

CONSTITUTIONAL APPOINTMENTS AUTHORITY



IMPARTIALITY



INDEPENDENCE



INTEGRITY

ANNUAL REPORT FOR THE PERIOD 2017 -2018

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A Message from the Chairman



As Chair of the Constitutional Appointments Authority (CAA)

I am pleased to present the CAA's 2017 -2018 Annual Report.

This has been a busy time with Members of the CAA involved in the selections and recommendations of candidates at senior level of the Judiciary, other constitutional appointments and posts prescribed by an Act for appointment by the President.

The CAA was able to fill all the posts within a time frame per post, of two to three months and in some cases before the incumbents vacated the posts.

Alongside this, the CAA has continued its work to develop the Rules of Procedure to effectively deal with complaints of misbehavior against constitutional appointees and provide a speedy response. The CAA's work in considering and assessing complaints has remained challenging but is rewarding and necessary to ensure public confidence.

The CAA has also been privileged to welcome Members who started their terms from the year 2017. I am delighted to have as Members, talented individuals with a diverse range of backgrounds and experiences.

Most importantly, we are all indebted to those who put themselves forward for consideration for appointments for such senior and important positions.

It remains an honour and a privilege to serve as Chair of the CAA.

A handwritten signature in cursive script that reads "michel felix".

Michel Felix
Chairman
Constitutional Appointments Authority

1. INTRODUCTION

The Constitutional Appointments Authority (CAA) is an independent Constitutional body established in 1993 under Articles 139 and 140 of the Constitution of the Republic of Seychelles. Its mandate is to recommend appointments of senior judicial officers, other constitutional appointees and other senior appointments by the President as prescribed in the Constitution or by an Act. It also regulates the conduct of certain constitutional appointees in respect of serious complaints of misconduct which may warrant removal from office. The CAA since 2017 has been further mandated to make recommendations for appointments under various Acts.

The Annual Report provides information on the activities of the CAA and achievements.

2. Vision & Mission

To maintain an effective and efficient CAA in Seychelles to raise the quality and standard of professionalism in respect of posts which the CAA is empowered to make recommendations for appointment and exercise independence and fairness in dealing with complaints which may result in removal from office and contribute to the Rule of Law. Its main functions are to recommend to the President, the appointment of candidates required under the Constitution and Acts; consider complaints against Constitutional appointees for inability to perform their functions or for misbehavior. (Articles 134 and 165 of the Constitution)

3. Core Values

- ❖ Independent-Mindedness
- ❖ Honesty
- ❖ Efficiency
- ❖ Impartiality
- ❖ Dedication to duty
- ❖ Transparency

The Constitutional Appointments Authority acts impartially and conducts its business fairly with the highest degree of professionalism, honesty, and integrity. It evaluates and considers all technical tools to improve its efficiency and simplify procedures.

4. MEMBERS OF THE CAA

The appointment of members of the CAA is in accordance with Articles 139 and 140 of the Constitution. However, until April 2017, the President and the Leader of the Opposition each appointed a member and the third member by the members of the CAA. Mrs. Marie-Ange Hoareau was appointed as the Chairperson until the 24th April 2017. As a result of the amendment to the Constitution of Seychelles (Eight Amendment) the composition of the CAA was increased to five members. Mr. Shelton Jolicoeur was appointed as the Chairman until his resignation in September 2017 and subsequently Mr. Michel Felix was appointed as the new Chairman.

Name	Role	Appointment Date
Mr. Michel Felix	<i>Chairman</i>	29 th September 2017 - to date
Ms. Simone de Comarmond	<i>Member</i>	24 th April 2017 - to date
Mr. Willy Confait	<i>Member</i>	24th April 2017 - to date
Mrs. Marie-Nella Azemia	<i>Member</i>	3 November 2014 - to date
Mrs. Annette Georges	<i>Member</i>	24 th April 2017 - to date



Members of the CAA are appointed for a term of seven years and at the end of a term may be re-appointed for further terms of office.

