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Case No: 055

The Truth, Reconciliation and National Unity Commission

In the Complaint of Norris Jumeau

31 December 2022

Determination on the Complaint of Norris Jumeau

Complainant:

Norris Jumeau

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 2020.

4. The complaint of Mr. Norris Jumeau who bring his complaint as a victim was filed on 21 August 2019. Consequently, the complaint satisfies the admissibility requirements of Sections 3(4) and 3(5) of the TRNUC Act.

5. Pursuant to Section 2(8), 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 his complaint, Mr. Jumeau alleges unlawful arrest and detention from January until February 1982, including a period of house arrest thereafter; abuse of office by a Government official(s) for forcing a confession under duress and confiscating his passport; and wrongful denial of the right to employment on political grounds.

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

7. The Commission notes that while briefly discussed during his appearance, Mr. Jumeau does not wish to pursue a claim of unlawful acquisition of land as those claims were being pursued through court proceedings.[2] The Commission recalls these claims were unsuccessful in the court and were heard before the Commission in whole in Case Determination No. 158: Phillipe Jumeau.[3]

II. PROCEDURAL HISTORY

8. Satisfied that Mr. Jumeau's complaint prima facie alleged violations related to the Coup d'état of 1977, the Commission rendered his complaint admissible on 13 September 2019.

9. On 11 November 2019,[4] the Commission began hearing evidence in the case of Mr. Jumeau. The Commission heard evidence from three (3) witnesses and accessed relevant documentary evidence.

III. EVIDENCE RECEIVED

A. Evidence of Mr. Jumeau

10. Before the Commission, Mr. Jumeau stated that he left Seychelles for Kenya to attend school in 1974, at 14 years of age. He said that one night in 1972, when the family sold charcoal and bananas, Mr. Jumeau's father heard a noise that woke him up, and heard a car turn around outside and a noise like "woosh". Mr. Jumeau's father opened the window and jumped outside, right into a big fire. He and Mr. Jumeau's mother started screaming, and the neighbours heard and came running. Eventually they put out the fire. Mr. Jumeau recalled seeing traces of blackish water running down the yard and into the gutter the next day. He stated that "they" tried to burn them alive in their own home.

11. Mr. Jumeau stated that he was thus taken out of Seychelles College and sent to Kenya. He said that his parents could afford to pay for private education, he did not have to wait for a scholarship, so he was sent to Saint Mary's College in Nairobi. He was there for two years, and then his father decided to send him to the United Kingdom, where he had family. His father, Mr. Philippe Henry Jumeau, was involved in politics and was a strong party member of the SDP (Seychelles Democratic Party). He was a member of the Parliament and a close confidante of the first President of Seychelles, James Mancham.

12. Mr. Jumeau recalled that at the time of the Coup d'état of 1977, Mr. Jumeau was still undertaking his studies outside of Seychelles. His father, who had worked hard from scratch, lost everything when President René ascended to power. He claimed that Mr. Philippe Henry Jumeau had been "well-off", but eventually everything was taken away from him. His father's properties were acquired, including land at Beau Vallon, the property of the Libyan Embassy at Mont Fleuri, and the land at the 'President's Village at Port Glaud.

13. Mr. Jumeau stated that his father was never a friend of President René. He claimed that his father and the rest of the family, including Mr. Jumeau, were forced into exile in England.

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[2] Government of Seychelles v Jumeau & Anor (SCA CL 01/21 – SCA CL 02/2021 and SCA MA 17/2021) [2021] SCCA 68 (Arising in CP 08/2018)) [2021] SCCA 68 (17 December 2021).
[3] *See* Case Determination No. 158: Phillipe Jumeau.
[4] Hearing No. 26 of Monday, 11 November 2019.

14. Mr. Jumeau further recalled that his mother was unhappy in England, and she wanted to come back to the Seychelles. Mr. Jumeau decided to accompany her back to Seychelles in 1982, knowing that by coming back to Seychelles, they would be destitute. They begged a lady they knew that lived in Nairobi to allow them to live in her house in Seychelles, and she agreed. Mr. Jumeau recalled that he and his mother went on to live in that house for the next 15 years.

15. Mr. Jumeau informed the Commission that he was arrested in November 1982, soon after returning to Seychelles from England. Mr. Jumeau stated that he had come back home from a disco at around 2 A.M. and went to bed. At around 5 or 6 A.M., his mother came and woke him up, telling him that there were policemen in the house who wanted to see him. Mr. Jumeau got up and saw police officer, Raymond Louise, who informed him to take his vehicle and follow them to Victoria Police Station, as the Commissioner of Police, James Pillay, wished to see him. Mr. Jumeau obliged and followed their instructions.

16. Mr. Jumeau recalled that when he arrived at the Police Station, the Commissioner of Police accused him of being a trained mercenary, and pulled his gun out of his desk, cocked it, and pointed it at him. Mr. Jumeau stated that the Commissioner kept asking him where his father was, and persisted to tell him that the Commissioner knew he was a trained soldier and had come to launch a mercenary attack. Mr. Jumeau informed him that he had been at school in Kenya in 1974-76, and that in 1977, he had been sent to England to join his father.

