

Nation building, perpetrators and the mandate of the Truth, Reconciliation and National Unity Commission

By the Commissioners

On 9 May 2019, when the first five Commissioners were sworn into Office the Honorable Attorney-General, Frank Ally, when addressing the objectives of the Commission in his key-note speech stated:

“Let us not forget that this is about nation building, and not a witch-hunt that could damage the fabric of our society.”

Reflective of the observations made by the Attorney-General are the provisions in the Truth, Reconciliation and National Unity Act that provide for amnesty for perpetrators. The language of the Act is mandatory, the Commission shall grant amnesty to a perpetrator it determines has given a full and frank disclosure and issued a sincere apology to victims.

While for some the amnesty provisions may appear too beneficial to perpetrators the Commission acknowledges that it is those persons who have perpetrated human rights violations in relation to the Coup D'état of 1977 who may have the greatest concern about the Commission's implementation of its mandate and may feel the greatest personal impact. Being named as a suspect by a victim and subsequently determined to be a perpetrator by the Commission following its investigations may have serious reputational effects on that person. Such a finding may also fracture family relationships, particularly when the perpetrator has not previously disclosed those facts to them, and may result in isolation of that person from not just the broader community, but also from those whose support will be paramount at what could be an extremely difficult time.

While the provisions of the Act clearly favor the granting of an amnesty, a perpetrator who does not come forward voluntarily to petition for amnesty, or having been named, refutes allegations later established by the Commission to be true, may face hurdles in establishing the sincerity of a full and frank disclosure and apology subsequently made. Indeed, the failure to take responsibility on initial opportunity may suggest that an amnesty sought thereafter is motivated solely by a desire for self-preservation. A motivation that stands in contrast to the intention of the provisions in the Act.

By contrast, a perpetrator who embraces the opportunity being granted to him or her under the Act and comes forward voluntarily to petition for amnesty may do much to re-establish his or her credibility within Seychelles society. To come forward voluntarily and to tell the truth about one's responsibility for human rights violations at the very least demonstrates a respect for the right of victims to know the truth about what occurred and of their need for closure, at its highest, it may demonstrate regret. Moreover, a perpetrator who has the courage to take responsibility for violations may find forgiveness from those harmed and also, ultimately, his or her own closure. A perpetrator who takes responsibility will be contributing to nation building as the Act intends and not further damaging the fabric of Seychelles society.

The Commission will not witch-hunt but the Commission will identify those responsible for the human rights abuses alleged by complainants. It will make determinations of those complaints and it may publicly name those responsible. While none of the evidence it has gathered may be used in a criminal or civil prosecution the Commission may refer persons who have not successfully petitioned for amnesty to the prosecutorial authorities. The choice is there.