followed; there is nothing to indicate that an order was granted by the Supreme Court—or that such was ever even sought by the Commissioner of Taxes—preventing Mr. Greslé from leaving the country. The Commission finds it more likely than not that the authorities at the airport instead simply would not let Mr. Greslé onto the plane or through a certain checkpoint, without any legal basis for so doing. Further, the Commission recalls additional factors that under the circumstances would bear on Mr. Greslé's leaving the country; in particular, the Commission recalls that the business tax in question was apparently of a small amount; that Mrs. Greslé argued that they were not a flight risk as they had considerable assets in Seychelles to which they would return and which could be used, if necessary, to pay the tax; that the Greslés did pay the tax after their attempts to beseech the Government for a temporary waiver in order to let Mr. Greslé go obtain medical care were unsuccessful; and that these circumstances resulted in a delay of three months in Mr. Greslé leaving for South Africa. The Commission also recalls Mr. Jardin's evidence that the provision of the Business Tax Act that prevented those like Mr. Greslé from leaving the country was later ruled unconstitutional as an impermissible restriction on the fundamental right to freedom of movement following the entry into force of the Constitution of 1993.

159. On the basis of the foregoing evidence, the Commission finds that the present restriction on Mr. Greslé's fundamental rights was arbitrary and strayed from the proper purpose of the law, as the lawful process was not followed. Thus, the third element is met.

160. Considering the "State official" or perpetrator element, the Commission finds that as it was within the discretion of the Commissioner of Taxes to seek an order from the Supreme Court and the Commissioner not only failed to do so but directed the airport authorities to prevent Mr. Greslé from leaving anyway—a power which the Commissioner did not have—the Commission finds that the Commissioner of Taxes at the time bore primary responsibility for this violation of Mr. Greslé's rights. As the Commissioner of Taxes was acting as a Government official and exercising elements of governmental authority, the Commission finds that responsibility for this violation can also be imputed to the State.

161. As such, the Commission finds that Mr. Greslé suffered the violation of abuse of office under the TRNUC Act, in contravention of his human rights.

4. Unjustified Acquisition or Loss of Property or Business

[33] Business Tax Act, *supra*, sec. 121(2) (emphasis added).
[34] *Id.*, sec. 121(1).

162. Finally, the Commission turns to Mrs. Greslé's claim of unjustified acquisition or loss of property under Section 2(8)(h) of the TRNUC Act,[35] which was made with regard to the alleged under-value of compensation she received for her property in Seychelles upon selling it to the Government and to the other instances of encroachment of the property without compensation. The Commission notes that while these events happened after the time of the one-party State, the claim is nevertheless admissible as per its thematic mandate, as the Commission has established based on the evidence before it in this and other cases that even after the entry into force of the 1993 Constitution, there was still a system of patronage wherein those considered to be with the party benefited and those considered against were punished or not accorded those benefits, and that land was often the medium used to further that discrimination. On this basis, the Commission finds that the current claim is admissible before it.

163. The Commission has considered that the violation of unjustified acquisition under the TRNUC Act comprises 1) the unlawful or arbitrary taking or appropriation 2) of the physical, real, financial, intellectual, or other property or business of one or more persons 3) that results in the deprivation or interference of use of the property or business by that person 4) without adequate, prompt, and effective compensation, 5) by a perpetrator.[36]

164. Regarding the first element, a taking which was unlawful or arbitrary, the Commission finds, unfortunately for Mrs. Greslé, that this element has not been made out on the evidence received. The Commission recalls that the so-called acquisition occurred after Mr. Greslé's death in 1993 and after Mrs. Greslé and her children relocated to South Africa, and included the alleged acquisition and theft of fixtures of the home such as doors, furniture, and bathroom and kitchen fittings in her absence, and then later the sale of the property to the Government, which Mrs. Greslé claimed was for inadequate compensation and done under duress. She also detailed the acquisition and use of part of their property by a neighbouring family, called the Marie family, who took steps to build a road to their home on the Greslé property despite clear indications from both Mr. and Mrs. Greslé that such action on their property was not permitted. Finally, Mrs. Greslé referenced the rights-of-way constructed by the Government without her permission over the parcels C4162, C3244, C2289, and C2193 in sometime around the year 2018, when she had Mrs. Aglae write to the Ministry of Habitat, Infrastructure and Land Transport about the issue.

165. Taking each of these allegations in turn, the Commission first notes that the instances of alleged acquisition and use of her property without permission which caused harm to Mrs. Greslé and her family were instances involving actions by other civilians, and not officials of the Government acting in their official capacity. In that regard, the Commission notes there has been no evidence received of any connection of these individuals or instances of theft with the Government.[37] The Commission also finds this to be true as regards Mrs. Greslé's claim that the Marie family took steps to build a road and thereby encroach on their property without permission; again, the Commission finds there to have been no actions or any involvement by the Government so as to amount to a human rights violation.

