Introduction

1. The combined 6th to 8th National Periodic Report of Mauritius, prepared by the Prime Minister's Office, covers the period 2008 to 2015. The organisation of the present report is in line with the general guidelines of the African Commission on Human and People's Rights regarding the form and content of the periodic reports to be submitted by States Parties.

2. The report highlights the progress made in the implementation of the provisions of the African Charter to enhance the promotion, protection and realisation of the human rights of the people, as well as the implementation of the Concluding Observations, since the last review of Mauritius in 2009. The report is the result of a participatory and collaborative process between the Prime Minister's Office and the relevant stakeholders including other Ministries/Departments, civil society organisations as well as the National Human Rights Institutions.
I GENERAL INFORMATION

A. Demographic, economic, social and cultural characteristics of Mauritius

3.0 The Republic of Mauritius, located in the south-west of the Indian Ocean, consists of the islands of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia and any other island comprised in the State of Mauritius. The two main islands are the Island of Mauritius (1,865 sq km) and the Island of Rodrigues (104 sq km). The Republic of Mauritius has a population of about 1.3 million with an estimated resident population of 1,219,659 in Mauritius and 41,788 in Rodrigues as at end 2014. Mauritius does not have an indigenous population.

B. Constitutional, Political and Legal structure of Mauritius

The Constitution

4.0 The Constitution of Mauritius, a written document bequeathed to Mauritius by an Order-in-Council of the British Government at the time of independence in 1968, is based on the Westminster model and rests on two fundamental tenets which are the rule of law and the principle of separation of powers. Section 1 of the Constitution provides that the Republic of Mauritius shall be a “sovereign democratic State”, this being in consonance with the fundamental rights and freedoms guaranteed under Chapter II of the Constitution which is largely inspired from the European Convention on Human Rights. Those fundamental rights and freedoms include the right to life, the right to personal liberty, protection from slavery and forced labour, protection from inhuman treatment, protection from deprivation of property, protection of the law, freedom of conscience, freedom of expression, freedom of assembly and association, freedom of movement, protection for the privacy of home and other property and protection from discrimination.

The political structure of Mauritius

5.0 The country obtained its independence from Great Britain on 12 March 1968. Her Majesty the Queen of Great Britain was the Head of State until 1992 when Mauritius became a Republic. The country is a parliamentary democracy led by the Prime Minister as the Head of Government. The Head of State is the President of the Republic who is elected by a majority of the members of the National Assembly on a motion of the Prime Minister.
The State of Mauritius holds free and fair national and local elections at regular intervals. The conduct of these elections is supervised by an independent Electoral Supervisory Commission. The National Assembly consists of 70 members of whom 62 are elected in accordance with the first-past-the-post system and the remaining 8 are allocated seats from among the best losers at general elections on a community and party basis, in order to ensure a fair and adequate representation of each community.

6.0 In 2002, provision was made for a decentralised form of Government in the island of Rodrigues by setting up the Rodrigues Regional Assembly which is responsible for the formulation and implementation of policy for specified matters in relation to Rodrigues (such as agriculture, child development, employment, environment and tourism). Members of the Rodrigues Regional Assembly are elected by citizens of Mauritius who are residents of Rodrigues.

7.0 Regional Assembly Regulations may be made by the Rodrigues Regional Assembly and such regulations will have effect only in Rodrigues. Like other regulations, they will be subject to a negative resolution by the Parliament of Mauritius pursuant to section 122 of the Constitution. Section 31(7) of the Rodrigues Regional Assembly Act would apply in so far as negative resolution is concerned.

8.0 Rodrigues Regional Assembly law may also be adopted in relation to its areas of responsibility and shall apply only to Rodrigues. The draft law has first to be transmitted by the Chief Commissioner of Rodrigues to the Minister who holds the portfolio for Rodrigues. Thereafter, Cabinet will have to give its approval for the Bill to be introduced in Parliament for its enactment in accordance with the relevant Standing Orders.

**THE JUDICIAL SYSTEM**

9.0 The judicial system of Mauritius is based on the British adversarial system and comprises of a single-structured judicial system made up of the Supreme Court and subordinate courts. The Supreme Court has various divisions exercising jurisdiction such as the Master’s Court, the Family Division, the Commercial Division, the Criminal Division, the Mediation Division and the Court of first instance in civil and criminal proceedings, the appellate jurisdiction (to hear and determine civil & criminal appeals from decisions of the subordinate courts), the Court of Civil Appeal and the Court of Criminal Appeal (to hear and determine appeals from decisions of the Supreme Court sitting in the exercise of its original jurisdiction in civil matters and in criminal matters respectively). The subordinate courts
consist of the Intermediate Court, the Industrial Court, the District Courts, the Bail and Remand Court and the Court of Rodrigues.

**THE SUPREME COURT**

10.0 The Supreme Court is composed of the Chief Justice, the Senior Puisne Judge and Puisne Judges. It is vested with all the powers and jurisdiction necessary to apply the laws of Mauritius. It is a superior Court of Record and has unlimited jurisdiction to hear and determine any civil and criminal proceedings. It has the same original jurisdiction as the High Court in England and is vested with all the necessary powers and authority to exercise its equitable jurisdiction as a Court of Equity. The Supreme Court also exercises supervisory jurisdiction over subordinate courts in order to ensure that justice is duly delivered by those courts. It has the sole power to determine whether any provision of the Constitution has been contravened, including the power to determine whether any law made by Parliament is void on the ground that it contravenes the provisions of the Constitution. It is also empowered to safeguard the enforcement of the protective provisions entrenched in the Constitution.

**Civil Jurisdiction of the Supreme Court as Court of first instance**

11.0 The Supreme Court hears and determines:-
(i) any civil matter, although it will generally entertain and hear claims where the matter in dispute is of the value which is more than Rs 500,000; (ii) divorce and matrimonial proceedings; (iii) petitions for insolvency, and all matters of a commercial nature; (iv) admiralty matters; and (v) claims for Constitutional relief.

12.0 All civil proceedings are heard and determined by a single Judge, unless otherwise provided for under any written law, or as may be decided by the Chief Justice, having regard to the interest at stake, or to the importance or intricacy of the questions of fact or law involved. The Supreme Court, in the exercise of its civil jurisdiction, has the power and jurisdiction to hear and determine any complaint of a disciplinary nature, brought up by any of the authorities or bodies exercising powers of supervision over the professional conduct of law practitioners or ministerial officers.
The Family Division of the Supreme Court

13.0 The Family Division of the Supreme Court was set up administratively in January 2008. It exercises jurisdiction in any matter under the Divorce and Judicial Separation Act or under any other enactment which relates to alimony, maintenance, or the custody or guardianship of minors, other than a matter which is under an enactment within the exclusive jurisdiction of a Magistrate. Two Puisne Judges, designated by the Chief Justice, are posted in that division.

The Commercial Division of the Supreme Court

14.0 The Commercial Division of the Supreme Court was set up administratively in 2009. Two Puisne Judges, designated by the Chief Justice, sit in that division. It entertains, hears and determines matters arising under the Insolvency Act 2009 and the Companies Act; disputes relating to banking, bills of exchange, offshore business, patents, and trademarks; and generally anything which is of a commercial nature.

The Master’s Court

15.0 The Master’s Court is presided by the Master and Registrar and the Deputy Master & Registrar. It exercises the jurisdiction conferred upon it by the ‘Code Civil Mauricien' in relation to succession and division of immovable property and by the Sale of Immovable Property Act. The Master’s Court also deals with and rules upon all pre-trial issues for civil cases lodged before the Supreme Court.

The Mediation Division

16.0 Two Puisne Judges are currently in post at the Mediation Division. The Chief Justice may upon the application of any party, refer a civil suit, action, cause or matter pending before the Supreme Court to the Mediation Division. The primary purpose of mediation is to dispose of the civil suit, action, cause or matter by a common agreement or to narrow down the issues in dispute.

The Criminal Division of the Supreme Court (Assizes)

17.0 The Supreme Court in the exercise of its criminal jurisdiction has the power to try any person charged with having committed a crime or a misdemeanour. Assizes and serious drug cases are heard on a daily basis at the Criminal Division of the Supreme Court.
(Assizes). Criminal trials are either held before a Presiding Judge and a jury consisting of 9 persons who are qualified to serve as jurors or before a Presiding Judge without a jury. Offences laid down under the Criminal Code falling under the exclusive jurisdiction of the Supreme Court are tried at the Criminal Division before a Presiding Judge and a jury. However, offences specified in the Fifth Schedule to the Criminal Procedure Act are tried before a Presiding Judge without a jury.

**Appellate jurisdiction of the Supreme Court**

18.0 The Supreme Court has full powers and jurisdiction to hear and determine all appeal cases, whether civil or criminal, from the decision of - (i) the Judge in Chambers; (ii) the Master’s Court; (iii) the Intermediate Court; (iv) the Industrial Court; (v) the District Courts and (vi) a body established under any other enactment. Appeals to the Supreme Court are heard before at least two judges, except as otherwise provided for in any other enactment.

**The Court of Civil Appeal**

19.0 The Court of Civil Appeal is a division of the Supreme Court. It hears and determines all appeals from the decisions of the Supreme Court sitting as the Court of first instance in civil proceedings. It is constituted of two or three Judges, as the Chief Justice may decide. Where the Chief Justice is absent or is for any reason unable to sit on the Court of Civil Appeal, the Senior Puisne Judge, presides over the Court of Civil Appeal.

**Court of Criminal Appeal**

20.0 The Court of Criminal Appeal is a division of the Supreme Court. It constitutes of three Judges and has full power to hear and determine all appeals from the decisions of the Supreme Court sitting as the Court of first instance in criminal proceedings. The Chief Justice and in his absence the Senior Puisne Judge, presides over the Court of Criminal Appeal.

**THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL**

21.0 The Judicial Committee of the Privy Council is the final court of appeal of Mauritius. An appeal shall lie from decisions of the Court of Appeal or of the Supreme Court, to the Judicial Committee, as of right in the following cases - (i) final decisions in any civil or
criminal proceedings and on questions as to the interpretation of the Constitution; (ii) where the matter in dispute is of the value of Rs 10,000 or upwards or where the appeal involves directly or indirectly a claim to or a question respecting property or a right of the value of Rs 10,000 or upwards; (iii) final decisions in proceedings under section 17 of the Constitution for the enforcement of protective provisions; (iv) with leave of the Supreme Court, where in the opinion of the Court the question involved in the appeal is one that by reason of its great general or public importance or otherwise ought to be submitted to the Judicial Committee of the Privy Council.

SUBORDINATE COURTS

The Intermediate Court

22.0 The Intermediate Court is established under the Courts Act and has islandwide civil and criminal jurisdiction, including Rodrigues. It consists of two Presidents, two Vice-Presidents and any such number of Intermediate Court Magistrates established under the Civil Establishment Order.

23.0 The Intermediate Court has jurisdiction in all civil cases where the claim or matter in dispute, whether in balance of account or otherwise, does not exceed Rs 500,000. The bench of the Intermediate Court is constituted of one or more Magistrates, as may be decided by the President.

24.0 The Intermediate Court has jurisdiction to hear and determine serious criminal offences provided under specific sections of the Criminal Code and any other offence that can be tried by the Intermediate Court under any other enactment. It has power to inflict penal servitude on convicted offenders for a period not exceeding fifteen years and imprisonment for a period not exceeding ten years. However, for persistent offenders, the Intermediate Court may increase the sentence to twenty years’ penal servitude. The Intermediate Court is also empowered to inflict a higher sentence for offences under the Dangerous Drugs Act and the Criminal Code.

The Industrial Court

25.0 The Industrial Court consists of a President and a Vice-President. Established under the Industrial Court Act, it has exclusive civil and criminal jurisdiction to try any matter arising out of the Employment Rights Act, Employment and Training Act, Export Processing
District Courts

26.0 There are ten District Courts in Mauritius and one in Rodrigues. The District Courts have jurisdiction to try and determine both civil and criminal cases as provided for by the law. Each District Court is presided by a District Magistrate and any such number of District Magistrates as may be decided by the Chief Justice. The District Court has power and jurisdiction to hear and determine criminal cases punishable by a term of imprisonment not exceeding five years and a fine not exceeding Rs 100,000. The District Court has jurisdiction in all civil cases where the claim or matter in dispute does not exceed Rs 50,000. Conversely, District Magistrates have exclusive jurisdiction in landlord and tenant disputes, irrespective of the amount of the claim for non-payment of rent.

27.0 By virtue of the Protection from Domestic Violence Act, Court Officers are entrusted with the duty of receiving and processing applications for a Protection Order from an aggrieved spouse and from persons living under the same roof, who may be victims of domestic violence. District Magistrates are empowered to hear and determine such applications and to issue Protection Orders where the Court is satisfied that there is a serious risk of harm to the applicants. District Magistrates are also empowered to receive and determine applications for the issue of Occupation Orders and Tenancy Orders. Such orders confer upon the victims of domestic violence the exclusive right to the use and occupation of the conjugal common house.

28.0 The Small Claims Procedure was introduced in 1999 to enable District Courts to adjudicate on minor claims not exceeding Rs 25,000 in a summary and expeditious manner. Such claims are lodged by the litigants themselves after filling in a prescribed form which is served on the adverse parties. Both parties are convened before the Magistrate in Chambers to resolve the dispute. In the event there is no agreement between the parties, the matter is set down for trial. It is to be noted that such cases are disposed of by this method of conflict resolution rather than through a trial process.

29.0 District Magistrates also exercise jurisdiction as Magistrate of the Juvenile Court. The Juvenile Court tries young persons suspected of having committed criminal offences. The Juvenile Court also deals with children who are beyond parental control and/or who need care and protection.
30.0 The Bail and Remand Court (BRC) established under the Bail Act, has exclusive jurisdiction with regard to remand or release of persons charged with an offence or arrested on reasonable suspicion of having committed an offence, and also operates on weekends and public holidays to safeguard the constitutional rights of detainees. The BRC is presided over by a District Magistrate and is located at the New Court House in Port Louis.

31.0 In Rodrigues, justice is administered by a full-time Magistrate and a visiting Judge of the Supreme Court. A Magistrate also visits the other smaller islands, such as Agalega, which forms part of the Republic of Mauritius, whenever required.

E-JUDICIARY

32.0 The Judiciary has, since April 2010, embarked on the development and implementation of an electronic filing of cases and an electronic case management system. The programme has materialised with the help of Investment Climate Facility for Africa (ICF) which made a grant of 75% of the project costs, the remaining 25% is being funded by the Government.

33.0 Phase I of the project concerns cases lodged before the Supreme Court (Commercial & Civil cases) and before the Judge in Chambers. The launching of the first phase on a pilot basis has taken place in April 2013 at the Commercial Division of the Supreme Court. The system will be extended to other divisions of the Supreme Court with the exception of the Family Division and the Criminal Division. These divisions as well as all subordinate courts will be taken on board in phase II of the Modernisation of the Judiciary programme.

INSTITUTE FOR JUDICIAL AND LEGAL STUDIES

34.0 The Institute for Judicial and Legal Studies was set up under the Institute for Judicial and Legal Studies Act. The Institute for Judicial and Legal Studies Act was passed in the National Assembly on 27 July 2012. The Institute seeks to promote proficiency among law practitioners and legal officers and in the delivery of court services in general and the maintenance of standard in the Judiciary. This is done through the organisation and provision of Continuing Professional Development programmes, i.e continuous training courses, seminars and workshops, for the benefit of existing and prospective law practitioners and legal officers.
II GENERAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. Acceptance of International Human Rights Norms

35.0 The Republic of Mauritius is party to the following international instruments related to human rights:

I- Human Rights Conventions

<table>
<thead>
<tr>
<th>Treaty/Convention</th>
<th>Date of signature</th>
<th>Date of ratification(r)/accession (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Covenant on Civil and Political Rights (CCPR)</td>
<td>-</td>
<td>12 December 1973 (a)</td>
</tr>
<tr>
<td>Optional Protocol to the International Covenant on Civil and Political Rights (CCPROP-1)</td>
<td>-</td>
<td>12 December 1973 (a)</td>
</tr>
<tr>
<td>International Covenant on Economic, Social and Cultural Rights (CESCR)</td>
<td>-</td>
<td>12 December 1973 (a)</td>
</tr>
<tr>
<td>International Convention on the Elimination of all Forms of Racial Discrimination (CERD)</td>
<td>-</td>
<td>30 May 1972 (a)</td>
</tr>
<tr>
<td>International Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)</td>
<td>-</td>
<td>09 July 1984 (a)</td>
</tr>
<tr>
<td>Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW-OP)</td>
<td>11 November 2001</td>
<td>31 October 2008 (r)</td>
</tr>
<tr>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)</td>
<td>-</td>
<td>09 December 1992 (a)</td>
</tr>
<tr>
<td>Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT-OP)</td>
<td>-</td>
<td>21 June 2005 (a)</td>
</tr>
<tr>
<td>Convention on the Rights of the Child(CRC)</td>
<td>-</td>
<td>26 July 1990 (a)</td>
</tr>
<tr>
<td>Treaty</td>
<td>Date of signature</td>
<td>Date of ratification (r)/accession (a)</td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
<td>-------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>Convention on the Rights of Persons with Disabilities (CRPD)</td>
<td>25 September 2007</td>
<td>08 January 2010 (r)</td>
</tr>
</tbody>
</table>

**II- Other Multilateral Treaties**

<table>
<thead>
<tr>
<th>Treaty</th>
<th>Date of signature</th>
<th>Date of ratification (r)/accession (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Hague Convention on the Civil Aspects of International Child Abduction</td>
<td>-</td>
<td>23 March 1993 (a)</td>
</tr>
</tbody>
</table>

**III- Regional Human Rights Instruments**

<table>
<thead>
<tr>
<th>Treaty</th>
<th>Date of Signature</th>
<th>Date of ratification/accession</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa</td>
<td>29 January 2005</td>
<td>-</td>
</tr>
</tbody>
</table>
### IV- International Humanitarian Law Instruments

<table>
<thead>
<tr>
<th>Treaty</th>
<th>Date Signed/ Acceded / Succeeded</th>
<th>Domestic Legislation enacted</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. The Four Geneva Conventions and their Protocols</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. <strong>1949 Geneva Convention I</strong> for the Amelioration of the conditions of the Wounded and Sick in the Armed Forces in the Field</td>
<td>Succeeded on 18 August 1970</td>
<td>Geneva Conventions Act</td>
</tr>
<tr>
<td>2. <strong>1949 Geneva Convention II</strong> for the Amelioration of the condition of the Wounded and Sick and Shipwrecked members of the Armed Forces at Sea</td>
<td>Succeeded on 18 August 1970</td>
<td>Geneva Conventions Act</td>
</tr>
<tr>
<td>3. <strong>1949 Geneva Convention III</strong> relative to the Treatment of Prisoners of War</td>
<td>Succeeded on 18 August 1970</td>
<td>Geneva Conventions Act</td>
</tr>
<tr>
<td>4. <strong>1949 Geneva Convention IV</strong> relative to the Protection of Civilian Persons in Time of War</td>
<td>Succeeded on 18 August 1970</td>
<td>Geneva Conventions Act</td>
</tr>
<tr>
<td><strong>B. The Biological Weapons Conventions</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction</td>
<td>Signed on 10 April 1972</td>
<td>Biological and Toxin Weapons Convention Act</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>D.</td>
<td><strong>The CCW and its Protocols</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td><strong>1980 Convention on Prohibitions or Restrictions on the Use of Certain conventional Weapons</strong> which may deemed to be Excessively Injurious or to Have Indiscriminate Effects</td>
<td>Acceded on 6 May 1996</td>
<td>Draft Bill under consideration</td>
</tr>
<tr>
<td>2.</td>
<td><strong>1980 Protocol I</strong> on the Non-Detectable Fragments</td>
<td>Acceded on 6 May 1996</td>
<td>Draft Bill under consideration</td>
</tr>
</tbody>
</table>
| E. | **The Ottawa Treaty**  
**1972 Ottawa Convention on the prohibition of the Use of Stockpiling, Production and Transfer of Anti-Personnel Mines and on their destruction** | Acceded on 24 December 2002 | Anti-Personnel Mines (Prohibition) Act |
Ratified on 5 March 2002 | International Criminal Court Act |
### G. The Convention on the Rights of the Child

**The 2000 Optional protocol on the involvement of children in armed conflict**

- **Signed on** 11 November 2001
- **Ratified on** 12 February 2009

### H. Convention for the Protection of Cultural property in the event of Armed Conflict

- **Ratified on** 22 December 2006
- **Draft Amendment Bill under preparation**

### B. Legal Framework for the Protection of Human Rights at the National Level

36.0 Fundamental human rights and freedoms of the individual are entrenched in Chapter II of the Constitution of Mauritius. The Constitution makes provision under section 17 for redress to be afforded by the Supreme Court to any individual whose rights under Chapter II have been, are being or are likely to be contravened.

#### National legislations

37.0 New law have also been enacted since the last review of Mauritius to better guarantee the protection of human rights. These include the following:

(i) The **Combating of Trafficking in Persons Act**, which was proclaimed on 30 July in 2009, has amongst its main objectives to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in persons, prevent and combat trafficking in persons, and protect and assist victims of trafficking. It provides for repatriation of victims of trafficking, and return of victims of trafficking to Mauritius, as well as compensation to victims of trafficking.

(ii) The **International Criminal Court Act**, which came into force on 15 January 2012, provides for the effective implementation of the Rome Statute of the International Criminal Court in Mauritius, ensures the fulfilment of the obligations of Mauritius under the Statute and provides for the jurisdiction of the Mauritian Courts to try persons charged with international crime. It lays down the procedure...
for the surrender of persons to the International Criminal Court and for other forms of cooperation with that body.

(iii) The **Equal Opportunities Act**, which was proclaimed on 1 January 2012, ensures better protection against discrimination as it prohibits both direct and indirect discrimination on the grounds of age, caste, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation. The Equal Opportunities Act applies to employment activities, education, provision of goods and services, accommodation, the disposal of immovable property, companies, partnerships, “sociétés”, and registered associations, clubs and access to premises which the public may enter or use and sports. It also applies to both the public and private sectors and includes within its ambit sexual harassment. Discrimination by victimisation is also prohibited.

(iv) The **Protection of Human Rights (Amendment) Act** which was passed in 2012 has reviewed the functions of the National Human Rights Commission (NHRC) so as to enhance its role as a key institution in the protection and promotion of human rights at the national level and also provide for the setting up, within the NHRC, of a Human Rights Division, a Police Complaints Division and a National Preventive Mechanism Division. The functions of the Commission equally include the promotion of the harmonisation of national legislation and practices with the international human rights instruments to which Mauritius is a party, and ensuring their effective implementation.

(v) The **Police Complaints Act** which was passed in 2012 provides for the setting up, within the NHRC, of a Police Complaints Division which investigates into complaints made against members of the Police Force, other than allegations of corruption and money laundering. Provision is equally made for the Division, upon completion of an investigation, to make recommendations to the relevant authority for appropriate action to be taken, including the institution of criminal or disciplinary proceedings or award of compensation. The Division can also investigate into the death of a person occurring in police custody or as a result of police action and advise on ways in which any police misconduct may be addressed and eliminated.
(vi) Similarly, the National Preventive Mechanism Act of 2012 aims at giving effect in Mauritius to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It provides for the setting up, within the NHRC, of a National Preventive Mechanism Division and enables the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to discharge its functions under the Optional Protocol in Mauritius. The National Preventive Mechanism Division which is chaired by a Vice-Chairperson mainly sensitises prisons officers on the need for a human rights approach towards detainees, during meetings and visits to Prisons. The Istanbul Protocol is used as a reference document and source of materials for training. Furthermore, the National Preventive Mechanism Division conducts thorough investigations into allegations of violence against detainees.

(vii) The Legal Aid Act was amended in 2012 and is now known as the Legal Aid and Legal Assistance Act. It extends the provision of legal assistance to accused parties not only at trial stage but as from the earliest stages of criminal proceedings.

(viii) The Criminal Code was amended in 2012 to provide for the termination of pregnancies in specified circumstances, namely where: (a) the continued pregnancy will endanger the pregnant person’s life, (b) the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant person, (c) there is a substantial risk that the continued pregnancy will result in a severe malformation, or severe physical or mental abnormality of the foetus as assessed by the appropriate medical specialists or (d) the pregnancy has not exceeded its fourteenth week and results from a case of rape, sexual intercourse with a female under the age of 16 or sexual intercourse with a specified person which has been reported to the police or a medical practitioner. Consequential amendments have also been brought to the Medical Council Act.

(ix) The Criminal Appeal Act was amended in 2013 with a view to enabling the referral of convictions of accused parties in specific cases to the Court of Criminal Appeal for a review of the proceedings relating to the conviction. In fact, a person convicted before the Supreme Court may apply for the review of the proceedings relating to his conviction. The Act now provides for the Director of Public Prosecutions (DPP) to be able to make an application for review of the proceedings relating to an acquittal. Furthermore, the Human Rights Division of the National Human Rights Commission may, upon application made to it by a person or his
representative, refer the conviction to the Court for a review of the proceedings relating to the said conviction. The referral is however subjected to the conditions as laid down under Section 19A of the Act.

Where the Court is satisfied that there is (a) fresh and compelling evidence in relation to the offence or a lesser offence; and (b) it is likely that the retrial will be fair, having regard to the circumstances, including the length of time since the offence is alleged to have been committed, the court has the power to (a) grant the application, (b) quash the conviction or acquittal; (c) order that the person be retried for the offence for which he was originally charged or a lesser offence; and/or (d) may make such other order as it considers appropriate, as the case may be.

