

National Laws

Legislation of Interpol member states on sexual offences against children

Seychelles

Victoria

The information on this page is up to date as of spring 2006

I. Ages for legal purposes

The age of consent to sexual activity in Seychelles is eighteen (18) years.

The age in child pornography legislation is eighteen (18) years.

Rape/other forms of child sex abuse/child prostitution/child pornography

Chapter XV of the Penal Code Act Cap 158, Sections 130 to 156 & Penal Code (Amendment) Act, 2005 (Act No. 10 of 2005).

Chapter XV – Offences against Morality (sexual assault 2/15/1996)

130.(1) Any person who sexually assaults another person is guilty of an offence and liable to imprisonment for 20 years.

(2) For the purposes of this section "sexual assault "includes –

- a. an indecent assault;
- b. the non-accidental touching of the sexual organ of another;
- c. the non-accidental touching of another with one's sexual organ, or
- d. the penetration of a body orifice of another for a sexual purpose.

(3) A person does not consent to an act which is done without consent constitutes an assault under this section if –

- a. the person's consent was obtained by misrepresentation as to the character of the act or the identity of the person doing the act;
- b. the person is below the age of fifteen years; or
- c. the person's understanding and knowledge are such that the person was incapable of giving consent.

(4) In determining the sentence of a person convicted of an offence under this section the court shall take into account, among other things –

- a. whether the person used or threatened to use violence in the course of or for the purpose of committing the offence;
- b. whether there has been any penetration in terms of subsection (2)(d); or
- c. any other aggravating circumstances.

131. (Repealed by Act 15 of 1996)

132. (Repealed by Act 15 of 1996)

133. Any person who, with intent to marry or carnally know a woman of any age, or to cause her to be married or carnally known by any other person, takes her away, or detains her, against her will, is guilty of a felony, and is liable to imprisonment for seven years.

133A (1) Any person who unlawfully takes an unmarried girl under the age of eighteen years out of the custody or protection of her father or mother or other person having the lawful care or charge of her and against the will of such father or mother or other person, if she is taken with the intention that she may be unlawfully and carnally known by any man whether any particular man or generally, is guilty of a misdemeanor.

(2) It shall be sufficient defence to a charge under this section if it shall be made to appear to the court before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was or above the age of eighteen years.

134. Any person who unlawfully takes an unmarried girl under the age of fifteen years out of the custody or protection of her father or mother or other person having the lawful care or charge of her, and against the will of such father or mother or other person, is guilty of a misdemeanour.

135.(1) A person who commits an act of indecency towards another person who is under the age of fifteen years is guilty of an offence and liable to imprisonment for 20 years.

(2) A person is not guilty of an offence under this section if at the time of the offence the victim of an act of indecency was –

- a. fourteen years old or older and the accused had reasonable ground to believe that the victim was over fifteen years old; or
- b. the spouse of the accused.

136.(1) A person who interferes sexually with another person of the age of fifteen years or older but under the age of eighteen years, referred to in this section as the "victim", who –

- a. is dependent upon, or is under the legal authority of, the first-mentioned person, but is not the spouse of the first-mentioned person; or
- b. is closely related by blood to the first-mentioned person, is guilty of an offence and is liable to imprisonment for 20 years.

(2) For the purposes of this section a person interferes sexually with another person if –

- a. the person commits an act of indecency towards that other person;
- b. the person non-accidentally touches the other person's sexual organ;

- c. the person non-accidentally touches the other person with the person's sexual organ;
- d. the person penetrates any part of the body orifice of the other person for a sexual purpose.

(3) For the purpose of subsection (1), a victim is dependent upon, or is under the legal authority of a person if the person is the guardian of or has control or custody over or care of the victim or was at the time living in the same household as the victim and was in a position of authority over the victim.

(4) For the purposes of subsection (1) a person is closely related to a victim if the person is the father, mother, brother or half-brother, sister or half-sister, grandfather or grandmother of the victim.

137. A person who does an indecent act –
a. in the public view;
b. in a public place in the presence of one or more persons; or
c. in any place, with intent thereby to insult or offend any person,
is guilty of an offence and liable to imprisonment for five years.

