

COMMITTEE AGAINST TORTURE

4TH PERIODIC REPORT OF MAURITIUS IN RESPONSE TO LIST OF ISSUES [CAT/C/MUS/QPR/4] ADOPTED BY THE COMMITTEE AT ITS FIFTIETH SESSION

[WORD COUNT 15 840/]

DRAFT

Article 2

1. In light of the Committee's previous concluding observations (para. 7), please provide up-to-date information on the full incorporation of the provisions of the Convention in legislation in order to enable the courts to enforce the obligations established therein.

The Criminal Code (Amendment) Act 2003 was passed by Parliament in order to incorporate into Mauritian law the definition of torture as set out in Article 1 of the Convention under section 78 of the Criminal Code. It is considered that section 78 of the Criminal Code fully satisfies the conditions set out in Article 2 of the Convention.

2. In light of the Committee's previous concluding observations (para. 9), please indicate whether a provision establishing the absolute prohibition of torture and specifying that no exceptional circumstances whatsoever may be invoked as a justification of torture, in accordance with article 2, paragraph 2, of the Convention, has been incorporated in legislation.

The law as it stands currently provides as follows:

Section 7 of the Constitution of Mauritius provides that:

(1) No person shall be subjected to torture or to inhuman or degrading punishment or other such treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any description of punishment that was lawful in Mauritius on 11 March 1964.

Section 78 of the Criminal Code provides for the offence of torture by public official. Section 78 reads as follows:

(1) Subject to subsection (3), where —

(a) any person who is a public official, or is otherwise acting in an official capacity; or

(b) any person, at the instigation of, or with the acquiescence of, a public official or a person otherwise acting in an official capacity, intentionally inflicts severe pain or suffering, whether physical or mental, on any other person —

(i) to obtain a confession or other information from that other person, or a third person;

(ii) to punish that other person for an act which that other person or a third person has committed, or is suspected of having committed;

(iii) to intimidate or coerce that other or a third person; or

(iv) for any reason based on discrimination of any kind,

he shall commit the offence of torture and shall, on conviction, be liable to a fine not exceeding 150,000 rupees and to imprisonment for a term not exceeding 10 years.

(2) Where the act constituting an offence under subsection (1) has been committed outside Mauritius and—

(a) the victim is a citizen of Mauritius;

(b) the alleged offender is in Mauritius; or

(c) the alleged offender is in Mauritius, and Mauritius does not extradite him,

a Court shall have jurisdiction to try the offence and inflict the penalties specified in subsection(1).

(3) Subsection (1) shall not apply to any pain or suffering arising only from, or inherent in, or incidental to, a lawful sanction.

(4) It shall not be a defence for a person charged with an offence under subsection (1) to prove that he acted by order of his superior.

3. In light of the Committee's previous concluding observations (para. 18), please indicate whether the necessary steps have been taken to speed up the process of adopting human rights bills, particularly those intended to prevent torture and other cruel, inhuman or degrading treatment, and bills on victims' rights, the victims' charter, the police and police procedures and criminal evidence, and to implement them as soon as they are adopted. Please indicate whether an independent police complaints commission has been established.

The Protection of Human Rights Act has been amended in 2012 and the following Bills have also been enacted so as to widen and strengthen the functioning of the National Human Rights Commission (NHRC):-

- The National Preventive Mechanism Act
- The Police Complaints Act

The amendments to the **Protection of Human Rights Act** in 2012 have 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 NHRC is now empowered to review safeguards provided by or under any enactment for the protection of human rights as well as factors or difficulties that inhibit the enjoyment of human rights. The mandate of the Commission has been broadened so as to ensure better promotion and protection of human rights. The Commission now is empowered to review safeguards provided by or under any enactment for the protection of human rights as well as factors or difficulties that inhibit the enjoyment of human rights. 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 **National Preventive Mechanism Act** 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 division is fully operational since June 2014

The Division consists of the Chairperson as its head, a Deputy Chairperson; and 2 members, one member is selected from a list submitted by nongovernmental organisations involved in social work in prisons; and the other one is a person having knowledge and experience in the field of human rights, law, employment, industrial relations, business administration, education, sociology, policing, social work, psychology, psychiatry, medicine or prison management.