17. Mr. Jumeau claimed that the Commissioner was in possession of Mr. Jumeau's diary, and that he pulled it out and opened it to a page and asked who the person described on that page was. The name in question was Captain Faruk, and Mr. Jumeau recalled that he was a friend of Mr. Jumeau's. The Commissioner asked him whether Captain Faruk was his Commanding Officer. Mr. Jumeau explained that Captain Faruk was a merchant navy captain, but the Commissioner refused to believe him and kept threatening him.

18. The Commissioner then instructed Raymond Louise to strip Mr. Jumeau and lock him up in a cell. The Commissioner told Mr. Jumeau that if he did not tell the truth, he would never get out of prison. Mr. Jumeau stated that he was held in a cell at Victoria Police Station for two weeks. He was not allowed to bathe during the entire time he was detained, and he was given just one litre of water a day and two boxes of food, one at lunch and one at dinner. He stated that the light was left on in his cell 24 hours per day.

19. Two weeks later, Mr. Jumeau was put in a Land Rover and transferred to a cell at Mont Fleuri Police Station. He stated that Inspector Joubert, who was stationed at Mont Fleuri Police Station, was very nice to him. While detained there, Mr. Jumeau was visited by army Sergeant Pillay, who was related to the Police Commissioner, on two occasions. Sergeant Pillay kept telling him that he knew that Mr. Jumeau was militarily trained, that he thought Mr. Jumeau had learnt self-defence and knew how to defend himself, which Mr. Jumeau denied. Mr. Jumeau noted that it was lucky that Sergeant Pillay did not become violently aggressive with him. He said "there was no violence but the violence was morally (sic)". Similarly, at Mont Fleuri Police Station, the lights were kept on in his cell for 24 hours per day. Mr. Jumeau recalled that when Sergeant Pillay left after visiting him, he would hear him walk out, followed by the sound of a big army vehicle's door closing. Mr. Jumeau also recalled that there was not a single policeman in the station, and it seemed like the station was deserted.

20. While at Mont Fleuri Police Station, Mr. Jumeau decided to go on a hunger strike because he was not being fed properly. He became ill, and the authorities took him to the army clinic at the hospital, where he was treated by Dr. Ramados. The doctor gave him gentian violet to gargle, but Mr. Jumeau refused to take it. He testified that gentian violet is highly poisonous if ingested and therefore is only designed for external use. Additionally, he stated that gentian violet could kill a person if taken over a prolonged period of time. Mr. Jumeau made arrangements with Inspector Joubert and had medicine smuggled in.

21. After four weeks at Mont Fleuri, Mr. Jumeau said the authorities transferred him to Long Island Prison. He was placed in a small cell with a chair and given "bouyon bred" with bugs in it to eat. He told them he would not eat food that was in such terrible condition, and after three days, they decided to give him a small amount of food from the superintendent's kitchen.

22. Mr. Jumeau was permitted to bathe at 5 P.M.; they would give Mr. Jumeau a bucket of water to bathe in the middle of the yard. He was given a day cell located next to the guard's room: Mr. Jumeau recalled feeling like the guards kept an eye on him all day and that his days consisted of waiting for evening to come. He was also given a night cell in the solitary block, which was just a single concrete block. He was given a pillow, bitten by mosquitoes all night, and the lights again were kept on for 24 hours per day.

23. Mr. Jumeau claimed that after about two weeks of detention at Long Island Prison, the Ministry of Defence requested that the prison send Mr. Jumeau down to the Ministry. He was picked up at the pier by the police and taken to the Ministry of Defence office in Victoria. Mr. Jumeau was taken into an office where his mother, together with the Principal Secretary for Defence, Mr. Ralph Adam, were waiting for him. Mr. Adam informed Mr. Jumeau: "Norris you are in a very bad situation. They have told me that you would spend the rest of your life in prison. For you to get out you have to write a letter admitting guilt and sign it. Then you will be released". Mr. Jumeau could not recall the details of what he was being asked to write, but it was along the lines of "I, Norris Jumeau had come to make arrangements with Ogilvy Berlouis sent by Mr. Mancham for Mr. Berlouis to organise a Coup D'état to change the country". Mr. Jumeau stated to the Commission that he did not even know Ogilvy Berlouis at that time, and that he had never seen him. Mr. Jumeau said that Mr. Berlouis had a yacht called 'Laura Bay', and Mr. Berlouis stayed there a few days to work on it, and it was only at that point that Mr. Jumeau met him. After writing the letter that was dictated by Mr. Adam, Mr. Jumeau was taken back to Long Island prison for a short period of time.

24. Shortly after returning to Long Island Prison, it became apparent to Mr. Jumeau that that was his last day of his imprisonment. The following day, he was taken to the Central Police Station, where his mother was awaiting his arrival. Commissioner Pillay told Mr. Jumeau that he would be released but he had to surrender his passport, as he could not leave the country. Additionally, the Commissioner told him that "I will keep investigating you. You will pay when we find whatever we have to find". Mr. Jumeau's mother came to pick him up. During his imprisonment, Mr. Jumeau lost 15 kilos in weight, from approximately 65 kilos to under 50 kilos.