(x) The **Criminal Procedure Act** was amended in 2007 to allow persons convicted of mandatory minimum sentences to apply for the review of their sentence before the Supreme Court. Over and above the provisions of this Act, the Supreme Court also hears appeals on review of sentences. One of the authority judgments in this matter is the case of **Dookee Ajay v State of Mauritius (2011 PRV 26)** wherein the Judicial Committee of the Privy Council held that the period spent on remand should be taken into account for the purposes of sentencing. There are several other cases which have now applied this principle. The case of **Sudason v The State of Mauritius (2014 SCJ 44)** is one of them. In this case the court applied the reasoning adopted in the case of **Dookee Ajay v State of Mauritius (2011 PRV 26)** and granted that 80% of the time spent on remand was to be deducted from the sentence.

In the recent case of **Luchun D. v The State of Mauritius and Anor (2015 SCJ 254)**, the court took the view that 100% of the time spent on remand should be reckoned as part of the sentence. The court held in this case that “the relatively old age of the applicant taken together with his failing health and the fact that his wife has a severe medical condition (as per paragraph 18 of applicant’s affidavit) which must surely have an effect on the practical exercise of the right to visit, we are of the view that there is sufficient evidence on record to justify us to exercise our discretion to grant a 100% discount for the time that the applicant has spent on remand.” However it may be noted that the issue of whether the period spent in remand should as a rule be reckoned as served sentence or not, is presently before the Judicial Committee in the case of **Liyakkat A. Polin**.
Case Law - Judicial Committee of the Privy Council cases

38.0 Some of the main judgements delivered by the Judicial Committee of the Privy Council and of the Supreme Court in relation to the protection of Civil and Political Rights, since the last review of Mauritius, are summarised as follows:-

Dhooharika (Appellant) v The Director of Public Prosecutions (Respondent) [2014] UKPC 11

This is a case brought before the Privy Council. The appellant was convicted by the Supreme Court for a charge of ‘scandalising the court’. The salient issues in the case was whether a charge as such ought to exist in Mauritius, whether this charge is currently compatible with Section 12 of the Constitution for freedom of expression and whether the appellant received a fair trial where the hearing was decided predominantly by way of affidavits.

The Judicial Committee held that the charge does still exist in many Commonwealth countries and is currently necessary for the administration of Justice in Mauritius. Reliance was placed on Lord Steyn’s opinion suggested in the case of Ahnee v DPP [1999] 2 AC 294 wherein it was decided that the application of the offence was narrowly defined for the need within a democratic society for public scrutiny of the conduct of judges. Further, the burden is on the prosecution to prove beyond reasonable doubt that such statements made by the perpetrator were absent of good faith. The Board of the Privy Council also noted that that the European Court of Human Rights has not declared the existence of the offence incompatible with Article 10 of the European Convention on Human Rights, namely, that the restrictions on free speech are proportionate [De Haes and Gijsels v Belgium (1998) 25 EHRR 1 and Zugic v Croatia (no. 36/09, 31 May 2011).

On the issue as to whether the appellant in this case received a fair trial in accordance with Section 12 of the Constitution, the Board of the Privy Council decided in the negative on the basis that it was appropriate in certain circumstances to take summary action instead of utilising the classic form of trial. In this instance the Board took the view that the appellant was as a matter of practical fact, deprived of his right to call oral evidence on his own behalf.
Hassen Eid-En Rummun v The State of Mauritius [2013] UKPC 6

This is a case brought before the Privy Council to consider whether the appellant’s constitutional right [Section 10(1) of the Constitution] to have had his criminal case heard within a reasonable time and whether the inordinate delay should have been a consideration when sentencing the appellants.

The Board of the Privy Council affirmed Lord Bingham’s opinion in the case of Dyer v Watson [2004] 1 AC 379 wherein the Court is required to look at the reasonableness of the period taken to complete the hearing of a criminal case. The test is as follows: 1) the complexity of the case; 2) the conduct of the defendant; 3) the manner in which the case has been dealt with by the administrative and judicial authorities.

The Board remitted the case back to the Supreme Court as it was viewed that same is better placed to consider the above factors when sentencing the appellant if there had not been delay and how much, if at all, that the range should be adjusted to reflect the violation of the appellant’s constitutional right to a trial within a reasonable time.

Joseph Steward Celine v The State of Mauritius [2012] UKPC 32

This is a case brought before the Privy Council to decide whether the appellant was deprived of his constitutional right [Section 10(1)] to have his criminal case be heard within a reasonable time. The Board of the Privy Council considered the offence upon which appellant was convicted, namely, act of forgery and making use of forged documents, the length of delay in reaching a judgement and the number of occasions the Prosecuting Authorities had adjourned the matter, concluded that the sentence should accordingly be reduced to reflect proportionately the appellants breach of his constitutional right under Section 10(1) of the Constitution to have his case heard in a reasonable time. The Board of the Privy Council also noted that the delay caused in this case did not result in an unfair hearing to the appellant which would have required for his conviction to be quashed.

Dany Sylvie Marie & Dhojaven Vencadsamy & ors v Electoral Commissioner & ors [2010] PRV70

Dissatisfied with the judgment delivered in the case of Marie D S & Ors v The Electoral Commissioner & Ors [2010] SCJ 138, members of Rezistans ek Alternativ applied for special leave to appeal before the Judicial Committee of the Privy Council. The Judicial Committee of the Privy Council refused leave on the ground that it had no jurisdiction to
hear an appeal from the decision of *Marie D S & Ors v The Electoral Commissioner & Ors [2010] SCJ 138*. In a nutshell, it held that insofar as paragraph 4(4) of the First Schedule to the Constitution expressly provided that there could be no appeal from the determination of the Judge[s 81(5) of the Constitution] could not be of any assistance to the Appellant in its argument that the Judicial Committee of the Privy Council had jurisdiction. It also held that, even if for argument sake it was accepted that the Judicial Committee of the Privy Council had the required jurisdiction in the present case, leave would not have been granted for two reasons: (i) the Appellant had not exhausted the remedies available to it in Mauritius, namely an application by way of Plaint with Summons and (ii) the Judicial Committee cannot pronounce itself on what are or on what may be issues of constitutional importance without having the benefit of the opinion of the Supreme Court or the Court of Appeal.

**The Director of Public Prosecutions v A. A. Bholah (2010 PRV 59)**

In this case, the respondent was charged with the offence of money laundering in breach of 17(1)(b) and 19 of the Economic Crime and Anti-Money Laundering Act 2000 (ECAMLA). It was contended by the Appellant that that section 17(7) of the ECAMLA was not repugnant to the fair trial provisions of section 10 of the Constitution in as much as the prosecution was not required to particularise and prove the precise offence said to have generated the proceeds of crime in a prosecution for money laundering. It was held by the Judicial Committee of the Privy Council that proof of a specific offence is not required for a prosecution for money laundering and that suspicion that the property represents a benefit deriving from criminal conduct is sufficient. It was further held that a failure to identify and prove a specific offence as the means by which the unlawful proceeds were produced is not a breach of section 10(2)(b) of the Constitution and that section requires that the nature of the offence of which the accused person must be informed is that with which he is charged.

**State v Khoyratty Abdool Rachid (2006 MR 210)**

The Privy Council in that case had to consider whether section 5(3A) of the Constitution and section 32 of the Dangerous Drugs Act 2000 are consistent with sections 1 and/or 7 of the Constitution. The Court extensively interpreted section 1 and the amended section 47(3) of the Constitution. The amended section 47(3) now provides that section 1 can be amended only if the proposed Bill has first been approved by three-quarters of the electorate in a referendum and has been supported at the final voting in the Parliament by all members of the National Assembly. It was held that the failure to comply with this deeply entrenched provision renders section 5(3A) and section 32 of the Dangerous Drugs Act void. In the circumstances, the Privy Council dismissed the appeal.
Case Law—Supreme Court cases

39.0 Some of the judgment if the Supreme Court related to the African Charter for Human and People’s Rights are as follows:-

**Madhewoo M v The State of Mauritius and Anor (2015 SCJ 177) and Jugnauth Pravind Kumar (Hon) v The State of Mauritius (2015 SCJ 178)**

The cases were heard by the Full Bench of the Supreme Court. The Court was called upon to determine the constitutionality of the provisions of the law ("impugned provisions") providing for the collection, storage and retention of biometric information (including fingerprints) for the purposes of the national identity card. The impugned provisions provided for the storage and retention of biometric information on the national identity card as well as on a centralised database for the purposes of authenticating and identifying an individual.

Plaintiffs’ main contention was that the impugned provisions infringed sections 3 and 9 of the Constitution of Mauritius, which they argued provided for a general right to private life akin to the right protected under Article 8 of the European Convention on Human Rights. Respondents’ also sought to rely on case law from the courts in Canada and the United States in support of the argument that sections 3 and 9 of the Constitution of Mauritius needed to be given a purposive interpretation so as to provide for a general right to private life.

Respondents’ contention, on the other hand, was that sections 3 and 9 of the Constitution of Mauritius did not provide for a general right to private life, but a right limited to the “Protection for privacy of home and other property”. Relying on the case law from the Judicial Committee of the Privy Council, Respondents argued that constitutional provisions from other jurisdictions could not be imported wholesale into the Constitution of Mauritius and it would be erroneous to assume that differently worded sections were necessarily intended to have the same meanings. Consequently, under Mauritian law, the general right to privacy was not constitutionally entrenched but was only afforded legislative protection under Article 22 of the Civil Code and the Data Protection Act. Thus, it was argued that sections 3 and 9 of the Constitution were not engaged by the collection, storage and retention of biometric information for the purposes of the national identity card.
On the basis of the authorities from the Judicial Committee of the Privy Council, the Supreme Court of Mauritius found that sections 3 and 9 of the Constitution indeed did not provide for a general right to privacy as provided for by Article 8 of the European Convention on Human Rights.

Nonetheless, giving a generous interpretation to section 9 of the Constitution (in particular the words “search of a person”), the Supreme Court of Mauritius found that the collection of the fingerprints could be assimilated to a “search of a person”. Therefore, section 9 of the Constitution was engaged by the collection, storage and retention of biometric information for the purposes of the national identity card. On the basis of the evidence adduced, the Supreme Court of Mauritius further held that the collection and storage of biometric information on the national identity card was necessary in a democratic society, so that the collection and storage of biometric information on the national identity card was compatible with section 8 of the Constitution.

However, the Supreme Court of Mauritius held that the storage of biometric information on the centralised database was not necessary in a democratic society and was in breach of section 9 of the Constitution of Mauritius.

The biometric information stored has now been destroyed by a decision of Government, on the basis of the Supreme Court Judgment.

**Madhewoo M v The State of Mauritius and Anor (2013 SCJ 401)**

The Applicant sought an injunction restraining and prohibiting the Respondent either by itself or through its servants, préposés, agents or otherwise to cause the issue and/or the implementation of a new biometric identity card as from 1st October 2013 pending the determination of the main action for constitutional redress which the Applicant had recently lodged before the Supreme Court.

Applicant sought the injunction on the ground that the recent Acts of Parliament and regulations obligated any person who applies for a new identity card to provide biometric information about himself, including his fingerprints.

The Supreme Court of Mauritius enunciated the threshold test to be applied in such cases, namely, that it was for Applicant to show urgency on account of a clear or blatant violation
of a constitutionally entrenched right of his and that the balance of convenience lies in favour of granting the injunction.

The Supreme Court of Mauritius held that Applicant had failed to show urgency on account of a clear or blatant violation of a constitutionally entrenched right of his. Applicant could not import Article 8 of the European Convention on Human Rights into sections 3 and 9 of the Constitution of Mauritius. Applicant had also failed to show that that balance of convenience was in his favour. In the circumstances, the Supreme Court of Mauritius declined to issue the injunction prayed for by the Applicant.

Veeren P v The State of Mauritius (2012 SCJ 14)

In the case of Veeren P v The State of Mauritius (2012 SCJ 14), the first ground of appeal was that ‘Ex facie the information and the procedural steps taken for the prosecution of the appellant, his right to a fair trial within a reasonable time guaranteed under the Constitution, has been breached’. The Court referred in its judgment to the Privy Council case of Dyer v Watson [2002] UKPC D1, [2004] 1 AC 379 ‘in relation to complaints of delay under article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms which contains a provision virtually identical to Section 10(1) of our Constitution. Lord Bingham of Cornhill, who gave the leading opinion for the majority, set out the following principles, viz. that – (1) the core right guaranteed is to a fair trial, and (2) the article creates rights which, though related, are separate and distinct. It does not follow that the consequences of a breach of each of these rights is necessarily the same and the threshold of proving a breach of the reasonable time requirement is a high one which is not easily crossed.’

The Supreme Court further referred to and endorsed the case of Boolell v The State [SCJ 2006] UKPC 46 which held that ‘the following propositions should be regarded as correct in law in Mauritius – (1) “If a criminal case is not heard and completed within a reasonable time, that will of itself constitute a breach of section 10(1) of the Constitution, whether or not the defendant has been prejudiced by the delay” and further that “An appropriate remedy should be afforded for such breach, but the hearing should not be stayed or a conviction quashed on account of delay alone, unless (a) the hearing was unfair or (b) it was unfair to try the defendant at all.”

Société des Chasseurs de l’Ile Maurice and others v State (2011 SCJ 252)

The issue in this case was whether the rights of the Claimants under the Firearms Act 1940, which allowed them to hold licences for more than 2 firearms, were abrogated by the
coming into force of the Firearms Act 2006 (Section 4(2) in particular), as per which they could only hold licences for 2 firearms. The Court found that the object of the 2006 Act was to “amend, consolidate and streamline” so that the new law did not do away with the obligations which emanated from the old law, which if not addressed specifically, must be assumed to continue same. Section 17 of the Interpretation and General Clauses Act, as applied in the cases of *Shanto v The State [2006 SCJ 187]* and *Naujeer v Registrar of Civil Status and Ministère Public [1991 MR 117]*, was cited, where the following observations were made:“ A new law, unless expressly stated to be retrospective, which repeals a previous law leaves untouched not only the rights but also the privileges which existed under the old law. The new regime “can have effect only for the future” i.e. from the day it came into force and not retroactively”; and “Section 17 of the IGCA lays down that a repeal of an enactment shall not take away a right or privilege acquired under the previous law”. It was held that the 2-firearm restriction was not meant to apply and should not apply to those who lawfully held more than two under the old law.

**Mosafeer v The State (2011 SCJ 326)**

The Appellant was convicted by the Assizes Court on a charge of willfully and unlawfully giving instructions for the commission of a murder. He was sentenced to undergo 45 years’ penal servitude which was then the mandatory sentence for murder. The main issue was whether the mandatory sentence of 45 years’ penal servitude, the then applicable penalty for the offence of murder, complied with section 7 of the Constitution. The Appellant claimed that the sentence of 45 years’ penal servitude imposed on the accused was grossly disproportionate and amounted to inhuman and degrading punishment towards him.

The Court observed as follows: “We are not persuaded that in the Mauritian context a sentence of 45 years’ penal servitude for a number of very serious offences can be said to be inhuman and degrading. We note that the legislator in his wisdom has presently provided in the Statute books that certain offences, including the one in lite, should carry a penalty of up to 60 years. The legislator’s concern of the rising rate of violence and the prevailing sense of insecurity in the country, and of the need to distil that sense of fear cannot be clearer. It is for the Court to send the right signal to would be offenders so that they are not let off by lenient sentences and effectively deterred by appropriate ones.” With regard to the issue of appropriate sentence, the Court, after seeking guidance from a couple of Assizes cases on the sentencing approach being adopted and the policy of the Criminal Division of the Supreme Court as well as the Court of Criminal Appeal, reviewed the sentence passed by the trial Judge by substituting the sentence of 45 years’ penal servitude to one of 30 years.
**Abongo L.A. v State (2009 SCJ 81)**

In the case of **Abongo L.A. v State (2009 SCJ 81)**, in relation to the burden of proof and the presumption of innocence, the Court referred to Section 10(2)(a) of the Constitution which provides that ‘every person who is charged with a criminal offence shall be presumed to be innocent until he is proved or has pleaded guilty.’; meaning therefore that the burden to prove a criminal offence against an accused is on the prosecution. Section 10(11)(a) of the Constitution, however, provides an express derogation to the above principle in the following terms: ‘Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (2)(a), to the extent that the law in question imposes upon any person charged with a criminal offence, the burden of proving particular facts.’

The Court in this case referred to the case of **Lobogun v State (2006 MR 63)** wherein the Court reiterated “the constitutional safeguards establishing the presumption of innocence and the right to silence under section 10(7) of the Constitution applicable to any person charged with a criminal offence. (...) . In that respect, the European Court of Human Rights, whilst construing the relevant provisions of article 6 of the European Convention on Human Rights, from which section 10 of our own Constitution has been largely derived, has stated that the right to silence is an inherent part of the right to a fair hearing (**Funke v France [1999 EHRR 297]**). It follows, therefore, that any provision seeking to saddle an accused party with the burden of proof would be inconsistent with the presumption of innocence enshrined in section 10(2) of the Constitution (...).” The court held that there “was no need by virtue of section 6(3) of the Act for any particular crime to be specified and it was open to the learned Magistrate under that section, after having considered the whole of the evidence as he did, to make a reasonable inference that the proceeds were, in whole or in part, directly or indirectly, the proceeds of a crime before making the forfeiture order”, and dismissed the appeal with costs.

**Federation of Civil Service and other Unions & Ors v State of Mauritius & Anor (2009 SCJ 214)**

In the case of **Federation of Civil Service and other Unions & Ors v State of Mauritius & Anor (2009 SCJ 214)** the issue was whether the new legal provisions of Act No. 13 of 2003 (“the new provisions”) “collide with section 13 of our Constitution and infringe the plaintiffs’ right to freedom of assembly and association inasmuch as they preclude the determination of salaries and conditions of service through collective bargaining”.

---

25
The court considered that the right to belong to a trade union or other association for the protection of one’s interests is expressly embodied in section 13 of our Constitution which provides for protection of freedom of assembly and association. Such a right can only be interfered with in the circumstances laid down in Section 13 (2). However, the new provisions have neither taken away nor diluted that right.

The Supreme Court held that “the determination of salaries and conditions of service through collective bargaining is but a consequence of the right to belong to a trade union and cannot be equated with that right itself. The right to belong to a trade union, as enshrined in section 13 of our Constitution, is and should always be kept distinct from the means employed to attain the objects of the trade union.”

Mohit v DPP (2007 SCJ 97)

This is an application for leave to apply for judicial review of the Respondent’s decision to discontinue the private prosecution lodged by the applicant against Honourable P.R. Bérenger. The matter was first heard in 2004 where leave was refused on the ground of a settled case law which pertained that the DPP’s power to discontinue criminal proceedings had been held to be immune from judicial review. On appeal the Judicial Committee of the Privy Council reversed the case law in 2006 and held that a decision of the DPP to discontinue a private prosecution in the exercise of his powers under section 72(3)(c) of the Constitution is in principle amenable to review by the courts. Leave was accordingly refused in this present matter.

Islam s. v Senior District Magistrate, Grand Port District Court (2006 SCJ 282)

This case was an application to review the decision of the learned Magistrate who refused to grant bail to the applicant. The Court adopted the view that “It follows from the rationale of our law of bail as expounded in Maloupe (supra) that even where one or more of the relevant risks are present, the court must, as part of its decision-making process, consider whether conditions appear imposable which are likely to reduce the relevant risk(s) to such an extent as to render them negligible, that is, of an acceptable level, as, for instance, most passengers about to board a plane would treat the risk of a plane crash. If the conditions contemplated can reduce the relevant risk(s) to that level, then bail should not be refused.” (emphasis added). At paragraph 8.4 of that judgment, it can be further read that: “Appropriate conditions may be devised by legal advisers and courts. And the decision to be made by the court, at the end of the day, is whether there are effective conditions which can be imposed.” (emphasis added)
It was held that the right to bail is not an absolute right and is subject to the rights and freedoms of others or the public interest. Hence, a person must be released unless the State can show that there are “relevant and sufficient reasons” to justify his continued detention. It was stated that pre-trial bail is a form of partial and temporary restriction of the applicant’s liberty with a view to disabling him against antisocial behaviour. It was held further that the right of the applicant to a fair hearing within a reasonable time as guaranteed by s. 10 of the Constitution must assume its full significance and his fundamental right to be released where he is not tried within a reasonable time as enshrined in section 5(3) of the Constitution must be given a purposive effect. Hence, it was ordered that in the eventuality that applicant is not tried within a reasonable time, he be released on bail on specific conditions.

**Pandoo v The State (2006 MR 323)**

This was an appeal case. The Appellant was charged with the offence of failing to pay tax contrary to section 55(c) and 60(3)(a) of the Value Added Tax Act. He pleaded guilty and the Learned Magistrate in the lower Court observed that pursuant to Section 60(3)(a) of the Value Added tax Act the fine he could impose was one of Rs 200,000 or treble the amount of tax involved, whichever is the higher. He therefore had no alternative but to impose a fine of Rs 200,000 whilst observing that section 153 of the Criminal Procedure Act, which allows the Court to impose a fine less than the minimum fixed by law had no application to the present offence under a Revenue Law which was specifically excluded by section 154 of the Criminal Procedure Act which provides that “nothing in this Act shall be construed as giving a Court the power of inflicting a penalty less than the minimum penalty provided for by a revenue, customs or quarantine law.”

The Appellant appealed on the grounds that the penalty was imposed under a law which violates the principle of proportionality in relation to the sentencing powers of a Court of Law and is therefore in breach of Section 3, 5 and 7 of the Constitution, and the sentence imposed was manifestly harsh and excessive and wrong in principle. The Court observed that in providing for the right of the individual to the protection of the law section 7 of the Constitution requires that when imposing a penalty in a criminal case, a duly established independent and impartial Court must give due respect to the necessity of up keeping a proportionality with the seriousness of the offence. The Court considered section 60(3) of the Act and concluded that subparagraph (3)(a)(i), in so far as it provides for a minimum sentence of Rs 200,000 fine, is in breach of section 7 of the Constitution. The appeal was
allowed and the fine imposed by the trial court was substituted by a fine of Rs 106,800 representing three times the value of the tax pursuant to section 60(3)(a)(ii) of the Act.

C. Framework Within Which Human Rights are Promoted at National level

40.0 Human rights are promoted at the national level through the national human rights institutions, the dissemination of the human rights instruments to the population and awareness campaigns and educational programmes as follows-

(a) **Role of national human rights institutions**

(i) **The Office of the Ombudsman** is provided for under Section 96 of the Constitution. It addresses issues arising from alleged maladministration in the public sector and wrongs that may be found to have been committed. The Ombudsperson does so through independent, objective and impartial investigations. Statistics from the Office of the Ombudsman for 2014 are as follows:-

<table>
<thead>
<tr>
<th>Statistics for the year 2014</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cases dealt with</td>
<td>450</td>
</tr>
<tr>
<td>Cases rectified</td>
<td>117</td>
</tr>
<tr>
<td>Cases not justified</td>
<td>25</td>
</tr>
<tr>
<td>Cases explained</td>
<td>194</td>
</tr>
<tr>
<td>Cases discontinued</td>
<td>32</td>
</tr>
<tr>
<td>Cases not investigated</td>
<td>5</td>
</tr>
<tr>
<td>Cases not entertained</td>
<td>1</td>
</tr>
<tr>
<td>Cases pending as at 31 December 2014</td>
<td>76</td>
</tr>
</tbody>
</table>

*Source: Office of the Ombudsman*

The percentage of successful cases during 2014 hovered around 26% whilst the number of pending cases had been reduced by almost 25%. 223 complaints, falling outside the jurisdiction of the Office of the Ombudsman, were received. In principle,
the complainants are informed accordingly and are directed to the authority concerned.

(ii) The National Human Rights Commission was established under the Protection of Human Rights Act 1998. It was granted accreditation by the International Coordination Committee of National Human Rights Institutions in 2002, re-accredited Status A in 2008 and 2014. The Commission has now been restructured so as to align its functions with the Paris Principles and enhance its role as a key institution in the protection and promotion of human rights at the national level. The Commission has now three divisions, namely, the Human Rights Division, the Police Complaints Division and the National Preventive Mechanism Division to which any alleged violation of human rights can be reported to by any individual or group of individuals. The Commission is composed of a Chairperson and three Vice-Chairpersons. Each of the Division is headed by one of the Vice-Chairpersons and two other members. Statistics of some of the cases heard by the Police Complaints Division of the National Human Rights Commission as at 29 September 2015 are as follows: -

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Complaints</th>
<th>Disposed of</th>
<th>Pending</th>
<th>Referred to Director of Public Prosecutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>23</td>
<td>23</td>
<td>-</td>
<td>Nil</td>
</tr>
<tr>
<td>2012</td>
<td>34</td>
<td>34</td>
<td>-</td>
<td>Nil</td>
</tr>
<tr>
<td>2013</td>
<td>110</td>
<td>32</td>
<td>78</td>
<td>Nil</td>
</tr>
<tr>
<td></td>
<td>229*</td>
<td>229</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>168</td>
<td>56</td>
<td>112</td>
<td>2</td>
</tr>
<tr>
<td>2015</td>
<td>120</td>
<td>59</td>
<td>61</td>
<td>7</td>
</tr>
</tbody>
</table>

*Transferred from the Complain Investigation Bureau (CIB) of the Police. Prior to 2013 the complaints were being investigated by the CIB.
(iii) The Office of the Ombudsperson for Children was established in 2003 and became operational in 2004. It is the first of its kind in Africa. The objectives of the Office are to ensure that the rights, needs and interests of children are given full consideration by public bodies, private authorities, individuals and associations of individuals; promoting the rights and interests of children; and to ensure compliance with the Convention on the Rights of Children, to which Mauritius is a party.

(iv) The Equal Opportunities Commission was established on 24 April 2012 under the Equal Opportunities Act. It not only examines and investigates into complaints referred to it but equally investigates into cases where it believes that an act of discrimination may have been or may be committed.

