Introduction

1.0 The Fifth Periodic Report of Mauritius covers the period March 2005 to December 2015. It has been prepared in line with the harmonised guidelines of the Human Rights Committee regarding the form and content of periodic reports to be submitted by State Parties. The report comprises two parts, a common core document and a treaty-specific document. The common core document contains general information on the demographic, economic, social and cultural characteristics of the country as well as its constitutional, political and legal structure.

2.0 The treaty-specific document focuses on the progress made in the implementation of the different provisions of the Covenant since the country was last reviewed, in 2004. It includes action taken by the State to enhance, promote and protect the civil and political rights of the people, and to implement the Concluding Observations of the Human Rights Committee following the last participative dialogue. The report, which has been prepared by the Prime Minister’s Office, is the result of a participatory and collaborative process involving the relevant ministries and departments, civil society organisations, the private sector and the national human rights institutions.
PART I - COMMON CORE DOCUMENT

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 Zones Act, Passenger Transport Industry (Buses) Retiring Benefits Act, Sugar Industry Retiring Benefits Act, Workmen’s Compensation Act and Health & Welfare legislations.

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>
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<tbody>
<tr>
<td>International Covenant on Civil and Political Rights (CCPR)</td>
<td>-</td>
<td>12 December 1973 (a)</td>
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<tr>
<td>Optional Protocol to the International Covenant on Civil and Political Rights (CCPROPI)</td>
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<td>12 December 1973 (a)</td>
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<tr>
<td>International Covenant on Economic, Social and Cultural Rights (CESCR)</td>
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<td>12 December 1973 (a)</td>
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<tr>
<td>International Convention on the Elimination of all Forms of Racial Discrimination (CERD)</td>
<td>-</td>
<td>30 May 1972 (a)</td>
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<tr>
<td>International Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)</td>
<td>-</td>
<td>09 July 1984 (a)</td>
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<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>
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<tr>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)</td>
<td>-</td>
<td>09 December 1992 (a)</td>
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<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>
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<td>Treaty/Convention</td>
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<tr>
<td>Convention on the Rights of Persons with Disabilities (CRPD)</td>
<td>25 September 2007</td>
<td>08 January 2010 (r)</td>
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**II- Other Multilateral Treaties**

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<th>Treaty</th>
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<tr>
<td>The Hague Convention on the Civil Aspects of International Child Abduction</td>
<td>-</td>
<td>23 March 1993 (a)</td>
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**III- Regional Human Rights Instruments**

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<th>Treaty</th>
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<th>Date of ratification/accession</th>
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<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>
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</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>&lt;br&gt;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>6. 1977 Protocol II</strong> – Additional to the 1949 Geneva Convention relating to the Protection of Victims of Non-International Armed Conflicts</td>
<td>Acceded on 22 March 1982</td>
<td>Geneva Conventions (Amendment) Act</td>
</tr>
</tbody>
</table>
| B. | **The Biological Weapons Conventions**  
1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction | Signed on 10 April 1972  
Ratified on 7 August 1972 | Biological and Toxin Weapons Convention Act |
|---|---|---|---|
| D. | **The CCW and its Protocols**  
1. **1980 Convention on Prohibitions or Restrictions on the Use of Certain conventional Weapons (CCW)** which may deemed to be Excessively Injurious or to Have Indiscriminate Effects | Acceded on 6 May 1996 | Draft Bill under consideration |
| | 2. **1980 Protocol I** on the Non-Detectable Fragments | Acceded on 6 May 1996 | Draft Bill under consideration |
|   | 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 |
|---|---|---|---|
| F. | F. The Rome Statute  
    Ratified on 5 March 2002 | International Criminal Court Act |
| G. | 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. | 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.
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 related to the said conviction. The referral is however subject 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.

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:-
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.

**Veenen P v The State of Mauritius (2012 SCJ 14)**

In the case of Veenen 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.
Mosefer 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 issue, 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
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.

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”.

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>
</tr>
</thead>
<tbody>
<tr>
<td>Cases dealt with</td>
</tr>
<tr>
<td>Cases rectified</td>
</tr>
<tr>
<td>Cases not justified</td>
</tr>
<tr>
<td>Cases explained</td>
</tr>
<tr>
<td>Cases discontinued</td>
</tr>
<tr>
<td>Cases not investigated</td>
</tr>
<tr>
<td>Cases not entertained</td>
</tr>
<tr>
<td>Cases pending as at 31 December 2014</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 Complaints 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:

<table>
<thead>
<tr>
<th>Description</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of complaints lodged as at end of April 2014</td>
<td>1058</td>
</tr>
<tr>
<td>Number of hearings in Rodrigues</td>
<td>50</td>
</tr>
<tr>
<td>Number of hearings held</td>
<td>303</td>
</tr>
<tr>
<td>Number of complaints examined by the Commission</td>
<td>969</td>
</tr>
<tr>
<td>Number of complaints not under purview of the Act:</td>
<td>230</td>
</tr>
<tr>
<td>Number of complaints time barred</td>
<td>65</td>
</tr>
<tr>
<td>Number of complaints withdrawn</td>
<td>37</td>
</tr>
<tr>
<td>Number of complaints under Investigation</td>
<td>245</td>
</tr>
<tr>
<td>Number of complaints in which there was no evidence of discriminations</td>
<td>89</td>
</tr>
</tbody>
</table>
Number of complaints set aside (No Feedback from Complainant) | 87  
Number of complaints where additional information is being sought | 175  
Number of complaints referred to Equal Opportunities Tribunal | 3  
Number of complaints referred to other Instances | 10  
Number of complaints conciliated/settled | 28  

(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 the 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.

(d) 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.
(e)
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.

44.0 In the last Universal Periodic Review of Mauritius in 2013 by the Human Rights Council, 72 countries participated in the dialogue on the actions taken by the country. 150 recommendations were made by the Council. Mauritius has undertaken to submit a mid-term report on a voluntary basis to the Human Rights Council. It is expected to submit this mid-term report by December 2015.

A. Information on non-discrimination and equality and effective remedies

45.0 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, sex 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.”

46.0 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 16 of the Constitution is being or is likely to be contravened, may apply to the Supreme Court for redress.

47.0 The Criminal Code also makes provisions for offences, and related penalties, in relation to discrimination in general:-

- 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 refers to “Importing seditious publication”

Section 287 relates to “Suspending publication of newspaper containing seditious publication”

Section 287A concerns “Prohibiting circulation of seditious publication”

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.

48.0 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.

49.0 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.
50.0 The same procedure is adopted when, *ex facie*, the 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 of 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.

51.0 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 Tribunal.

52.0 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.

53.0 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.
54.0 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.

55.0 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.

56.0 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.