25. Mr. Jumeau recalled that on the day of his release, President René called Mr. Jumeau's mother and told her that her son would be under house arrest and that she should not allow him to go and see his old friends. This was in late January 1983. Mr. Jumeau remained under house arrest for eight months, and only broke it when his sister got married after those eight months. He informed the Commission

that nobody ever came to tell him that the house arrest had been lifted, though he knew he was being watched as he would often see army personnel surrounding the house.

26. Mr. Jumeau also informed the Commission that he was never taken before a court, charged, or tried for any offence. Mr. Jumeau was also not previously aware of any conditions that were imposed on his release, other than the surrender of his passport and the house arrest.

27. Mr. Jumeau stated that after eight months of abiding by the house arrest order, he decided to get a job. He went to the employment office every day for two months, but he never succeeded in obtaining employment. He was always told to "come back tomorrow". Eventually his wife was employed on Denis Island and she informed her employer that if she were going to go there to work, she would have to bring her husband with her. It was at that point that Mr. Jumeau finally obtained employment with the same employer as his wife. Mr. Jumeau said they stayed on Denis Island for two years, as they were not permitted to stay longer as his daughter was two years behind in her crèche and had to return to crèche for the next two years. Mr. Jumeau recalled that he was temporarily unemployed again, until Madam Danielle de St. Jorre, a Minister who knew them, made arrangements for Mr. Jumeau to go and work with one of her relatives, Pierre D'Offay. Mr. Jumeau stated that for Mr. D'Offay, he worked as a boat boy, then as a deckhand, and eventually he passed his exam to be skipper of a vessel. Mr. Jumeau recalled that it was not possible for him to get employment with the Government: he said even in the private sector, "you became a scourge, they don't want to know you. Upon release, you would approach somebody [who would say] we cannot employ you we don't want to be victimised".

28. Mr. Jumeau informed the Commission that if his wife had not been offered the job on Denis Island, he doubted that he would have succeeded in obtaining employment. When he was arrested, all of his friends disappeared. He said this was solely because in those days, everyone was afraid that they would also be victimised. So, in order to avoid that, people kept their distance from anyone that had been targeted by the authorities. Mr. Jumeau recalled the feeling that everybody was spying on everybody and everybody wanted power.

29. Mr. Jumeau further advised the Commission that his family owned a Supermarket, Chez Philippe, but the business was ruined after the parastatal company Seychelles Marketing Board (SMB) instituted a monopoly over imported goods. He said it was like what happened with Teemooljee's in Mrs. Oliaji's case.[5] Mr. Jumeau stated that at the time, quite a few commodities were not permitted to be imported. He stated, "There will be a quota with the import permit. You wanted a 100 cartons (sic) of biscuits they might tell you 20. The property is not enough to cover your overheads". He further added as follows:

> When you put monopoly on all these items how can a business stand? It doesn't stand it goes down. We had Sita Travel, the biggest Travel Agency in Seychelles. They introduced NTA and it destroyed the other businesses. We had a Car Hire that had approximately 50 cars and when they introduced a law that you must not have more than so many cars. What do you do with it? What do you do with all those cars standing there? You sell them for nothing. The money you get tries to help with the other businesses but eventually it gets destroyed.
> [...]
> It was a manipulation in a way to destroy the one who has. Mr René said it is to give it to other people; fair enough, it's like Robin Hood taking from the rich and giving to the poor. Do please give

[5] *See* Case Determination No. 100: Soona Oliaji.

> to the poor but you did not give it to the poor. Who got rich? You said "Gran Blan" which "Gran Blan?" When my mum met my dad you know these 'vagabon', let's say not the ones who smoke drugs, but they wouldn't work they just beg and things like this. My dad was in that situation in 1959-1960. He didn't work, he didn't have anything. And when he met my mum they started working and everything grew from zero to something. So don't come and tell me "Gran Blan".
> He was not a "Gran Blan" to take everything he had.
> The "Gran Blan" is, I will not mentioned names, but we all know the people that have had privileges for the last 40 years; their lands were not acquired. Bishop Wong knows at one time in our history the front benches in the church was reserved for who? For certain people: the "Gran Blan". The "Gran Blan" were the ones sitting in the front benches, maybe those Priests made a mistake not telling – but sitting amongst the people you are not special. Even on the days they didn't come to church the bench had to stay empty, nobody was allowed to sit in it. But why were they not affected? Why were we affected? Why was Mrs Oliaji affected? It's something that's been planned. Take money away from the one who has, put it in my pocket, that's what it is.

30. Mr. Jumeau stated that the approximately 50 cars of the family's care hire were sold for basically nothing. Mr. Jumeau informed the Commission that these events only occurred in order to manipulate the family into taking their property and give it to other people who eventually earned big amounts of money from them.

31. Mr. Jumeau informed the Commission that when his mother met his father, they were beggars in the street. From 1959 to 1960, the family had nothing. Mr. Jumeau testified that his father was not a "Grand Blanc" or a person of privilege.

32. Lastly, Mr. Jumeau recalled being watched by army personnel most of the time. They would surround the house to keep checks on the family. He recalled feeling that sometimes they were visible and sometimes they were not. He also recalled that he was chased by a big truck full of soldiers one night.