In April 2013, the Equal Opportunities Commission issued the Guidelines for Employers under section 27(3)(f) of the Act. The Guidelines came into effect as from 15 April 2013. In line with section 9 of the Act, every employer employing more than 10 employers on a full-time basis is required to draw up and apply an equal opportunity policy in line with the guidelines and codes issued by the Commission. Furthermore, the Equal Opportunities Commission has published guidelines and codes of conduct for all employers of the public and private sectors in view of the implementation of an equal opportunity policy by all employers; which is a mandatory requirement under the Equal Opportunities Act.

Cases which are not resolved by the Commission are referred to the Equal Opportunities Tribunal which has also been set up under the Act. Whilst the mandate of the Equal Opportunities Commission is to work towards the elimination of discrimination and the promotion of equality of opportunity and good relations between persons of different status, the Equal Opportunities Tribunal has the power to issue interim orders, directives and compensatory orders up to MUR Rs. 500,000. Failure to comply with an order or directive of the Equal Opportunities Tribunal may give rise to the commission of an offence punishable by a fine of a maximum of MUR Rs. 100,000 and to imprisonment for a term not exceeding 5 years. Below are some statistics concerning complaints dealt with by the Commission for the period April 2012 - April 2014:-
(b) Dissemination of human rights instruments

The Prime Minister’s Office published and launched a National Human Rights Action Plan 2012-2020 in October 2012. The Action Plan sets out the following goals and objectives:—

(i) reinforcing international co-operation on Human Rights;

(ii) strengthening the National Human Rights Framework;

(iii) protecting and safeguarding civil and political rights;

(iv) securing greater realisation of economic, social and cultural rights;

(v) securing Women’s Rights in the context of Gender Equal Opportunities;

(vi) securing the rights of the Youth;

(vii) better protecting and securing rights of vulnerable persons;

(viii) securing the Right to Sustainable Development;

(ix) enhancing Human Rights Education and awareness; and

(x) encouraging and facilitating greater involvement of civil society and the business sector in general, in the promotion and protection of Human Rights.
The Action Plan makes an assessment of what Mauritius has achieved in terms of protection and promotion of human rights as per the requirements of international conventions and national law, and charts the way forward. One of the main recommendations of the National Human Rights Action Plan was the setting up of a Human Rights Monitoring Committee chaired by the Prime Minister's Office and consisting of stakeholders from relevant Ministries and Departments, National Human Rights Institutions, non-governmental organisations dealing with human rights as well as the private sector. The role of the Committee is to ensure the implementation of the Action Plan. The Action plan can be viewed at [http://humanrights.govmu.org](http://humanrights.govmu.org).

The Monitoring Committee has been set up in 2013 and meets at least thrice a year to take stock of progress achieved on the implementation of recommendations made. A first progress report has been published in December 2014 in which it was noted that implementation of at least 82% of the recommendations have started and have reached different stages of implementation.

(c) **Promotion of human rights awareness through educational programmes and Government-sponsored public information**

The Prime Minister’s Office which has the responsibility for the portfolio of Human Rights since October 2008, has since 2011 embarked on sensitisation and training programmes targeting the whole population. The following programmes are organised and in each of these programmes, civil and political rights are covered:

(i) The Prime Minister’s Office in collaboration with the Ministry of Public Infrastructure, the National Development Unit, the National Human Rights Commission, the Ombudsperson for Children, and the Equal Opportunities Commission have carried out sensitisation sessions on human rights in all Citizen’s Advice Bureaus around the island. Some 4160 participants from NGOs, women’s associations, vulnerable groups have so far been sensitised.

(ii) The Prime Minister’s Office in collaboration with the Ministry of Youth and Sports, the National Human Rights Commission and the Equal Opportunities Commission has implemented a Human Rights Education Programme in all youth centres around the island for about 500-750 youths each year. The Human Rights Education Programme was conducted in 4 sessions whereby emphasis was laid on the basic Human Rights, Human Rights Treaties adhered by Mauritius, the Constitution of the Republic of Mauritius and the Human
Rights Institutions. Resource persons include personnel of the Equal Opportunities Commission, the Mauritius Police Force, Lawyers, and Ombudsperson for Children. Around 1555 youths have been reached through this programme.

(iii) With a view to promoting human rights through teaching and education, the Commonwealth Secretariat was approached by the Prime Minister’s Office to ensure the integration of human rights across the curriculum at pre-primary, primary and secondary levels. The terms of reference have been finalised by the Prime Minister’s Office, the Ministry of Education and Human Resources and the Commonwealth Secretariat.

Curriculum Materials have already been prepared by Commonwealth Secretariat. A validation workshop has been held with different stakeholders in April 2015. The final document has been received with a view to teaching Human Rights Education in 2016. The toolkit for Educators is being worked out by the Commonwealth Secretariat. The programme is scheduled to start in January 2016 in Form I classes, on a pilot basis.

(iv) At tertiary level, Human Rights Education already forms part of the curriculum of LLB courses at the University of Mauritius. The latter has also introduced an LLM course in International Human Rights Law as from academic year 2013-2014.

(v) Human Rights are also an essential component in the training of Police and Prison Officers. The Prison Authorities have worked out a new Prison Bill which has been submitted to the Prime Minister’s Office for discussion. The Prison Bill is also making provisions for the implementation of Human Rights recommendations related to Prison Management.

**Promotion of human rights awareness through the mass media**

Promotion of human rights through the mass media is done as follows:

(i) the Prime Minister’s Office in collaboration with the National Human Rights Commission and the Mauritius Broadcasting Corporation presented a series of TV programme on Human Rights in order to sensitise the population about their rights in 2013 and 2014. The programme was previously broadcast once
every fortnight. As from August 2015, the programme is being broadcast on a weekly basis.

(ii) to provide for better information on human rights, a Human Rights Portal has been developed in collaboration with the National Computer Board. The Portal (http://humanrights.govmu.org) aims at:-

(a) informing all stakeholders about the human rights status and strategy of the Republic of Mauritius;
(b) lending support to policy makers, trainers in human rights and students in terms of database on human rights indicators;
(c) acting as a platform for training and sensitisation; and
(d) acting as a communication tool between all human rights stakeholders.

III REPORTING PROCESS AT THE NATIONAL LEVEL

41.0 The National Monitoring Committee on Human Rights, under the aegis of the Prime Minister’s Office which also comprises representatives of various ministries and non-governmental organisations, monitors, among others, the implementation of the Action Plan and progress made on the periodic reporting obligations of the international human rights instruments to which the country had adhered to.

42.0 The Prime Minister’s Office compiles the required information on the implementation of the human rights treaties through a consultative process with relevant Ministries, national human rights institutions, non-governmental organisations as well as the civil society. The follow up on the Concluding Observations of each treaty body is also done in collaboration with all stakeholders after compilation of the updates by the Prime Minister’s Office in collaboration with all the relevant stakeholders.

43.0 A Database of Human Rights Indicators has also been developed in collaboration with the University of Mauritius and Ministries/Departments concerned to monitor progress regarding human rights recommendations. The Commonwealth Secretariat and the UNDP have been approached for capacity building in the use of this monitoring tool.
PART II

MEASURES TAKEN AND DEVELOPMENTS IN RELATION TO THE AFRICAN CHARTER RIGHTS

A. Civil and Political Rights

Article 1- Recognition and Implementation of Rights, Duties and Freedoms under the Charter

*The Member States of the Organisation of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them.*

44.0 The rights, duties and freedoms provided for in Chapter 1 of the Charter have been enshrined in our law. Chapter II of the Mauritius Constitution guarantees the enjoyment of fundamental rights and freedoms which include the right to life, the right to personal liberty, protection from slavery and forced labour, protection from inhuman treatment, protection from deprivation of property, protection for privacy of home and other property, protection of the law, freedom of conscience, freedom of expression, freedom of assembly and association, freedom of movement and prevention from discrimination.

45.0 Section 5 of the Constitution states that no person shall be deprived of his personal liberty save as may be authorised by law in a number of circumstances including where there is the need to ensure his appearance in Court. A person who is arrested or detained should be brought before a court of law without undue delay and if such a person is not tried within a reasonable time, he shall be released with or without conditions without prejudice to the appropriate authority’s power to bring fresh proceedings subsequently, including his right to be released on bail. The Bail Act sets out the grounds on which bail may be refused by the court as well as the conditions that may be imposed by the court for the release of the defendant or detainee.

46.0 Section 10 of the Constitution lays down provisions to secure the protection of the law, amongst which are the presumption of innocence, the right to be informed as soon as reasonably practicable of the nature of the offence and in a language that the accused
understands, the right to be given adequate time and facilities for the preparation of one’s defence, the right to defend oneself in person or by a legal representative of one’s own choice or by a legal representative provided at the public expense, the right to the assistance of an interpreter if one cannot understand the language used at the trial. If a person cannot afford to retain the services of a legal representative, there is the possibility to apply for legal aid under the Legal Aid Act and Legal Assistance Act.

47.0 Section 17 of the Constitution ensures that any person whose rights or freedoms are violated shall have an effective remedy by applying to the Supreme Court for redress. Section 17 (2) of the Constitution confers on the Supreme Court very wide powers to make such orders, issue such writs and give such directions as it may consider appropriate for the purposes of enforcing or securing the enforcement of the protected right. The Judiciary is independent and plays a fundamental role in ensuring that these rights are fully protected. The Supreme Court has held time and again that “A declaration of fundamental rights is meaningless unless there are effective judicial remedies for their enforcement. The right to move the Supreme Court or redress where a fundamental right has been infringed is itself a fundamental right… Section 17 is the soul and heart of the Constitution…”.

48.0 Section 18 of the Constitution provides for instances where rights and freedoms can be derogated in periods of emergency. However, recourse to these derogations are subject to strict controls. There should first be proclamation by the Resident and such Proclamation needs to secure two-thirds of the votes of the members of the National Assembly. Section 18 also provides for the setting up of an impartial tribunal to control any abuse by the Executive in periods of emergency.

Articles 2 & 3- Non Discrimination and Equality before the Law

Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 3

Every individual shall be equal before the law
Every individual shall be entitled to equal protection of the law
49.0 The Constitution of Mauritius firmly establishes the right of every citizen to be treated equally and to live a life free from discrimination. It prohibits discrimination on, *inter alia*, the ground of caste, colour, creed and race. It also provides that no law shall be discriminatory either in itself or in its effect. Section 3 of the Constitution entitled “Fundamental rights and freedoms of the individual” reads as follows:-

“It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms:-

(a) the right of the individual to life, liberty, security of the person and the protection to the law;

(b) freedom of conscience, of expression, of assembly and association and freedom to establish schools; and

(c) the right of the individual to protection for the privacy of his home and other property and from deprivation of property without compensation, and the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.”

50.0 Section 16 of the Constitution provides that no law shall make any provision that is discriminatory either of itself or in its effect. The section defines the term “discriminatory” as affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such description. Section 17 of the Constitution provides that a citizen who alleges that his right under, *inter alia*, section
of the Constitution is being or is likely to be contravened, may apply to the Supreme Court for redress.

51.0 The mandate of the Equal Opportunities Commission is to work towards the elimination of discrimination and the promotion of equality of opportunity and good relations between persons of different status. The Commission is mandated to address complaints alleging discrimination on the basis of one or more of the 12 protected grounds under the law. Such complaints may emanate from individuals, a group of persons, corporate bodies or they may even be anonymous. Very often, complainants seek information from the Commission before lodging the complaint.

52.0 The Commission provides assistance to the public in understanding the principles of the Act and its procedural aspects. When the complaint is lodged, there is a preliminary examination of the said complaint by the Members of the Commission. At this stage, the complainant is very often called at the seat of the Commission for a preliminary hearing so as to enable the Commission to gather more information as to the allegations made. It is apposite to note that even if ex facie, it would appear that there is no sufficient evidence to find that a complaint is well-founded, the Commission does not reject the complaint outright. The complainant is given the opportunity to provide the Commission with further evidence or is requested to particularise the status upon which he/she feels discriminated.

53.0 The same procedure is adopted when, ex facie, a complaint appears to be time barred. The Commission invites the complainant to show good cause for the timeline to be extended. Albeit increasing the workload and being heavily time consuming, such a process is systematically adopted as it is believed that the Commission has a social mission to achieve. Therefore, following a preliminary examination of the complaint, if the Commission finds that there is no sufficient evidence of discrimination even after gathering more information from the complainant, no further action is taken on the complaint. If the Commission is of the view that there is sufficient evidence to proceed, the alleged discriminator is called in with a view to ascertaining prospects of conciliation in the first instance, without delving into the merits of the case. This very often enables an early settlement in the case, thereby avoiding a lengthy, time-consuming and costly process. Should the alleged discriminator be unwilling to reconcile, but the complaint appears to be well-founded, the Commission carries out a full-fledged investigation.

54.0 Following the investigation, it may still be found that there is no evidence of discrimination, in which case, the complaint is set aside. If on the completion of the
investigation, the Commission finds on a balance of probabilities that there is discrimination on the basis of one of the protected grounds under the law, a final attempt at conciliation is made. A report containing the recommendations of the Commission is sent to the parties whilst at the same time inviting them to attempt conciliation. If no settlement is reached within 45 days, the Commission may then, with the consent of the complainant, refer the matter to the Equal Opportunities Tribunal.

55.0 In April 2013, the Equal Opportunities Commission issued the Guidelines for Employers under Section 27(3) (f) of the Act. The Guidelines came into effect as from 15 April 2013. As per Section 9 of the Act, every employer employing more than 10 employers on a full-time basis is required to draw up and apply an equal opportunity policy in line with the guidelines and codes issued by the Commission.

56.0 Whilst the mandate of the Equal Opportunities Commission is to work towards the elimination of discrimination and the promotion of equality of opportunity and good relations between persons of different status, the Equal Opportunities Tribunal has the power to issue interim orders, directives and compensatory orders up to MUR Rs 500,000. Failure to comply with an order or directive of the Equal Opportunities Tribunal may give rise to the commission of an offence punishable by a fine of a maximum of MUR Rs 100,000 and to imprisonment for a term not exceeding 5 years.

57.0 The Criminal Code also makes provisions for offences, and related penalties, in relation to discrimination in general which are as follows:-

- Section 183 “Interference with freedom of conscience” provides for a fine not exceeding 100,000 rupees, and by imprisonment for a term not exceeding 2 years;
- Section 184 “Disturbing religious ceremony” provides for a fine not exceeding 100,000 rupees and imprisonment for a term not exceeding 2 years;
- Section 185 “Outrage on religious worship” provides for a fine not exceeding 100,000 rupees, and imprisonment for a term not exceeding 2 years;
- Section 206 “Outrage against public and religious morality” provides for imprisonment for a term not exceeding 2 years and to a fine not exceeding 100,000 rupees;
- Section 282 “Stirring up racial hatred” provides under subsection (1) for a
fine not exceeding 100,000 rupees and penal servitude for a term not exceeding 20 years and under subsection (2) for a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 4 years;

- Section 283 "Sedition" is an offence committed by any person who, by any means specified in section 206—(a) holds or brings into hatred or contempt, or excites disaffection towards, the Government or the administration of justice;(b) raises discontent or disaffection among the citizens of Mauritius or promotes feelings or ill will and hostility between different classes of such citizens. The penalty provided for is imprisonment for a term not exceeding 2 years and a fine not exceeding 100,000 rupees;

- Section 286 relates to “Importing seditious publication”;  
- Section 287 is on “Suspending publication of newspaper containing seditious publication”;  
- Section 287A provides for the “Prohibiting circulation of seditious publication”; and  
- Section 287B lists the penalties for seditious publication under sections 286, 287 and 287A and provides that under these sections no person shall be prosecuted unless upon an information by the Director of Public Prosecutions and any such person shall on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

58.0 To prevent the internet being used for the dissemination of discriminatory or racist messages, the Information and Communication Technologies Act prohibits the use of an information and communication service in the following circumstances:-

(a) the transmission or reception of a message which is grossly offensive, or of an indecent, obscene or menacing character; or

(b) for the purpose of causing annoyance, inconvenience or needless anxiety to any person; and

(c) the transmission of a message which is of a nature likely to endanger or compromise State defence, public safety or public order.

59.0 A Truth and Justice Commission, which came into operation on 20 March 2009, was set up under the Truth and Justice Commission Act in 2008. The Truth and Justice Commission was empowered to conduct inquiries into slavery and indentured labour during the colonial period in Mauritius, determine appropriate measures to be extended to
descendants of slaves and indentured labourers, enquire into complaints made by persons aggrieved by dispossession or prescription of any land in which they claim to have an interest and prepare a comprehensive report of its activities and findings based on factual and objective information and evidence. The Commission submitted its report to the President of the Republic on 25 November 2011.

60.0 A Ministerial Committee has been set up to consider the recommendations contained in the Report. The Committee has in turn initiated the following actions:-

(a) the setting of a Land Research and Mediation Unit to continue research on possible dispossession of land;
(b) send the Interim Report on regarding cases where there are sufficient evidence of land dispossession to the Attorney General’s Office for advice as to the way forward; and
(c) requested the Ministry of Arts and Culture to identify land for the construction of a Slave Museum, and start acquiring exhibits to be displayed therein.

Rights of migrant workers

61.0 Although Mauritius is not a signatory to the 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, the Government, as far as possible, applies the essence of the Convention in cases of disputes between migrant workers and their employer. Article 13 of the Code Civil Mauricien provides as follows: “L’étranger jouira à Maurice des mêmes droits civils que ceux qui sont ou seront accordés aux Mauriciens par les traités de la nation à laquelle cet étranger appartiendra.”

62.0 Migrant workers enjoy the same terms and conditions of employment, including minimum wages as those laid down for local workers in our labour legislation. Employers are required to submit a duly vetted model contract of employment to migrant workers at the time they apply for work permits on behalf of their foreign workers. Payment of the total salary and other benefits has to be effected directly to the foreign workers in Mauritius itself and this clause should be included in the contract of employment before it is vetted.
According to section 38 of the Employment Rights Act, employees benefit from protection against termination of their work agreement. An agreement shall not be terminated by an employer by reasons of a worker’s race, colour, caste, national extraction, social origin, pregnancy, religion, political opinion, sex, sexual orientation, HIV status, marital status or family responsibilities.

The right to organise, which equally applies to migrant workers, has been reinforced in the Employment Relations Act which came into force on 2 February 2009. Section 29 of the Act protects in unambiguous terms the right of workers to be or not to be a member of a trade union and to participate in trade union activities, including the right to seek and hold appointment or election as officers of a union. Section 30 protects trade unions of workers against acts of interference and section 31 protects workers against discrimination, victimisation or termination of employment by the employer in the exercise of this right.

Section 46(5B) of the Employment Rights Act has been amended with effect from June 2013 to provide, *inter alia*, for a worker to be reinstated in his former employment with payment of remuneration from the date of the termination of his employment to the date of his reinstatement where the Court finds that the termination of employment of the worker (who has been in continuous employment for a period of not less than 12 months with an employer) has been effected on grounds of trade union membership or participation in trade union activities. Section 38(1)(a) of the Employment Rights Act affords further protection against termination of contract “by an employer by reason of a worker’s race, colour, caste, national extraction, social origin, pregnancy, religion, political opinion, sex, sexual orientation, HIV status, marital status or family responsibilities”.

The Occupational Safety and Health (Employees’ Lodging Accommodation) Regulations 2011 was promulgated on 28 January 2011. These regulations aim at establishing norms for workers’ lodging and accommodation with a view to improving the standards of living conditions in lodging accommodation provided to any employee including migrant workers.

**Article 4 - Right to Life and Integrity of a Person**

*Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.*
67.0 The right to life is entrenched in section 4 of the Constitution. Section 4 (1) of the Constitution provides that "No person shall be deprived of his life intentionally save in the execution of the sentence of a court in respect of a criminal offence of which he has been convicted". This section has not yet been amended to prohibit the imposition of death sentences. Any change of the Constitution requires a ¾ majority votes in the National Assembly. However, the National Assembly enacted the Abolition of Death Penalty Act in 1995, thereby abolishing death penalty. Following this enactment, all death sentences imposed have been commuted to sentences of penal servitude for life.

68.0 Section 4(2) establishes the criterion of reasonableness to decide on the circumstances where the use of force may lead to loss of life, namely, for the defence of any person from violence or for the defence of property; in order to effect a lawful action or to prevent the escape of a person lawfully detained; for the purpose of suppressing a riot, insurrection or mutiny; or in order to prevent the commission by that person of a criminal offence.

69.0 The Geneva Conventions of 1949 have been incorporated into our law by virtue of the Geneva Conventions Act which makes it an offence to commit a grave breach of any of the four Geneva Conventions. The International Criminal Court Act which was passed in 2011 provides for the effective implementation of the Rome Statute of the International Criminal Court in the laws of Mauritius. As a democratic State and as a State which upholds the protection and promotion of human rights and which adheres to the core principles including the rule of law, peace and justice and human dignity, Mauritius shares the view that the international community has to put an end to impunity for serious crimes against humanity.

**Unwanted pregnancies**

70.0 Amendments were made to the Criminal Code by Act 11 of 2012, with effect from 15 October 2012, to authorise the termination of pregnancy in specified circumstances, namely, in cases where :-

(a) the continued pregnancy will endanger the pregnant person's life;

(b) the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant person;
(c) there is a substantial risk that the continued pregnancy will result in a severe malformation, or severe physical or mental abnormality, of the foetus, as assessed by the appropriate specialists; and

(d) the pregnancy has not exceeded its fourteenth week and results from a case of rape, sexual intercourse with a female under the age of 16 or sexual intercourse with a specified person which has been reported to the police.

71.0 Section 235A of the Criminal Code provides that:

(1) No person shall provide treatment to terminate a pregnancy unless he:

(a) is a specialist in obstetrics and gynaecology who is registered as such under the Medical Council Act;
(b) provides the treatment in a prescribed institution; and
(c) complies with all the requirements of this section.

(2) The specialist referred to in subsection (1)(a) may only provide treatment to terminate a pregnancy where another specialist in obstetrics and gynaecology and another specialist in the relevant field share his opinion, formed in good faith, that (at least one of the 4 conditions set out in paragraph 85.0 above are met).

72.0 The Medical Council (Termination of Pregnancy) Regulations 2012 provides for a stringent regulatory framework for the termination of pregnancies. Such termination can only take place in institutions prescribed by the Permanent Secretary of the Ministry of Health and Quality of Life and there is a record provided with regard to specialists who advise termination of pregnancies and with regard to the consent of the person who wishes to terminate a pregnancy.

73.0 Measures to prevent unwanted pregnancies include awareness raising campaigns in line with the National Sexual and Reproductive Health Strategy & Plan of Action 2009-2015; provision of skilled medical aid and universal access to medical services free of user cost; free distribution of condoms to female sex workers; and special care given to teenage mothers.
**Article 5- Rights to respect of human dignity, prohibition of slavery; slave trade; torture cruel inhuman and degrading treatment**

*Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.*

74.0 Section 6 of the Constitution provides that no person shall be held in slavery or servitude and that no person shall be required to perform forced labour. Section 7 prohibits the torture or inhuman or degrading punishment or other such treatment to any person.

75.0 Mauritius strongly condemns the fact that Diego Garcia, which forms part of the territory of Mauritius, was used after September 2001 as a transit point for rendition of persons to countries where they risked being subjected to torture or ill-treatment. In February 2008, following the announcement by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs that Diego Garcia had been used on two occasions in 2002 for rendition flights by the United States, the Government of Mauritius urged the United Kingdom Government to refrain from acts which would violate the UN Convention against Torture and any other international human rights conventions in respect of the territory of Mauritius.

76.0 The National Preventive Mechanism (NPM) Division of the National Human Rights Commission also investigates complaints which may be made by a detainee. Statistics on complaints from detainees received at the NPM for year 2014 are as follows:-

<table>
<thead>
<tr>
<th></th>
<th>No. of Complaints</th>
<th>Disposed of</th>
<th>Pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prisons</td>
<td>150</td>
<td>110</td>
<td>40</td>
</tr>
<tr>
<td>Police Cell</td>
<td>2</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>152</strong></td>
<td><strong>112</strong></td>
<td><strong>40</strong></td>
</tr>
</tbody>
</table>

**Remarks:**

152 complaints from detainees in Prisons and Police Cells were received during year 2014. However, none of the complaints concerned any form of torture. A new “E-Prison” for data collection has been implemented in the prison. These data can provide among others the numbers of death in custody, and other information concerning the detainee’s particulars.

*Source: National Human Rights Commission*
**Forced labour**

77.0 The Employment Rights Act also provides that a child below the age of 16 cannot enter into an employment contract, and that an employer shall not keep on employment a young person where the work is of a such a nature, or the circumstances in which it is carried out, is likely to jeopardise the health, safety, physical, mental, moral or social development of the young person.

78.0 Under this Act, the normal day’s work of a worker (other than a part-time worker or a watchperson) consists of 8 hours’ actual work. A worker and an employer can agree that the worker works in excess of the stipulated hours without added remuneration, if the number of hours covered in a fortnight does not exceed 90 hours, or such lesser number of hours as may be specified in such agreement. A worker is entitled to a rest day of at least 24 consecutive hours in every period of 7 consecutive days. Every worker shall be entitled to a rest of not less than 11 consecutive hours in any day. Every employer is, unless otherwise agreed, entitled to a meal break of one hour not later than 4 consecutive hours of work and one tea break of at least 20 minutes or two tea breaks of at least 10 minutes each. A young person cannot be employed in an industrial undertaking between 10.00 p.m. and 05.00 a.m.

79.0 The Act also makes provision for equal remuneration for work of equal value. Every employer has a duty to ensure that the remuneration of any worker shall not be less favourable than that of another worker performing work of equal value. Every employer shall pay remuneration to a worker at monthly intervals, unless the parties agree to payment at shorter intervals.