Protection of persons with disabilities

57.0 Mauritius ratified the UN Convention on the Rights of Persons with Disabilities (UNCPRPD) in January 2010. Government’s vision is that all citizens should have equal opportunities and that no discrimination should exist in the society.
58.0 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 persons with disabilities as is specified in Part I of the Schedule to the Act. The Schedule provides that the percentage of persons with disabilities 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.

59.0 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* for blind persons to have access published works in an accessible format.

60.0 The Excise Act has been amended by way of the Excise (Amendment of Schedule) (No.3) Regulations 2013 which came into force on 25 October 2013, to provide for duty exemptions for the purchase of a motor car to new categories persons, i.e. other than deaf or blind persons. Thus, parents of a child with disability 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.

61.0 Under these amendments of the Excise Act, qualifying parents who reside in Mauritius will be able to purchase a motorcar of a kind specifically designed for the conveyance of a person with disability of an engine capacity not exceeding 1,450 cc. The duty payable on such a car will be 15%. Qualifying parents who reside in the Island of Rodrigues will be able to purchase a motorcar of a kind specifically designed for the conveyance of a person with disability of an engine capacity not exceeding 1,450 cc with 15% duty payable or a double space cabin vehicle with 5% duty payable. This concession is granted once in every 7 years. Where the Director-General of 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.
62.0 In addition, Government 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 persons with disabilities, 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;

(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.

(f) **Duty-free facilities** are provided to eligible persons with disabilities to purchase cars; and

(g) **Free parking coupons** are provided to eligible persons with disabilities.

63.0 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.

64.0 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.

65.0 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 ion 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.

66.0 As enunciated 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; and (iv) envisage the creation of a Rehabilitation Centre to cater for patients with disabilities following accidents and surgeries.

Protection of elderly persons

67.0 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.
68.0 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.

69.0 The Ministry of Social Security has 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, where 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.

70.0 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.

71.0 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 proximité” to them.

72.0 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 been set up to follow up on the recommendations made by the Committee.

**Protection of the vulnerable groups**

73.0 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 6,200 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**

74.0 In May 2010, Government created the 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.

75.0 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.

76.0 Corporate Social Responsibility (CSR) is the 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.

77.0 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 the project has already started.

78.0 At the strategic level, a Poverty Observatory to be set up in 2015 will 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.
Housing programmes

79.0  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.

Social Housing Policy of the Government

80.0  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.

81.0  The housing programme comprises three mixed housing development schemes consisting of the construction of housing units of ranging from approximately 39m² to 250 m² 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. 65 Toises (250m²)</td>
<td>between Rs 10,000 and Rs 25,000</td>
<td></td>
</tr>
</tbody>
</table>

82.0 The eligibility criteria for the applicants to be allocated housing units/serviced plots are as follows:

(i) not be owner of a house (including NHDC or CHA house);
(ii) not own a residential plot of land;
(iii) not hold a residential plot of State Land by lease;
(iv) not have been granted any Government sponsored loan by MHC Ltd;
(v) not have benefited from any Government grant for the casting of a roof slab; and
(vi) not have received any financial assistance from Government for the purchase of construction materials.

Financial assistance for roof slabs and purchase of building materials

83.0 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 2.1 Billion. Details of the scheme that has been reviewed in the Budget 2015/2016 are as follows:
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. 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 introduced in 1989 was extended in 2007 to enable the sale of State Land on which stood the CHA houses, against payment of a nominal amount of Rs2,000 to Government. Some 9,992 families have become full owners of their land under

<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 the casting of 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>

Statistics from the Ministry of Housing and Lands

Financial assistance for purchase of State Land within specific Housing Schemes

84.0 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. 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.

85.0 The “Right to Buy” policy introduced in 1989 was extended in 2007 to enable the sale of State Land on which stood the CHA houses, against payment of a nominal amount of Rs2,000 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 lone mothers, could not benefit from this policy due to financial difficulties. Such vulnerable lessees of ex-CHA Housing Estates are now granted the land free of charge, through a waiving of the purchase price of Rs 2,000, 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**

86.0 The National Home Ownership Programme within Budget 2014 reiterated 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.

87.0 In its 2015–2019 Government Programme, the Mauritian 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 via the construction of 10,000 housing units during that period. Financial provision has thus been made in the Budget 2015 for an amount of Rs 1.2Bn during the period 2015/2016 for projects to fulfill the said measure.

**Democratising access to land**

88.0 In line with Government's policy to democratis 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.

**Right to Sustainable Development**

89.0 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 was announced that:
(i) 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;
(ii) 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;
(iii) the National Environment Commission (NEC) will be revived to create better synergy among the various stakeholders to address important environmental concerns and issues;
(iv) the Police de l'Environnement will be strengthened and reinforced and the various enforcing agencies empowered;
(v) 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; and
(vi) environmental awareness and value-based education would be introduced in the primary education curriculum.

90.0 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. There are Environmental Clubs which 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.

91.0 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.

92.0 In a document entitled ‘*Achieving the Second Economic Miracle and Vision 2030*’, published in August 2015, Government has announced that it remains committed to adopting responsible and environmentally sustainable policy regarding energy production, waste management and physical infrastructural development and that Government will invest massively in these sectors during the next five years.

*Rights of migrant workers*

93.0 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, 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.” However, Section 16(4)(b) of the Constitution allows for the passing of laws which may afford a different treatment to persons who are not citizens of Mauritius.

94.0 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.

95.0 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.

96.0 The right to freedom of association, which equally applies to migrant workers, has been reinforced in the Employment Relations Act which came into force on 02 February 2009. Section 29 of the Act protects in unambiguous terms, the right of every worker 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 an officer of a union. Section 30
affords protection to trade unions of workers against acts of interference and Section 31 further provides for the protection of these workers against discrimination and victimisation.

97.0 Section 46 (5B) of the Employment Rights Act was inserted in 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*".

98.0 The Occupational Safety and Health (Employees’ Lodging Accommodation) Regulation 2011 were made by the Minister 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.
PART II- TREATY- SPECIFIC DOCUMENT

Article 1- Right to self- determination

99.0 Mauritius became a sovereign State upon obtaining independence in 1968 and achieved a republican status in 1992. Section 1 of the Constitution recognizes 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.

100.0 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

101.0 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.

102.0 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.

103.0 Since this illegal excision, Mauritius has consistently and persistently pressed the United Kingdom 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 recognized the sovereignty of Mauritius over the Chagos Archipelago.

104.0 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 breached its obligations under Articles 2(3), 56(2) and 194(4) of the 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.

105.0 The excision of the Chagos Archipelago from the territory of Mauritius also involved the shameful eviction by the British authorities of the Mauritians who were residing at the time 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.

106.0 Chagossians, being fully-fledged citizens of Mauritius, enjoy the same rights as other Mauritians 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.

107.0 The Government of Mauritius recognises 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**

108.0 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.