33. On 17 January 2022, Collin Jumeau, the brother of Mr. Jumeau, provided a statement to the Commission in which he stated as follows:

> My brother was arrested. The police came to our house in the morning and took him away without any explanation. My mother and I were so desperate she took her car to go to town to find out what was happening.
> There were no reasons given for his arrest he was detained at central police station and later at the Mont Flueri (sic) police station and we were never allowed to see him. He was later sent to Long Island prison. Somebody called to inform us what was happening, my mother rushed to town again only to see him leaving in the prison boat.
> After a few days I got hold of the President's phone number and I called him demanding the reason as to why my brother was being detained and had been transferred to Long Island and informed him that he was not a criminal.
> I then started swearing at him and he never answered and I hung up the phone.
> After a few minutes the phone rang and I got scared and realised he had our house phone number. He tried to calm me down and to listen to him, as the only way for my brother to be released was that he signed a statement saying that he was guilty. I then asked him fucking guilty of what? He said again if you want him to be released get him to sign the paper.
> My mother was then called to meet Norris and she begged him to sign the paper and that is all I know.
> But for a long time after his return, I remember he always stayed inside the house and he never left the house for a long time.

B. Evidence of Mr. Raymond Louise

34. Raymond Louise testified before the Commission[6] regarding the indication provided by Mr. Jumeau that Mr. Louise was the officer that arrested him in 1982. Mr. Louise stated that he could not remember Mr. Jumeau nor recall that he arrested him in 1982. Mr. Louise stated that he had forgotten a lot of things, and since he had to be so careful under the René regime, he experienced a lot of headaches that supposedly impaired his memory.

35. Mr. Louise recalled that there were incidents where the authorities forced people to incriminate themselves by writing a confession letter. He did not say that that was what definitely happened in the case of Mr. Jumeau, but rather that it was definitely a practice that the authorities executed. He also recalled that it was a common practice of the authorities to take passports from individuals to ensure they would stay in the country and consequently make it easier to monitor these individuals.

36. Mr. Louise testified that the authorities would arrest someone based on the threat one would pose, especially if one had relationships with certain people. He stated that the authorities did not need any evidence to arrest people.

37. Mr. Louise stated that Commissioner Pillay endured a lot from the higher-ups. Additionally, he stated that ordering someone to be stripped and jailed was unlike the Police Commissioner's character, that he rather would have merely jailed an individual.

38. On 20 January 2022, the Commission obtained a statement from police officer David Antoine, who stated as follows:

> I, David Antoine aka Bo, I've known Norris Jumeau whilst he was detained at Mont Flueri (sic) Police Station. We talked daily and played domino during the time Norris was given a break for fresh air.
> Norris mentioned to me that he was arrested and detained for political reasons (security issues). He did not do anything malicious and he presumed it was because his father – Phillip Jumeau was a democratic supporter during the 1980s.
> We made friends and we shared several personal conversations until he was released. Until today we meet and we greet each other.
> That is all I know about Norris.

39. On 2 June 2020, the Commission requested access to any file held by the prison authorities in relation to Mr. Jumeau. It received no response to that request, which it reiterated again on 18 September 2020 and was informed on 29 September 2020 that no records were held.

40. On 22 January 2020, the Commission requested access to any police files held from the police authorities and following repeated requests by the Commission on 23 February 2021, the police authorities responded that nothing detrimental had been found against Mr. Jumeau.

IV. FINDINGS OF THE COMMISSION

A. Mandate and Applicable Law

[6] Hearing No.97 of Thursday 30 July 2020.

41. 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".[7] These principles must guide the Commission's determination of whether the conduct alleged constitutes human rights abuse pursuant to its Act.[8]

42. The reference to "universally recognised 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.[9]

43. 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".[10] Any finding of individual responsibility is to a balance of probabilities standard.[11] 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.

44. The Commission further notes that a persons 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".[12] The Commission considers that these provisions, in light of Sections 3(9) and 6(8)(a), provide sufficient protection for the human rights

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[7] TRNUC Act, secs. 3(9), 6(8)(a).

[8] *Id.*, section 2(8).

[9] 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 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".).

[10] *Id.*, sec. 7(b).

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

[12] TRNUC Act, 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).

of individuals holding suspect or perpetrator status within the context of the Commission's proceedings.

45. The Commission notes that while each 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.

46. 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 of; 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 persons should not be held to account for conduct that was not criminal at the time it took place.

47. 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.

48. 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

49. 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.

50. 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.

51. 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.

52. 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. Unlawful Imprisonment or Other Deprivation of Physical Liberty

53. The Commission finds on a balance of probabilities that Mr. Jumeau suffered the violation of unlawful imprisonment or other deprivation of physical liberty under Section 2(8)(b) of the TRNUC Act,[13] with reference to his arrest and subsequent detention from November 1982 through to January 1983 in different prisons around Seychelles.

54. Regarding the required admissibility nexus to the Coup d'état of 1977, the Commission finds that both its primary temporal and thematic mandate are satisfied. The Commission recalls that the arrest and detention occurred in 1982, during the time of the one-party State. Further, the Commission recalls that Mr. Jumeau was apparently arrested on suspicion of being a mercenary, in what would have been a purported threat to the Government of Albert René which was installed by the 1977 Coup. As such, the present complaint is admissible before the Commission.