138. Any person who –
a. procures or attempts to procure any girl or woman under the age of twenty-one years, not being a common prostitute or of known immoral character, to have unlawful carnal connection, either in Seychelles or elsewhere, with any other person or persons; or
b. procures or attempts to procure any woman or girl to become, either in Seychelles or elsewhere, a common prostitute; or
c. procures or attempts to procure any woman or girl to leave Seychelles, with intent that she may become an inmate of or frequent a brothel elsewhere; or
d. procures or attempts to procure any woman or girl to leave her usual place of abode in Seychelles (such place not being a brothel), with intent that she may, for the purposes of prostitution, become an inmate of or frequent a brothel either in Seychelles or elsewhere,

is guilty of a misdemeanour:

Provided that no person shall be convicted of any offence under this section upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused.

139. Any person who –
a. by threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection, either in Seychelles or elsewhere;
or
b. by false pretences or false representations procures any woman or girl, not being a common prostitute or of known immoral character, to have any unlawful carnal connection, either in Seychelles or elsewhere; or
c. applies, administers to, or causes to be taken by any woman or girl any drug, matter, or thing with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl,

is guilty of a misdemeanour:

Provided that no person shall be convicted of any offence under this section upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused.

140.(1) Any person who, being the owner or occupier of premises or having or acting or assisting in the management or control thereof, induces or knowingly suffers any girl under the age of thirteen years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, is guilty of a felony, and is liable to imprisonment for five years.

(2) Any person who, being the owner or occupier of premises or having or assisting in the management or control thereof, induces or knowingly suffers any girl not under the age of thirteen years but under the age of fifteen years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, is guilty of a misdemeanour.

(3) It shall be a sufficient defence to any charge under this section if it shall be made to appear to the court before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of fifteen years.

141. Any person who detains any woman or girl against her will –
a. in or upon any premises with intent that she may be unlawfully and carnally known by any man, whether any particular man or generally; or
b. in any brothel,
is guilty of a misdemeanour.

When a woman or girl is in or upon any premises for the purpose of having any unlawful carnal connection, or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises or in such brothel, if, with intent to compel or induce her to remain in or upon such premises or in such brothel, such person withholds from such woman or girl any wearing apparel has been lent or otherwise supplied to such woman or girl by or by the directions of such person, such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave such premises or brothel.

142. If it appears to any magistrate, on information made before him on oath by any parent, relative or guardian of any woman or girl or other person who, in the opinion of the magistrate, is acting bona fide in the interests of any woman or girl, that there is reasonable cause to suspect that such woman or girl is unlawfully detained from immoral purposes by any person in any place within the jurisdiction of such magistrate, such magistrate may issue a warrant authorising the person named therein to search for, and, when found, to take to and detain in a place of safety such woman or girl until she can be brought before a magistrate; and the magistrate before whom such woman or girl is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require.

A magistrate issuing such a warrant may, by the same or any other warrant, cause any person accused of so unlawfully detaining such woman or girl to be apprehended and brought before a magistrate and proceedings to be taken for punishing such person according to law.

A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally, and –

- a. either is under the age of fifteen years; or
- b. if she is of or over the age of fifteen years and under the age of eighteen years, is so detained against her will or against the will of her father or mother or of any person having the lawful care of charge of her, or
- c. if she is of or over the age of eighteen years and is so detained against her will.

Any person authorised by warrant under this section to search for any woman or girl so detained as aforesaid may enter (if need be by force) any house, building, or other place mentioned in the warrant, and may remove such woman therefrom.

143. Whoever for purpose of gain –

- a. procures, entices or leads away, fro the purposes of prostitution, another person (even with the consent of that other person); or
- b. exploits, or is an accessory in, the prostitution of another person (even with the consent of that other person), or the illicit carnal connection of two other persons,

is guilty of a misdemeanour.

144. Whoever –

- a. procures, entices or leads away, for purposes prostitution, another person (even with the consent of that other person); or
- b. exploits, or is an accessory in, the prostitution of another person (even with the consent of that other person),

where the person procured, enticed, led away or exploited is less than twenty-one years old at the time of the offence, or is procured, enticed, led away or exploited for the purpose of being sent abroad, or by the use of fraud, deceit, threat, violence or any other means of duress, is guilty of a misdemeanour.