Subject to the Constitution, the CAA shall not, in the performance of its functions be subject to the direction or control of any person or authority.

5. MEETINGS OF THE CAA

The CAA met some forty eight times in 2017 and 2018 respectively. These exclude the number of days the CAA members met to interview, deliberate and consider the positions for various positions.

6. FINANCIAL SUMMARY

Funding of the CAA is provided for in the annual budget.

The original 2017 budget of SR 646,000 was prepared in 2016 with the Authority at that time consisting of one Chairman, two members and one office staff. In April 2017, the composition of the Authority was increased to five members including the Chairman. The new board found it necessary to revise the 2017 budget which was subsequently increased to SR 1,256,760. This was to take into account for better premises, transport, a Conference table and recruitment of an Executive Secretary to assist with office management, administrative duties and to act as Secretary to CAA. At that time the Authority was operating in very cramped offices, which it had been occupying for over 10 years.

In the 9 months to December 2017, much work was undertaken in putting regulations in place, purchasing new furniture and equipment. Despite our best efforts, it was not possible to either recruit the additional staff or obtain new premises until May 2018.

Consequently, the revised budget was underutilized by SR 257,000 which was retained by the Ministry of Finance.

For the 2018 budget, which had to be prepared in a rush in mid-2017, the CAA gave its utmost attention in preparing a better budget to meet its requirements. The budget of SR 1,932,640 was approved which took into account increased staff cost for the Executive Secretary, revised rent for new and more conducive premises and a motor vehicle. As part of the autonomy granted by Ministry of Finance, the CAA was authorized to manage its budget except for staff wages and allowances. This was welcomed, as it enabled us to have autonomy and to monitor and control effectively all expenditure diligently. This can be viewed as summarized below.

2018 Financial Programmes

	2018 Budget	2018 Budget after Virements	2018 Actuals	2018 Variance
Constitutional Appointments Authority	1,932,640	1,932,640	1,690,186	242,454
Compensation to Employees	478,600	478,600	429,014	49,586
Use of Goods and Services	1,454,040	1,454,040	1,261,172	192,868
Office Expenses	215,640	265,214	202,339	13,301
Transportation and Travel Costs	275,000	149,837	85,150	189,840
Maintenance & Repairs	35,100	130,225	122,865	(87,765)
Materials & Supplies	1,500	4,380	2,053	(553)
Other Uses of Goods and Services	622,300	599,884	546,116	76,184
Minor Capital Outlay	304,500	304,500	302,649	1,851

Salaries, wages and allowances were underutilized by SR 49,586. The Executive Secretary was only recruited in May 2018, but other payments were made, such as 13th month salary SR 14,000, leave pay SR 21,444 and allowance to Information Officer SR 13,500. Virements were made to office expenses to cover cost of advertising which were significant in 2018.

No travel was undertaken by CAA members resulting in underutilization of budgeted funds. Funds were vired to maintenance and repairs to cover refurbishment of new office.

As can be noted, in 2018, the budget was underspent by SCR 242,454 which was refunded to the Ministry of Finance.

Careful monitoring of expenditure will continue to ensure adherence to budget discipline.

7. MAJOR ACTIVITIES

7.1 CAA ORGANIZATIONAL STRUCTURE

It was concurred that the CAA needed a proper organizational structure for its effective operation. Members were given the task to submit proposals taking into account the appointment of an Executive Secretary and moved away from a one person's office.

7.2 RECOMMENDATIONS MADE TO THE PRESIDENT FOR VARIOUS APPOINTMENTS REQUIRED UNDER THE CONSTITUTION OF THE REPUBLIC OF SEYCHELLES AND ACTS OF LAW

Under the practice of the current CAA, the normal procedure established was to advertise the vacant constitutional posts or other posts to give those interested an opportunity to apply. Advertisements were placed on SBC television and radio and in the local newspapers and the CAA's website. In some cases we also advertised on the Commonwealth's website in respect of judicial vacancies. The entire recruitment procedure was reviewed. Candidates were called for interviews. The CAA then deliberated and considered each application on its merit. A detailed selection report was produced and the recommendation for appointment was then submitted to the President.