**Combating trafficking and all forms of servitude**

80.0 The objects of the Combating of Trafficking in Persons Act are to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in persons; prevent and combat trafficking in persons; and protect and assist victims of trafficking. The Act provides that any person who traffics another person or allows another person to be trafficked shall commit an offence and it shall not be a defence for that person so charged that inter alia the victim has consented to the act which was intended to constitute trafficking. Any person who knowingly leases a room, house, building or establishment or subleases or allows it to be used, for the purpose of harbouring a victim of trafficking; or advertises, publishes, prints, broadcasts, distributes, or causes the advertisement, publication, broadcast or distribution of, information which suggests or alludes to
trafficking by any means, including the use of the internet or other information technology, shall also commit an offence under the Act.

81.0 Section 11 of the Act also provides that any person who knowingly benefits, financially or otherwise, from the services of a victim of trafficking or uses, or enables another person's usage of, the services of a victim of trafficking shall commit an offence and further imposes a duty on every internet service provider operating in Mauritius to report to the Police forthwith any site on its server which contains information in contravention of subsection (2)(b) (advertisement, publication etc. of information which suggests or alludes to trafficking by any means including use of internet or IT) of the Act. Any person who is found guilty of an offence under Section 11 shall, on conviction, be liable to penal servitude for a term not exceeding 15 years.

82.0 The Act also provides _inter alia_ for the repatriation of victims of trafficking as well as the return of victims of trafficking to Mauritius. Appropriate compensation can also be ordered by the Court, to be paid to the victim(s) by the person convicted under Section 11, for namely:-

(a) damage to, or loss or destruction of, property, including money;
(b) physical, psychological or other injury; or
(c) loss of income or support, resulting from the commission of the offence. It also imposes a duty on any person to report any case of trafficking to the police if the person believes that another person is a victim of trafficking. It is to be noted that the identity of the person making such a report shall not be disclosed, unless a Judge in Chambers otherwise orders.

83.0 The setting up of centres for victims of human trafficking is provided for under the law. Such centres shall provide temporary accommodation suited for the needs of victims of trafficking admitted to them. Every Centre shall _inter alia_ secure the safety of its inmates against any risk of retaliation; provide counselling and rehabilitation services to its inmates; facilitate the integration of its inmates into their families; and may offer facilities aimed at providing education, skills development and training.

84.0 From 2009 to August 2015, the number of cases of trafficking in persons or having bearing on human trafficking that have been reported to the Police is as follows:-
85.0 The Mauritius Police Force (MPF) continues to strengthen its action to combat Trafficking in Persons (TIP) through a series of measures to prevent, identify, investigate and prosecute cases of TIP or related offences. In that endeavour, the MPF is carrying out a prevention/sensitisation campaign in Mauritius with a view to better informing the community and creating awareness on the dangers and consequences of TIP and Commercial Sexual Exploitation of Children (CSEC). Following the enactment of the Combating of Trafficking in Persons Act, Police Officers, Prosecutors, Senior Officers and other professionals have been trained locally and abroad as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>No. Trained in Trafficking in Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>77</td>
</tr>
<tr>
<td>2014</td>
<td>328</td>
</tr>
<tr>
<td>2015 (Jan-May)</td>
<td>50</td>
</tr>
</tbody>
</table>

86.0 In terms of victim support, there are Government funded NGO shelters and victim drop-in centre. The Courts Act provides for camera testimonies under specific circumstances. As far as advocacy and preventive measures are concerned, the Government, including the Police and the Ministry of Gender Equality, Child Development & Family Welfare conduct regular extensive public awareness campaigns on trafficking in
persons, especially with regard to child abuse and child rights at schools engaging in or facilitating child prostitution. In addition the Ministry concerned is also working on a comprehensive policy and strategic plan for children and the Police Department is collaborating with international organisations such as INTERPOL to gather information and intelligence for offences, including those related to human trafficking having an international dimension.

87.0 To ensure a proper coordination, an inter-Ministerial Committee will be set up under the chairmanship of the Attorney-General and comprising the Prime Minister’s Office; the Ministry of Social Integration and Economic Empowerment; the Ministry of Gender Equality, Child Development and Family Welfare; the Ministry of Labour, Industrial Relations, Employment and Training; the Commissioner of Police; and the Director of Public Prosecution for a concerted response to issues related to Trafficking in Persons, including child trafficking and forced labour.

**Corporal Punishment**

88.0 Corporal punishment is prohibited in schools by virtue of Regulation 13 (4) of the Education Regulations 1957; Section 13 (1) of the Child Protection Act; and Section 230 of the Criminal Code. Circulars are sent to schools by the Ministry of Education at the beginning of every term reminding them of those regulations and teachers are required to acknowledge having taken cognizance of same. Section 13 of the Child Protection Act provides that:

1. *Any person who ill-treats a child or otherwise exposes a child to harm shall commit an offence.*

2. *For the purposes of this section, any person who, in an advertisement, exploits a child by using him in such a way as is likely to cause in him or in any child watching him reactions which are contrary to morality or detrimental to psychological development shall be deemed to expose a child to harm.*

89.0 A Children’s Bill is being finalised to incorporate the spirit of the Convention on the Rights of the Child which include all its main principles and obligations. The objective of the Bill is to bring together the different pieces of legislation dealing with children under a single legislation. Prohibition of Corporal Punishment in all settings is being considered in the draft Children’s Bill.
Article 6 & 7 - Right to Liberty, Security and Fair Administration of Justice

Article 6
Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

Article 7
1. Every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognised and guaranteed by conventions, laws, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defence, including the right to be defended by counsel of his choice; (d) the right to be tried within a reasonable time by an impartial court or tribunal.

2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

90.0 Section 5 of the Constitution states that no person shall be deprived of his personal liberty save as may be authorised by law in a number of circumstances including where there is the need to ensure his appearance in Court. A person who is arrested or detained should be brought before a court of law without undue delay and if such a person is not tried within a reasonable time, he should be released with or without conditions without prejudice to the appropriate authority’s power to bring fresh proceedings subsequently, including his right to be released on bail. The Bail Act sets out the grounds on which bail may be refused by the court as well as the conditions that may be imposed by the court for the release of the defendant or detainee.

91.0 Section 10 of the Constitution lays down provisions to secure the protection of the law, amongst which are the presumption of innocence, the right to be informed as soon as reasonably practicable of the nature of the offence and in a language that the accused understands, the right to be given adequate time and facilities for the preparation of one’s defence, the right to defend oneself in person or by a legal representative of one’s own choice or by a legal representative provided at the public expense, the right to the assistance of an interpreter if one cannot understand the language used at the trial. If a
person cannot afford to retain the services of a legal representative, there is the possibility to apply for legal aid under the Legal Aid Act and Legal Assistance Act.

92.0 Questioning of detainees should be in line with Judges’ Rules. There are also Standing Orders of the Mauritius Police Force. In addition, the “Rights of Detainees in Police Custody” are posted in all Police Stations for the information of detainees and their families in three languages (English, French and Creole). A suspect can also avail himself of the procedure of *Habeas Corpus* if he claims that he has been illegally detained. The writ of *Habeas Corpus* is in effect a procedure to secure, as a matter of urgency, the release of a person who is illegally detained.

**Pre-trial detention**

93.0 The Mauritius Police Force operates in a transparent, accountable, fair and responsible manner and pays due respect to human rights. Any person, who is arrested, is brought before Court within 24 hours. Since the Bail and Remand Court (BRC), is operational during weekends and public holidays, no person is detained unnecessarily. A person/detainee who is arrested on a Friday does not have to wait till Monday morning to be taken to Court as used to be the case in the past. Officers from the Office of the Director of Public Prosecutions are on standby duty to deal with bail motions, if need be. Furthermore, any person who is detained in a Police cell or detention centre is allowed to contact any of his family members or his lawyer or friend and to inform him/her of the place of detention so as to receive visits. For such purpose, the detainee is given the necessary facilities to communicate with his family member or friend.

94.0 With a view to ensuring the right of the accused to be tried within the minimum delay, specialised divisions of the Supreme Court have been created. Furthermore, in line with the recommendations of the Judicial Reforms Committee, it is intended to set up a Court of Appeal. The Government Programme 2015-2019 proposes reforms to the Judiciary and provides that ‘reforms will be brought to the judiciary to expedite determination of court cases and improve services to the public’. Government will introduce legislation to set up a separate Court of Appeal Section and a separate High Court Section of the Supreme Court.

95.0 The Police Force is already equipped with video recording system for recording of statements of suspects involved in high profile cases. With the coming into force of the DNA Identification Act, more emphasis is being laid on the reliance of scientific evidence instead
of confession. These are additional safeguards against allegations to the effect that confessions are extracted by Police using force.

96.0 Where a detainee complains that he is suffering or that he is or has been victim of an accident, he is immediately conveyed to hospital by the Police for medical examination/treatment before any interrogation starts or he is detained. Such medical examination also helps against allegation of Police abuse.

97.0 The Government Programme 2015-2019, presented on 27 January 2015 provides, \textit{inter alia}, that Government will come up with a modern legal framework modelled on the UK Police and Criminal Evidence Act to address the abusiveness and arbitrariness of the present system of “provisional charges”. In this regard Government will review the policy underpinning the existing Bill and an international consultant has been approached to provide assistance in the drafting of the new Bill. The Government Programme further provides that Police Stations will be equipped with CCTV and audio recording systems and investigations will be conducted in a more professional manner with focus on scientific-led evidence rather than confession.

\textbf{Article 8 - Freedom of Religion and Conscience}

\textit{Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.}

98.0 The freedom of thought, conscience and religion is entrenched in Section 11 of the Constitution which provides that no person shall be hindered in the enjoyment of his freedom of conscience, including the freedom of thought and religion. In order to enable the citizens to practise their religion indiscriminately, the Government provides religious subsidies to religious bodies, and infrastructural facilities during all religious festivals celebrated in Mauritius.

\textbf{Subsidies to religious bodies}

99.0 Every year the National Assembly votes budgetary provision for “Subsidy to Religious Bodies”. There are two categories of religious associations benefiting from financial subsidies, namely: (i) religious bodies affiliated to Federations, which receive an amount of subsidy based on the number of adherents as provided by Statistics Mauritius; and (ii) religious bodies not affiliated to any Federation but which operate as branches of
international religious organizations. They are paid a fixed grant. The objectives of the subsidies are meant to meet the following:

(a) the salaries of priests (including their travelling expenses);
(b) expenses on construction and maintenance of places of worship; and
(c) expenses incurred on training of priests.

100.0 In the case of *Shiv Parivar Mandir & Anor v The Mauritius Sanathan Dharma Temples Federation* 2008 SCJ 286, the applicants complained that the respondent was illegally and unlawfully, without any right, title or capacity suspending the payment of the applicants’ respective grants. The Court held that the applicants were entitled to seek the jurisdiction of the Judge in Chambers as a matter of urgency to prevent the respondent from adversely affecting the applicants’ financial situation and bringing to a standstill its activities by withholding the payment of the subsidy, a substantial part of which is to be used to meet the salary of the priests. The Court ordered the respondent to pay to the applicants their respective subsidy and to also pay for the costs of the application.

101.0 Apart to providing subsidies/grants to religious bodies, Government has, in line with its objective to promote racial harmony and unity in diversity for the preservation of our rich cultural heritage and promotion of languages, set up Trust Funds, Cultural Centres, Speaking Unions and Heritage Funds. These are expected to allow Mauritian of all cultural backgrounds the opportunity to participate in religious and cultural activities of their choice and to foster harmony and mutual respect. It must, however, be stressed that it is very difficult to distinguish clearly between religion and culture, in the local context, as the two are inextricably linked and therefore often, in practice, the rights ensuring the protection of one’s culture may be extended to the protection of freedom of religion and vice versa. In this respect, students as from primary level are taught oriental languages (according to their personal liking or cultural/religious background, they may choose between Hindi, Mandarin, Tamil, Urdu, Arabic).

102.0 An annual Government grant in the bracket of Rs 1m to Rs 4m, meant for their activities and administrative expenses, is provided to each of the bodies which have been set up to promote languages and cultures in Mauritius. A list of the bodies is listed below:

(a) National Heritage Fund
(b) AapravasiGhat Trust Fund
(c) Le Morne Heritage Trust Fund
(d) Islamic Cultural Centre Trust Fund
1. Every individual shall have the right to receive information.

2. Every individual shall have the right to express and disseminate his opinions within the law.

103.0 Section 12 of the Constitution provides for freedom of expression, that is freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence. The local media enjoy a long tradition of freedom and pluralism with a number of dailies, weeklies, fortnightlylies and monthlies whilst the audiovisual landscape consists of the national radio and television, the Mauritius Broadcasting Corporation and equally private radio stations. Freedom of the press is guaranteed and is an essential component of the right to freedom of expression provided for under section 12 of the Constitution.

104.0 In the Government Programme 2015-2019, it is stated that a Freedom of Information Act will be enacted to promote transparency and accountability in public administration in contract allocations. Given that the nature and scope of such legislation
is an evolving one, Government is presently doing the necessary ground work for the preparation of a legislation which will adopt innovative processes to improve access to information. Once this initial process is completed drafting instructions will be given to the Attorney-General's Office to proceed with the preparation of the Bill.

**Articles 10 & 11- Right to Free Association and Free Assembly**

**Article 10**

1. *Every individual shall have the right to free association provided that he abides by the law.*

2. *Subject to the obligation of solidarity provided for in 29 no one may be compelled to join an association.*

**Article 11**

*Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.*

105.0 Section 13(1) of the Constitution guarantees, *inter alia*, the protection of freedom of association. It provides that except with his own consent, no person shall be hindered in the enjoyment of his freedom of association, that is to say, his right to associate with other persons and, in particular, to form or belong to trade unions or other associations for the protection of his interests.

106.0 Section 13(2) of the Constitution provides that laws can be made which restrict the freedom of association to the extent that the laws in question makes provision in the interests of defence, public safety, public order, public morality or public health, or for the purpose of protecting the rights or freedoms of other persons; or for the imposition of restrictions upon public officers. However, these laws will not stand the test of constitutionality if it is shown that they are not reasonably justifiable in a democratic society.

107.0 In conformity with Section 13 of the Constitution, Section 21 of the Equal Opportunities Act states that no person shall discriminate against another one when the latter is invited to join him in the setting up of a company, partnership, "société" or registered association. Furthermore, a company, partnership, "société" or registered association, or an officer shall not discriminate against a member of the body by denying that member access, or limiting his access, to a benefit, facility or service arising from membership; by expelling that member; or by placing that member at a disadvantage in any other manner.
The Public Gatherings Act regulates the manner in which public gatherings shall be held or organised. Not less than 7 clear days’ written notice of the public gathering should be given to the Commissioner of Police. The latter may impose any condition on the holding of the gathering and gives due consideration to matters of defence, public safety and public order.

**Article 12 - Right to Free Movement**

1. *Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.*

2. *Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions, provided for by law for the protection of national security, law and order, public health or morality.*

3. *Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions.*

4. *A non-national legally admitted in a territory of a State Party to the present Charter, may only be expelled from it by virtue of a decision taken in accordance with the law.*

5. *The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.*

Section 15 of the Constitution provides, *inter alia,* that no person shall be deprived of his freedom of movement, and freedom includes the right to move freely throughout Mauritius, the right to reside in any part of Mauritius, the right to enter Mauritius, the right to leave Mauritius and immunity from expulsion from Mauritius.

Restriction of the right to leave Mauritius may be imposed by :

(a) a Court of Law where the person is subject to a Court case;
(b) an objection raised by the Mauritius Revenue Authority to the departure of a person who is indebted to the Authority; or
(c) by the Police may raise an objection to departure against a person whose presence is required for the purpose of enquiry into Police cases.
111.0 Travel documents are issued in the following circumstances:-

(a) any citizen of Mauritius who has lost his passport abroad and has to travel back to Mauritius;
(b) any Commonwealth Citizen who has lost his passport and has to travel back to his country of residence or has to travel to a specific destination and return to Mauritius; and
(c) a Citizen of Mauritius whose passport has been sent abroad for visa purposes and has to travel to another country in the meantime.

112.0 All citizens of Mauritius are entitled to a travel document. However, a Court of Law may impose restriction on the use of such travel documents. Statistic on the number of Travel Documents and Passports issued since the year 2007 up to June 2015 are as follows:-

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No of Travel Documents issued</td>
<td>817</td>
<td>636</td>
<td>458</td>
<td>460</td>
<td>504</td>
<td>227</td>
<td>280</td>
<td>312</td>
<td>176</td>
</tr>
<tr>
<td>No of Passports issued</td>
<td>63,430</td>
<td>56,126</td>
<td>45,914</td>
<td>48,776</td>
<td>51,853</td>
<td>50,912</td>
<td>55,299</td>
<td>62,673</td>
<td>30,009</td>
</tr>
<tr>
<td>TOTAL</td>
<td>64,247</td>
<td>56,762</td>
<td>46,372</td>
<td>49,236</td>
<td>52,357</td>
<td>51,139</td>
<td>55,579</td>
<td>62,985</td>
<td>30,185</td>
</tr>
</tbody>
</table>

113.0 A person travelling to Mauritius without the required travel documents may be returned back to his country of origin or residence, by the international carrier, which brought him/her. All expenses in connection therewith, including hotel accommodation, medical care and court costs, if any, are borne by the carrier.

Requirements for the admission of Non-Citizens

114.0 Entry and exit visas are issued by the Passport and Immigration Office to foreigners entering the country. Those staying for a longer period must apply for a resident permit. Those persons who are lawfully within the territory have the freedom of movement and to choose their residence.
115.0 A non-citizen should hold a valid residence permit, except those who are exempt persons under the Passports Regulations and/or the Immigration Act, subject to the person:

   (i) holding valid passport;
   (ii) possessing valid return passage ticket;
   (iii) having adequate fund; and
   (iv) being eligible to re-enter country of origin/residence.

Asylum seekers

116.0 Mauritius, being a small and densely-populated island with limited resources, has not yet adopted a policy or law to grant refugee status to foreigners. Although Mauritius has not yet signed the 1951 Convention relating to the Status of Refugees and its 1967 Protocol Convention, it does however, attempt to treat applications for refugee status or political asylum on a humanitarian, case-to-case basis by facilitating their settlement in a friendly country willing to receive them.

Deportation

117.0 A Deportation Order under the Deportation Act is required to make a non-citizen leave and remain out of Mauritius. The Deportation Act sets the procedures for a deportation order in respect of a convicted person, an undesirable person, a destitute person or a prohibited immigrant under the Immigration Act.

118.0 The Deportation Act also provides, *inter alia*, for detention in custody pending decision; how deportation orders are to be executed; deportation orders in respect of persons undergoing a sentence of imprisonment; and expenses of or incidental to deportation of a person to be met by the State.

Extradition

119.0 The extradition of a foreign national is made through diplomatic channel by the Requesting State, setting out the offence allegedly committed by the offender and providing all the relevant details/facts/information/warrant, in accordance with the Extradition Act 1970.

120.0 After receiving the said request, the Ministry of Foreign Affairs, Regional Integration and International Trade will ascertain whether there is an Extradition Treaty between the
Requesting State and Mauritius, or the Foreign State itself will specify the Extradition Treaty under which the request for extradition may be executed. Pursuant to Section 8 of the Extradition Act of 1970 of the Republic of Mauritius, the request for extradition will be transmitted to the Attorney General. The Attorney General’s Office and the State Law Office will process the extradition request in accordance with the relevant provisions of the Extradition Act and/or the relevant Extradition Treaty (between Mauritius and the Requesting State).

121.0 The Attorney General may authorise, in writing, a Magistrate to issue a warrant for the arrest of the accused/offender provided that the provisions of the Extradition Act relating to the issue of such a warrant have, in the Magistrate’s opinion, been complied with. However, The Supreme Court of Mauritius may order the release of the accused/offender in accordance with Section 13 of the Extradition Act.

122.0 The principles relating to the law of extradition have been set out clearly in the cases of Danche D. v The Commissioner of Police & ORS (2002) SCJ 171 and Ramankhan M F. v The Commissioner of Prisons (2002) SCJ 140, and both cases are still good law. In the first case the applicant, a French National moved the court for the issue of a writ of habeas corpus so that his release be ordered. A warrant for arrest of the applicant had been issued under the Extradition Act since the latter had been accused of having committed in the United States of America (USA) the offences of mail fraud, interstate transportation of stolen property and wire fraud. The argument put forward by the applicant was that there was no extradition treaty between Mauritius and U.S.A. It was held by the court that the extradition treaty signed between the United Kingdom and the U.S.A, under the United Kingdom Extradition Acts 1870–1935 was succeeded to by Mauritius after its independence and it was open to Mauritius from 1968 onwards to give notice of termination of the treaty. Since neither Mauritius nor U.S.A had given notice of termination of the treaty, the court held that the treaty was still binding on both countries and the application was set aside.

123.0 In the case of Ramankhan M F v the Commissioner of Prisons (2002) SCJ 140, the applicant moved the court for the issue of a writ of habeas corpus so that his release be ordered. A warrant of arrest had been issued against applicant on the basis that the applicant had in England the offence of indecent assault on a female child under the age of 16. The grounds on which applicant have relied at the hearing are as follows:-

(a) there is no extradition treaty between Mauritius and England;
(b) there was no *prima facie* evidence established against the applicant in respect of the charge on indecent assault;

(c) his extradition is required for the purposes of a police enquiry. Consequently, he is only a suspect and not an accused party under the Act;

(d) he will not be afforded a fair hearing in England in that: (a) his right to silence will be undermined; (b) he will be amenable to a penalty which is more severe in England than in Mauritius for the offence with which he has been charged; and (c) he will be denied the protection of stricter legal rules in Mauritius governing the evidence of child witnesses; and

(e) there is a discrepancy between the charge laid against the applicant in the document that was put before the magistrate.

124.0 It was held by the Court that:

(a) there was no need for extradition treaty between England and a Commonwealth Country like Mauritius;

(b) there was sufficient evidence for the committal; and

(c) the applicant was an ‘accused’ for an extradition crime namely indecent assault in England which is comparable to the Mauritian offence of attempt upon chastity.

The Court found no merit in the other arguments put forward by the applicant and the application was set aside.

125.0 In the case of **Auger R v The Commissioner of Police &Ors (2010) SCJ 127**, the detainee, a Canadian citizen applied for a writ of *habeas corpus* following a warrant of commitment pending his surrender to the Canadian authorities, issued by the District Magistrate of Port Louis issued, under Section 11(5)(c) of the Extradition Act. The Court held that there was “not the least indication that there has been a failure to comply with the legal requirements under the Act which is of such a nature that would render the decision of the Magistrate irregular or illegal”. The Court declined the application and ordered that the applicant be not discharged from custody pending the decision of the Attorney-General to surrender him to the Canadian authorities.
The status for extradition request in Mauritius as at November 2015 is as follows:

<table>
<thead>
<tr>
<th>No.</th>
<th>Extradition Requests</th>
<th>Extradition Authorised or Refused</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Hungary</td>
<td>One Hungarian National - Under consideration by the State Law Office</td>
</tr>
<tr>
<td>2.</td>
<td>Belgium</td>
<td>One Belgian National - Under consideration by the State Law Office</td>
</tr>
<tr>
<td>3.</td>
<td>India</td>
<td>One Indian National - extradition executed on 14 November 2015</td>
</tr>
</tbody>
</table>

Source: Ministry of Foreign Affairs, Regional Integration and International Trade

**Article 13- Right to participate in public affairs**

1. Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.

2. Every citizen shall have the right of equal access to the public service of his country.

3. Every individual shall have the right of access to public property and services in strict equality of all persons before the law.

127.0 Section 44 of the Constitution provides that any person who is registered as an elector in a constituency shall be entitled to vote in such manner as may be prescribed at any election, unless that person is prohibited from so doing by the law of Mauritius.

128.0 The main aim of the 2011 amendments to the Local Government Act was to reform the law relating to local government and to, among others, increase the participation of women in local elections. In 2015, Government further amended Section 11(6) of the Local Government Act and replaced it by Sections 11(6)(a) and 11(6)(b). Section 11(6)(a) reads as follows:

“Every group presenting more than 2 candidates at an election of a Municipal City Council or Municipal Town Council shall ensure that not more than two thirds of the group’s candidates for election to that Council are of the same sex.”

Section 11(6)(b) of the Local Government Act catered for the common situation that a group may form part of an alliance and thus provided:
“Where the group forms part of an alliance, it shall be sufficient for the alliance to comply with paragraph (a) without each group forming part of the alliance necessarily complying with that paragraph.”

129.0 The First Schedule to the Local Government Act was also amended to provide for the number of Councillors for the Municipal City Council of Port-Louis to be raised from 24 to 32. The Second Schedule to the Local Government Act was also amended to provide for the number of Councillors for Municipal Town Councils to be increased as follows: 24 for the towns of Beau-Bassin-Rose Hill and Vacoas-Phoenix, 20 for the Town Councils of Curepipe and Quatre-Bornes.

130.0 To implement the above amendments, Government also amended the Municipal City and Municipal Town Council Elections Regulations 2012, in 2015 by the Municipal City Council and Municipal Town Council (Amendment) Regulations 2015. These regulations provide that political parties should register as a “group” and where they contest an election alongside another group or groups, as the case may be, they should register as an alliance for the purposes of Municipal and Town Council Regulations.

131.0 Government now intends to undertake the second phase of the review of the Local Government Act. The review will focus, inter alia, on how democracy at local level could be further consolidated, community participation encouraged, and the local authorities operate in a more effective manner for improved delivery of services.