55. 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.[14]

56. First, the Commission finds it established on the evidence adduced that Mr. Jumeau was arrested on a morning in November 1982 and taken to Victoria Police Station, where he was detained for two weeks. He was then taken to Mont Fleuri Police Station, where he was detained for four weeks, and then he was sent to Long Island Prison, where he was detained for two more weeks. Mr. Jumeau was thereafter

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

[14] 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 rights at the level of customary international law. *See* Universal Declaration of Human Rights [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), G.A. Res. 217A (III) (Dec. 10, 1948).

placed under house arrest for an unspecified time. The Commission thus considers the first element to be met.[15]

57. Second, regarding the element of unlawfulness or arbitrariness, the Commission recalls that while Commissioner Pillay accused Mr. Jumeau of being a "trained mercenary", Mr. Jumeau was arrested and detained without formal charges, more likely than not pursuant to a Detention Order signed by Albert René, as was the tradition at the time. The Commission further finds that Mr. Jumeau was also never accorded his right to legal counsel or to a trial before a court or tribunal, including the Detention Review Tribunal as was his right,[16] violating his fundamental due process rights.[17] The Commission also accepts that the Government often relied on insufficient to no evidence to arrest and detain people at that time. The Commission recalls in that respect that Mr. Jumeau apparently understood his detention to be in connection to either being deemed a mercenary by the Police Commissioner or due to his father's democratic affiliation in the 1980s, as per the evidence of Mr. Antoine. It further recalls that in this case, Police Commissioner Pillay pointed a gun at Mr. Jumeau when the latter was summoned to his office, which the Commission views as a fear tactic augmenting the arbitrariness of Mr. Jumeau's arrest and detention. Further, it was only after Mr. Jumeau was forced to sign a confession written for him, with patently false assertions as to an alleged association and conspiracy between him and Defence Minister Ogilvy Berlouis, that he was released. The Commission notes that in the event that he failed to sign the confession, he was told that "you would have to spend the rest of your life in prison". The Commission views this course of events as plainly improper under international human rights law, further violating Mr. Jumeau's due process rights and further contributing to the arbitrariness of the detention.[18]

58. The Commission notes that as the house arrest under which Mr. Jumeau was placed after his release was in principle not inherently illegal, as applied to Mr. Jumeau, the Commission finds that it was arbitrary as it flowed from an illegal act, the unlawful arrest and detention. As such, the Commission views the ensuing period of house arrest as essentially forming part of Mr. Jumeau's arbitrary detention. Therefore, the Commission finds that the second element has been established.

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[15] The Commission considers that even though Mr. Jumeau was detained at both police stations and prisons, because he was never charged with an offence, let alone convicted, Mr. Jumeau's deprivation of liberty can be described as a long detention rather than imprisonment. In any case, the Commission considers that the physical detention element of the violation is satisfied.

[16] The Commission recalls the Detention Review Tribunal Decree of 1978 provided for such procedural safeguards including legal review within 30 days of the commencement of detention. Detention Review Tribunal Decree (Cap. 62), 19 May 1978. The Commission finds that the failure to bring Mr. Jumeau before the Detention Review Tribunal as required by law was a violation of his rights under the Detention Review Tribunal Decree. Further, the Commission considers that even had Mr. Jumeau been brought before the Detention Review Tribunal as he should have been, the protection offered by that body would still have been insufficient due process, as the Tribunal could only recommend that a detainee be released and had no power, as an independent court presumably would have, to order the release of Mr. Jumeau. In that respect, the Commission recalls the limited scope of remedy offered under the Detention Review Tribunal Decree 1978 (Cap. 62) and notes its concern that the Tribunal was only able to offer a recommendation as to whether the detention was necessary or expedient. Thus, review by the Tribunal would have been unlikely to have been sufficient to grant Mr. Jumeau the due process protections required under international law.

[17] *See* UDHR, arts. 7, 8, 10, 11.

[18] The Commission recalls that the signed confession was also alleged by Mr. Jumeau as an abuse of office; however, the Commission finds that it does not amount to the level of gravity so as to be its own violation on par with the others enumerated in the TRNUC Act, and is better conceived as forming part of the violation of unlawful imprisonment or other deprivation of physical liberty.

59. Considering the perpetrators who bear responsibility for this violation, the Commission finds that Police Commissioner James Pillay bears a measure of responsibility, considering that the police officers apparently arrested Mr. Jumeau and brought him to Mr. Pillay on Mr. Pillay's orders, and then Mr. Pillay cocked his gun at him while interrogating him. The Commission moreover finds that President René additionally bears responsibility for this violation of Mr. Jumeau's rights, and accords him perpetrator status as well, as it finds that the President would likely have known of, if not outright ordered, the arrests of perceived mercenaries, especially in the years following the 1981 mercenary attempt, despite having no evidence to support such a perception. The Commission further recalls the evidence it has received in other cases that the President was generally aware of the arrests that occurred, especially as he personally signed many Detention Orders authorising such arrests and detentions at his pleasure, even if such did not occur in the present case.[19]

60. As both the Police Commissioner and the President were acting in their official capacities as core organs of the State, the Commission finds that their responsibility can be attributed to the State. Moreover, the Commission finds that the lack of any investigation to confirm the purported basis of Mr. Jumeau's detention, *i.e.*, the supposition that he was a trained mercenary and a threat to national security, was a violation of the State's duty to investigate,[20] for which the Seychelles bears responsibility.