109.0 On 07 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 2 - Implementation of the Covenant under the Constitutional framework**

110.0 Chapter II of the 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 of the law, protection for privacy of home and other property, freedom of conscience, freedom of expression, freedom of assembly and association, freedom of movement and protection from discrimination.

**Article 3 - Gender Equality**

111.0 In addition to the constitutional protection afforded to many of the relevant 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 read 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.*

112.0 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.

113.0 In the Government Programme 2015-2019, it was announced that the labour legislation would be amended with a view to ensuring a better protection of the workers, including the extension of maternity leave from 12 to 14 weeks, in line with the International Labour Organization (ILO) Maternity Protection Convention 2000. Accordingly, 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.
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.

Regarding the participation of women in the national decision-making process, Mauritius is committed to the decision taken by South African Development Community (SADC) to increase women’s participation in politics and decision-making by 30%. For the three last general elections held in July 2005, May 2010 and December 2014, 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.

The Local Government Act was amended in 2011 to repeal and replace the Local Government Act and the Local Government Act 2003 so as 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.”
117.0 As regard 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 Executives</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 41</td>
<td>68.3</td>
</tr>
</tbody>
</table>

\textit{Information from Statistical Unit (figures are after General Elections, December 2014)}

\textbf{Article 5- Limitation of Covenant rights}

118.0 With respect to Covenant rights which are constitutionally guaranteed in Chapter II of the Mauritian Constitution, specific derogations are provided for under the specific section providing for that particular right.

\textbf{Article 6 – Right to Life}

119.0 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.

\textit{Compensation to victims}

120.0 The District and Intermediate (Criminal Jurisdiction) Act grants the District Magistrate with the power to investigate, by means of a judicial enquiry, cases of suspicious
death. The Supreme Court held in the recent case of Ramdhony K & ors v The Honourable Senior Magistrate, Mapou Court (2014 SCJ 4), that in both preliminary and judicial enquiries, the Director of Public Prosecutions is not bound by the conclusions and findings of the learned Magistrate. These conclusions do not constitute any final determination of anyone’s rights, and therefore are not amenable to judicial review.

121.0 Following a civil case entered by the dependants of one Mr.R. Ramlogun against the State in 2006, an agreement was reached between the parties and the State paid an ex gratia amount of 7.5 million rupees in full and final satisfaction of the claim to the dependants. In this case the late Rajesh Ramlogun, civil servant, was called in as a witness in a murder case wherein the victims were two old ladies in Lallmatie. Mr.Ramlogun died while he was still in detention.

**Rules and regulations in the use of force and use of firearms**

122.0 Section 12 of the Reform Institutions Act provides the parameters within which officers may resort to the use of force or firearms. This is primarily related to self-defence or to prevent detainees from escaping. Following the accession of Mauritius to the Arms Trade Treaty in July 2015, amendments to the Firearms Act 2006 are currently being considered with a view to domesticating the Instrument and at the same time strengthening the control on firearms in transit and in the country.

123.0 The Police Complaints Act proclaimed on 01 July 2013, provides for the setting up of a Police Complaints Division (PCD) within the National Human Rights Commission (NHRC) which empowers it to enquire into complaints against Police brutality. All complaints against Police Officers are now being enquired into by the PCD. From year 2005 up to 30 June 2013, 2059 cases of complaints against Police have been reported to the Commissioner of Police and since the proclamation of the Police Complaints Act, 130 cases of complaints against Police reported to the Police Authorities have been forwarded to the NHRC for investigation and determination. At the level of the NHRC (Police Complaints Division), 632 complaints have been reported from 18 June 2014 to 31 July 2015. Out of the 632 cases, 357 have been disposed of and 275 are still pending.

124.0 However, as stated in the Government Programme 2015-2019, Government will now 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.
125.0 The provisions of the Protection of Human Rights Act have been included in the curriculum of training of all newly recruited police officers. Moreover, with a view to teaching police officers human rights, lectures are regularly delivered by representatives of the NHRC to all ranks of the Police. New recruits as well as Police Sergeants and Inspectors are examined on Human Rights issues during their end-of-course assessments. Whenever recommendations are made by the National Human Rights Commission on police procedures and practices to counter police brutality, these are taken into consideration, and if need be, are incorporated in the procedures, through circular letters and daily lectures. Prisons Officers also receive training in human rights.

126.0 Training programmes conducted by the Mauritius Police Force cover important topics like the prohibition of inhuman or degrading punishment with particular emphasis on the Convention against Torture, the Code of Conduct for Law Enforcement Officials (Article 5), as well as domestic legal provisions on torture.

**Unwanted pregnancies**

127.0 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.

128.0 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).

129.0 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.

130.0 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 7 - Prohibition of torture

131.0 Section 7 prohibits the torture or inhuman or degrading punishment or other such treatment to any person. 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.

132.0 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:
Corporal Punishment

133.0 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 and Human Resources, Tertiary Education and Scientific Research, 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.

134.0 A Children’s Bill is under preparation 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 8 - Prohibition of slavery**

135.0 Slavery and forced labour are prohibited under Section 6 of the Constitution. 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.

136.0 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.

137.0 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 favorable 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**

138.0 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.

139.0 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.

140.0 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.

141.0 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.

142.0 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:
<table>
<thead>
<tr>
<th>Trafficking in persons</th>
<th>Under the Combating of Trafficking in Persons Act</th>
<th>Child Trafficking under the Child Protection Act</th>
<th>Cases having a bearing on human trafficking</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
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<td>4</td>
<td>5</td>
<td>4</td>
<td>3</td>
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<tr>
<td></td>
<td>2</td>
<td>Nil</td>
<td>8</td>
<td>7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>6</td>
<td>5</td>
<td>12</td>
<td>10</td>
</tr>
</tbody>
</table>

143.0 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>Training disburse on 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>

144.0 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.

145.0 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.

Article 9 – Right to liberty

Arbitrary Detention and police custody

146.0 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.

147.0 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

148.0 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.

149.0 Where a detainee complains that he is suffering 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.

150.0 The Government Programme 2015-2019, presented on 27 January 2015 provides, 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.

Article 10 – Treatment of persons deprived of liberty

Legislation regarding the treatment of persons deprived of their liberty

151.0 The existing legislations are the Reform Institutions Act, which is presently being reviewed, and the Transfer of Prisoners Act. The Juvenile Offenders Act is also presently being reviewed. The Government Programme 2015-2019 further provides that ‘Government will bring reform to the Prison Department to ensure that it is properly manned and equipped, and its officers adequately trained to guarantee a targeted and effective rehabilitation of offenders and their successful re-integration into the community.’ To this effect the Ministry
of Social Security, National Solidarity and Reform Institutions has, in July 2015, sought the assistance of the Australian Authorities to, *inter alia*: prepare a Strategic Plan for the Rehabilitation Youth Centre including capacity building; and set up a Juvenile Court and at the same time advise on amendments to the Juvenile Offenders Act (1935) and the Reforms Institutions Act (1988).