The main function of the Division is to visit places of detention so as to examine the treatment of persons deprived of their liberty with a view to ensuring their protection against torture and inhuman or degrading treatment or punishment. It also investigate complaints, which may be made by a detainee.

The Police Complaints Act provides for the setting up within the National Human Rights Commission, of a Police Complaints Division to investigate complaints made against members of the Police Force, other than complaints related to 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 actions 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.

Since the enactment of the Police Complaints Act, all allegations or complaints against Police officers are no longer enquired at the level of the Police but, are referred to the Police Complaints Division (PCD) of the NHRC for enquiry. Where a criminal offence is disclosed, the case is forwarded to the Director of Public Prosecutions.

The **Criminal Appeal Act** was amended in 2013 to provide *inter alia* that a convicted person may apply to the Court of Criminal Appeal for a review of the proceedings relating to conviction before the Supreme Court. The Court of Criminal Appeal may, in the course of the review proceedings, quash the acquittal or conviction and order a retrial. The Act further provides where a person has been acquitted following a trial before the Supreme Court or appellate proceedings before the Court, the Director of Public Prosecutions may, apply to the Court for a review of the proceedings relating to the acquittal.

In line with the amendment to the Criminal Appeal Act, the Protection of Human Rights Act was also amended in 2013 so as to give an applicant or his representative the option to apply to the Human

Rights Division of the National Human Rights Commission for a review of the conviction. The Human Rights Division, upon application made to it by a person who has been convicted following a trial before the Supreme Court, may refer the conviction to the Supreme Court for a review of the proceedings relating to the said conviction, if it is satisfied, having regard to any fresh and compelling evidence, that there is a real possibility that the conviction or sentence will not be upheld if the reference is made.

Upon hearing an application for review and retrial, and where the Court is satisfied that there is (a) there is fresh evidence 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 may – (a) grant the application, (b) quash the conviction or acquittal, (c) order that the person be retried for the offence with 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 authoritative judgments in this matter is the case of **Dookee Ajay v State of Mauritius (2011PRV 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.

As provided for in the Government Programme 2015-2019, Government is reviewing the existing legislation so as to establish an Independent Police Complaints Commission (IPCC), separate from the National Human Rights Commission, and to be chaired by a former Judge of the Supreme Court. The IPCC will replace the Police Complaints Division of the National Human Rights Commission. The purpose of this initiative is to expedite the determination of complaints concerning police brutality.

It is also stated in the Government Programme 2015-2019 that Government will make better provision for the rights and interests of victims and, in particular, provide in the law for representations by or on behalf of a victim to be taken into account at sentencing stage.

4. In light of the Committee’s previous concluding observations (para. 10), please indicate whether measures have been taken to:-

(a) ensure that persons arrested and detained in police stations have access to a medical doctor, if possible of their own choice, from the outset of their detention;

(b) ensure that doctors’ visits are conducted in a confidential manner;

(c) ensure that persons arrested and detained are able to inform their family or a person of their choice about their detention; and

(d) set clear and appropriate rules and procedures concerning the registration of persons immediately upon their detention and to ensure that they are brought before a judge within a short period of time.

(a) To ensure that persons arrested and detained in police stations have access to a medical doctor, if possible of their own choice, from the outset of their detention

The Police Standing Order No. 133 makes provision for “Care and Treatment of Detainees”, and which inter alia reads as follows:-

“Any prisoner who complains of or shows signs of illness, or who is unconscious through drink or any other cause should be examined medically without delay.”

Paragraph 5 of Standing Order No. 137 provides for the “Rights and Welfare of Detainees” more particularly that *“Detainees have the rights if they so request, be taken for medical treatment by their private doctor but at their own expense.”*

Upon admission at Prison, detainees are seen by the Prison Medical Officer and their relatives are so informed by the Prison Welfare Officer. These are done during the process called “Induction”.

Persons in Police custody are allowed to be seen by medical practitioners and same is effected under police supervision. Such measures are taken for safety and security reasons for both the Police Officer escorting the detainee and the medical practitioner from being assaulted.