61. Therefore, the Commission finds that Mr. Jumeau suffered the violation of unlawful imprisonment or other deprivation of physical liberty, in violation of his human rights.

2. Abuse of Office – Confiscation of Passport

62. The Commission recalls Mr. Jumeau's evidence that following his release from detention, he was forced to forfeit his passport to the authorities. The Commission qualifies this event as an abuse of office by a Government official under Section 2(8)(l) of the TRNUC Act.

63. Regarding the admissibility of this claim, the Commission notes that this event is inherently linked to the foregoing violation of unlawful imprisonment, as Mr. Jumeau was put under house arrest and told he could not leave the country following his release from Long Island Prison. As such, the Commission finds that the claim is admissible before it on the same basis as the violation discussed in the foregoing section.

64. 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.

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[19] See, for instance, Case 115 Jean Dingwall, who was also in detention in 1982, at the same time as Mr. Jumeau.

[20] The Commission notes that the Police Force Act 1959 stipulates the functions of the SPF to ensure "law and order, the preservation of peace, the prevention and detection of crime, and the apprehension of offenders", and provides that "it shall be the duty of every police officer [...] to prevent the commission of offences and public nuisances, to detect and bring offenders to justice, and to apprehend all persons whom he is legally authorized to apprehend and for whose apprehension sufficient ground exist". Police Force Act 1959, arts. 6, 25(2). The Commission notes that the role of the police to detect crime necessarily includes conducting investigations that would theoretically lead to criminal prosecutions.

65. 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 at the level of customary international law as enshrined in the UDHR,[21] and that these rights may be violated when a government official abuses the power of their office.

66. First, the Commission finds that there was a use of the capacity and powers of a public office, as it finds that Mr. Jumeau's passport was more likely than not confiscated on the orders of Police Commissioner Pillay. The Commission recalls in that respect that Mr. Pillay told Mr. Jumeau that he would keep investigating him, and that "[Mr. Jumeau] will pay when we find whatever we have to find". As such, the first element is met.

67. Second, concerning a right of Mr. Jumeau that was restricted in the present action, the Commission reaffirms Mr. Jumeau's fundamental human right to freedom of movement.[22] It finds that the confiscation of a passport is a clear restriction on this right, and therefore the second element is satisfied.

68. Third, considering whether that restriction was lawful, the Commission recalls the evidence before it that, at the time, it was a common practice of the Government to confiscate passports in order to ensure an individual stayed in the country and to keep tabs on them. The Commission notes that such may have been lawful in the wake of a lawful detention, particularly if the individual remained of interest or had certain court appearances pending and was deemed a flight risk. However, here the Commission finds that the forced forfeiture of Mr. Jumeau's passport, which was notably in addition to the order to place him under house arrest, flowed from the unlawful detention, found above, was unnecessary and disproportionate to the circumstances. As such, the Commission thus finds that this use of the Commissioner's power was likewise an unlawful, in satisfaction of the third element.

69. Regarding the "perpetrator" prong, the Commission again finds that both Police Commissioner Pillay and President René bear responsibility in this abuse of office. In that regard, it recalls that it was the Police Commissioner who ordered Mr. Jumeau's passport to be confiscated. The Commission further recalls that as this practice was supposedly commonplace, the President would have either directly ordered, or been aware of and sanctioned the confiscation of former detainees' passports. The Commission also notes that as it has found this violation to have been linked to the foregoing unlawful detention, the responsibility of both perpetrators also flows to this violation. In addition, as the actors in question both represented core State organs, their responsibility for this violation is attributed.

70. Therefore, the Commission finds that Mr. Jumeau suffered the violation of abuse of office with regard to the wrongful confiscation of his passport after being released from detention, in further violation of his human rights.

3. Wrongful Denial of the Right to Employment

[21] UDHR, arts. 1, 2, 7, 12.
[22] *See* UDHR, art. 13.

71. The Commission finds on a balance of probabilities that Mr. Jumeau also suffered the violation of wrongful denial of the right to employment under Section 2(8)(i) of the TRNUC Act.[23]

72. Regarding the admissibility of this claim, the Commission recalls that the events in question occurred during the one-party State, and thus during the Commission's primary temporal mandate. In that regard, the Commission recalls that after eight months of house arrest, Mr. Jumeau decided to break that house arrest and look for employment. It was at that time that his employment difficulties started. The Commission further recalls that as a former detainee, especially one suspected of mercenary activities, Mr. Jumeau would have been seen as an enemy of the revolution and party in power, which came to power via the Coup d'état of 1977. The Commission recalls the evidence it has received in myriad cases that individuals deemed enemies of the revolution were black-listed from Government service and systematically denied security clearance to work in the public sector. The Commission notes that the denial of security clearance also often had impacts in an individual's private-sector job search, as prospective employers were often scared off, or outright threatened, by the consequences to their business and livelihood of employing a blacklisted individual.[24] On this basis, the Commission finds the present claim to be admissible before it.