145. (Repealed by Act 15 of 1996)

146. Any person who conspires with another to induce any woman or girl, by means of any false pretence or other fraudulent means, to permit any man to have unlawful carnal knowledge of her is guilty of a felony, and is liable to imprisonment for three years.

147. Any person who, with intent to procure miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing or uses any force of any kind, or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of a felony, and is liable to imprisonment for seven years.

148. Any woman who, being with child, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or uses any force

of any kind, or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of a felony, and is liable to imprisonment for seven years.

149. Any person who unlawfully supplies to or procures for any person any thing whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child, is guilty of a felony, and is liable to imprisonment for three years.

149A. A person shall not be guilty of a felony under section 147, 148 or 149 when a pregnancy is terminated under the Termination and Pregnancy Act.

150. Except as otherwise expressly stated, it is immaterial in the case of any of the offences committed with respect to a woman or girl under a specified age, that the accused person did not know that the woman or girl was under that age, or believed that she was not under that age.

151. Any person who –

- a. has carnal knowledge of any person against the order of nature; or
- b. has carnal knowledge of an animal; or
- c. permits a male person to have carnal knowledge of him or her against the order of nature,

is guilty of a felony, and is liable to imprisonment for fourteen years.

151A.(1) A person who has sexual intercourse with another person of the opposite sex when the person knows that the person and that other person are closely related by blood is guilty of an offence and liable to imprisonment for 3 years.

(2) A person is closely related by blood to another person if –

- a. in the case of a man, the other person is the grand-mother, mother, sister, half-sister, daughter or grand-daughter of the person;
- b. in the case of woman, the other person is the grand-father, father, brother, half-brother, son or grand-son of the person.

152.(1) A person who –

- a. for the purpose or by way of trade or for the purpose of public exhibition or distribution to the public, makes, purchases, hires or has in the persons' possession any indecent material;
- b. for the purposes or by way of trade or for the purpose of public exhibition or distribution to the public conveys, exports or imports, causes to be conveyed, exported or imported or puts in circulation any indecent material;
- c. deals in indecent material or carries on or takes part in any business concerned with the making, producing, hiring, distribution to the public, export, import, public exhibition or circulation of any indecent material;
- d. advertises or makes known by any means whatsoever with a view to assist in the distribution or circulation of or traffick in any indecent material;
- e. publicly sells or exposes for sale any indecent material;
- f. exposes to view in a public place any indecent material;
- g. publicly exhibits, appears, performs or takes part in or assist in any capacity with the public exhibition of any indecent show, entertainment or representation or any show, entertainment or representation tending to corrupt morals,
- h. publishes an indecent material,

is guilty of an offence and liable to imprisonment for five years.

(2) In this section "indecent material" means –

- a. any indecent or obscene writing, photograph, sketch, drawing or picture including whether partly or wholly generated by computer;
- b. any indecent or obscene printed matter, print, painting, poster, drawing, model or cinematographic film or video film, cassette or disc;
- c. any other indecent or obscene object; or
- d. any other object tending to corrupt morals;

"publish" includes, where the indecent material is data stored electronically, transmit the data.

(3) Where any element of any of the offences specified in paragraphs (a) to (d) of subsection (1) is committed in Seychelles the offence the element of which has been committed in Seychelles shall be deemed to have been committed in Seychelles.

(4) A court may –

- a. on the conviction of a person of an offence under this section, order the destruction of the indecent material used in connection with the commission of the offence; or
- b. on the application of the Attorney-General and being satisfied that any indecent material is being or will be used in contravention of this section, but whether or not a person has been convicted of an offence, order the destruction of the indecent material. Material is found shall be presumed, until the owner or person proves the contrary, to be dealing in or carrying on or taking part in a business connected with indecent material contrary to paragraph (c) of subsection (1).

153. A person who, with intent to insult the modesty of a person, utters any word, makes any sound or gesture or exhibits any object intending that the word or sound shall be heard, or that the gesture or object shall be seen, by the other person, or intrudes upon the privacy of the other person is guilty of an offence and liable to imprisonment for one year.