**Effective application of rules regarding the treatment of persons deprived of their liberty**

152.0 As per the existing infrastructure, some cells are single while others are large and can accommodate up to four detainees. In certain institutions, dormitories are also available. Detainees are allocated in cells or dormitories through assessment by Reception Boards taking into consideration their profile and security. The Petit Verger Prison, a Medium Security Prison and the Richelieu Open Prison, a Minimum Security Prison, also have dormitories, each catering for some twenty detainees. Each cell is fitted with air-vents on two sides in order to allow for cross ventilation. During the day, sunlight enters the cells through the outer air-vents and at night lights are switched off at 20:00 hours in the cells. Cells are redecorated at least once yearly and occupants are made to keep them clean. Each detainee is supplied with one mattress, two bed sheets, a pillow, a pillow cover, a blanket and a pair of night gown.

153.0 All detainees are unlocked as from 06:30 hours to the Association Yards where they remain up to 17:30 hours. Labour for detainees is between 07:30 hours and 10:30 hours and between 11:30 hours and 15:30 hours. Detainees have access to potable water round the clock in their respective Association Yard. In addition to bedding, all convicted detainees are issued with two pairs of Prison garb and one pair of working dress.

154.0 All detainees on admission to Prisons undergo an induction process. This comprises interview by:-(a) hospital medical staff, who screen the physical, psychological, mental and health profile of the detainees; (b) prisons staff, who inform the detainee of his rights and privileges, exposes him to the routine of the Prison, assess his vulnerability and risk that he may represent to other detainees and accordingly allocate him his location; and (c) the welfare staff, who gauges any social problem that may be affecting the detainees.

**Juvenile offenders**

155.0 Accused juvenile offenders are separated from adults. Boys are placed in Correctional Youth Centres, whereas presently girls are sent to Rehabilitation Youth Centres falling under the aegis of the Ministry of Social Security, National Solidarity and
Reform Institutions. A Committee has been set up at the level of the Prime Minister's Office to initiate procedures for the creation of a Correctional Youth Centre for girls. A juvenile Justice Bill is being worked out by the State Law Office in consultation with all stakeholders including a United Nations Office on Drugs and Crimes (UNODC) Expert in Prison matters.

Treatment of prisoners

156.0 Other conditions related to the treatment of prisoners are:

(a) **Unconvicted detainees**: Remand detainees are allowed to wear their civilian clothing;

(b) **Food and Hygiene**: Toilet and shower facilities are available. All detainees, including unconvicted detainees, receive three meals a day as well as tea which is served at mid-day. All detainees receive a balanced diet approved by a Nutritionist of the Ministry of Health and Quality of Life. Food is prepared as per a weekly menu sheet worked out by the catering officer and approved by the Officer in Charge, New Wing Prison. Medical diets are also prepared on the recommendation of the Medical Officers or Dieticians of the Ministry of Health and Quality of Life for sick detainees. Detainees living with HIV/AIDS receive antiretroviral drugs and an enhanced diet equivalent to a surplus of 20%;

(c) **Medical care**: All detainees receive free medical care on admission and throughout their sentence. Detainees are also referred for specialist care to public hospitals. Besides, visiting Specialists such as dermatologists, psychiatrists, orthopaedic surgeons, medical specialists, etc. regularly visit sick detainees at the Prison. The Prison also has a Hospital Ward where detainees are admitted for observation or on aftercare after hospitalisation. Two Medical Officers and Hospital Officers provide health care to the detainees on a twenty-four hour basis;

(d) **Religion**: Detainees are allowed to observe their respective religion. As such, they are allowed to pray on religious observance days and religious festivities. Ministers of religion regularly officiate prayers in respect of their respective religious group;
(e) **Segregation and Protection Unit:** Detainees fearing for their security are located in Segregation and Protection Units but are allowed to enjoy all their rights in prison;

(f) **Rehabilitation and Reintegration:** Detainees are provided with vocational training in such trades as shoemaker, tailor, cabinet making, masonry, housekeeping, cleaning, food production, etc.;

(g) **Literacy:** Numeracy and Literacy Programmes are also organised to those who are illiterate in order to teach them to read and write. Detainees can also attend courses offered by the Mauritius Institute of Training and Development (MITD) in welding and metal fabrication, vegetable production, food production and animal husbandry;

(h) **Earnings:** All convicted detainees are paid weekly earnings which allow them to buy additional food stuff, soft drinks, toilet requisites, pay fines and costs or even send their earnings to their relatives;

(i) **Contact with the outside world:** Detainees are allowed to receive visits of 30 minutes, once fortnightly, from their relatives. They are also permitted to phone their relatives once weekly. All detainees are allowed to write letters to their relatives and friends;

(j) **Recreational activities:** All detainees have access to television and radio which are fitted in all Association Yards. In the evening, they are also allowed to listen to the radio up to 20:00 hours daily. They are also issued with newspapers in their Association Yards. In addition, they have access to the Prison Library; they can also purchase their own books, magazines, newspapers or receive them on visit from their relatives and friends. All detainees are allowed to participate in indoor and outdoor game activities.

157.0 Prisons Officers are trained to treat detainees in a manner which is decent, humane and just; to ensure safety of detainees; to ensure good order and control is maintained; to provide detainees with the opportunity to use their time in prison positively so that they will be able to resettle into society when they are released.

**Infrastructure development**

158.0 On the average, 5.5 square metres are available for 3 detainees who are confined in the same cell. In dormitories, 3 to 4.2 square metres are provided to detainees whether they
are convicted or are on remand. Accommodation has been increased with the assistance of the Works Section of the Prison Department at Beau-Bassin and the Women’s Prison.

159.0 A new High Security Prison is operational since early 2014, at Melrose. The new prison which is constructed on a plot of land of 37 acres with a total built area of 34,450 square metres can accommodate 780 detainees. 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.

160.0 A new Open Prison for women is being constructed and is expected to be completed by the end of September 2015. It will be operated on a different management style giving selected detainees more autonomy.

**Overcrowding in prisons**

161.0 A Ten-year Strategic Plan has been developed with the assistance of a Consultant from the UN Office on Drugs and Crime, to address the problem of overcrowding through the use of alternative and non-custodial measures, reducing pre-trial detention methods and reducing the rate of recidivism. Also with the Melrose Prison becoming operational since March 2014, 560 detainees from different institutions have been transferred thereat. As at 10 August 2015, there were 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 the prisons has been addressed.