132.0 Regarding the participation of women in the national decision-making process, Mauritius is committed to the decision taken by South Africa Development Community to increase women’s participation in politics and decision-making by 30%. For the two last general elections held in July 2005 and in May 2010, the main political parties honoured their pledge to increase women representation in National Assembly and there was a marked increase in the number of women candidates. With regard to the National Assembly Elections 2014, on Nomination Day, 739 candidates deposited their nomination papers in the 21 constituencies whereby 128 were women candidates. 8 women candidates were elected as members of the National Assembly.
133.0 As regards women’s representation in decision-making bodies in 2014, same is illustrated in table below:-

<table>
<thead>
<tr>
<th>Grade</th>
<th>Number</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministers</td>
<td>3 out of 25</td>
<td>12</td>
</tr>
<tr>
<td>Members of Parliament</td>
<td>8 out of 70</td>
<td>11.4</td>
</tr>
<tr>
<td>Ambassadors</td>
<td>5 out of 22</td>
<td>22.7</td>
</tr>
<tr>
<td>Senior Chief Executive</td>
<td>2 out of 4</td>
<td>50</td>
</tr>
<tr>
<td>Permanent Secretaries</td>
<td>10 out of 32</td>
<td>31.3</td>
</tr>
<tr>
<td>Deputy Permanent Secretaries</td>
<td>26 out of 68</td>
<td>38.2</td>
</tr>
<tr>
<td>Assistant Permanent Secretaries</td>
<td>53 out of 131</td>
<td>59.5</td>
</tr>
<tr>
<td>Judges</td>
<td>8 out of 19</td>
<td>42.1</td>
</tr>
<tr>
<td>Magistrates</td>
<td>28 out of 19</td>
<td>68.3</td>
</tr>
</tbody>
</table>

*Information from Statistical Unit (figures are after General Elections, December 2014)*

134.0 To increase the participation of persons with disabilities in public and political spheres, the following measures have been taken to making voting procedures disabled-friendly:-

(i) accessible room on ground floor with ramps in each polling station has been reserved for voters with disabilities;

(ii) special adjustable booth for wheelchair users is provided;

(iii) the law has been amended to allow a blind voter or with severe disability to be accompanied by a close relative to assist him to accomplish his civic duties; and

(iv) explanations of voting procedures are also given in the Mauritian Sign Language on television.

**Electoral reform**

135.0 At national level the National Assembly consists of 70 members of whom 62 are elected in accordance with the first-past-the-post system and the remaining 8 are allocated seats from among the best losers at general elections on a communal and party basis. In order to be able to implement the Best Loser System which ensures a fair and adequate representation of each community, the First Schedule to the Constitution of Mauritius
requires that, at any general election, candidates have to declare the community to which they belong. The community of the candidate appears on the nomination paper which is published but does not appear on the ballot paper. A person who, by his way of life does not appear to belong to the Hindu, Muslim or Sino-Mauritian Community, is regarded as belonging to the residual category known as the “General Population”.

136.0 However, some time before the General Elections of 2014, a group of persons belonging to a political party named ‘Rezistans ek Alternativ’ challenged the above requirement for a candidate to declare to which community he belongs to, under the communications procedure laid down in the First Optional Protocol to the International Covenant on Civil and Political Rights. The Applicants alleged breaches of Articles 18, 25 and 26 of the Covenant and highlighted the vagueness of the criteria which determines which community they belong to.

137.0 The Human Rights Committee in its finding of 2012 stated that Article 25 of the Covenant had been violated. An extract of the Human Rights Committee’s findings reads as follows:

“The Committee therefore finds, taking into account the State party’s (Government of Mauritius) failure to provide adequate justification in this regard and without expressing a view as to the appropriate form of the State party’s or any other electoral system, that the continued maintenance of the requirement of mandatory classification of a candidate for general elections without the corresponding updated figures of the community affiliation of the population in general, would appear arbitrary and therefore violates Article 25 of the Covenant.”

138.0 With a view to complying with the findings of the Human Rights Committee, Parliament has, in July 2014, passed the Constitution (Declaration of Community) (Temporary Provisions) Act whereby it is no longer mandatory for a candidate to declare the community to which he belongs. Section 4 of the Act provides that notwithstanding paragraph 3 of the First Schedule to the Constitution, a candidate at the next general election may elect not to declare the community to which he belongs. In the event that a candidate at that election has not declared his community, he shall be deemed to have opted not to be considered for the purpose of the allocation of additional seats and no additional seat shall be allocated to him.
139.0 Where a candidate has not declared his community and is returned as member, the Electoral Supervisory Commission shall, for the sole purposes of determining the appropriate community and allocating additional seats, proceed on the basis of the average number of returned members belonging to each community at all general elections held since 1976. In the event that no candidate belonging to a community has been returned as member to represent a constituency and the allocation of additional seats as pursuant to the above paragraph, will result in no additional seat being allocated to any available unreturned candidate belonging to that community, the first additional seat required to be allocated shall be allocated to the most successful unreturned candidate belonging to that community and belonging to a party and finally where all candidates who are returned as members have declared their community, the allocation of additional seats shall be effected under paragraph 5 of the First Schedule to the Constitution.

140.0 In light of findings of the UN Human Rights Committee, the new Government which was elected in December 2014, is pursuing its discussions and consultations to work towards an electoral reform that will suit the long-term interest of the country and that will have five criteria as follows:-

(i) stability;
(ii) fairness;
(iii) inclusiveness to ensure representation of all components of the Mauritian rainbow nation;
(iv) gender representation; and
(v) transparency and accountability.

141.0 The new Government stands committed to reform the electoral system so as to introduce a dose of proportional representation in the National Assembly and guarantee better women’s representation. The issue of mandatory declaration of community will be addressed in the wider context of the electoral reform. In this context a Ministerial Committee will be set up to examine the various implications of the proposed changes and make recommendations. Thereafter, appropriate consultations will be held with all the stakeholders prior to implementation.
Article 14 - Right to Property

The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

142.0 Section 8 of the Constitution provides, *inter alia*, provides for the protection of the individual from the compulsory deprivation of his property except when the taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development or utilisation of any property in such a manner as to promote the public benefit or the social and economic well-being of the people of Mauritius. The owners are compensated accordingly whenever there is compulsory acquisition by Government.
B. Social, Economic and Cultural Rights

Article 15 - Right to work

Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.

143.0 The Employment Rights Act 2008, which has replaced the Labour Act 1975, with effect from 02 February 2009, has revised and consolidated the legal provisions relating to employment, contract of employment or service, termination of employment, minimum age for employment, hours of work, payment of remuneration and other basic terms and conditions of employment, thereby ensuring a better protection of workers’ rights.

144.0 Section 20 of the Employment Rights Act 2008 has been amended in June 2013 and now reads as follows:-

(1) “Every employer shall ensure that the remuneration of any worker shall not be less favourable than that of another worker performing work of equal value”.

(2) “Where an employer has recourse to the services of a job contractor, the job contractor shall ensure that the remuneration of any worker shall not be less favourable than that of another worker performing work of equal value”.

145.0 The Act has also been amended with a view to, inter-alia:-

(a) creating a legal framework for the operation of the regime of fixed term contracts of employment to prevent employers from having recourse to such contracts abusively;

(b) extending the grant of paid annual and sick leave to workers reckoning between more than 6 months’ and less than 12 months’ continuous employment;

(c) reviewing the process of disciplinary hearing to ensure that such hearing is held in a fair and independent manner;
(d) introducing the concept of reinstatement in cases of unfair termination of employment on grounds of redundancy, discrimination and victimisation for participation in trade union activities;

(e) providing for the setting up of an independent Employment Promotion and Protection Division within the Employment Relations Tribunal to determine, within a specific time frame, whether cases of redundancy or closing down of enterprises are justified or not;

(f) providing for the payment of a death gratuity in case of death of workers reckoning not less than 12 months’ continuous employment; and

(g) increasing the quantum of meal allowance from 50 rupees to 70 rupees per day where a worker is required to perform more than 2 hours overtime after having completed a normal day’s work.

146.0 The Employment Relations Act also focuses on, inter alia, the protection and enhancement of the democratic rights of workers and trade unions; the promotion of collective bargaining; the promotion of voluntary settlement and peaceful resolution of disputes; the strengthening of the disputes and conflicts resolution procedures and institutions to ensure speedy and effective settlement; the right to strike, as a last resort, after conciliation and mediation have failed; and the building of a productive employment relationship.

147.0 All legal and administrative provisions regarding health and safety at the work place are governed by the Occupational Safety, Health and Welfare Act, which provides the mechanism for the control of unsafe working conditions and gives pre-eminence to the duty of employers to ensure safe working conditions and the safety, health and welfare of all employees. No category of worker is excluded from the scope of existing safety and health legislations.

**Article 16- Right to Health**

1. *Every individual shall have the right to enjoy the best attainable state of physical and mental health.*

2. *States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.*
148.0 The right to health is provided for in different legislations. Mauritius being a welfare State, medical care is free for everyone and the right to health care is guaranteed for everybody. The Radiation Protection Authority established under the Radiation Protection Act, *inter alia*, regulates, controls and supervises radiological work and every activity relating to the acquisition, importation, use, transportation and disposal of radioactive material, wastes and substances. Further, under section 20 of the Act, when a person who is engaged in radiological work or who is exposed to ionising radiation, shows signs of disease or injury which is suspected to be caused by radiation, the employer employing such person shall immediately make arrangements for the medical examination of the person concerned.

149.0 There is also a Trust Fund provided for under the Specialised Medical Care Act to cater for the operation of a Specialised Medical Care Centre and the management of other institutions for the provision of high-tech medical care. The welfare of mental patients is governed by the Mental Health Act, which serves as guidelines for the management, security and welfare of patients.

150.0 The HIV and AIDS Act provides for a rights-based approach to HIV and AIDS related issues, and aims in particular at protecting persons living with HIV and AIDS from discrimination. One of the objects of the Act is to respond to the HIV/AIDS epidemic through enhanced HIV prevention programmes and national mechanisms for voluntary counselling and testing.

151.0 Under the Dangerous Chemicals Control Act, the Dangerous Chemicals Control Board has the task of, *inter alia*, disseminating to other law enforcement agencies and public departments information relating to dangerous chemicals; ensuring coordination and cooperation amongst the law enforcement agencies, government departments and other institutions for the effective control of dangerous chemicals; and carry out such other duties as may be necessary for the control of dangerous chemicals.

152.0 The Food Act regulates, *inter alia*, the determination of fitness of food, its preparation, packaging, storing, conveyancing, distribution as well as sale.

153.0 The prevalence of major communicable diseases of public health importance has decreased considerably during the past few decades, mainly due to improvements in safe water supply and environmental sanitation and also due to the Expanded Programme on Immunization (EPI) in accordance with the recommendations of the World Health
Organisation. The vaccine is free of user cost in public health institutions and its coverage rate is high.

154.0 Mauritius has been able to eliminate vector borne diseases such as Malaria and Lymphatic Filariasis and no case of Schistosomiasis has been reported since quite some time now. Moreover, the recent outbreaks of Chikungunya and dengue were successfully controlled and eliminated. None of these viruses is actually circulating in the country, though imported cases are still being detected.

155.0 With a view to preventing resurgence or emergence of epidemic prone diseases, the Ministry of Health and Quality of Life has initiated actions to carry out a reorganisation of the Communicable Disease Control Unit, aiming at strengthening the communicable disease surveillance system in the country, with focus on the setting up of an early warning and rapid response system. This project is also in line with the recommendations of the World Health Organization to Member States to reinforce capacity for the implementation of the International Health Regulations. In addition, with a view to preventing the introduction of communicable diseases of major public health importance, surveillance at the ports of entry and at residence is being carried out for passengers arriving from high risk areas. Training has been conducted for the various categories of staff who would eventually form part of rapid response teams.

156.0 Vector control is another important pillar of prevention and control of diseases transmitted by mosquitoes. This is an ongoing activity throughout the year. Awareness campaigns related to specific diseases are being carried out as a routine, though media channels and also at community level. Water quality is also being monitored regularly to detect contamination. Food safety ranks high on the agenda of the Ministry and as such the need for closer food monitoring is being emphasized.

157.0 Strengthening of laboratory capacity has also been a regular feature. In this respect, among other achievements, the setting up of a molecular biology cell within the virology department of the Central Health Laboratory has been an important milestone in the development of new diagnostic tools. World Health Organization has recognized the molecular biology and virology laboratory as a National Influenza Centre and it now forms part of the WHO Global Influenza Surveillance and Response System. Tests have also been introduced for the detection of newly emerging diseases such as Influenza A H7N9 and MERS-Coronavirus.
The National Day Care Centres for the Immuno-Suppressed has been further decentralized to other regional hospitals so as to make HIV care, testing and anti-retroviral treatment more accessible. HIV/AIDS, services are now provided in three of the four regional hospitals, through Day Care Centres. For Flacq Hospital, procedures for renting of premises to house the HIV and AIDS Day Care centre in Flacq has been initiated.

The control of non-communicable diseases shall be enhanced in line with WHO Global Strategy for Prevention and Control of non-communicable diseases. Action Plans on Nutrition, Tobacco, and Physical Activity and Cancer are being implemented. Draft Action Plans on Harmful use of Alcohol, and on Tobacco have been finalized. A National Plan of Action on Nutrition, which includes amongst others, dietary guidelines for healthy nutrition, fruit and vegetable promotion initiatives and regulation of the sale of foodstuffs on school premises, has been implemented. A second National Plan of Action on Nutrition has already been prepared and will be implemented in 2015. Regulations will be made on trans-fatty acids.

The Pitié Salpetrière Hospital in Paris, France will update the current Cancer Action Plan and assist the Ministry in the setting up of the National Cancer Agency. A Memorandum of Understanding has been signed between Ministry of Health and Quality of Life and Pitié Salpétrière Hospital to that effect.

To better protect the rights of mental patients, specialised services in the field of Mental Health Care have been decentralized and there is now also a Psychiatric Unit at the Regional Hospital at Flacq to cater for the eastern part of the island. In the other Regional Hospitals, Liaison Psychiatry is being practiced. Mental Health Care is also being provided at Primary Health Care Centres by Psychiatrists and Community Physicians.

Sexual and reproductive health services are available in all hospitals and health care centres and are fully accessible by any citizen, free of cost. Section 235 of the Criminal Code has been amended in order to allow for abortion in cases of therapeutic abortion as well as in cases where ensuing pregnancies is the result of rape or incest.
Article 17- Right to Education

1. Every individual shall have the right to education

2 Every individual may freely, take part in the cultural life of his community

3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

163.0 The right to education is provided for in the Education Act and education is free in Mauritius from pre-primary to tertiary level. In line with internationally accepted best practices, Government encourages the use of mother tongues to facilitate teaching and learning. With a view to promoting teaching of the mother tongue, the Kreol Morisien was introduced in Standard I in 2012 as an optional subject. Bhojpuri has also been integrated in the existing Hindi curriculum. Implementation will be pursued incrementally for the teaching of Kreol Morisien across the primary cycle. The Kreol Morisien will ultimately be reckoned as an examinable subject for end of year primary examination on the same lines as other optional languages.

164.0 The Ministry of Education and Human Resources has taken several measures for the inclusion and integration of children with Special Education Needs so as to ensure that no child is deprived of education on account of any form of impairment or disability. These are inter alia:-

(a) the registration procedures for Special Education Needs children have been reviewed. An intensive campaign is being carried out to persuade and encourage parents to register their wards in the nearest primary schools;

(b) schools are being retrofitted with ramps to facilitate access to the classrooms;

(c) all new secondary schools constructed have already been provided with adapted toilets for the disabled;

(d) links between building blocks have been made to facilitate access, using wheelchairs to the first floor where specialist rooms are located;

(e) a flexible approach is adopted towards parents who wish to call at school during the day to provide assistance to their physically disabled pupils;
(f) facilities like music room, library, science laboratory, computer room are available on the ground floor where necessary. In primary schools, Head Masters usually make arrangements to move the whole class to the ground floor wherever necessary;

(g) students with disabilities are released earlier than the other students so that they do not face any movement difficulties;

(h) school Attendants usually help students on wheelchair to move around the school compound;

(i) the same facilities are available in Private Grant Aided secondary schools to enable children with disabilities to move around the school compound and participate actively in academic activities;

(j) educators are encouraged to provide individual extra assistance to children with disabilities so as to allow them to keep pace with their classmates;

(k) children with disabilities benefit from extra time for the CPE examination;

(l) enlarged print school books/manuals and question papers are produced for children suffering from visual impairment;

(m) a Mauritian Sign Language has been developed to ease communication for children with deafness;

(n) children with hearing impairment are provided with the service of sign language interpreters for the purpose of examinations;

(o) children with hearing impairment are provided specialist Teacher/Interpreters in the mainstream secondary school with the active collaboration of NGOs;

(p) special Education Needs Resource and Development Centres (SENRDC) are being set up. Three are already operational at Ferney, Maingard and Plaines des Papayes. These centres provide support to children with disabilities in the mainstream. The SENRDC provide proximate specialized and relevant services to children with disabilities according to their specific needs;

(q) the Ministry of Education and Human Resources has put up integrated units in government primary schools around the island so as to reach out those who have
to travel long distance. There are at present 13 such Integrated Units and the majority of them are run in partnership with specialist NGOs;

(r) the Mauritius Institute of Education is providing courses to build capacity of Teachers/ Educators with the appropriate skills/knowledge to deal with children with disabilities;

(s) provision of a Carer is made on a case to case basis to children with special needs requiring extra assistance; and

(t) with a view to profitably gain from the experience and good practices in other countries, assistance from some of them have been sought.

165.0 To ensure that no single child is denied his/her opportunity for early self-development, the Ministry of Education and Human Resources in collaboration with the Early Childhood Care and Education Authority are currently working on the amendments that need to be brought to the Early Childhood Care and Education Authority Act in order to make pre-primary education compulsory in Mauritius.

**Nine-year schooling**

166.0 The introduction of the nine-year schooling is high on the agenda of Government. The latter is committed to introduce the nine-year basic continuous schooling and to replace the Certificate of Primary Education by an end-of-primary cycle assessment. The Ministry of Education and Human Resources, Tertiary Education and Scientific Research will soon present for an Implementation Plan for that purpose. Under this system, the learners will be expected to acquire appropriate levels of literacy, numeracy as well as life skills and ethical and civic values.

**Arts and Culture**

167.0 A Draft White Paper on Arts and Culture with some 120 recommendations has been submitted to the public for comments/views. A Steering Committee, Chaired by the Permanent Secretary, Ministry of Arts and Culture, and including the Ministry of Finance and Economic Development has been set up to look into the views received, consider their financial and other implications and whether these may be incorporate in the Draft White Paper. The White Paper will be finalised to include short term, medium term and long term projects.
168.0 The Ministry of Arts and Culture, the National Heritage Fund and the Attorney-
General’s Office are currently finalising the first draft of the new National Heritage Fund
Bill, with a view to including, *inter alia*, the provisions of the Convention for the Protection
of Cultural Property in the event of Armed Conflicts.

**Article 18- Protection of the Family, Women & Children**

1. *The family shall be the natural unit and basis of society. It shall be protected by the State
which shall take care of its physical health and moral.*

2. *The State shall have the duty to assist the family which is the custodian or morals and
traditional values recognized by the community.*

3. *The State shall ensure the elimination of every discrimination against women and also
ensure the protection of the rights of the woman and the child as stipulated in international
declarations and conventions.*

4. *The aged and the disabled shall also have the right to special measures of protection in
keeping with their physical or moral needs.*

**Protection of the family**

169.0 The **Protection from Domestic Violence Act** which was enacted in 1997 was
amended a first time in 2004 so as to make it more responsive to the needs of victims of
domestic violence. It was again amended in 2007 to enhance the protection of women by
empowering the Court to issue, *inter-alia*, Protection Orders. The Act was further amended
in 2011 to give more power to the Supreme Court to take decisions as it thinks fit regarding,
*inter-alia*, occupation and tenancy order. Furthermore, the Ministry of Gender Equality, Child
Development, and Family Welfare is in consultation with the Attorney-General’s Office to
further amend the Act so as to introduce psychological and sexual abuses as well as economic
depredation within the definition of domestic violence. The Ministry is also envisaging amending
the Criminal Code to make marital rape an offence. Furthermore, Article 242 of the Criminal
Code will be also amended to remove from the Code that “Manslaughter committed by any
person on his spouse, as well as on his accomplice, at the very moment he finds them in the act of
adultery is excusable”

170.0 Amendments were brought to the **Code Civil Mauricien** in 2011 to provide for a
new procedure for divorce, which is by way of mutual consent. This procedure enables
married couples to go through the divorce in a much simpler and quicker procedure/wayas
compared to the other types of divorce such as the ‘divorce pour faute’ or ‘divorce pour rupture de la vie commune’ for instance. Only parties who have been married for a period of more than 24 months are allowed to enter a divorce petition by way of mutual consent. They may, if they so qualify, retain the services of only one Attorney instead of one for each party. Another precondition to the divorce by way of mutual consent is that both parties need to agree on the breakdown of the marriage and on the arising effects. Parties need further to reach and submit an ‘agreement’ for ‘ratification’ by the Judge, which takes care of all the consequences of the divorce.

171.0 Marriage Enrichment Programmes delivered by the Family Welfare and Protection Unit of the Ministry of Gender Equality, Child Development and Family Welfare are targeted at married couples. The following modules are covered under these programmes:-

- Fundamental concepts of marriage;
- Conflict Resolution and Enhancing Communication;
- Sexuality in marriage;
- Family Budget and Common Decision Making;
- Reviewing commitments and understanding each other; and
- Family Values and Improving Interpersonal Relationships, amongst others.

172.0 Pre-Marital Counselling Programmes by the Family Welfare and Protection Unit of the Ministry are also available for married couples. The modules covered are:-

(i) Enhancing Communication and Common Decision Making;
(ii) Role Expectations Understanding each other;
(iii) Basic ingredients for a successful marriage;
(iv) Anger Management and Conflict Resolution;
(v) Planning a Family Budget;
(vi) Love and Sexuality; and
(vii) Legal Aspects of Marriage, amongst others.

Protection and elimination of discrimination against women

173.0 In addition to the constitutional protection afforded to many of the Covenants’ obligations, some of these obligations are implemented through statutes (including for example the Equal Opportunities Act) or administrative measures. Moreover, in line with the provisions of the ILO Convention No. 100 and Article 11 of the Convention on the
Elimination of All Forms of Discrimination Against Women (CEDAW), Section 20 of the Employment Rights Act 2008 was amended in June 2013 to ensure equal pay for equal work as detailed under Article 15 above.

174.0 Section 30 of the Act was also amended in 2013 and contains a number of provisions protecting the rights of workers with family responsibilities as detailed below:

(a) 12 weeks' maternity leave on full pay, to a female worker who remains in continuous employment with the same employer for a period of 12 consecutive months immediately preceding the beginning of leave, to be taken either before confinement or after confinement provided that at least 7 weeks' leave is taken immediately after confinement. However, for those female workers reckoning less than 12 months' continuous service, the leave is without pay;

(b) where a female worker who has been in continuous employment with the same employer for a period of 12 consecutive months immediately preceding the beginning of leave, gives birth to a still-born child, she shall, on production of a medical certificate, be entitled to 12 weeks' leave on full pay;

(c) 2 weeks' leave on full pay in case of miscarriage irrespective of the length of service of the female worker;

(d) that an employer shall not require a pregnant female worker to perform overtime, two months before her confinement;

(e) that a female worker shall not be required to perform duties necessitating continuous standing; or that may be detrimental to her health and that of her baby, provided that there is a recommendation to that effect from a medical practitioner;

(f) that an employer is prohibited from giving a notice of dismissal to an employee on maternity leave or giving such notice which will expire during her maternity leave except on grounds that relate to the economic, technological, structural or similar nature affecting the employer's activities;

(g) that an agreement shall not be terminated by an employer by reason of a worker's absence from work during maternity leave; and

(h) for a female worker, who is nursing her breastfed child, to be entitled to a daily break of one hour, or a break of half an hour twice daily with pay for the
purpose of nursing the child; for a period of 6 months from the date of confinement or such longer period as may be recommended by a medical practitioner.

175.0 As announced in the Government Programme 2015-2019 and in line with the ILO Maternity Protection Convention 2000, the Employment Rights Act was further amended in April 2015 to extend the duration of maternity leave from 12 to 14 weeks so as to better support working mothers fulfilling their family obligations.

176.0 Section 31 of the Act provides that a male worker is entitled to 5 continuous working days’ paternity leave upon the production of a medical certificate certifying that his spouse has given birth to his child and a written statement from him that his spouse and himself are living under a common roof. This benefit is also extended on a pro-rata basis to part-time male employees. The leave is on full pay for a worker reckoning more than 12 months’ continuous employment. The application of this provision has been extended to all sectors of employment, including those covered by Remuneration Regulations. It is to be noted that under this section, ‘spouse’ is defined as a person with whom the worker has contracted a civil or religious marriage.

177.0 The Equal Opportunities Act was enacted in 2008 with the aim of promoting equal opportunities for both men and women. Subsequently, following amendments brought to the Act in 2012, the Equal Opportunities Commission (EOC) and the Equal Opportunities Tribunal have been set up to address cases of discrimination made on the basis of race, religion, status and sex amongst others so as to ensure greater equality in term of access to opportunities and life chances to all citizens. This Act coupled with the setting up of the Commission and the Tribunal contributes to address the issues of gender equality and discrimination against women.

178.0 Following the enactment of the New Local Government Act in 2012 which stipulates that at least 1 out of 3 candidates to be fielded for elections at local/Municipal level should be of the opposite sex, there has been a significant leap in the number of women participating in Municipal and Village Council elections. At Municipal level, there has been an increase from 12.5% in 2005 to 28.2% in 2012. At Village Council level, the increase has been from 5% in 2005 to 30.3% in 2012.

179.0 In terms of capacity building of women in the political arena, the Ministry of Gender Equality, Child Development and Family Welfare in collaboration and the National
Women’s Council (NWC) collaborate with the Equal Opportunities Commission and act as facilitators in mobilizing women to attend awareness campaigns on the Equal Opportunities Act and the New Local Government Act.