73. The Commission has considered that the violation of wrongful denial of the right to employment consists of a systematic denial of a person's ability to pursue a career in their chosen field. It includes a 1) repeated refusal to hire, promote, otherwise interfere with or refuse a person 2) in pursuit of employment in that person's chosen field, 3) for reasons other than business necessity or some other reasonable and articulable basis 4) by a perpetrator. This violation is a fundamental violation of an individual's right to work and to free choice of employment,[25] and applies equally to interference or denial of employment in either the public or private sector.

74. Regarding the first element, the Commission recalls that Mr. Jumeau experienced great difficulty in finding work after his period of house arrest. It recalls Mr. Jumeau's evidence that he would go to the employment office every day for two months, but he never succeeded in obtaining employment; rather, he was always told to "come back tomorrow". While Mr. Jumeau was finally able to obtain employment with his wife's employer when the family moved to Denis Island for two years, he was again jobless once they returned to Mahe so that their daughter could resume crèche. The Commission recalls Mr. Jumeau's evidence that it was not possible for him to get employment with the Government, as he evidently desired; instead, he relied on a connection with a Minister who was supportive of him to ultimately find work on a boat. The Commission finds that while Mr. Jumeau thus was able to find work, this fact does not imperil his claim of wrongful denial of the right to employment as Mr. Jumeau informed the Commission that if his wife had not been offered that job, he doubted that he would have succeeded in obtaining any employment, and that when he was arrested, all of his friends kept away because, according to Mr. Jumeau, everyone was afraid that they would also be victimised. The Commission thus accepts that if not for the fortuitous assistance by Madam de St. Jorre, Mr. Jumeau would more likely than not have faced extreme difficulty in finding work, and may not have found

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[23] TRNUC Act, sec. 2(8)(i).

[24] The Commission recalls Mr. Jumeau's evidence that under such circumstances even in the private sector, "you became a scourge, they don't want to know you. Upon release you would approach somebody [who would say] we cannot employ you we don't want to be victimised". *See supra* para. 27.

[25] *See* UDHR, art. 23.

sustainable work in Seychelles following his detention.[26] The Commission therefore finds that the first element has been adequately established on the balance of probabilities.

75. Next, the Commission finds for purposes of the second element that Mr. Jumeau's chosen field was, on the evidence before it, public-sector work within the Government.

76. Considering the third element, the reason for this denial of employment, the Commission finds it established on the evidence before it that Mr. Jumeau's consistent denials of employment were more likely than not based on his arbitrary detention and corresponding status as an enemy of the revolution and Government of Albert René. As the Commission notes that this is an arbitrary basis, being based on the unlawful act of the arbitrary detention, and also infringing Mr. Jumeau's right to freedom from discrimination on the basis of perceived political belief,[27] the Commission finds that there was no legitimate reason provided by the Government for the repeated refusals to hire Mr. Jumeau or the interference, whether direct or indirect, he faced in his search for work. Therefore, the Commission finds that the third element is met.

77. While the Commission has not received evidence of specific individuals who acted to deny Mr. Jumeau his right to employment, the Commission finds that President René again bears responsibility for this violation. It recalls in this respect that the evidence received in other cases that it was a primary strategy of the President and his Government to offer individuals released from detention the opportunity to work, and spy, for the Government, or live in Seychelles and face persecution, or self-exile from Seychelles. Although Mr. Jumeau may not have been offered this ultimatum, the Commission is nonetheless satisfied that having been in detention for the long period he was and being suspected of mercenary activities, Mr. Jumeau was clearly on the Government's radar and would have been thereafter targeted as such. As the Commission has received evidence that the President had final authority over all appointments, terminations, and promotions in the public service,[28] the Commission finds that Mr. René would have been involved to some level in the decision(s) taken to not hire Mr. Jumeau.

78. As one or more actors within the Government, including the President, were responsible for this violation, the Commission finds that responsibility can be attributed to the State.

79. The Commission therefore finds that Mr. Jumeau suffered the violation of wrongful denial of the right to employment under the TRNUC Act, in contravention of his human rights.

4. Abuse of Office – Monopolies and Import Quotas

[26] The Commission recalls in this respect that many complainants before it in similar circumstances claimed that they felt they had to leave Seychelles in order to find work and provide for themselves and their families.
[27] *See* UDHR, art. 2.
[28] In this regard, the Commission recalls the evidence of Willy Confait, who was the Senior Assistant Secretary for the Department of Public Administration around the time in question, who recalled that the power to appoint, terminate, and promote was vested in the President and subject entirely to his direction under the Colonial General Order of 1966. *See* Hearing of Willy Confait, 13 September 2019, Case Determination No. 002: Lewis Betsy: "The General Order 1966 dictated the terms and conditions of those in the public service, this was created in during the colonial times and was updated to the Public Service Orders in 1985".