154. A person who solicits another person in a public place for the purposes of prostitution is guilty of an offence and liable to imprisonment for two years.

155.(1) A person who –

- a. keeps or manages, or acts or assists in the keeping or management of a brothel;
- b. being the owner, tenant, lessee or occupier or person in charge of any premises, knowingly permits the premises or any part of the premises to be used as a brothel;
- c. being the owner, lessor or landlord or the agent of the owner, lessor or landlord, of any premises –
 - i. lets out the premises or any part of the premises knowing that the premises or any part of the premises is to be used as a brothel; or
 - ii. is wilfully a party to the continued use of the premises or any part of the premises as a brothel,

is guilty of an offence and liable to imprisonment for three years.

(2) In this section "brothel" means any premises or any part of any premises resorted to or used by any person for the purposes of prostitution or lewd sexual practices.

156. A person who –
- a. procures, entices or leads away, fro the purposes of prostitution, another person;
 - b. knowingly lives wholly or in part on the earnings of prostitution of another person;
 - c. knowingly exploits the prostitution of another person;
 - d. for the purposes of gain, exercises control, direction of influence over the movements or action of another person in a manner as to show that the person is aiding, abetting, encouraging or compelling the prostitution of that other person,
- is guilty of an offence and liable to imprisonment for five years.

**Penal Code (Amendment) Act, 2005 (Act No. 10 of 2005)
An Act to amend the Penal Code Cap 158**

1. This Act may be cited as the Penal Code (Amendment) Act, 2005.
2. The Penal Code is hereby amended as follows –
 - a. in section 5, by repealing in the definition "felony", the words "with death, or",
 - b. by repealing section 20;
 - c. in section 32, by repealing the word "death" and substituting therefore the words "imprisonment for life";
 - d. in section 36, by repealing the words "other than a sentence of death or of corporal punishment";
 - e. in section 37(a), by repealing the words "if of death, fine or corporal punishment" and substituting therefore the words "if a fine".
 - f. in section 45(b), by repealing the word "unlawful" and substituting therefore the words "if a fine";
 - g. in section 54(1) (b) and (2) (b), by repealing the words "People's Assembly"
 - h. in section 58(a), by repealing the word "death" and substituting therefore the words "imprisonment for life";
 - i. in section 59(a)(ii), by repealing the words "offence not punishable by death" and substituting therefore the word "felony";
 - j. in section 115(a), by repealing the words "death or" wherever they appear therein;
 - k. in section 130(1), by repealing the full stop and substituting therefore a colon and the following provisos:

" Provided that where the victim of such assault is under the age of 15 years and the accused is of or above the age of 18 years and such assault falls under subsection (2) (c) or (d), the person shall be liable to imprisonment for a term not less than 7 years and not more than 20 years:

Provided also that if the person is convicted of a similar offence within a period of 10 years from the date of the first conviction, the person shall be liable to imprisonment for a period not less than 14 years and not more than 20 years."

- l. in section 135(1), by repealing the full stop and substituting therefore a colon and the following provisos:

“Provided that where the person accused is of or above the age of 18 years and the act of indecency is of a kind described in subsection 2(c) or (d) of section 130(2) the person shall be liable to imprisonment for a term not less than 7 years and not more than 20 years:

Provided also that if the person convicted of a similar offence within a period of 10 years from the date of first conviction, the person shall be liable to imprisonment for a period not less than 14 years and not more than 20 years.”;

m. in section 136(1), by repealing the full stop and substituting therefore a colon and the following provisos:

“Provided that where the person accused is of or above the age of 18 years the person shall be liable to imprisonment for a term not less than 7 years and not more than 20 years.

Provided also that if the person is convicted of a similar offence within a period of 10 years from the date of the first conviction, the person shall be liable to imprisonment for a period not less than 14 years and not more than 20 years.”;

n. in section 152(1)-

a. by inserting after paragraph (a) the following paragraph:

“(aa) makes, takes or has in the person’s possession without a reasonable excuse an indecent photograph, sketch, drawing or picture of a child;”

b. by inserting after paragraph (f) the following paragraph:

“(ff) willfully or negligently exhibits to a child any indecent material;”