180.0 In its implementation of the National Action Plan to End Gender-Based Violence, the above Ministry conducted capacity building programmes for NGOs, in collaboration with the Mauritius Council of Social Service (MACOSS) in 2012. Through these capacity building programmes, the Ministry encouraged NGOs to submit projects for the setting up and management of shelter for victims of gender-based violence under the Special Collaborative Programme for Support to Women and Children in Distress. Currently Women victims of domestic violence are provided with temporary accommodation at the shelter of SOS Femmes and the Shelter for Women and Children in Distress.

Protection of Children

181.0 Following the visit of the Special Rapporteur, Mauritius ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography on 14 June 2011. Government signed on 13 August 2012 the Optional Protocol to the Convention on the Rights of the Child on Communications Procedure. Furthermore to give effect to the UN Protocol to Prevent Suppress and Punish Trafficking in Persons, the Combating of Trafficking in Persons Act 2009 was proclaimed on 30th July 2009.

The Children’s Bill

182.0 Upon the recommendation of the Committee on the Rights of the Child, a Children’s Bill is being prepared and is at the stage of finalisation. The Bill is expected to incorporate the spirit of the Convention on the Rights of the Child by including all its main principles and obligations. The objective of the Bill is to bring together the different pieces of legislation dealing with children under a single legislation. Prohibition of Corporal Punishment in all settings is being considered in the draft Children’s Bill. The Bill will provide for severe penalties for offences against children with disabilities.

183.0 Regarding the issue of respect for children’s rights by all actors, there is a provision in the draft Children’s Bill which sets out the principle that where any action is done or decision is taken (by anyone), in a matter which concerns a child, the person acting or taking the decision shall respect, protect, and promote the rights and the best interests of the child. He should also respect the inherent dignity of the child, treat the child fairly and
equitably, protect the child from discrimination, bear in mind the needs of the child for his
development including any special needs of the child which may be due to disability. Also
where appropriate, give a family member an opportunity to express his views, act promptly
(as far as possible), and where appropriate inform the child of the outcome of such act or
decision.

Ombudsperson for Children’s Office

184.0 Section 5 of the Ombudsperson for Children Act provides that “The Ombudsperson
for Children shall:-

(a) ensure that the rights, needs, and interests of children are given full
consideration by public bodies, private authorities, individuals and association of
individuals;
(b) promote the rights and best interests of children;
(c) promote compliance with the Convention on the Rights of the Child.

185.0 The main duties of the Ombudsperson for Children are to investigate cases of
violation of the rights of the child and make proposals to the relevant authorities, including
Ministers, on legislations, policies and practices. 224 cases of violation of the rights of the
child have reported in 2014. In 2014, The Ombudsperson for Children has sensitised 2000

Measures of protection against child trafficking

186.0 The Police has set up a Police Family Protection Unit (PFPU) with the special
mandate to provide specific services within society. Awareness/sensitisation campaigns
have been conducted by the PFPU as follows:-
### Education/Awareness/Sensitisation Campaigns of Police Family Protection Unit for year 2013-2015 (Jan – May)

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of sessions in Primary Schools</th>
<th>No. of Attendees</th>
<th>No. of sessions in Secondary Schools</th>
<th>No. of attendees</th>
<th>No. of session in Social Welfare centre etc.</th>
<th>No. of Attendees</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>296</td>
<td>12104</td>
<td>28</td>
<td>923</td>
<td>82</td>
<td>2920</td>
</tr>
<tr>
<td>2014</td>
<td>281</td>
<td>9949</td>
<td>13</td>
<td>950</td>
<td>131</td>
<td>5110</td>
</tr>
<tr>
<td>2015</td>
<td>227</td>
<td>7510</td>
<td>8</td>
<td>327</td>
<td>45</td>
<td>1754</td>
</tr>
<tr>
<td>Total</td>
<td>804</td>
<td>29563</td>
<td>49</td>
<td>2200</td>
<td>258</td>
<td>9784</td>
</tr>
</tbody>
</table>

*Statistics from the Mauritius Police Force*

187.0 The Mauritius Police Force has, at the request of the Ministry of Gender Equality, Child Development & Family Welfare, set up a new unit called “Brigade pour la Protection des Mineurs” in May 2004. One of the priorities of the Brigade is to act as a watchdog against all forms of exploitation and abuse against children. The Brigade is providing a meaningful and sound customer care service aimed at optimizing the protection of children and helping to alleviate the anxiety of parents whose children have been subjected to such abuses. The “Brigade pour la Protection des Mineurs” will continue its work with the Ministry of Gender Equality, Child Development and Family Welfare, on the protection of the child from all forms of abuse including commercial sexual exploitation of children.

188.0 Since January 2008, crackdown operations have been conducted islandwide at regular intervals by Officers of the Ministry of Gender Equality, Child Development and Family Welfare, National Children's Council, Brigade des Mineurs (Police Department), in collaboration with NGOs to ensure that young persons and students are attending schools during normal school hours. Such operations are seen to contribute in an efficient way to prevent young persons from engaging in truancy and loitering and getting involved in illicit activities. Campaigns conducted are as follows:-
<table>
<thead>
<tr>
<th>Year</th>
<th>No. of sessions</th>
<th>No. of Attendees (Minors/Adults)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>390</td>
<td>28558</td>
</tr>
<tr>
<td>2014</td>
<td>337</td>
<td>25071</td>
</tr>
<tr>
<td>2015</td>
<td>230</td>
<td>19342</td>
</tr>
<tr>
<td>Total</td>
<td>957</td>
<td>72971</td>
</tr>
</tbody>
</table>

*Statistics from the Mauritius Police Force*

189.0 The Police, in collaboration with the Social Workers of the Ministry of Education and Human Resources and the Child Development Unit of the Ministry of Gender Equality, Child Development and Family Welfare also redirect children who drop out of school back to the education system. Police Officers refer children who have been abused, to the Child Development Unit for psychotherapy and placement to shelters. In addition, the Police provide the following services:

- A 24-hour hotline service (Tel: 999)
- At divisional level, an Operations Room is open on a 24-hour basis
- Likewise, at Line Barracks the Operations and Information Room is open on a 24-hour basis
- A protocol of assistance to child victims ranging from protection to counselling exists, whereby all Police Officers serving in any part of the country, deal with reported cases of child abuse.

190.0 A Residential Care Drop-in-Centre for victims of Commercial Sexual Exploitation of Children has been constructed. Its purpose is to assist children victims of sexual abuse and exploitation and to help them to re-integrate society. A Hotline (113) is available to public for referral of cases of victims of child prostitution.

191.0 Community Child Watch Committee (CCWC) is a surveillance mechanism for children who are exposed to all forms of violence at community level. Its objective is the prevention, reduction and elimination of violence against children. This is done through 32 CCWCs currently operating across the island that report cases, create awareness and encourage community action. In 2013, 315 meetings were held; 51 activities were carried out; 4038 children were reached out; and 850 adults were reached out. In 2014 (January to
April): 112 meetings were held, 6 activities have been carried out and 540 children were reached out.

192.0 The District Child Protection Committee (DCPC) acts as a mediator between the community and the main institutions providing services for children, through meetings. Meetings are held every 2 months at the level of each district. DCPCs have been set up to take cognizance, review and monitor Child Protection issues at District level. In 2013: 48 meetings were held; 24 activities were carried out; 2052 children were reached out; and 342 adults were reached out. In 2014 (January to April): 3 Meetings were held, 2 activities have been carried out, 200 children were reached out, and 20 adults were reached out.

193.0 As regard the National Parental Empowerment Programmes, during period 2010 - 2011, 22 Ecoles des Parents were held reaching 480 Parents; in 2012, 13 Ecoles des Parents were held reaching 404 Parents; in 2013, 9 Ecoles des Parents were held reaching 324 Parents; in 2014 (January to April), 2 Ecoles des Parents were held reaching 54 parents.

194.0 Concerning Community Child Development Programmes, the reached out was as follows:

(a) at the Mahebourg Child Creativity Centre:

<table>
<thead>
<tr>
<th>Year</th>
<th>No of Children Reached</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>9,749</td>
</tr>
<tr>
<td>2013</td>
<td>7,985</td>
</tr>
<tr>
<td>2014 (January to April)</td>
<td>1,618</td>
</tr>
</tbody>
</table>

(b) children attendance in Children’s Clubs was as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>No of Children Reached</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>3,260</td>
</tr>
<tr>
<td>2013</td>
<td>3,800</td>
</tr>
<tr>
<td>2014 (January to April)</td>
<td>5,060</td>
</tr>
</tbody>
</table>

195.0 The public awareness/sensitization campaign is maintained by the Police with a view to better sensitizing the community on the dangers of drugs and commercial sexual exploitation of children. Anti Drug and Smuggling Unit (ADSU) has intensified its awareness campaign in collaboration with the community, schools and other NGOs. For
year 2012, the ADSU organized 34 sessions under its awareness campaign touching more than 2,525 persons. For year 2013, 53 sessions were held reaching more than 4,800 persons. For year 2014, as at 14th August 2014, 40 sessions were held touching more than 2,994 persons.

196.0 Measures to combat the commercial exploitation of children by Police in collaboration with the Ministry of Social Security, National Solidarity and Reform Institutions, the Ministry of Gender Equality, Child Development and Family Welfare and NGOs are:-

(a) networking and work sessions with other stakeholders and service providers (CDU, NGOs working with children);

(b) proactive identification of potential victims and vulnerable groups;

(c) increased Police patrols and vigilance near vulnerable areas and place of complaints;

(d) checks at places of amusements, complaints, night clubs, boarding houses and others; and

(e) counselling and guidance to parents in cases of child beyond control/behavioural problems/unruly life and those who are exposed to risks.

197.0 With a view to promoting Mauritius as a safe family destination, the Ministry of Tourism and Leisure has embarked on a sensitization campaign on the impact of the commercial sexual exploitation of children. A pamphlet on “Zero Tolerance to Child Exploitation” has been prepared.

Protection of children with disabilities

198.0 A protocol of collaboration between the Ministry of Gender Equality, Child Development and Family Welfare and the Ministry of Social Security, National Solidarity and Reform Institutions has been signed on 09 June 2015. The protocol mentioned that the Disability Unit of the Ministry of Social Security shall:-

- Assist in removing children with disabilities victims of violence to places of safety.
- Provide specialized services, sign language interpreter, and assistive devices as appropriate to children with disabilities victims of violence.
- Carry out sensitization and awareness for prevention and rehabilitation of children victims of violence including children with disabilities.
- Carry out training and capacity building of carers, parents, staff at Day Care Centres, specialized schools and NGOs, to better identify abuse on children with disabilities.

199.0 The Ministry of Education and Human Resources, Tertiary Education and Scientific Research also assist in the integration of children with disabilities and provides several facilities such as:

(a) a scholarship scheme to encourage children with disabilities to pursue secondary and tertiary studies;
(b) refund of bus fares to parents accompanying disabled children to school and refund of taxi fares to severely disabled students attending University; and
(c) provision of large print and Braille facilities to blind children integrated in mainstream institutions.

200.0 In order to bring inclusive, quality and free primary and secondary education to children with disabilities, the abovementioned Ministry has also taken, inter alia, the following measures:-

(a) setting up Integrated Units in mainstream primary schools around the island with a view to reaching out to children with special education needs who usually have to travel long distances to go to school. There are at present 14 such Integrated Units;
(b) schools are being retrofitted with ramps to facilitate access to classrooms in a phased manner;
(c) all new secondary schools are being provided with ramps and adapted toilets;
(d) children with hearing impairment are provided with special teachers/interpreters in the mainstream secondary schools with the active collaboration of non-governmental organisations; and
(e) facilities of carers are provided in primary and secondary mainstream schools to enable children with disabilities to move around the school compound and to participate actively in academic activities.
The National Child Protection Strategy

201.0 Action has been initiated for the preparation of a National Child Protection Strategy with a view to consolidating and strengthening on-going efforts and measures to respond to child protection issues and to ensuring protection of children from any forms of abuse and violence.

Protection of elderly persons

202.0 All elderly persons aged 60 and above, satisfying residency requirements, are eligible for a Universal Basic Retirement Pension. Moreover needy elderly persons receive other allowances under the Social Aid Act as well as benefits in kind. The elderly also enjoy free transport facilities by bus.

203.0 The Protection of Elderly Persons Act was enacted in 2006 providing for inter alia a Protection of the Elderly Network, an Elderly Watch in every region designated by the Monitoring Committee for the Elderly, an Elderly Persons Protection Unit for a better protection to be afforded to the elderly. Awareness and sensitisation campaigns are ongoing among youth, women and elderly. Some 7533 cases of abuses against the elderly have been reported to the Ministry since 2006 and most of the cases are dealt through counselling, mediation and family conferencing.

204.0 The Ministry of Social Security has also taken a series of measures, among others, to improve the well-being of the elderly:

(a) a Senior Citizens Council has been set up under the Senior Citizens Council Act. The Council has a network of Senior Citizens Associations in Mauritius which receive a yearly grant from Government to organise educational, leisure and cultural activities at regional level;

(b) the construction of three Recreation Centres for the Elderly and the Disabled, here the elderly and persons with disabilities can benefit from a two-night recreational and residential stay in a hotel-type environment at a highly subsidised rate. A fourth Recreation Centre will be set up to meet the increasing demand for such facilities;

(c) a Legal Counselling Programme on Property Rights for senior citizens has started in October 2012; and

(d) Carers are being trained to look after the elderly.
An “Observatory” on Ageing has been set up to carry out action-oriented research on the socio-economic aspects of ageing. The first report was submitted in April 2014 on the following themes: (i) Housing; (ii) Protection; (iii) Health (Alzheimer’s disease and Dementia); and (iv) Leisure and Recreational facilities. The recommendations of the Report will be included in the New National Policy on Ageing which is under preparation.

The Ministry is implementing new measures to improve the security and protection of the elderly:

(a) the protection of the elderly will be reinforced and the Protection of Elderly Persons Act 2005 is being reviewed;

(b) legislations are also being strengthened to ensure that Residential Care Homes are equipped with CCTV Cameras. These institutions will also be required to ensure the presence of a full-time medical practitioner and recruit qualified and trained carers, as well as a psychologist; and

(c) a new Support Care Service will be provided to elderly persons with disabilities and those living alone as part of its strategy to provide a ‘service de proximite’ to them.

A National Strategy Paper on Ageing 2015-2020 is being finalised. The Strategy will inter alia, consider the recommendations made during the last periodic review of Mauritius in August 2015 by the Committee on the Rights of Persons with Disabilities to further harmonise our national law with the provisions of the Convention; to remove the reservations that Mauritius has made with respect to the Convention; and for the further integration of persons with disabilities in our society. A Steering Committee at the level of the Ministry responsible for Social Security has also been set up to follow up on the recommendations made by the Committee.

Protection of persons with disabilities

Mauritius ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in January 2010. Government’s vision is that all citizens should have equal opportunities and that no discrimination should exist in the society.

In Mauritius the employment of persons with disabilities is specifically regulated by the Training and Employment of Disabled Persons Act (TEDP Act). Section 13 of the Act
imposes on every employer, having a workforce of 35 or more workers, a duty to employ such number of disabled persons as is specified in Part I of the Schedule to the Act. The Schedule provides that the percentage of disabled persons employed out of the total workforce should be at least 3%. This legislation applies also to Parastatal Bodies, Statutory Boards and Committees and Companies in which Government is a shareholder. The Act was amended in 2012 to:-

(a) better provide for the enforcement of the Act with a view to promote the access of persons with disabilities to employment;

(b) provide for the setting up of a hearing committee which shall be vested with the responsibility to determine the contribution of employers and the exemptions from the Act; and

(c) increase the fine provided for non-compliance with the Act.

210.0 The Building Control Act which was passed in 2012 provides for enhanced accessibility for all categories of persons with disabilities to public infrastructure. Also, a new Copyright Act came into operation on 31 July 2014 domesticating the provisions of the 2013 Marrakech Treaty by making provisions inter alia to for blind persons to have access published works in an accessible format.

211.0 The Excise Act has been amended by way of the Excise (Amendment of Schedule) Regulations 2013 which came into force on 25 October 2013, to provide for duty exemptions for the purchase a motor car to new categories persons, i.e. other than deaf or blind persons. Thus, parents of a disabled child under the age of 18 years and with 100% orthopaedic disability, as certified by the Medical Board of the Ministry responsible for the subject of social security are eligible for the purchase.

212.0 Under these amendments, qualifying parents who reside in Mauritius and Rodrigues will be able to purchase a motorcar of a kind specifically designed for the conveyance of a disabled person and of an engine capacity not exceeding 1,450 cc. The duty payable on such a car will be 15%. Qualifying parents in Rodrigues will also be entitled to a double space cabin vehicle with 5% duty payable. This concession is granted once in every 7 years. Where the Mauritius Revenue Authority is satisfied that the motor car or double space cabin vehicle is damaged in an accident and is a total loss, he may grant concession for a replacement car.
Government also provides a wide array of social benefits to persons with disabilities, for example:

(a) **Social Aid**: people who have a disability of 60% benefit from a Basic Invalidity Pension. If they are severely disabled, they benefit from a Carer’s Allowance on top of their Invalidity Pension;

(b) **Free provision of assistive devices**: assistive devices such as wheelchairs and hearing aids are provided free of charge to persons with disabilities;

(c) **Service to Mauritius Programme**: with a view to combating unemployment among disabled persons, paid placement are reserved for unemployed graduates with disabilities in ministries and departments;

(d) **Loan Scheme to persons with disabilities**: the Employees Welfare Fund provides a concessionary loan with 4% rate of interest to persons with disabilities to purchase adapted equipment, adapted vehicles and retrofitting at homes; and

(e) **Access to ICT**: the Lois Lagesse Trust Fund provides ICT training and access to up to date equipment to blind persons. The Ministry of Education and Human Resources provides free Braille computers to visually impaired students.

A protocol of collaboration between the Ministry of Gender Equality, Child Development and Family Welfare and the Ministry of Social Security has been signed on 9th June 2015. The protocol provides that the Disability Unit of the Ministry of Social Security shall:

- Assist in removing disabled children victims of violence to places of safety.

- Provide specialized services, sign language interpreter, and assistive devices as appropriate to disabled children victims of violence.

- Carry out sensitization and awareness for prevention and rehabilitation of children victims of violence including children with disabilities.

- Carry out training and capacity building of carers, parents, staff at Day Care Centres, specialized schools and NGO’s, to better identify abuse on children with disabilities.

In addition, as stated in the Government Programme 2015-2019, Government will also:

(i) cater for a special support care to elderly persons with disabilities and those living alone as part of its strategy to provide a ‘service de proximité’ to them; (ii) amend sections
3 and 16 of the Constitution to prohibit discrimination and introduce a Disability Bill to provide further protection to persons with disabilities; (iii) encourage access to Tertiary Education for students from low income families and students with disabilities so as to foster greater equity in the system; and (iv) envisage the creation of a Rehabilitation Centre to cater for patients with disabilities following accidents and surge.

**Protection of the vulnerable groups**

216.0 The problem of poverty is an issue which cuts across all components of society and does not affect a specific community. From a survey conducted by the National Empowerment Foundation, there were some 10,200 households, that is, approximately 40,000 persons, living below the poverty line set at Rs 6200 per household per month as at 31 December 2012. Poverty in Mauritius based on the relative poverty line (half median monthly income) is at 7.9%, although on the basis of the USD 1 definition it is less than 1%. Poverty in the country is largely structural and is not correlated with economic opportunity to earn income. Since 2006, various programmes have been put in place to eliminate/alleviate poverty as given hereunder.

**Creation of a Ministry of Social Integration and Economic Empowerment**

217.0 In May 2010, Government created a Ministry of Social Integration and Economic Empowerment which has as main objective to eradicate absolute poverty. A three pronged strategy has been adopted and includes three main programmes, namely the Social Housing and Community Empowerment, Child Development and Family Welfare and Training and Placement. The National Empowerment Foundation, the executive arm of the Ministry, is already implementing a package of programmes with a holistic framework so as to provide immediate support to vulnerable groups, foster integrated community development, enable re-skilling of the unemployed and promote development of income generated activities.

218.0 The Ministry of Social Integration and Economic Empowerment is compiling a national database of vulnerable households living below the poverty threshold through the Social Register of Mauritius (SRM), with a view to ensuring that only deserving families will henceforth benefit from the services provided by the National Empowerment Foundation. These families will be constantly monitored and provided with the required empowerment/support. This measure is expected to instill a fair and transparent process and at the same time ensure judicious use of public funds. It will also enable the Ministry to monitor the number of households in the process of moving out of the poverty trap. A
Monitoring and Evaluation Unit has been set up at the level of the said Ministry to evaluate the impact of the pro-poor projects and programmes.

219.0 At the strategic level, the Ministry will set up a Poverty Observatory to serve as a permanent platform for all relevant stakeholders to sustainably address poverty in all its forms. It will also act as an advocacy group in the fight against poverty and create linkages with the SADC Regional Poverty Observatory for sharing of information and best practices.

**Corporate Social Responsibility (CSR)**

220.0 The Corporate Social Responsibility (CSR) has been adopted in Mauritius. It is a concept whereby companies act to balance their own economic growth with the sustainable social and environmental development of their areas of operation. A company performing highly in CSR is one that goes beyond compliance with the legal framework to actively pursue positive impacts on local communities and its environmental footprint. The Government of Mauritius has established a policy with the overall objective of mandating registered companies to pay 2% of their book profit towards programmes that contribute to the social and environmental development of the country.

221.0 In the budget Speech 2015, a new concept, namely, ‘parrainage’ has emerged whereby institutions that are contributing to CSR will be allowed to take under their wings those unsustainable pockets of poverty in our country. The concept of ‘parrainage’ makes provision for the medium and long term development of pockets of poverty and will include the following:

- Improving living conditions generally;
- Raising the level of employment;
- Curbing social ills;
- Ensuring that all children attend school and develop fully their talents;
- Creating sports and leisure facilities; and
- Improving quality of life generally.

Companies are now free to allocate the 2 per cent of CSR according to their own set of priorities. Implementation of this concept has already started.
Social Housing Policy

222.0 Housing forms part of the basic social conditions that determine the quality of life and welfare of people. Social housing is one area where much is done to eradicate absolute poverty, economically empower vulnerable low income families, including women headed households, and foster their social inclusion to encourage their participation in the structural, economic, social and spatial development of the country. The current policy direction in social housing is to:

(a) facilitate access to a variety of affordable housing to cater for the different and evolving needs of present and future generations;
(b) strengthen social and cultural integration through the provision of appropriate social and recreational facilities in social housing development; and
(c) create mixed housing development schemes to help inclusion and equality among the low income groups.

223.0 The Ministry of Housing and Lands has among its objectives a National Housing Programme for the next ten years. The aim is to provide access for housing to the low, lower middle and middle income groups i.e. families earning a monthly household income of up to Rs 25,000, through the construction and sale of 10,000 housing units on State Land, the provision of 5,000 serviced lots (provided with roads, water, electricity, drainage etc) over State Land for lease as building sites, in addition to financial assistance. Regarding families earning less than Rs. 6,200, the Ministry of Housing and Lands also provides land to the National Empowerment Foundation as and when required for construction of houses.

224.0 The housing programme comprises three mixed housing development schemes consisting of the construction of housing units ranging from 39m² to 250m² and the provision of serviced plots of State Land. The various schemes and related income ranges are as follows:

<table>
<thead>
<tr>
<th>Housing scheme</th>
<th>Size of housing units/plot of land</th>
<th>Monthly Income range</th>
<th>Implementing Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scheme 1</td>
<td>Housing units of 39m²</td>
<td>less than Rs 6,200</td>
<td>Housing Development Trusts</td>
</tr>
<tr>
<td>Scheme 2</td>
<td>Housing units of 50m²</td>
<td>between Rs 6,200 and Rs 10,000</td>
<td>Ministry of Housing and Lands /National Housing Development Company Ltd (NHDC).</td>
</tr>
<tr>
<td>Scheme 3</td>
<td>Serviced lots of approx. (250m²)</td>
<td>between Rs 10,000 and Rs 25,000</td>
<td></td>
</tr>
</tbody>
</table>


225.0 Eligibility Criteria for applicants regarding allocation of housing units/serviced plots are as follows:

(a) not be owner of a house including that from the National Housing Development Company Limited or the Central Housing Authority house;

(b) not own a residential plot of land;

(c) not hold a residential plot of State Land by lease;

(d) not have been granted any Government sponsored loan by Mauritius Housing Corporation Ltd;

(e) not have benefited from any Government grant for the casting of a roof slab; and

(f) not have received any financial assistance from Government for the purchase of construction materials.

Financial assistance for roof slabs and purchase of building materials

226.0 Government also encourages self-help construction of housing units by very low to low income families who already own a plot of land. These families are financially assisted through a grant scheme either for the casting of roof slabs to complete their construction or for the purchase of building materials to start their construction. As at end of 2013, some 50,989 families have benefited from that scheme and Government has spent some Rs. 2.1Billion. Details of the scheme that has been reviewed in the Budget 2015/2016 are as follows:-
Financial assistance for purchase of State land within specific Housing Schemes

227.0 Government intervention in social housing in Mauritius dates as far as 1955, with the construction of the first housing estates comprising 1000 houses and the creation of the Ministry of Housing and Lands, responsible for matters relating to social housing management, in addition to, some years later, the setting up of a Central Housing Authority (CHA) for the construction of some 19300 low cost houses. These houses, and the land on which they had been built, were leased to the tenants by the CHA.