**Education and Human Development for detainees**

162.0 The Ministry of Education and Human Resources is working towards increasing access to education without discrimination. In 2014, the success rate of male detainees sitting for the Certificate of Primary Education examination was 69%. However, the success rate for male detainees in Gas Welding and Metal Fabrics Course, Wood Trade Course and for female detainees in Garment Making Course and Pastry Course was 100%. Two inmates have been identified following a selection exercise and offered a course leading to a degree in Business Management through the Open Distance Learning mode. The Prison Service is
set to modernise its rehabilitation programme for detainees. To that end, the Melrose Prison will have units of textile and woodwork production.

**Article 11 – Non-punishment on contractual obligations**

163.0 The **Imprisonment for Civil Debt (Abolition) Act** makes provision for a defendant in a civil case not to be imprisoned on account of a civil debt. The **Borrower Protection Act** makes provision for a Commissioner for the Protection of Borrowers, who has amongst his responsibilities, to ensure that proper and adequate information is given to borrowers. The Commissioner has the power to deal with complaints received from borrowers and can cause investigations to be conducted.

**Article 12– Right to movement**

164.0 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.

165.0 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 residence permit. Those persons who are lawfully within the territory have the freedom of movement and to choose their residence.

166.0 There is no requirement for the registration of persons as a resident in a particular area. No control or restriction of access is imposed on travelling persons to certain areas or limiting the movements of persons within the community, except in respect of areas declared as security zones.

167.0 Restriction on the right to leave Mauritius may be imposed:

(a) by a Court of Law where the person is subject of a Court case;

(b) the Mauritius Revenue Authority may also raise an objection to departure against a person who is indebted to the Authority;

(c) a Police Officer, not below the rank of Assistant Superintendent of Police, may require the Passport and Immigration Officer to prohibit the departure of a detainee. Such prohibition against departure will lapse after 72 hours (Section 13 of Bail Act - Interim Prohibition against Departure); and
(d) According to Section 53(1)(a) of the Prevention of Corruption Act 2002, the Independent Commission against Corruption may arrest any person who may assist in its investigation and who is about to leave Mauritius.

**Conditions for the issuance of travel documents**

168.0 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.

169.0 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:

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<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><strong>TOTAL</strong></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>

170.0 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**

171.0 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:-

(a) holding valid passport;
(b) possessing valid return passage ticket;
(c) having adequate fund; and
(d) being eligible to re-enter country of origin/residence.

**Article 13- Aliens**

**Asylum seekers**

172.0 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**

173.0 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. 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**

174.0 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. 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’s Office which 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). 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 compiled with. However, The Supreme Court of Mauritius may order the release of the accused/offender in accordance with Section 13 of the Extradition Act.

The principles relating to the law of extradition have clearly set out 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.

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: (i) his right to silence will be undermined; (ii) 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 (iii) 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.

178.0 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.

179.0 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.

180.0 The status for extradition request in Mauritius as at November 2015 is as follows:

<table>
<thead>
<tr>
<th>S.N</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 14- Fair administration of justice

181.0 Section 10 of the Constitution reflects the rights in Article 14 of the Covenant. This section 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.

Setting up of a Court of Appeal

182.0 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 provide that ‘reforms will be brought to the judiciary to expedite determination of court cases and improve services to the public and that a new Independent Court of Appeal will be set up in line with the MacKay Report of 1997. Government also proposes to introduce legislation to set up a separate Court of Appeal Section and a separate High Court Section of the Supreme Court.

Article 15 - Retroactive applications of laws

183.0 Under Section 45(1) of the Constitution, Parliament in Mauritius is vested with the power to make laws subject to the Constitution. The Courts are not expected to examine the merits or demerits of a policy laid down in an enactment by the legislature. The only test is the Constitutional yardstick. The exercise by Parliament of its legislative power to make laws is subject to Section 2 of the Constitution which provides the following: “The Constitution is the supreme law of Mauritius and if any other law is inconsistent with this Constitution, that other law shall, to the extent of the inconsistency, be void”. A law enacted by Parliament can thus only be struck down to the extent that it infringes any of the provisions of the Constitution, including fundamental rights, or otherwise goes against any restriction or limitation imposed by the Constitution.

184.0 Parliament however, is expressly empowered by Section 46(4) of the Constitution to make laws which may be enforceable not only prospectively but also with retrospective effect. Section 46(4) reads as follows: “No law made by Parliament shall come into operation
until it has been published in the Gazette but Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect.” There is a Constitutional limitation to this exercise of legislative power with retrospective effect. Parliament, cannot validly enact retrospective criminal or penal legislation (nullum crimen sine lege).

185.0 **Section 10(4) of the Constitution** which mirrors the provisions of **Article 15 (1) of the Covenant** prohibits the enactment of any new criminal offence or any increase in penalty with retrospective effect and read as follows: “*No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed*”.

186.0 Whilst retrospective criminal or penal legislation is forbidden by Section 10(4), and would be struck down as being unconstitutional, there is no similar constitutional restriction to the enacting of retrospective tax legislation except for penalties arising in respect of non-payment of tax which would fall within the scope of the prohibition applicable to retrospective penal legislation. The case of **D'Unienville R & Anor v Mauritius Commercial Bank [2013 SCJ 404]** refers to the above provisions of the law and clearly explains the principles in respect thereof. The Supreme Court held in this case that: “*It must be pointed out that although the Courts, as a matter of interpretation or construction, presume that a statute is not intended to be given retrospective effect unless the intention is made clear by express words or by necessary implication, this remains only a canon of interpretation and is not a Constitutional principle. It is within the ambit of the law making power of Parliament to legislate, within the framework of the Constitution, with prospective or retrospective effect. Parliament was thus fully empowered in the exercise of its law-making powers to change the law as it did. Whatever be the extent or nature of any right acquired and claimed by the plaintiffs by virtue of Section 17(3)(c) of the Interpretation and General Clauses Act, it would not survive in the face of the new legislation which clearly and unambiguously cancelled the exemption from tax to which the plaintiffs were previously entitled in respect of the interest on deposits under item (3)(d). The plaintiffs’ chargeable income for the computation of their tax liability for the income years subsequent to 01 July 2006 could only be determined on the basis of the income tax legislation in force for each particular income year subsequent to 01 July 2006.*”
**Article 16 – Equality before the law**

**Registration at birth**

187.0 Sections 12 and 13 of the Civil Status Act require that all births be declared within 45 days of occurrence. Declarants are required to provide all related information such as names, sex, date, time and place of birth of the new born. The law also provides for procedures for the late declaration of birth beyond the 45 days.

**Legal identity**

188.0 The National Identity Card (NIC) was introduced in Mauritius in 1986 as a means of identification of Mauritian citizens. Section 4 of the National Identity Card Act provides for every person who is a citizen of Mauritius to register for an Identity Card within 6 months of attaining the adult age of 18.