80. The Commission recalls that Mr. Jumeau advised the Commission that his family owned a Supermarket, Chez Philippe, and that this business was ruined after the parastatal company Seychelles Marketing Board (SMB) instituted a monopoly over imported goods. Mr. Jumeau recalled that at the time, quite a few commodities were not permitted to be imported, which impacted gravely on the success of his family's store. He further stated that the family's car hire business was effectively ruined, as approximately 50 cars had to be sold for basically nothing. While not formally alleged as a violation, the Commission characterises these claims as an additional abuse of office.

81. Regarding the required admissibility nexus to the Coup d'état of 1977, the Commission considers that this claim also falls within its primary temporal mandate, as the economic policies in question were enacted and enforced at least as early as the establishment of the Seychelles Marketing Board (SMB), created in 1985, which started a system of monopolies whereby only SMB could import essential items. The Commission moreover considers that this claim fulfils its thematic mandate as such economic policies were a key aspect of the plans of Albert René, who took power with the Coup d'état in order to make what he saw were improvements to the country. The Commission also finds that the control of the economy was not only used by the Government to establish a socialist system, but was also a means by which the Government punished those business elements in Seychelles that it perceived to be against the Government and the party that had taken power with the Coup d'état of 1977. In this regard, the Commission recalls the evidence it has received in other cases concerning discriminatory application of Government economic policies on political grounds.[29] The Commission therefore finds this violation to be admissible before it.

82. As above, the Commission has considered 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.

83. Regarding the first element, the Commission finds that as the economic policies in question and the institution of SMB were inherently governmental policies, they necessarily entailed the use of the capacity and powers of a public office. For the reasons that follow, the Commission is satisfied that these policies and their application constituted abuses of Government office as they were discriminatory in conception and in application on political grounds.

84. When considering the second element - the restriction of specific rights or freedoms of a person or persons - the Commission recalls that an arbitrary use of such an economic policy used to target specific merchants or parts of the market may violate an individual's rights to equality before the law and equal protection of the law, especially where the basis of such targeting is based on the merchants perceived political opinion.[30] As such, the Commission finds that the discriminatory application of policies restricted the rights of the Jumeau's rights of equality before the law, and freedom of political opinion.

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[29] *See* Case Determination No. 100: Soona Oliaji; Case Determination No. 247: Raymond DeSpeville. *See also* Case No. 247: Raymond DeSpeville, Hearing No. 226 of Friday, 12 November 2021; Basil Soundy, Hearing No. 237 of Tuesday, 30 November 2021. In particular, the Commission notes that the allegations in this case correspond closely to some of those made in Case 100, and reference was made to that case; as such, it approaches the present alleged violation in line with its approach to Case 100.

[30] *See* UDHR, arts. 7, 20.

85. Regarding the third element, that the restriction was in a manner which strays from the proper purpose of the law, the Commission recalls that States are generally free to create whatever monopolies in a given market that they may choose. The Commission notes that the Government represented price control as a benefit to all Seychellois, its impact—which steadily expanded to cover a broad range of goods—was to reduce the choice of goods in Seychelles and to drive some merchants out of business. In this respect, the Commission underscores that price controls did not apply to SMB, it only applied to private merchants. Moreover, the Commission recalls that the Government also took full control of what goods could be imported into the country through the institution of a system of import permits. Pursuant to this system, any person seeking to import any items into Seychelles had to have that import authorised by the Government through the issuance of an import permit by SMB. Without that permit, goods would not be permitted to enter the country.

86. The Commission notes that these practices may have been under the veneer of legality; however, the Commission notes its previous cases in which it found that the policy was only applied to specific merchants, and was invariably underpinned by the "with us or against us" principle which established a system of patronage in Seychelles, whereby those loyal to the party would benefit and those deemed against the party would be subject to systematic forms of discrimination on political grounds. As the Commission finds it more likely than not that the purpose of the practice was to target perceived opposition elements like Mr. Jumeau and his family, the Commission accepts Mr. Jumeau's evidence that his family's businesses, 'Chez Philippe' and the car hire, were effectively ruined by the policies and practices of SMB, which the Commission finds to have been more likely than not discriminatory in nature, and in breach of the rights accepted to form part of customary international law, as listed above. The Commission therefore finds that the third elements of the violation have been established.

87. Turning to the fourth element, the State officials who bear responsibility for the violation in question, the Commission determines that President René again bears primary responsibility as a perpetrator, as the evidence suggests that the above policies were his idea and implemented at his will, as key economic policies enacted by his Government. As the President was acting in his official capacity in this respect, the Commission finds that responsibility for this violation can also be imputed to the State.

88. Therefore, the Commission finds that Mr. Jumeau and his family, as the owners of Chez Philippe and their car hire business, suffered the violation of abuse of office under the TRNUC Act with respect to the ultimate losses of these businesses.

V. RECOMMENDATIONS ON REPARATIONS

89. The Commission recommends that Mr. Jumeau be awarded reparations for the foregoing violations found in accordance with the Commission's Reparations policy.

VI. CONFIRMATION OF KNOWLEDGE OF THE RECORD

90. Each of the undersigned Commissioners swears or affirms that he or she has comprehensively familiarised him or herself with the record in Case 055.

91. 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