228.0 In order to empower families to take full responsibility of their assets, Government introduced the “Right to Buy” policy in 1989 for beneficiaries of CHA houses to become owner of their housing unit, against payment of around Rs 500-1000 per unit. As at date, almost all the CHA beneficiaries have become owners of their housing unit. The “Right to Buy” policy was extended in 2007 to enable the sale of State Land on which stood the CHA houses, against payment of a nominal amount of Rs.2000 to Government. Some 9,992 families have become full owners of their land under that scheme. Yet, in year 2012, it was found that a number of vulnerable families, particularly single mothers, could not benefit from this policy due to financial difficulties. Such vulnerable lessees of ex-CHA Housing

<table>
<thead>
<tr>
<th>Existing Housing Schemes</th>
<th>Household Income Eligibility</th>
<th>Amount</th>
<th>Details of Scheme</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roof Slab Grant</td>
<td>≤Rs10,000</td>
<td>Maximum One-off cash grant of Rs 75,000.</td>
<td>Households who own a plot of land but cannot afford to complete construction of their house and has reached up to the beam level. The grant is for casting of the roof slab for an area up to 110m².</td>
</tr>
<tr>
<td></td>
<td>&gt;Rs10,000-≤Rs 15,000</td>
<td>Maximum One-off cash grant of Rs 40,000.</td>
<td></td>
</tr>
<tr>
<td>Purchase of Building Materials</td>
<td>≤Rs10,000</td>
<td>Maximum One-off cash grant of Rs 65,000.</td>
<td>Households who own a plot of land but cannot afford to start construction of a housing unit of up to 110m². The grant is for purchase of building materials to start construction.</td>
</tr>
</tbody>
</table>
Estates are now granted the land free of charge, through a waiving of the purchase price of Rs. 2000, and registration fees. Also fees for the Notary and for the survey of the plot of land are met by Government.

**National Home Ownership Programme**

229.0 The National Home Ownership Programme within Budget 2014 reiterates the aim of Government to ensure that all our citizens have a house that provides decent living conditions. The programme consists of the Housing Empowerment Scheme, which facilitates access to housing finance to middle income families earning up to Rs.50,000, a Social House Construction Programme aligned with the National Housing Programme already detailed, and the Home Ownership for Low Income Families which involves the extension of a ‘right to buy’ policy to lessees of building site leases over State Land.

230.0 In its 2015-2019 Government Programme, Government has undertaken to increase housing supply and home ownership for the economically and socially disadvantaged. This measure is being implemented by the Ministry of Housing and Lands through the construction of 10,000 housing units during that period. Financial provision has been made to the tune of Rs. 1.2 Billion in the Budget 2015/2016 to fulfill the said measure.

**Democratising access to land**

231.0 In line with Government’s policy to democratise access to land, the State Lands Act was amended in 2013 to provide that where a person holding a building site lease over a portion of State land of an extent not exceeding 422.087 square metres (10 perches), other than Pas Géométriques, on which stands a residential unit; is willing to buy the portion of land, the Minister may sell it to him by private contract at the price of Rs 2000.
C. Peoples’ Rights

Article 19- Equality of Peoples

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights.

Nothing shall justify the domination of a people by another.

232.0 The Constitution of Mauritius establishes the right of every citizen to be treated equally and to live a life free from discrimination. It prohibits discrimination on, *inter alia*, the ground of caste, colour, creed and race. It also provides that no law shall be discriminatory either in itself or in its effect. Section 3 of the Constitution entitled “Fundamental rights and freedoms of the individual” reads as follows: –

“It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms:

(a) the right of the individual to life, liberty, security of the person and the protection to the law;

(b) freedom of conscience, of expression, of assembly and association and freedom to establish schools; and

(c) the right of the individual to protection for the privacy of his home and other property and from deprivation of property without compensation, and the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public

233.0 Section 16 of the Constitution provides that no law shall make any provision that is discriminatory either of itself or in its effect. The section defines the term “discriminatory” as affording different treatment to different persons attributable wholly or mainly to their
respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject to or are accorded privileges or advantages that are not accorded to persons of another such description. Section 17 of the Constitution provides that a citizen who alleges that his right under, *inter alia*, section 16 of the Constitution is being or is likely to be contravened, may apply to the Supreme Court for redress. [Refer also to information under Articles 2 & 3]

**Article 20- Self-Determination**

1. *All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.*

2. *Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.*

3. *All peoples shall have the right to the assistance of the States parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.*

234.0 Mauritius became a sovereign State upon obtaining independence in 1968 and achieved a republican status in 1992. Section 1 of the Constitution recognises this sovereign status. The State of Mauritius holds free and fair national and local elections at regular intervals. The conduct of these elections is supervised by an independent Electoral Supervisory Commission, and is followed by international observers.

**The Chagos Archipelago**

235.0 The Republic of Mauritius includes the Islands of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia and any other island comprised in the State of Mauritius. The Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of Mauritius, under both Mauritian law and international law. Although Mauritius has sovereignty over the Chagos Archipelago, it is being prevented from exercising its rights over the Chagos Archipelago because of the *de facto* and unlawful control of the United Kingdom over the Archipelago.

236.0 The Government of Mauritius does not recognise the so-called "British Indian Ocean Territory" which the United Kingdom purported to create by illegally excising the Chagos
Archipelago from the territory of Mauritius prior to its accession to independence. This excision was carried out in violation of international law and of United Nations General Assembly Resolutions 1514 (XV) of 14 December 1960, 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967.

237.0 Since this illegal excision, Mauritius has consistently and persistently pressed the United Kingdom’s Government in both bilateral and multilateral fora for the early and unconditional return of the Chagos Archipelago to the effective control of Mauritius. In this context, Mauritius has continuously received the support of the African Union and the Non-Aligned Movement which have constantly recognised the sovereignty of Mauritius over the Chagos Archipelago.

238.0 On 20 December 2010, Mauritius initiated proceedings against the United Kingdom under Article 287 of, and Annex VII to, the United Nations Convention on the Law of the Sea (UNCLOS) to challenge the legality of the ‘Marine Protected Area’ (MPA) purportedly established by the United Kingdom around the Chagos Archipelago. The Arbitral Tribunal constituted under Annex VII to UNCLOS to hear the dispute delivered its Award on 18 March 2015 and unanimously held that the ‘MPA’ violates international law. It ruled that in establishing the ‘MPA’, the United Kingdom had breached its obligations under Articles 2(3), 56(2) and 194(4) of UNCLOS. Moreover, two of the members of the Tribunal confirmed that Mauritius has sovereignty over the Chagos Archipelago. No contrary view was expressed by the other three arbitrators who held that they did not have jurisdiction to address that issue

239.0 The excision of the Chagos Archipelago from the territory of Mauritius also involved the shameful eviction by the British authorities of the Mauritian citizens, who were residing in the Archipelago (‘Chagossians’), in total disregard of their human rights, in order to pave the way for the establishment of a US military base in Diego Garcia. Most of the Chagossians were removed to Mauritius.

240.0 Chagossians, being fully-fledged citizens of Mauritius, enjoy the same rights as other Mauritian citizens. However, with a view to improving the well-being of the Chagossians, the Government of Mauritius has taken special measures in their favour. These measures include the donation of land for the construction of houses and the setting up of the Chagossian Welfare Fund. In 2012, the Chagossian Welfare Fund Act was amended to provide for children of members of the Chagossian community to be eligible to stand as candidates and to vote at elections for members of the Board of the Fund.
241.0 The Government of Mauritius recognizes the legitimate right and claim of the former inhabitants of the Chagos Archipelago, as Mauritian citizens, to be resettled in the Archipelago. Government will continue to press for the early and unconditional return of the Chagos Archipelago to the effective control of Mauritius, whilst firmly supporting the right of return of the Chagossians and other Mauritians to the Archipelago.

**Island of Tromelin**

242.0 Mauritius has always maintained that the Island of Tromelin forms an integral part of its territory and has consistently asserted its sovereignty over the island, including its maritime zones. There exists, however, a dispute between Mauritius and France over Tromelin, as France claims sovereignty over the island.

243.0 On 7 June 2010, Mauritius signed, with France, a Framework Agreement on Economic, Scientific and Environmental Co-management relating to the Island of Tromelin and its Surrounding Maritime Areas, as well as three Implementing Agreements relating to archaeological research, environmental protection and fisheries resources, respectively. These Agreements have been concluded without prejudice to the sovereignty of Mauritius over Tromelin.

**Article 21- Right to Free Disposal of Wealth and Natural Resources**

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.

2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.

3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect, equitable exchange and the principles of international law.

4. States parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.

5. States parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.
244.0 Section 8 of the Constitution provides for the protection from deprivation of property. It stipulates that no property shall be compulsorily acquired except when there the taking of possession or acquisition is necessary, against payment of an adequate compensation.

245.0 On 01 December 2008, the Republic of Mauritius and the Republic of Seychelles made a joint submission, in relation to the Mascarene Plateau region, to the Commission on the Limits of the Continental Shelf (CLCS), in accordance with Article 76, paragraph 8, of the United Nations Convention on the Law of the Sea (UNCLOS). On 30 March 2011, the CLCS which has been established under the aegis of the United Nations, made recommendations on the Limits of the Continental Shelf in regard to the joint submission made by Mauritius and Seychelles concerning the Mascarene Plateau region. These recommendations enabled the Republic of Mauritius and the Republic of Seychelles to explore and exploit the marine resources in the joint extended continental shelf area of approximately 396,000 square kms in the Mascarene Plateau region. On 12 March 2012, the two coastal States have entered into two bilateral treaties with a view to jointly managing, exploring and exploiting the natural resources found within the said extended continental shelf. Matters such as environmental protection, exploration and exploitation of the living and non-living resources as per the provisions of Article 77 of UNCLOS have also been addressed in the two treaties.

**Article 22- Right to Economic, Social and Cultural Development**

1. *All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.*

2. *States shall have the duty, individually or collectively, to ensure the exercise of the right to development.*

246.0 Although the Constitution does not expressly provide for economic, social and cultural rights, yet these rights are catered for under other pieces of legislation, for example, the right to work is provided for under the Employment Rights Act, the right to health in the Mauritius Mental Health Care Act and the Food Act, the right to education in the Education Act. Furthermore, Mauritius being a Welfare State, already provides free education; free access to health services; social aid to vulnerable groups; and pension benefits to the elderly.
247.0 Standards of Occupational Safety and Health at places of work have been enhanced. The Occupational Safety and Health Act has reinforced and updated the legislation on safety and health at work in order to adapt it to the changes in the working conditions of employees brought about by the introduction of new technologies and new equipment. The legislative framework pertaining to Occupational Safety and Health has been further reinforced by the Occupational Safety and Health (Safety of Scaffolds) Regulations 2013 which aims at further improving the standard of safety and health on construction sites, especially in relation to the erection, maintenance, alteration, repair, use, dismantling of scaffolds.

248.0 The social security system of Mauritius provides, in respect of contingencies like old age, invalidity, death of bread winner, sickness, unemployment and employment injury, for the provision of basic benefits, social aid, unemployment hardship relief, contributory pensions, industrial injury benefits and refund of contributions made to National Savings Fund.

249.0 During the past years a strategy for food self-sufficiency has been adopted and is being implemented. The measures taken include mobilising land and aquatic resources, inputs for production, human resources, technology and financial resources in order to optimise food and livestock production locally for domestic consumption; partnering with countries of the region, such as Mozambique, and such other countries where opportunities arise to produce food crops, livestock and marine products for domestic consumption as well as for regional markets; and undertaking a sensitization campaign to promote healthy eating. Amendments have been made to the Food Act for the control of saturated fats in cooking oils.

250.0 Subsidies on rice and flour as well as provision of milk and a meal to needy children, have helped to ensure food is accessible to vulnerable persons. The entire population now has access to piped potable water.

251.0 The necessary conditions for the setting up of a decent social housing at a reasonable and affordable cost have been put in place by the construction of housing units for low income families, the provision of service plots to lower-middle income group for housing purposes, and the provision of a grant for casting of roof slab to low income families.
252.0 The State provides free health services to the entire population. The public healthcare services delivery includes 135 facilities at local level which provides medical, nursing, dispensary and support services at local level, 5 regional hospitals and 2 district hospitals that can accommodate over 2500 in-patients. In addition, there are several specialist hospitals: a mental hospital with 811 beds, an eye hospital, and ear, nose and throat hospital, a cardiac centre and a chest hospital which together have over 200 beds. The regional hospitals and primary care centres or facilities benefit from a wide range of clinical and non-clinical support services including pathology laboratories, X-Ray, CT Scan and MRI, pharmacy, blood collection and transfusion, public health and hygiene, medical records and information services, catering, laundry, transport and cleaning.

253.0 In line with the World Health Organization Global Strategy for Prevention and Control of Non-communicable Diseases, several action plans have been formulated and are being implemented, such as the National Service Framework for Diabetes (2007), the National Action Plan on Tobacco Control 2008-2012, the National Action Plan for Nutrition 2009-2010, the National Cancer Control Programme Action Plan 2010-2014, the National Action Plan on Physical Activity 2011-2014. Following the adoption of a National Sexual and Reproductive Health Policy in 2007, a National Sexual and Reproductive Health Strategy and Plan of Action 2009-2015 has been formulated and is being implemented.

254.0 Injecting behaviour has largely been responsible for the spread of the HIV epidemic in Mauritius. Proactive actions (HIV and AIDS Act, Needle Exchange Programme and Methadone Substitution Therapy) from the Government and other partners have brought positive results. In 2014 the estimated prevalence of HIV among the population of Mauritius was 0.86%, representing 9,191 People Living with HIV (PLHIV). It is projected that this trend will continue provided that the national response to eliminate the epidemic is scaled up.

255.0 In October 2015, the Ministry of Health and Quality of Life has requested the UNAIDS to carry out a full and comprehensive evaluation to assess the relevance, effectiveness, efficiency and sustainability of the Needle Exchange Programme and the Methadone Maintenance Therapy Programmes and to come up with appropriate recommendations.

256.0 Free education is provided to all, as well as free transport facilities to and from educational institutions. Section 14 of the Constitution guarantees the right of a religious denomination or any other group to establish schools. Section 37 of the Education Act
provides for education to be mandatory for all children up to age of 16. Government is committed to integrate children with special education needs within the general school environment. It has also sustained efforts to upgrade the performance level of low achieving schools. Needy children in deprived regions are provided with meals and other support facilities.

257.0 Historical and cultural heritage have been preserved and promoted. The Apravasi Ghat and Le Morne Sites, related respectively to indentured labour and slavery, have been declared World Heritage Sites. A 'Musee du Peuplement de Maurice' depicting the peopling of Mauritius was set up at Pointe Canon, Mahebourg. Records at the National Archives are being restored and digitalized to be made accessible to the public through internet. Paintings and other art works dating back to the 19th century are being rehabilitated.

258.0 Cultural and linguistic diversity have been preserved and promoted through the setting up, with the support of Government, of Cultural Centres and Speaking Unions. Festivals such as Spring Festival, Divali, Eid-Ul-Fitr and Christmas are celebrated at a national level with government’s active participation in the organizational aspects.

259.0 Participation in reading, artistic and cultural activities have been encouraged and promoted by the establishment in different regions of 'Centre de Lecture Publique et d'Animation Culturelle'. Three Centres “de Formation Artistique” have been set up to provide training in various art forms. Assistance is provided to local artists through the Ministry of Arts and Culture. The scope of the President’s Fund for Creative Writing was extended from English language only to all languages written and spoken in Mauritius to give a boost to Mauritian literature.

**Article 23- Right to National and International Peace**

1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States.

2. For the purpose of strengthening peace, solidarity and friendly relations, States parties to the present Charter shall ensure that: (a) any individual enjoying the right of asylum under 12 of the present Charter shall not engage in subversive activities against his country of origin or any other State party to the present Charter; (b) their territories shall not be used as bases for subversive or terrorist activities against the people of any other State party to the present Charter.
Section 71 of the Constitution establishes the Mauritius Police Force under the responsibility of a Commissioner of Police for the maintenance of public safety and public order. The Commissioner of Police is responsible for determining the use and controlling the operations of the Force.

The Republic of Mauritius maintains diplomatic relations with many countries and is active in the promotion of regional integration as evidenced by its membership to the African Union, the Southern Africa Development Community, the Common Market for Eastern and Southern Africa and the Organisation Internationale de la Francophonie. Mauritius is also Party to over 37 international and regional human rights and humanitarian law treaties as shown in paragraph 12 above.

With regard to the right for asylum, Mauritius, being a small and densely-populated island with limited resources, has not yet adopted a policy or law to grant refugee status to foreigners. Although Mauritius has not yet signed the 1951 Convention relating to the Status of Refugees and its 1967 Protocol Convention, it does however attempt to treat applications for refugee status or political asylum on a humanitarian, case-to-case basis by facilitating their settlement in a friendly country willing to receive them.

Moreover, Section 7 of the Extradition Act provides that an offender shall not be surrendered to a foreign State where the offence in respect of which the request for his surrender is one of a political character or where there are reasonable grounds for believing that the request for surrender is being made for the purpose of prosecuting or punishing the offender on account of his race, caste, place of origin, nationality, political opinions, colour or creed or where it is satisfied that it would be unjust, oppressive or too severe a punishment to surrender the offender, amongst others.

The Mutual Assistance in Criminal and Related Matters Act enables the widest possible measure of international cooperation to be given and received by the Republic of Mauritius promptly and to the fullest extent possible, in proceedings including investigations, prosecutions concerning serious offences and related civil matters.
**Article 24 - Right to Satisfactory Environment**

*All peoples shall have the right to a general satisfactory environment favorable to their development.*

265.0 Mauritius has made significant progress in developing and implementing policies, strategies for the sound management of the environment and the promotion of sustainable development. A National Environment Policy has been formulated, and a Framework for Integrated Coastal Management (ICZM) and a Framework for the Protection of Environmentally Sensitive Areas (ESA) have already been adopted. A Sustainable Integrated Development Plan for Rodrigues has also been elaborated. The Environmental Impact Assessment (EIA) has been identified as a planning tool to control development on and around ESAs. The ESAs will also be included in the Outline Planning Schemes by the Ministry of Housing and Lands.

266.0 A National Climate Change Adaption Policy Framework, which is the first of its kind for the Republic of Mauritius has been formulated under the African Adaptation Programme (AAP). The key objectives of this framework are to foster the development of policies, strategies, plans and processes to avoid, minimise and adapt to the negative impacts of climate change on the key sectors and also to avoid or reduce damage to human settlements and infrastructure and loss of lives caused by climate change.

267.0 A Disaster Risk Reduction and Management Strategic Framework and Action Plan, including Risk Maps in relation to inland flooding, landslide and coastal inundation for the Republic of Mauritius has been developed under the African Adaptation Programme. The Local Authority has been empowered in 2008 as an enforcing agency responsible for the enforcement of environmental law within its administrative area. The Local Authorities are now able to make use of the more stringent enforcement mechanisms provided under the EPA, thus enabling a synergistic approach to enforcement.

268.0 The Energy Efficiency Act was promulgated in 2011 to promote and implement energy efficiency measures in all sectors of the Economy. Other programmes such as energy efficiency awareness campaigns for members of the public in general and in schools have been carried out by the Ministry of Energy and Public Utilities. There is also an ongoing pilot project for energy efficiency labelling of electronic appliances and if conclusive this measure may become mandatory.
Right to Sustainable Development

269.0 Sustainable and eco-friendly development ranks high on Government’s agenda and is expected to pave the way for a cleaner, greener and safer Mauritius. In the Government Programme 2015 – 2019 it is stated that:

- The Beach Authority Act will be reviewed and Beach Management Plans will be developed and implemented to ensure a more rational development and sustainable use of beaches.
- The Environment Protection Act will be reviewed to more effectively respond to the changing needs of the day and tackle emerging challenges including mitigation concepts.
- The National Environment Commission (NEC) will be revived to create better synergy among the various stakeholders to address important environmental concerns and issues.
- The Police de l’Environnement will be strengthened and reinforced and the various enforcing agencies empowered.
- A Climate Change Bill and a new Climate Change Mitigation Strategy and Action Plan will be devised and implemented to address climate change particularly for Small Island Developing States.
- Environmental awareness and value-based education would be introduced in the primary education curriculum.

270.0 The formal education system is an important tool in the development of Mauritius along with the sustainable development concept. The aim is to inspire children to pursue careers and knowledge in the sustainable development field. This is fundamental to the sustainable growth both of the green economy and the sustainable development vision. For that purpose Environmental Clubs have been set up in schools to get students acquainted with sustainable development principles, diffuse these principles at home and in society and bring about the much needed change in mindset, a sine qua non-requirement for the success of the sustainable development vision. Some of the projects of these clubs, amongst others are:-

(i) Segregation of waste;
(ii) Recycling of waste;
(iii) Composting;
(iv) Rain harvesting;
(v) Backyard Gardening;
(vi) Endemic corner where plants are tagged for referencing and doing some research on endemic plants about their properties and virtues;
(vii) Sensitization and Awareness campaigns; and
(viii) Community Outreach.

271.0 The Ministry of Energy and Public Utilities has presented the Mauritius Renewable Energy Agency Bill at the National Assembly in August 2015. The main object of the Bill is to promote the development and use of renewable energy in Mauritius and Rodrigues with a view, inter alia, to attaining the sustainable development goals, and increasing the use of renewable energy in the energy mix.
D. Specific Duties on States

Article 25- Duty to Promote Respect of Rights under the Charter

States parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

272.0 Refer to paragraph 40 of the Report.

Article 26- Duty to Guarantee Independence of Courts and Human Rights Institutions

States parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.

273.0 The Constitution of Mauritius is based on the Westminster model and rests on two fundamental tenets: the rule of law and the doctrine of separation of powers, thereby providing for the institution of an independent judiciary. The independence of the judiciary is enhanced by the retention of the Judicial Committee of the Privy Council as the highest Court of Appeal in Mauritius. The personnel of the Judiciary is independent and the recruitment is done by a Judicial and Legal Service Commission.

274.0 The judicial system in Mauritius is based on the British adversarial system. It consists of the Supreme Court, the Intermediate Court and the District Courts which all have jurisdiction in civil and criminal matters; and the Industrial Court which hears industrial disputes. The Supreme Court is the principal Court of original criminal jurisdiction and holds sessions for the dispatch of criminal matters. The Supreme Court also has two further divisions, namely a Family Division and a Mediation Division. In line with the ongoing reforms, the Supreme Court of Mauritius has also created a Commercial Division that has been hearing commercial cases for the past two years.

275.0 The powers of the National Human Rights Commission have been strengthened and the scope of its activities broadened through the Protection of Human Rights
(Amendment) Act 2012 which aims at restructuring the National Human Rights Commission so as to enhance its role as a key institution in the protection and promotion of human rights at the national level. The Act provides for the National Human Rights Commission to operate through three divisions, namely, the Human Rights Division, the Police Complaints Division and the National Preventive Mechanism Division. The mandate of the Commission has been broadened and its new functions have been aligned with the Paris Principles. The Commission can now recruit its own staff. The new set up is fully operational since 18 June 2014.

276.0 As stated in the Government Programme 2015-2019, Government will establish an Independent Police Complaints Commission, separate from the National Human Rights Commission, and to be chaired by a former Judge of the Supreme Court. It is expected that the setting of this dedicated institution will deal with police complaints in a more expeditious manner.

Article 27- Duty of Family

1. Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.

2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

277.0 The Code Civil Mauricien lays down the general principle for every person to act in good faith in the exercise of his rights and obligations. Under the Code Civil Mauricien, several rights and obligations are recognised and imposed to family members individually or collectively. Inter alia, spouses have a general and mutual duty of faithfulness and held and assistance. They further have a joint duty to look after and cater for the moral as well as financial aspects of the family unit. They must look after the education of the children with a view to ensuring the latter’s future.

278.0 Parents, by the fact of marriage, have a joint obligation to bring up and attend to all the basic needs of their children. On the other hand the Code Civil Mauricien also imposes a duty on children to care and attend to the basic food needs of parents or ascendants who are not able to provide same for themselves. It is to be noted that this duty extends to sons and daughters in laws towards their father and mother in laws, as the case may be, but in this latter case, such an obligation may cease under specific conditions.
Article 28- Respect to Fellow Beings

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

279.0 Section 16 of the Constitution provides for protection of the individual from discrimination on ground of race, caste, place of origin, political opinions, colour, creed or sex. The Equal opportunities Act 2012 also prevents discrimination on the same grounds.

Article 29- Individual Duties

The individual shall also have the duty:-

1. To preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need;

2. To serve his national community by placing his physical and intellectual abilities at its service;

3. Not to compromise the security of the State whose national or resident he is;

4. To preserve and strengthen social and national solidarity, particularly when the latter is threatened;

5. To preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defense in accordance with the law;

6. To work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of the society;

7. To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well being of society;

8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.

280.0 Following a request from the United Nations to the effect that the religious Heads of every Member State should meet and work together with a view to promoting peace, the
'Conseil des Religions' of Mauritius was founded in 2001. Government has on several occasions solicited the assistance of the Conseil during social conflicts.

281.0 The Nelson Mandela Centre for African Culture was opened in 1986 and is dedicated to the advancement of the African and Creole culture in Mauritius. Since its opening the Centre has played an important role in projecting a positive image of African and Creole culture in Mauritius, promoting the richness and variety of African and Creole Arts and Culture by organizing various forms of cultural and social activities through exhibitions, publications, meetings, talks, and the performing arts.

........
IMPLEMENTATION OF THE RECOMMENDATIONS MADE FOLLOWING THE PRESENTATION AND
EXAMINATION OF THE 2ND, 3RD, 4TH AND 5TH PERIODIC REPORTS [PERIOD NOVEMBER 1996-
AFRICAN COMMISSION, FROM 13-27 MAY 2009, IN THE GAMBIA

1. To ensure that Government involves all relevant Government Ministries and
civil society organisations in the preparation of its next Periodic Report, including
the National Human Rights Commission.