**Introduction of the Biometric Identity Card**

189.0 With a view to better facilitating the identification and authentication of individuals so as to prevent impersonation and fraudulent use of identity cards, Mauritius has, in 2013, introduced the new Biometric Identity Card with enhanced security features. The card contains the name of the person, his date of birth, gender, photograph, signature or thumbprint and the National Identity Number of the card holder, fingerprint minutiae, amongst others.

**Article 17 - Right to privacy**

190.0 The Data Protection Act was enacted in 2004. Its purpose is to protect the rights of privacy of individuals in view of the development of techniques used to capture, transmit, manipulate and record or store data relating to individuals. Section 33 of the Act makes provision for the Data Protection Commissioner to keep and maintain a register of data controllers and data processors who keep or process data or sensitive personal data. The data controllers and the data processors are required to register themselves annually with the Data Protection Commissioner. Section 39 of the Data Protection Act provides as follows: “any data controllers or data processors who, without reasonable excuse or lawful authority, keeps or processes any personal data or sensitive personal data, without registering himself or renewing his registration, shall commit an offence”. Any person committing an offence under the Act is liable to a fine not exceeding Rs 200,000 and to imprisonment for a term not exceeding 5 years.
191.0 Legislative provisions implementing the National Identity Card Scheme provided for the storage and retention of biometric information (including fingerprints) on a centralized database. However, the Supreme Court of Mauritius has in year 2015 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. Following the Court judgment, the biometric information stored was destroyed by decision of the Government.

**Article 18 – Freedom of thought, conscience and religion**

192.0 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 practice their religion indiscriminately, the Government provides religious subsidies to religious bodies, and infrastructural facilities during all religious festivals celebrated in Mauritius.

**Subsidies to religious bodies**

193.0 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.

194.0 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.
**Article 19 - Freedom of expression**

195.0 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. 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. 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.

**Article 20- Prohibition of propaganda advocating war or national, racial or religious hatred**

196.0 Please refer to part A on non-discrimination.

**Article 21- Right to peaceful assembly**

197.0 Section 13 of the Constitution ensures that the right to freedom of peaceful assembly can be enjoyed whilst striking the right balance with the need to maintain public order and safety. 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 22- Freedom of association**

198.0 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.

199.0 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.

200.0 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.

*Employment Rights Act and Employment Relations Act*

201.0 In order to reform the industrial relations framework, promote effective tripartism and strengthen dialogue with social partners, the Employment Relations Act was passed in August 2008. The Act 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.

202.0 The Employment Rights Act which was also passed in August 2008, aims at achieving the flexibility needed for creating demand for labour, together with security needed to protect the worker as he or she switches between jobs. The object of the Act is to revise and consolidate the law relating to employment, contracts of employment or service the minimum age for employment, hours of work, payment of remuneration and other basic terms and conditions of employment with a view to ensuring appropriate protection of workers.

*Article 23- Protection of the family*

203.0 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 deprivation 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*”

204.0 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/way as 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.

205.0 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.

206.0 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.

Article 24- Rights of the Child

Rights to be registered at birth

207.0 Refer to information under Article 16

Rules governing juvenile justice

208.0 The issues relating to juvenile justice are being dealt with more comprehensively in the draft Juvenile Justice Bill which is under preparation. For example, 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. With the eventual adoption of the Juvenile Justice Bill 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).

209.0 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.

Measures taken by the State to ensure that children are protected

Ratification of International Instruments

On 13 August 2012, Mauritius signed the Optional Protocol to the Convention on the Rights of the Child on Communications Procedure.

**The Children’s Bill**

211.0 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.

212.0 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, 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.

**The Ombudsperson for Children’s Office**

213.0 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; and

(c) promote compliance with the Convention on the Rights of the Child.”

214.0 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 been reported in 2014. During the same year, the Ombudsperson for Children

National Child Protection Strategy

215.0 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.

**Measures of protection against child trafficking**

216.0 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 (January – May) |
|---|---|---|---|---|---|
| Year | No. of sessions in Primary Schools | No. of Attendees | No. of sessions in Secondary Schools | No. of attendees | No. of session in Social Welfare centre etc. | No. of Attendees |
| 2013 | 296 | 12104 | 28 | 923 | 82 | 2920 |
| 2014 | 281 | 9949 | 13 | 950 | 131 | 5110 |
| 2015 | 227 | 7510 | 8 | 327 | 45 | 1754 |
| Total | 804 | 29563 | 49 | 2200 | 258 | 9784 |

*Statistics from the Mauritius Police Force*

217.0 The Mauritius Police Force has, at the request of the Ministry of Gender Equality, Child Development & Family Welfare, set up a new unit styled “**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.
Since January 2008, crackdown operations have been conducted island wise 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:

### Education/Awareness/Sensitisation Campaigns of Brigade Pour la Protection des Mineurs for the year 2013-2015 (January – May)

<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*

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.

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.

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.

**Measures to eliminate child labour**

222.0 To refer to Article 8. Moreover officers of the Inspection and Enforcement Section of the Ministry of Labour, Industrial Relations and Employment effect systematic visits at undertakings and all places of work, thus covering both the formal and informal sectors of employment to detect and sanction cases of child labour. Whenever a child is found in illegal employment, the employer is required to discontinue such employment forthwith and criminal action is taken against the employer accordingly.

**Article 25-Voting Rights and elections**

223.0 At local level, the Local Government Act was amended in 2011 to repeal and replace the Local Government Act and the Local Government Act 2003 so as to reform the law relating to local government. The Act makes further and better provision for:- (a) the establishment of democratically elected local authorities with sufficient autonomy to manage the local affairs of their area; (b) local authorities to provide services and facilities which will ensure the economic and social well-being of their local communities in an ecologically sustainable manner so as to meet the present and future needs of their communities; (c) an effective, efficient, inclusive and accountable system of local government; (d) the management and governance of local authorities; (e) the duties of Councillors and officers of local authorities; (f) the accountability of local authorities; and (g) related matters.

224.0 In 2015, in addition to the amendments to increase the participation of women in local elections, the First Schedule to the Local Government Act was amended to provide for the number of Councillors for the Municipal City Council of Port-Louis. This was 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. The figures are 24 for the towns of Beau-Bassin-Rose Hill and Vacoas-Phoenix and 20 for the Town Councils of Curepipe and Quatre-Bornes.

225.0 The Municipal City and Municipal Town Council Elections Regulations 2012 were also amended by the Municipal City Council and Municipal Town Council (Amendment) Regulations 2015 to give effect that 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.
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”.

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.

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».

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.

230.0 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.

231.0 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.

232.0 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 27- Rights of minorities

233.0 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 Mauritians 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).

