

Constitutional Reform Commission:

Submission by the Saint Lucia
National Trust

19th March 2009

The Constitution

- Constitution as the supreme law:
- Defines
 - ✓ Political principles
 - ✓ Structures, powers, procedures and duties of government
 - ✓ Guarantees rights, freedoms and obligations
- Reflection of current and future national aspirations

Right to Life

- Most fundamental of all rights
- Chapter 1.2 of current formulation guarantees right to life save in the execution of the sentence of a court.
- Environmental conditions unable to support life constitutes a denial of the right to life and by extension a denial of the Chapter 2.1 provision

Right to life provisions: Commitments

Charter of Civil Society of CARICOM

Article XXIII: Environmental Rights, which states:

- Every person has a right to an environment which is adequate for his or her health and well-being and a corresponding duty to protect, conserve and improve the environment;**
- The State shall take steps to establish environmental standards and monitor compliance with such standards;**

Right to Life Provisions:

- **China:** Everyone shall have a duty to respect the environment and the State shall assure its protection
- **Spain:** Everyone has the right to enjoy an environment suitable for the development of the person, as well as the duty to preserve it;
- **South Africa:** Everyone has the right to an environment that is not harmful to their health or well-being

Related Rights of Future Generations

- **Rights of the living V rights of future generations**
- **Obligations of current generations to future generations**
- **Inclusion of sustainable development provisions as constitutional responsibility of the State**

Sustainable Development commitments

Charter of Civil Society of the Caribbean Community:

- ✓ **Member states determined to “promote economic growth and sustainable development through the wise use of the human and natural resources;**
- ✓ **The States, considering the shared universal responsibility for human survival, shall put in place measures to ensure the protection and improvement of the environment and the conservation and management of its natural resources for the benefit of present and future generations**

Sustainable Development Provisions:

- **South Africa: Everyone has the right:**
 - **To have the environment protected for the benefit of present and future generations through reasonable legislative and other measures that**
 - **Prevent pollution and ecological degradation;**
 - **Promote conservation; and**
 - **Secure ecologically sustainable development and the use of natural resources while promoting justifiable economic and social development**

Sustainable Development Provisions:

- **Spain:**

The public authorities shall concern themselves with the rational use of natural resources for the purpose of protecting and improving the quality of life and protecting and restoring the environment, supporting themselves on an indispensable collective solidarity.

France: Environmental Charter

Obligations:

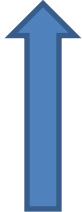
Congo:

- Every individual shall have the duty to contribute to the improvement of the quality of life and the preservation of his natural milieu as well as to the protection of the environment;
- Also, he shall have the duty not to negatively affect his environment nor the well-being of his neighbours

Obligations:

- **Seychelles:**
 - ✓ **The state shall...help preserve a safe, healthy and functioning environment for ourselves and for posterity**
 - ✓ **It shall be the duty of every citizen to protect, preserve and improve the environment**

Public Access to Information on Environmental Conditions

1. Unhealthy environment = threat to life
2. Knowledge  actions to avoid
threats

Therefore: Information reduces threat to life

Public access to information provisions

- **Slovakia: Everyone has the right to timely and complete information about the state of the environment and the causes and consequences of its condition**

Land Ownership Rights and Obligations

- **Environmental threats and land based activities**
- **Government to determine land use**
- **Compensation for change in value due to land use change policies**

Land Ownership Rights and Obligations

- **Ownership comes with a social mortgage to ensure that land use is sustainable and does not negatively impact on neighbours or wider society**

Public Lands

- **Some public lands constitute the national patrimony**
- **Duty of State to protect national patrimony**
- **Duty of State not to dispose of public lands**

Historic Assets

- **Relates to relics, artefacts and other items of historic interest or significance as well as buildings and structures of historic significance**
- **Relics or artefacts are public property**
- **Owners to have a duty to preserve buildings and structures of historic significance**

Historic and Cultural Assets

- **Costa Rica:** The cultural aims of the Republic include: to protect its natural beauty, to preserve and develop the historic and artistic wealth of the nation,
- **Spain:** The public authorities shall guarantee the preservation, and promote the enrichment of the historical, cultural and artistic heritage of the peoples of Spain and the property that makes them up, regardless of their legal status and their ownership.

Historic and Cultural Assets

Provisions

- **Cambodia: The State shall preserve the ancient monuments and artefacts and restore historic sites**
- **Seychelles: The State undertakes to take reasonable steps to ensure the preservation of the cultural heritage and values of the people**

Recommendations:

Constitutional Provisions to:

- ✓ **enshrine a healthy environment as a constitutional right**
- ✓ **Oblige the State to ensure minimum environmental quality**
- ✓ **Oblige the State to provide information on the state of the environment**
- ✓ **Oblige citizens to protect the environment**

Recommendations:

- ✓ **Impose an obligation on the State and the public ensure protect and improve the environment for future generations**
- ✓ **Protection for artefacts and relics either in situ or in collections**
- ✓ **Prevent the State from disposing through sale or other means lands of common heritage or significant public good such as the Queens Chain, mangroves and wetlands**

Advantages and benefits

- Current policies and legislative provisions and international commitments will receive constitutional recognition
- A more comprehensive right to life provision will be assured
- Related obligations of the individual to the State and the citizenry shall be elevated to a constitutional obligation
- The citizenry shall be endowed and provided with locus standi to take action to protect his rights