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[35] TRNUC Act, sec. 2(8)(h).

[36] The Commission recalls that this violation is a violation of the fundamental human right to property, including the protection from arbitrary deprivation of property, enshrined in the UDHR, art. 17.

[37] The Commission recalls that Mrs. Greslé did provide details of an incident whereby the Government assessed their property for suitable water supply and potential confiscation to build an orchid business, but finds that because the Government's actions in this incident did not result in acquisition or use, the Commission cannot find harm caused to the Greslés, nor a demonstrable violation of any rights or laws.

166. As regards the allegedly under-value nature of the sale of the property, which Mrs. Greslé also alleged was done under duress, the Commission recalls that Mrs. Greslé submitted to the Commission that she sold Kaz Kreol in January 1994 when she left Seychelles for South Africa, and sold the family home and surrounding land in July 1998 on a visit to Seychelles. The Commission was provided with documentary evidence and evidence from the land file which demonstrated that on 31 July 1998, Mrs. Greslé indeed sold five parcels of land to the Government, including parcels C4098, C4099, C4159, C4160 and C4161, for SR 3.5 million. Correspondence between Mrs. Greslé's legal representative, Mrs. Samantha Aglae, and Government officials in regards to her land dispute was also provided to the Commission and confirmed the sale and price of the property where the family home was built. The Commission recalls that the final price, agreed to by Mrs. Greslé, totalled SR 3.5 million, which reflected SR 200,000 less than the earlier agreed price of SR 3.7 million in light of Mrs. Greslé's sale of one of the parcels to Mrs. Pejackovic, and included ZAR 200,000 (SR 216,284) as an initial payment with the remainder to be paid in three four-month instalments with 8% interest on the reducing amount. In that regard, although Mrs. Greslé claimed many times that the sale price was very low, she nevertheless accepted this final compensation amount and payment scheme, which the Commission takes as convincing evidence that the parties did come to an agreement and settled on the amount in question. Thus, the price was evidently not too low to prevent Mrs. Greslé from agreeing to the sale.

167. Regarding Mrs. Greslé's claim of duress, the Commission recalls her evidence that the sale of property at Kaz Kreol and the family home and surrounding land was necessary to repay her debts or caused by lack of means to take care of the property while supporting her children. Mrs. Greslé explained that she had no choice but to sell Kaz Kreol on leaving Seychelles in January 1994 in order to have the funds to pay the social security of individuals the family had employed. In addition, Mrs. Greslé explained that she was motivated by information she received from friends and colleagues that they Government planned to confiscate Kaz Kreol by forcing payment on a SR 100,000 loan taken by the Greslés from the Development Bank. However, while the Commission accepts that these circumstances may have been factors in her decision to sell the property, it was more likely than not that Mrs. Greslé decided to approach the Government as a possible purchaser of her property on the advice of the English surveyor who worked for the Government, who had visited the property in order to discuss a grant of road access to the Government for a home for troubled boys. The Commission also notes that with properties worth at least SR 3.7 million, the concern over repayment of a SR 100,000 loan may have been misplaced. As Mrs. Greslé was the one who approached the Government to initiate the sale, and there is no indication that the Government took any steps to compulsorily acquire the property or otherwise force Mrs. Greslé to sell it on their conditions, the Commission finds on the balance of probabilities that she did not sell the property under duress.

168. Finally, with regard to the allegation that the Government constructed roads or rights-of-way over the parcels C4162, C3244, C2289, and C2193, the Commission recalls that Mrs. Greslé only raised this issue through her attorney in 2018, and further that instead of taking action through the courts Mrs. Greslé preferred to pursue an "amicable solution" and has been negotiating with the Government to that effect. The Commission has not received any evidence that this part of Mrs. Greslé's claim before it falls within its mandate of having occurred during or in relation to the Coup d'état of 1977, however, and on that basis, it can make no findings as to these allegations.

169. Therefore, the Commission finds that there was no taking of the Greslé property that was unlawful or arbitrary. As it has found the first element of the alleged violation not to have been established, the Commission declines to consider the remaining elements.

170. The Commission thus finds on the evidence received that Mrs. Greslé did not suffer the violation of unjustified acquisition or loss of property under the TRNUC Act with regard to the sale of her family's property.

V. RECOMMENDATIONS AND REPARATIONS

171. The Commission recommends reparations in accordance with its Reparation Policy with respect to the violations Mrs. Greslé and her family suffered as laid out above.

VI. CONFIRMATION OF KNOWLEDGE OF THE RECORD

172. Each of the undersigned Commissioners swears or affirms that he or she has comprehensively familiarised him or herself with the record in Case 049.

173. Each of the undersigned Commissioners hereby swears or affirms that his or her deliberations in this case are based on his or her knowledge of the entire record of the case.

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