The following appointments were made by the President on the recommendation of the CAA:

Name	Designation	Appointment Date
Mr. Gamini Herath	as the new Auditor General	from the 31st March 2017
Mr. Ronny Goviden	as Judge of the Supreme Court	from the 31st March 2017
Ms. Laura Pillay	as Judge of the Supreme Court	from the 31st March 2017
Mrs. Nichole Tirant Gherardi	as the new Ombudsman	from the 31st March 2017
Judge Bernadin Renaud	as Justice of Appeal	from the 24th April 2017
Mrs. Luciana Lagrenade	as Member of the Electoral Commission	from the 5th July 2017
Mrs. Veronique Bonnelame Alcindor	as Member of the Electoral Commission	from the 5th July 2017
Judge Fiona Robinson	as Justice of Appeal	from the 6th September 2017
Mr. Frank Ally	as the new Attorney General	from the 12th October 2017
Judge Ellen Carolus	as Judge of the Supreme Court	from the 8th March 2018
His Worship Brassel Adeline	as Master of the Supreme Court	from the 16th July 2018
Mrs. Luciana Lagrenade	as Chairperson of the Electoral Commission	from the 28th July 2018
Ms. Jenny Adrienne, Mr Patrick Joseph Hoareau, Mr Henry Bastienne, Ms Wendy Didon and Mr Norlis Rose-Hoareau	as Members of the Electoral Commission	from the 28th July 2018

The period in question saw other responsibilities for recommending appointments added under various Acts namely

Name	Designation	Appointment Date
Mr. Michel Finley Sadi Felix	as the new Member of the Anti-Corruption Commission	from the 16 th June 2017
Mr. Gerard Lafortune	as Chairperson of the Seychelles Broadcasting Corporation Board	from the 16 th June 2017
Mr. Jean Claude Matombe	as Vice Chairperson of the Seychelles Broadcasting Corporation Board	from the 16 th June 2017
Ms. Angele Low	as Member of the Seychelles Broadcasting Corporation Board	from the 16 th June 2017
Ms. Nisreen Abdulmajid	as the new Member of the Anti-Corruption Commission	from the 16 th June 2017
Ms. Lucy Athanasius	as Chairperson of National Information Services Agency (NISA)	from the 22 nd December 2017
Ms. Rosaline Hoareau	Vice Chairperson of Board of National Information Services Agency (NISA)	from the 22 nd December 2017
Ms. Marie-Reine Hoareau	as Chairperson of the Board of Seychelles Media Commission	from the 22 nd December 2017

Members were unanimous in their recommendations for appointments made to the President. Also to be noted that in 2017 and 2018 appointments were made in respect of all candidates recommended.

7.3 COMPLAINTS AGAINST CONSTITUTIONAL APPOINTEES (ARTICLES 134 AND 165 OF THE CONSTITUTION)

Any person may lodge a complaint against any Constitutional appointee and other appointees under the Constitution or specific Acts. In October 2016 saw the setting up of a Tribunal of Inquiry to investigate complaints against a Judge of the Supreme Court. Following the Tribunal's findings, the Judge was suspended but appealed, whose case will be heard in April 2019 by the Court of Appeal.

Around August/September 2017 a series of complaints were brought against the Chief Justice by the Judge aggrieved. The CAA considered the complaints but as it does not have the power to investigate, as a last resort a Tribunal of Inquiry was appointed to look into whether or not the alleged serious complaints in the conduct of the Chief Justice amounted to misbehavior in terms of Article 134(2) of the Constitution of Seychelles. After hearing and examining all the evidence, the overall conclusion of the Tribunal was that the evidence, either taken piecemeal or as a whole, did not disclose any misconduct or inappropriate conduct on the part of the Chief Justice. It followed that no action should be taken by the President under Article 134 of the Constitution in respect of the office of the Chief Justice.

