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PRESIDENT'S REFERENDUM PROPOSAL DOES NOT FOLLOW RULE OF LAW

The Constitution of Seychelles gives all Seychellois citizens the right to participate in national affairs, which includes the right to vote in national elections. LDS will support and promote that right. It is also committed to enabling all Seychellois citizens to exercise that right.

LDS believes however that statements made by President Danny Faure on May 27, 2019, and the referendum proposed to decide whether citizens residing overseas can vote is not in accordance with the Constitution and the law. The proposal is unsound and objectionable simply because it departs from the crucial principle of the Rule of Law. A referendum to decide on an issue of national importance is justifiable but must be organised in conformity with the law.

Citizens of Seychelles living overseas have not been able to vote at will in our elections only because they are disqualified to register as voters under the Elections Act unless they have been issued with a National Identity Card and have resided in an electoral area for at least three months immediately prior to registration. Amendment to the Elections Act and the National Identity Card Act would be sufficient to permit Seychellois overseas residents from registering and voting.

Therefore, Mr. Faure's contention that the issue in question needs to be decided by a Constitutional Amendment through a referendum is wrong. It only requires amendment of the Elections Act and the National Identity Card Act.

While Article 54 of the Elections Act does give the President a prerogative to call for a referendum it only does so when an issue is required to be so decided.

54. Reference of issue to Electoral Commission.

Where any issue is required to be determined at a referendum, the President shall refer the issue to the Electoral Commission for the holding of a referendum.

In the present case it is clearly not. The article of the Constitution (Article 114) which refers to this issue is not one of those provisions which can only be amended by the National Assembly after it has been approved by 60% of votes in a referendum. Article 91 of the Constitution which provides for referendum applies only to Chapter 1 and 3 and articles 110 and 111 of the Constitution.

President Faure has no power to determine that the referendum must be decided by a 60% majority, and the Electoral Commission cannot assume that power. This can only be done by a law.

A referendum can only be directed by an Act, and under Article 85 of the Constitution, it is only the National Assembly which is vested with legislative power. LDS holds that the organisation of a referendum can only be based on a law passed by the National Assembly. Since the power claimed by the President under the Elections Act is not applicable in this instance, the President should bring the matter to the National Assembly.

LDS will be communicating its views on this matter to the Electoral Commission for its urgent consideration.

LDS also has concerns about foreign nationals residing overseas who have been given been given Seychellois citizenship in the past and believes that such issues must be considered in bringing any measures that would allow such persons to exercise the right to vote.

A handwritten signature in cursive script, reading "Roger Mancienne".

Roger Mancienne
Party Leader

May 28, 2019