1.1 A consultative meeting on the draft Report with all relevant stakeholders, including the
National Human Rights Institutions, was held on 10 December 2015. The final version of
the Report has incorporated the views and comments of the stakeholders.

2. To look into the possibility of employing more police officers and officers of
the court to help reduce lengthy pre-trial detention and the speeding up of cases to
their conclusion.

2.1 Some 666 Trainee Police Constables were recruited in April 2015. Consideration will
be given for the creation of additional posts at all levels within the Judiciary in order to deal
with the increase in the number of criminal cases and thereby reduce delays in respect of
pre-trial detention and speed up case disposal.

2.2 At the level of the Police Department, cases concerning pre-trial detention are being
looked into on a priority basis. Straightforward cases are decided by Senior Officers as per
powers bestowed on them under the Police Standing Orders. As regards complex cases,
they are referred to the Direction of Public Prosecutions for advice. These cases are being
closely monitored.

3. To address the problem of prison overcrowding.

3.1 A Ten-year Strategic Plan has been developed with the assistance of the UNODC to
address the problem of overcrowding in prisons, on the use of alternative and non
custodial measures, on reducing pre-trial detention methods and reducing the rate of
recidivism. The coming into operation of the Melrose Prison has palliated the existing
overcrowding problems in prisons. As at 10 August 2015, there was a total of 2,093
detainees in our prisons and with the operationalisation of the new prison which has a
maximum capacity of 1000 to accommodate detainees, the issue of prison overcrowding in
our prisons has been addressed. With the operationalisation of Melrose High Security Prison, a new method of addressing criminal behaviour has been developed with the assistance of the Department of Correctional Services of Australia. A Team of Senior Officers have been exposed to this new method which includes: Unit Management System, Sentence Planning, Individual Management Plan for detainees, Payback to Society, involvement of the Correctional Services with the Civil Society in addressing criminal behaviour and providing support to victims.

3.2 The Open Prison for Women is also nearing completion and a special committee chaired by a Deputy Commissioner of Prisons is planning the operationalisation of the new facility for women detainees.

3.3 In addition, consideration is also being given to the following:-

(i) Revamping of the Parole system so as to encourage detainees to participate in rehabilitation programmes and extend the supervision of released detainees through the introduction of an extended parole system; and

(ii) Introduction of a mechanism for ‘earned remission’, to all detainees with a view to motivating them to adhere to prison rules and participate in rehabilitative programmes and this will eventually result in the early release of detainees.

4. To take measures to address the problems of pre-trial delays.

4.1 Provisions have already been made in the law so that any person, who is arrested, is brought before Court within 24 hours. Since the Bail and Remand Court (BRC), is operational during weekends and public holidays, no person is detained unnecessarily. A person/detainee does not have to wait until Monday morning to be taken to Court.

5. To take the necessary steps to address the problems of backlog of cases.

5.1 The e-judiciary, which is an e-filing and case management system, will be extended to other divisions of the Supreme Court. The Judiciary is currently considering best practices in Court Management Systems in other jurisdictions to reduce backlogs.

5.2 The implementation of specialized Divisions and Units within the Judiciary, together with pre-trial conferencing and mediation, may be extended to other Courts to help eliminate backlogs.
5.3 Necessary measures have already been initiated to address outstanding cases. In almost all Police Stations, an officer of the rank of Police Inspector or Police Sergeant style as ‘Station Enquiry Officer’ has been appointed to supervise and monitor the enquiry into reported cases. They also act as liaison officer with court officials for disposal of ‘fast track’ cases. This initiative has significantly contributed to maintain a proper balance between inflow and outflow of cases. In a bid to address shortcomings in the process of investigation, the Police Inspectorate Team is also conducting periodical and thematic inspection at all Police Stations. This initiative has increased the level of accountability at the level of all ranks, hence preventing undue delay in the conduct of enquiry.

6. **To take adequate measures to address the incidences of drug use and trafficking in prisons.**

6.1 With the expert advice and technical support of the Ministry of Health and Quality of Life and the Global Fund, a harm reduction programme has been introduced in our prisons. Consequently, the prisons health staff is taking an active role in addressing the incidences of drug use and the Security and General Staff is being trained and provided with the necessary tools and equipment to address the problem of trafficking in prisons.

6.2 For instance, the enrolment of drug users on a Methadone Substitution Therapy is helping to reduce drug dependence and hence drug trafficking. New equipment like mobile detectors, network jamming system and mobile sniffer dog are being used to reduce trafficking in prisons.

6.3 A Drug Secretariat has been set up at the Prisons Department since 2007 to plan and monitor all activities concerning the rehabilitation and prevention programme for substance abusers. The Drug Secretariat has worked out a comprehensive Drug Strategy whose objective is to help detainees concerned to refrain from using illicit drugs so as to achieve ultimately a drug-free life. Currently, drug-free units are operational at Beau Bassin Central Prison, Women Prison and Petit Verger Prison.

7. **To include standards like the Robben Island Guidelines in the human rights training being drawn up for police officers.**

7.1 The ‘Robben Island Guidelines’ has already been integrated into the Human Rights Training Manuals provided to Trainee Police Constables (TPCs). During their training, TPCs are exposed to information on international Human Rights standards relevant to their duties. Regular workshops on Human Rights are also conducted at the Police Training
School for serving members of the Force. Training is streamlined towards reinforcing an ethos of legality, promoting and protecting human rights with particular emphasis on the prohibition against torture and any form of cruel, inhuman and degrading treatment.

8. **To investigate all acts of police misconduct, including brutality and take appropriate action**

8.1 The Police Complaints Act which was enacted in 2012, provides for the setting up, within the National Human Rights Commission, of a Police Complaints Division to investigate complaints made against members of the Police Force, other than allegations of corruption and money laundering. Provisions is also made for the Division, upon completion of an investigation, to make recommendations to the relevant authority for appropriate action to be taken, including the institution of criminal or disciplinary proceedings or award of compensation. The Division can also investigate into the death of a person occurring in police custody or as a result of police action and advise on ways in which any police misconduct may be addressed and eliminated.

8.2 Formerly, enquiry into cases of Police misconduct including brutality were being carried out by Police. However, as from 2012, with the advent of the Police Complaint Act, all cases of Police misconduct are referred to the Police Complaints Division (PCD) of the National Human Rights Commission for investigation. The PCD is an independent body which has increased the transparency in the way investigation into cases of Police misconduct is being carried out.

8.3 To further decrease delay in the outcome of enquiries concerning police brutality, Government has agreed to review existing legislations for the establishment of an Independent Police Complaints Commission (IPCC) as announced in the Government Programme 2015-2019. The PCC will be separate from the National Human Rights Commission and a former Judge of the Supreme Court will act as the chairperson. The State Law Office is currently drafting the legislations for the setting up of the IPCC.

9. **To speed up the process to amend provisions of the Constitution that still maintain the death penalty**

9.1 The Abolition of Death Penalty Act was enacted in November 1995 and provides for:

(i) the abolition of death penalty by virtue of section 2 (1) thereof; and
(ii) that under section 2 (2) of the said Act, the Court shall impose a sentence of penal servitude for life instead of death sentence.

9.2 However, section 4(1) of the Constitution has not yet been amended to prohibit the imposition of death sentences. Amending the Constitution is not an automatic process. Alteration to section 4 (1) of the Constitution cannot be effected unless it is supported by the votes of not less than three quarters of the members of the National Assembly

10. To take measures, including enacting laws that will provide for the protection of refugees.

10.1 Mauritius, being a small and densely-populated island with stretched limited resources, has not yet adopted a policy or law to grant refugee status to foreigners. It does however attempt to treat applications for refugee status or political asylum on a humanitarian, case-to-case basis by facilitating their settlement in a friendly country willing to receive them. Moreover, although Mauritius has not yet signed the Convention, it has always extended the necessary assistance to those who apply for asylum through the United Nations High Commissioner for Refugees.

11. To inform it in its next Report on the progress in preparing a harmonised Children's Bill that will consolidate the various pieces of legislation on children's rights and the harmonization of laws in line with the Convention on the Rights of the Child.

11.1 The draft Children’s Bill is at the stage of finalization. It will incorporate the spirit of the Convention on the Rights of the Child (CRC), and the main principles and obligations under the CRC. However, with regard to Articles 37 and 40 of the CRC, the issues relating to juvenile justice shall be dealt with more comprehensively in the draft Juvenile Justice Bill.

11.2 Regarding the issue of respect for children's rights by all actors, there is a provision in the draft Children’s Bill which sets out the principle that where any action is done or decision is taken (by anyone), in a matter which concerns a child, the person acting or taking the decision shall respect, protect, and promote the rights and the best interests of the child, respect the inherent dignity of the child, treat the child fairly and equitably, protect the child from discrimination, bear in mind the needs of the child for his development including any special needs of the child which may be due to disability, where appropriate, give a family member an opportunity to express his views, act promptly (as far as possible), and where appropriate inform the child of the outcome of such act or decision.
11.3 The draft Children’s Bill envisages to repeal section 18 of the Juvenile Offenders Act, and to deal with this category of children as persons who are in need of care and protection. Consideration is being given to establish a procedure for a finding of irreconcilable difference between a person who has custody of the child and the child, where the difference is of such a nature as to seriously disrupt the care and control of the child. The issue of minimum age of criminal responsibility is being addressed in the draft Children’s Bill.

11.4 Policy decisions, including the issue of prohibition of corporal punishment of children, have been taken on board. The draft Bill now proposes a provision prohibiting corporal punishment of children in all settings.

11.5 With the eventual adoption of the Juvenile Bill which is under preparation, the Probation and Aftercare Service will be responsible for:

- Child offenders placed on probation and those aged 16 and above who are subjected to Community Service Order, by the Courts;

- Child offenders referred by the Office of the Director of Public Prosecutions for mediation/diversionary measures; and

- Child offenders committed to Probation Institutions (Hostel and Home).

11.6 The Probation and Aftercare Service rehabilitates offenders in the community (probationers and offenders subjected to Community Service Order) and in semi-open institutions (Hostel and Home) and not in closed institutions.

12. To take urgent measures to address the high number of children who are victims of drug abuse, especially street children.

12.1 The public awareness/sensitization campaign is maintained by the Police with a view to better sensitizing the community on the dangers of drugs and commercial sexual exploitation of children. The Anti Drug and Smuggling Unit (ADSU) has intensified its awareness campaign in collaboration with the community, schools and other NGOs. For year 2012, the ADSU organized 34 sessions under its awareness campaign touching more than 2,525 persons. For year 2013, 53 sessions were held reaching more than 4,800 persons. For year 2014, as at 14th August 2014, 40 sessions were held touching more than 2,994 persons.
12.2 The Crime Prevention Unit of the Police carried out meetings, sessions at school level as follows:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>NO. OF SESSIONS HELD IN PRIMARY &amp; SECONDARY SCHOOLS</th>
<th>NO. OF STUDENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>143</td>
<td>37,994</td>
</tr>
<tr>
<td>2011</td>
<td>108</td>
<td>21,840</td>
</tr>
<tr>
<td>2012</td>
<td>121</td>
<td>17,790</td>
</tr>
<tr>
<td>2013</td>
<td>75</td>
<td>14,192</td>
</tr>
<tr>
<td>2014</td>
<td>114</td>
<td>19,471</td>
</tr>
<tr>
<td>2015 (as at 31.05.15)</td>
<td>85</td>
<td>13,350</td>
</tr>
</tbody>
</table>

12.3 The Crime Prevention Unit carried out meetings, sessions at Community level, as follows:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>NO. OF SESSIONS HELD IN COMMUNITY LEVEL</th>
<th>NO OF PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>281</td>
<td>19,755</td>
</tr>
<tr>
<td>2011</td>
<td>253</td>
<td>17,819</td>
</tr>
<tr>
<td>2012</td>
<td>318</td>
<td>21,072</td>
</tr>
<tr>
<td>2013</td>
<td>327</td>
<td>18,838</td>
</tr>
<tr>
<td>2014</td>
<td>360</td>
<td>18,966</td>
</tr>
<tr>
<td>2015 (as at 31.05.15)</td>
<td>187</td>
<td>10,604</td>
</tr>
</tbody>
</table>

12.4 Measures to combat the commercial exploitation of children, by Police in collaboration with the Ministry of Social Security, National Solidarity and Reform Institutions, the Ministry of Gender Equality, Child Development and Family Welfare and NGOs are:

(i) Networking and work sessions with other stakeholders and service providers (CDU, NGOs working with children);
(ii) Proactive identification of potential victims and vulnerable groups;
(iii) Increased Police patrols and vigilance near vulnerable areas and place of complaints;
(iv) Checks at places of amusements, complaints, night clubs, boarding houses etc.; and
(v) Counseling and guidance to parents in cases of child beyond control/behavioural problems/unruly life and those who are exposed to risks.

12.5 To give effect to the UN Protocol to Prevent Suppress and Punish Trafficking in persons, the Combating of Trafficking in Persons Act 2009 was proclaimed on 30th July 2009.

12.6 Under the Special Collaborative Programme for Children and Women in Distress managed by the Ministry of Gender Equality, Child Development and Family Welfare, the Service d'Accompagnement, de Formation, d'Insertion et de Réhabilitation de l'Enfant (SAFIRE) has benefitted funds for the purchase of a 15 Seated Van in order to facilitate the transportation of 20 street children from different parts of the island to enable them to attend the educational farm training offered by SAFIRE on a daily basis. The van is an essential component for the better implementation of the project. The rehabilitation of the 20 street children is ongoing. A plot of land to the extent of 1.5 Acres situated at Verdun was donated by Espitalier-Noel Limited (ENL Ltd) for implementation of an agricultural project by the 20 street children which is being renewed annually. The project has been completed and all relevant reports have been duly submitted.

12.7 The Anti–Drug Smuggling Unit (ADSU), Brigade pour la Protection des Mineurs (BDM), Crime Prevention Unit (CPU) and other adjuncts of the MPF are working together with the Child Development Unit (CDU) and NGOs including the NATReSA to sensitisie school children and other teens both in rural and urban areas on the ill–effects of drugs. The sensitisation campaigns are aimed at empowering these youngsters to steer clear from drugs and other substance abuse. Police have intensified consultations with the community representatives and other stakeholders with a view to curbing drugs consumption in school zones and other sensitive places/premises frequented by minors, such as discotheques, night clubs, fairs, places of public amusement, concerts and kermesses. Police have equally espoused a zero tolerance policing approach to bring at bay drug peddlers who are trying to lure children to drugs. Besides focusing on the reduction of drugs supply and demand, Field Intelligence Officers are actively involved in identifying high risk areas and vulnerable persons. Through community policing forum and social
media, parents are being constantly sensitised on different drugs prevention programmes to counter drug abuse among children.

12.8 Likewise, the Crime Prevention Unit and other adjuncts of the Mauritius Police Force are working in collaboration with the Child Development Unit of the Ministry of Gender Equality, Child Development and Family Welfare in the conduct of selective prevention programmes with a view to raising awareness among family members on risks associated with drug abuse. Parents are being continuously sensitised on how to identify the early signs of drug addiction by their children, hence empowering them to intervene quickly and effectively and to seek professional guidance and medical intervention where necessary.

13. **To implement the recommendations of the UN Committee on the Rights of the Child regarding discrimination against certain groups of children, particularly with regard to children with disabilities, children affected and/or infected by HIV/AIDS and children from disadvantaged families and girls.**

13.1 Children with disabilities are provided with the following facilities:

- A scholarship scheme to encourage children with disabilities to pursue secondary and tertiary studies;
- Refund of bus fare to parents accompanying disabled children to school and refund of taxi fare to severely disabled students attending University; and
- Provision of large print and Braille facilities to blind children integrated in mainstream institutions

14. **To intensify efforts regarding the prevention and treatment of HIV/AIDS especially amongst teenage girls.**

14.1 The Ministry of Health and Quality of Life continues to target youngsters in school settings, youth centres and outreach sessions. Awareness sessions on Prevention of Mother to Child Transmission (PMTCT) with women and girls of child bearing age are also carried out.

14.2 A total of 390 awareness sessions have been conducted and 20,482 school students have been reached in 2014. 1149 youngsters have been sensitized during 40 out of school youth sessions. 24 sessions have been conducted with health clubs of secondary schools reaching 1178 in school youngsters. 17 awareness sessions have also been organised in
rehabilitation youth centres (CYC/RYC) during which 377 inmates have been reached. 14 sessions have been carried out with teenagers and around 400 teenagers have been sensitised on PMTCT.

14.3 The AIDS Unit of the Ministry of Health and Quality of Life intends to work with the Ministry of Education on a project – Parent Mediator – which targets parents whose children tend to default schools. The National AIDS Secretariat of the Ministry of Health and Quality of Life oversees the implementation of the National Strategic Framework for HIV and AIDS 2013 – 2016. This programme is mainly funded by Government and 22% of funds come from the Global Fund to Fight against AIDS, Tuberculosis and Malaria. Mauritius has achieved Millennium Development Goal 6, that is, to halt and begin to reserve the trend of the HIV epidemic, as evidenced by the reduction in transmission of HIV.

14.4 With the development of the New Funding Model Request to the Global Fund, the Investment Case, and evolutions observed in tracking the HIV epidemic, the National AIDS Secretariat is developing an Action Plan for HIV/AIDS 2015-2020 which is aligned to the UNAIDS vision of ending HIV transmission by 2030, and achieving the 90-90-90 treatment goals. These are as follows:-

(i) 90% of people living with HIV diagnosed;
(ii) 90% of those diagnosed put on treatment; and
(iii) 90% of those on treatment achieve viral load suppression.

15. To enact law that ensures that any child born in Mauritius acquires Mauritian citizenship

15.1 The implications of implementing this policy are being examined before the proposal of amendment to existing legislation on Citizenship is envisaged.

16. To review laws relating to abortion for unwanted pregnancies, especially expunging the punitive provisions imposed on women who undergo abortion in accordance with the Beijing Declaration and Platform for Action

16.1 In May 2012, amendments were introduced in Parliament to the Criminal Code to authorise the termination of pregnancy in specified circumstances, namely, in cases where:

(a) the continued pregnancy will endanger the pregnant person’s life;
(b) the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant person;
(c) there is a substantial risk that the continued pregnancy will result in a severe malformation, or severe physical or mental abnormality, of the foetus, as assessed by the appropriate specialists;
(d) the pregnancy has not exceeded its fourteenth week and results from a case of rape, sexual intercourse with a female under the age of 16 or sexual intercourse

17. To take urgent measures to address the low level of female representation in Government.

17.1 An Equal Opportunities Act was enacted in 2008 with the aim of promoting equal opportunities for both men and women. Subsequently, following amendments brought to the Act in 2012, the Equal Opportunities Commission (EOC) and the Equal Opportunities Tribunal have been set up to address cases of discrimination made on the basis of race, religion, status and sex amongst others so as to ensure greater equality in term of access to opportunities and life chances to all citizens. This Act coupled with the setting up of the Commission and the Tribunal contributes to address the issues of Gender Equality and discrimination against women.

17.2 The Government of Mauritius has enacted a New Local Government Act in 2012 which stipulates that at least 1 out of 3 candidates to be fielded for elections at local/Municipal level should be of the opposite sex. With this legislation, there has been a significant leap in the number of women participating in Municipal and Village Council elections. At Municipal level, there has been an increase from 12.5% in 2005 to 28.2% in 2012. At Village Council level, the increase has been from 5% in 2005 to 30.3% in 2012.

18. To take adequate measures to urgently address violence against women and expedite the enactment of the Sexual Offences Bill.

18.1 The following measures have been taken: -

- A National Action Plan to End Gender-Based Violence (NAP-EBGV) was launched in November 2011 and as at date, 50 recommended actions were implemented. Some 176 sensitisation campaigns were conducted in 2013 and some 8746 people were reached.
A Victim Empowerment and Abuser Rehabilitation Policy was launched in November 2013. A training plan for Human Resources cadres of both public and private sectors has been worked out for 2014.

Specifications to set up the Domestic Violence Information System (DOVIS) have been submitted by Central Informatics Bureau. This is being examined at the level of the Ministry.

Women victims of domestic violence are provided with temporary accommodation at the shelter of SOS Femmes and the Shelter for Women and Children in Distress.

In line with the implementation of the National Action Plan to End Gender-Based Violence, the Ministry of Gender Equality, Child Development and Family Welfare, conducted capacity building programmes for NGOs, in collaboration with the Mauritius Council of Social Service (MACOSS) in 2012. Through these capacity building programmes, the Ministry encouraged NGOs to submit projects for the setting up and management of shelter for victims of gender-based violence under the Special Collaborative Programme for Support to Women and Children in Distress.

18.2 Rape as an offence is criminalised under section 249 of the Mauritian Penal Code. However, it is intended to amend the Criminal Code to provide for further and better provisions for the prosecution of sexual offences including the criminalisation of the offence of marital rape.

19. To speed up the process of finalising the National Curriculum Framework for secondary schools so that human rights education can be introduced at lower secondary level.

19.1 The preparatory process, with the assistance of the Commonwealth Secretariat, for the introduction of Human Rights Education in lower secondary schools, in the first instance, has almost been completed. The programme is expected to start in January 2016, on a pilot basis.

20. To finalise the drafting of the Freedom of Information legislation and pass it into law.

20.1 In the Government Programme 2015-2019, it is stated that a Freedom of Information Act will be enacted to promote transparency and accountability in public administration in contract allocations. Given that the nature and scope of such legislation
is an evolving one, Government is presently doing the necessary ground work for the preparation of a legislation which will adopt innovative processes to improve access to information. Once this initial process is completed drafting instructions will be given to the Attorney-General’s Office to proceed with the preparation of the Bill.

21. **To take measures to protect the rights of all workers, in particular migrant workers and improve their living conditions.**

21.1 The Employment Rights Act 2008, which has replaced the Labour Act 1975 with effect from 02 February 2009, has revised and consolidated the legal provisions relating to employment, contract of employment or service, termination of employment, minimum age for employment, hours of work, payment of remuneration and other basic terms and conditions of employment, thereby ensuring a better protection of workers’ rights.

21.2 The Social Aid Regulations will be amended to make provisions for payment of Social Aid to non-citizens and their families who do not have sufficient resources to meet their basic needs as a result of:-

(a) Any physical or mental disability;
(b) Any sickness or accident certified by an approved medical practitioner;
(c) Abandonment by his spouse; or
(d) Any sudden loss of employment which has lasted continuously for not less than 6 months.

21.3 The Employment Rights Act has been further amended in June 2013 with a view to, *inter-alia*:-

(i) creating a legal framework for the operation of the regime of fixed term contracts of employment to prevent employers from having recourse to such contracts abusively;

(ii) extending the grant of paid annual and sick leave to workers reckoning between more than 6 months’ and less than 12 months’ continuous employment;

(iii) reviewing the process of disciplinary hearing to ensure that such hearing is held in a fair and independent manner;
(iv) introducing the concept of reinstatement in cases of unfair termination of employment on grounds of redundancy, discrimination and victimisation for participation in trade union activities;

(v) providing for the setting up of an independent Employment Promotion and Protection Division within the Employment Relations Tribunal to determine, within a specific time frame, whether cases of redundancy or closing down of enterprises are justified or not;

(vi) providing for the payment of a death gratuity in case of death of workers reckoning not less than 12 months' continuous employment; and

(vii) increasing the quantum of meal allowance from 50 rupees to 70 rupees per day where a worker is required to perform more than 2 hours overtime after having completed a normal day's work.

21.4 Migrant workers enjoy the same terms and conditions of employment as those laid down for local workers in our legislation. The contract of employment of a migrant worker, prior to his arrival in Mauritius, is examined and vetted by the Special Migrant Workers' Unit of the Ministry of Labour, Industrial Relations and Employment to ensure that it contains no abusive clauses and that it is in full conformity with the prevailing labour law.

21.5 Regular inspection visits are carried out by officers of the Special Migrant Workers' Unit of the Ministry of Labour, Industrial Relations and Employment at workplaces where migrant workers are employed to, inter alia, ascertain that the employer is complying with the terms and conditions of employment as provided for in the vetted contract of employment and in the prevailing labour legislation. In the course of inspections, the officers also check whether every migrant worker has received a copy of his/her vetted contract of employment. Furthermore, on their assumption of duty, migrant workers are informed of their rights and obligations arising out of their vetted contract of employment by the officers of the above Unit.

22. To review existing laws governing press freedoms with a view to repealing the harsh libel laws that currently exist.

22.1 Chapter II of the Mauritian Constitution which is the supreme law of the land provides, inter-alia, for the protection of fundamental rights and freedoms of the individual. The freedom of the press is guaranteed under its section 12 and is an essential component
of the right to freedom of expression. Journalists and the local media at large enjoy a long tradition of freedom and pluralism in Mauritius.

22.2 Any citizen, including a journalist, who believes that any provision of Chapter II of the Constitution has been breached with respect to him, may apply to the Supreme Court for redress under section 17 of the Constitution.

22.3 However, any person whether an ordinary citizen or a journalist who stirs up racial hatred, publishes false news or causes harm to the reputation of a person, through wrong or unverified information, etc., may be prosecuted for sedition, criminal defamation, insult, publishing false news, etc. The victim may also lodge a civil case against such person for privacy invasion and can claim damage.

22.4 Mauritius has also committed itself to protect the right to freedom of expression and of the press by signing and ratifying a number of international instruments including, inter alia, ‘The African Charter on Human and Peoples’ Rights and the International Covenant on Civil and Political Rights’.

22.5 There is no specific law meant for the exclusive protection of journalists in Mauritius. Our legislation provide for protection and security of all citizens and non-citizens alike. Also there is no formal mechanism for the monitoring and reporting of attacks against journalists, however, the human rights landscape in Mauritius is such that any occurrence of this nature, if any, will be strongly condemned by the authorities, the civil society as well as the public at large.