234.0 An annual Government grant in the bracket of Rs 1m to Rs 4 m, 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 are listed below:

(1) National Heritage Fund
(2) Aapravasi Ghat Trust Fund
(3) Le Morne Heritage Trust Fund
(4) Islamic Cultural Centre Trust Fund
(5) Nelson Mandela Centre for African Culture Trust Fund
(6) Mauritian Cultural Centre Trust
(7) Mauritius Marathi Cultural Centre Trust
(8) Mauritius Tamil Cultural Centre Trust
(9) Mauritius Telegu Cultural Centre Trust
(10) Hindi Speaking Union
(11) Arabic Speaking Union
(12) Bhojpuri Speaking Union
(13) Chinese Speaking Union
(14) Creole Speaking Union
(15) English Speaking Union
(16) Marathi Speaking Union
(17) Sanskrit Speaking Union
(18) Tamil Speaking Union
(19) Telegu Speaking Union
(20) Urdu Speaking Union

.........
The Human Rights Committee considered the fourth periodic report of Mauritius at its 2261st and 2262nd meetings held on 17 and 18 March 2005, and adopted concluding observations at its 2278th meeting held on 31 March 2005. Measures taken to implement the Concluding Observations, since then are given hereunder.

5.0 The State party should make every effort to enable the population concerned who were removed from these territories to fully enjoy their rights under the Covenant

[Refer to information under Article 1 on rights to Self-Determination]

5.1 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

5.2 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.

5.3 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.
5.4 Since this illegal excision, Mauritius has consistently and persistently pressed the United Kingdom 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 recognized the sovereignty of Mauritius over the Chagos Archipelago.

5.5 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 breached its obligations under Articles 2(3), 56(2) and 194(4) of the 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.

5.6 The excision of the Chagos Archipelago from the territory of Mauritius also involved the shameful eviction by the British authorities of the Mauritians who were residing at the time 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.

5.7 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.
5.8 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**

5.9 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.

5.10 On 07 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.

**6.0 The State party should give full effect to the provisions of the Covenant in its domestic legislation prohibiting all forms of discrimination**

[Refer to information on non-discrimination as from para. 45]

6.1 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, sex 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: –
(d) the right of the individual to life, liberty, security of the person and the protection to the law;
(e) freedom of conscience, of expression, of assembly and association and freedom to establish schools; and
(f) 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.”

6.2 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 16 of the Constitution is being or is likely to be contravened, may apply to the Supreme Court for redress.

6.3 The Criminal Code also makes provisions for offences, and related penalties, in relation to discrimination in general:-

- 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 refers to “Importing seditious publication”
• Section 287 relates to “Suspending publication of newspaper containing seditious publication”
• Section 287A concerns “Prohibiting circulation of seditious publication”
• 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.

6.4 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.
7.0 The State party should ensure that the Human Rights Protection Act 1998 establishing this Commission and its practice are in line with the Paris Principles

[Refer to information on Legal Framework as from para.36]

7.1 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 independent institution in the protection and promotion of human rights at the national level, in line with the Paris Principles. The amendments to the Act 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. The Commission is led by a chairperson who is a former Judge of the Supreme Court of Mauritius and is a member of the Human Rights Committee and each Division is headed by a Vice-Chairperson having wide experience in legal matters.

7.2 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.

7.3 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 composed of a Vice-Chairperson and two members, 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.

8.0 The State party should pursue and strengthen its measures to ensure that women enjoy equal access to the private sector labour market, including executive positions, and to equal pay for work of equal value. Women’s participation in political life should also be enhanced through effectively applied positive measures

[Refer to information under Article 3 on Gender Equality]

8.1 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 read 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.

8.2 Regarding the participation of women in the national decision-making process, Mauritius is committed to the decision taken by South African Development Community (SADC) to increase women’s participation in politics and decision-making by 30%. For the three last general elections held in July 2005, May 2010 and December 2014, 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.

8.3 The Local Government Act was amended in 2011 to repeal and replace the Local Government Act and the Local Government Act 2003 so as 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.”

8.4 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.”

8.5 As regard women’s representation in decision-making bodies, same is illustrated in table below as at December 2014:

<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 Executives</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 41</td>
<td>68.3</td>
</tr>
</tbody>
</table>

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

9.0 The State party should review its legislation to ensure that women are not forced to carry pregnancies to term in violation of the rights guaranteed by the Covenant

[Refer to information under Article 6 on Rights to Life]

9.1 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.

10.0 The State party should strengthen its measures aimed at preventing and reducing cases of domestic violence against women and children and address obstacles such as economic dependence on their partners that prevent women from reporting such violence

[Refer to information under Articles 23 and 24]

10.1 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 deprivation within the definition of domestic violence.

10.2 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’

10.3 The Children’s Bill which is being finalised will 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.

10.4 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.

10.5 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.

11.0 The State party should pursue and strengthen its measures aimed at eradicating child prostitution and child labour

[Refer to information under Article 24 on the Rights of the Child]

Measures of protection against child trafficking

11.1 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:-
<table>
<thead>
<tr>
<th>Year</th>
<th>o. 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

11.2 The Mauritius Police Force has, at the request of the Ministry of Gender Equality, Child Development & Family Welfare, set up a new unit styled “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.

11.3 Since January 2008, crackdown operations have been conducted island wise 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:
Education/Awareness/Sensitisation Campaigns of Brigade Pour la Protection des Mineurs for the year 2013-2015 (January – May)

<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

11.4 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.

11.5 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.

11.6 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.

11.7 Government has in November 2015 set up an Inter-Ministerial Committee, under the Chairmanship of the Attorney General to look into all issues pertaining to child trafficking and come up with recommendations.
Measures to eliminate child labour

[Refer to information under Article 8 on Prohibition of Slavery]

11.8 Officers of the Inspection and Enforcement Section of the Ministry of Labour, Industrial Relations and Employment effect systematic visits at undertakings and all places of work, thus covering both the formal and informal sectors of employment to detect and sanction cases of child labour. Whenever a child is found in illegal employment, the employer is required to discontinue such employment forthwith and criminal action is taken against the employer accordingly.

12.0 The State party should ensure that its legislation adopted in the context of the fight against terrorism is fully consistent with all the provisions of the Covenant, including article 4, taking into account general comment No. 29.

12.1 The Government of Mauritius has already enacted the undermentioned legislations to consolidate its fight against terrorism. All the new legislations and amendments thereof are human rights compliant as they are in line with international norms:

(i) Information Communication Telecommunication Act 2001
(ii) Prevention of Terrorism Act 2002
(iii) Financial Intelligence & Anti Money Laundering Act 2002
(v) Data Protection Act 13/2004
(vi) Firearm Act 2006
(viii) Asset Forfeiture Act 2012

12.2 Mauritius has adopted a number of conventions and resolutions to address terrorists’ threat in all its form and manifestations. Consequently, as a member of the United Nations, the Republic of Mauritius is signatory to the following legal documents after having carefully considered that the documents are consistent with the provisions of international law:

(i) United Nations Security Council Resolution 1373;
(ii) UN Conventions for the Suppression of Terrorist Bombing 2003;
(iii) UN Convention Against Transnational Organised Crime 2003;
12.3 No person has been convicted in Mauritius under the Prevention of Terrorism Act 2002 and no complaint of non-observance of international standards has been reported.