There were other complaints received from lawyers and members of the public. During 2017, the CAA registered ten complaints and in 2018, six complaints. They were duly assessed and found not to have exhausted the remedies available in the higher court or they did amount to misbehaviour warranting action. In the case of each complaint, the CAA members met with the complainant on a one to one basis in order to discuss the issue at stake.

7.4 PREPARATION OF CAA'S RULES OF PROCEDURE

The CAA started working on putting its rules and regulations in place and since mid 2017; a User's Guide to making complaints against constitutional appointees was formulated which can be downloaded from the CAA website.

A request was made to the Commonwealth Secretariat for a short-term consultancy for preparation of the Rules of Procedure to be adopted for the removal of Constitutional Appointees for inability to perform their functions or for misbehavior. The British High Commissioner was approached for funding of the short-term consultancy. It is to be noted that no Rules or Guidelines were in place for the past 24 years. The Commonwealth Secretariat was instrumental in drafting the rules for the Removal of Constitutional Appointees. Ms. Segametsi Mothibatsela, Legal Adviser of the Rule of Law Section Governance and Peace Directorate Governance and Peace Directorate of the Commonwealth had the opportunity on two occasions to discuss them with members of the CAA.

However, prior to its adoption of the Rules and publication on its website, the CAA is awaiting the outcome of the Court of Appeal's decision in the case of Judge Karunakaran v the CAA in April 2019, in case there is a change in the judgment which may affect the Rules.

7.5 CAA'S LEGAL COUNSEL

In early, 2017, the newly constituted CAA felt it necessary to appoint a legal counsel to provide much needed legal advice, assist with court cases and to be represented in court. Following due procurement process, Attorney Antony Derjacques was selected as Counsel on a retainer basis. He has since 2017, been representing CAA on a number of occasions in court in particular, the constitutional cases instituted against the CAA.

7.6 CAA'S WEBSITE (www.caaseychelles.com)

Expressions of interest with cost for the design were called for the design and development of a website. Design twentyfour was appointed at the quoted price of SCR 25,000. The website was designed and tested. It was launched in November 2017. It provides features such as News and Events, Lodging a Complaint, Frequently Asked Questions, Vacancies and Adverts. It is regularly updated. The website can be visited at www.caaseychelles.com

7.7 BUILDING/PROMOTING RELATIONSHIPS

Meetings were organized with the Ombudsman, CEO Anti-Corruption, Ethics Commission, in 2017, President of the Court of Appeal and the Bar Association in 2018. This was initiated with a view to build up good working relationships on issues of mutual importance, which will continue in 2019 and beyond.

7.8 CONSTITUTIONAL WEEK- 2018

Request was received from the Executive, for a CAA member to serve on the sub-committee for the preparation of the Constitutional week in June 2018, to commemorate 25 years of the existence of our new Constitution. The CAA was asked among many other Government bodies to make a presentation that was duly done on the 13th June 2018 entitled “The Achievements and Challenges of the past 25 years”. The presentation papers can be viewed on our website.

7.9 FACT FINDING MISSION TO SEYCHELLES BY A DELEGATION OF THE SOUTHERN AFRICAN CHIEF JUSTICES’ FORUM

The purpose of the visit of the delegation, led by Chief Justice Peter S. Shivute of Namibia was to affirm the principle of independence, impartiality and accountability of the Judiciary. The meeting enabled the CAA to explain the new procedures for removal of judges from office which embodies the principles of natural justice without jeopardizing the security of tenure of judges.

8. CONCLUSION

Our achievements are testament to the hard work and devotion of the Members of the Authority.

The way forward is to strengthen public trust and confidence in the Constitutional Appointments Authority by deepening understanding of its functions and consolidate its independence, through the institutionalisation of a proper selection procedure, it has been possible to recommend to the President suitably qualified and experienced persons for appointment to senior positions.

However, it is equally important to ensure the proper application of the established rules of procedure to handle complaints and to deal with them fairly.