13.0 The State party should ensure that investigations into all violations under articles 6, 7 and 10 of the Covenant are carried out. It should, depending on the findings of the investigations, prosecute the perpetrators of such violations and pay compensation to the victims. The State party should also ensure that the victims have access to genuinely independent bodies for investigating those complaints. The State party is invited to provide in its next report detailed statistics on the number of complaints against State officials, the nature of the violations, the State departments involved, the number and nature of the investigations and the action taken, as well as the compensation granted to the victims.

[Refer to information at paragraph 40]

13.1 The Police Complaints Act enacted in 2012 provides for the setting up, within the National Human Rights Commission, of a Police Complaints Division for the investigation of complaints made against members of the Police Force, and for other related matters. This legislation consolidates further measures already in place to prevent any abuse of authority including that of torture and cruel, inhuman or degrading treatment.

13.2 Since 2013 following the proclamation of the Police Complaints Act 2012, cases of violence perpetrated upon members of the public by Police, are referred to the Police Complaints Division of the National Human Rights Commission for investigation at their level.

13.3 The number of complaints related to Police brutality from January 2011 to September 2015, and outcome thereof are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Complaints</th>
<th>Disposed of</th>
<th>Pending</th>
<th>Referred to DPP</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>339</td>
<td>261</td>
<td>78</td>
<td>Nil</td>
</tr>
</tbody>
</table>

(of which 229 were transferred from Complaints Investigation Bureau)
<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>56</th>
<th>110</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>168</td>
<td>120</td>
<td>59</td>
<td>54</td>
</tr>
<tr>
<td>(as at 25 September)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>288</td>
<td>115</td>
<td>164</td>
<td>9</td>
</tr>
</tbody>
</table>

*Source: National Human Rights Commission*

13.4 A person unlawfully arrested or detained by other any person, including a Public Official, if also tortured by that other person or Public Official, can be entitled to compensation, not on account of the torture, but on account of the unlawful arrest. To this effect 5 civil cases related to alleged arbitrary/unlawful arrest had been lodged against the Police from 2009 to 2014 and damages amounting to Rs 13.5M were claimed. In cases settlement has been reached between the two parties for a total amount of Rs 625 000 and in the remaining 3 cases the Court decided in favour of the plaintiffs and awarded damages amounting to a total of Rs 174 180.

13.5 Also following a civil case entered by the dependants of one Mr R. Ramlogun against the State in 2006, an agreement was reached between the parties and the State paid an *ex gratia* amount of 7.5 million rupees in full and final satisfaction of the claim to the dependants. Mr Ramlogun died while he was in police detention.

14.0 The State party should review these constitutional provisions that are incompatible with the Covenant

*[Refer to information under Article 9 on Right to liberty]*

14.1 The Government Programme 2015-2019, presented on 27 January 2015 provides, *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.
15.0 The State party should review the Dangerous Drugs Act 2000 in order to enable judges to make a case-by-case assessment on the basis of the offence committed and to give full effect to the provisions of article 9, paragraph 2, of the Covenant

15.1 In fact section 32 of the Dangerous Drugs Act contained a restriction of bail in certain classes of cases. It, *inter alia*, provided that notwithstanding any other enactment, where a person is arrested or detained for an offence under the Act, that person shall not be admitted to bail until the final determination of the proceedings brought against him where he has already been convicted of any drug offence or he is arrested or detained whilst on bail in relation to a drug offence. However, in the case *State v Khoyratty Abdool Rachid (2006 MR 210)*, the Judicial Committee of the Privy Council ruled as unconstitutional the aforesaid provision. Subsequently, section 32 of the Dangerous Drugs Act was repealed by Act No.30 of 2008.

15.2 Section 31 of the Dangerous Drugs Act related to *Detention for Drug Smuggling* provides that in certain specific cases a person arrested be detained in Police custody for period not exceeding 36 hours from his arrest, not to have access to any person other than a Police Officer not below the rank of an Inspector or to a Government Medical Officer. However, since the enactment of the Act, the above provision has never been applied in view of the stringent conditions imposed as safeguards, to wit.

15.3 Government has also set up a Commission of Inquiry on 14 July 2015, to be chaired by a former Judge of the Supreme Court, to inquire and report on all aspects of Drug Trafficking in Mauritius. The Commission will, *inter alia*, look into the adequacy of existing legislation, the operational effectiveness of the various agencies involved in the fight against drug trafficking and the adequacy of the existing resources, including human expertise technology and equipment, to detect and counter any attempt to introduce drugs in Mauritius.

16.0 The State party is urged to draw all appropriate conclusions from the above-mentioned report and ensure that its pre-trial detention practice is compatible with article 9 of the Covenant

*[Refer to information under Article 9 on Right to liberty]*

16.1 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.

16.2 Where a detainee complains that he is suffering 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.

16.3 The Government Programme 2015-2019, presented on 27 January 2015 provides, *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.

17.0 The State party is once again invited to bring its legislation in line with the provisions of article 11 of the Covenant

*[Refer to information under Article 11 on Non-punishment on contractual obligations]*

17.1 The **Imprisonment for Civil Debt (Abolition) Act** makes provision for a defendant in a civil case not to be imprisoned on account of a civil debt. The **Borrower Protection Act** makes provision for a Commissioner for the Protection of Borrowers, who has amongst his responsibilities, to ensure that proper and adequate information is given to borrowers. The Commissioner has the power to deal with complaints received from borrowers and can cause investigations to be conducted.
18.0 The State party should integrate into its legislation all the safeguards which should accompany an expulsion procedure

[Refer to information under Article 13 on Aliens]

18.1 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. 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.

18.2 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’s Office which 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). 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 compiled with. However, The Supreme Court of Mauritius may order the release of the accused/offender in accordance with Section 13 of the Extradition Act.

18.3 The principles relating to the law of extradition have been clearly set out 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.

18.4 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: (i) his right to silence will be undermined; (ii) 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 (iii) 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.

18.5 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.
18.6 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.

19.0 The State party should ensure that the ongoing review of that legislation leads to full respect for the provisions of article 22 of the Covenant

*[Refer to information under Article 22 on Freedom of association]*

19.1 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.

19.2 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.

19.3 Furthermore, in conformity with Section 13 of the Constitution, Section 21 of the Equal Opportunities Act which was enacted in 2012, 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.

20.0 The State party should widely disseminate the text of its fourth periodic report and the present concluding observations

20.1 A consultative meeting on the draft Report with all relevant stakeholders was held on 10 December 2015. The final version of the Report has incorporated the views and comments of the stakeholders.

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110