(b) To ensure that doctors' visits are conducted in a confidential manner

Persons in Police custody are examined by doctors under Police supervision for safety and security reasons while detainees in prison are examined by prison medical officers under the supervision of prison officials or the prison nurse. The examination is carried out in a special room available at the medical unit or dispensary provided in every prison. A reasonable distance between the prisoner, the prison escorting officer and the medical officer is observed to ensure confidentiality as well as safety and security. General guidelines are provided in the Prison Regulations and relevant Prison Standing Orders regarding medical care and treatment of detainees. However, there is still room to improve, adjust and find the right balance between security of the Prisons staff and confidentiality.

(c) To ensure that persons arrested and detained are able to inform their family or a person of their choice about their detention

Police Standing Order No. 137 makes provision for "Rights and Welfare of Detainees" which *inter alia* stipulates that detainees have the right to immediate communication with their legal representative, family members or friends for bail formalities. Moreover, they are allowed interviews with their legal representative.

In addition, a control mechanism has been put in place whereby the Supervising Officers concerned have to forward a message to the Police Information Room (PIOR) and Divisional / Branch operations with the relevant details of all persons arrested. Such information is then communicated to the legal representative, or close relatives, whenever requested.

(d) To set clear and appropriate rules and procedures concerning the registration of persons immediately upon their detention and to ensure that they are brought before a judge within a short period of time

Under section 5 of the Constitution, any person who is arrested or detained shall be informed as soon as reasonably practicable in a language that he understands of the reasons for his arrest or detention. Any person who is arrested or detained and who is not released, shall be afforded reasonable facilities to consult a legal representative of his choice and shall be brought without undue delay before a Court.

There is now a Bail and Remand Court which came into operation in year 2000, under the Bail Act 1999, in order to allow easier access to justice to applicants under provisional charges and who are

moving to be released on bail before their main cases are lodged. The services of the Bail and Remand Court in respect of bail and remand applications are centralised at the New Court House in the capital city, Port-Louis.

Furthermore, video conferencing facilities introduced since November 2000 have expedited all bail hearings.

5. In light of the Committee's previous concluding observations (para. 11), please provide up-to-date information on the adoption of:-

- (a) A new police Act;**
- (b) A police procedures and criminal evidence Act;**
- (c) Codes of conduct for persons responsible for investigating offences.**

A Police and Criminal Evidence Bill (PACE) was introduced before the National Assembly on 16 April 2013. Following a first reading of the Bill, the President by way of proclamation 13 of 2014 prorogued the National Assembly on 12 May 2014. Standing Order 9 of the Standing Orders and Rules of the National Assembly provides that the 'effect of prorogation is at once to suspend all business until Parliament is summoned again. All proceedings pending at the time are quashed. Bills must be re-introduced and the life of all committees sessions or otherwise comes to an end.'

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.

6. In light of the Committee's previous concluding observations (para. 11), please indicate whether the police complaints bill has been drafted and implemented and whether an independent police complaints bureau has been established. Please indicate whether the recommendations regarding the conduct of the police made by the National Human Rights Commission in 2007 have been implemented and what results have been achieved in practice.

The amendments to the Protection of Human Rights Act and the enactment of the Police Complaints Act in 2012 have provided for the setting up within the National Human Rights Commission of a Police Complaints Division to investigate complaints made against members of the police force other than complaints related to allegations of corruption and money laundering.

Since the enactment of the Police Complaints Act 2012, all allegations or complaints against Police officers are no longer enquired at the level of the Complaints Investigation Bureau of the Police Department but, are referred to the Police Complaints Division of the National Human Rights Commission for enquiry. Where a criminal offence is disclosed, the case is forwarded to the Director of Public Prosecutions for a decision as to whether the accused should be prosecuted or not.

The recommendations made by the National Human Rights Commission in its 2007 Report with respect to the conduct of Police are being implemented with, *inter-alia*, more interaction with the public through Community Policing; regular patrols being by the Police in risk areas; as well as the implementation of the other recommendations regarding search and warrant. Government is also in the process of converting the Police Complaints Division into a Police Complaints Commission with a view to further strengthening the human rights of the citizens. The legislation to establish the Commission is presently being drafted by the Attorney General's Office. [Refer also to information under question 3 above]. As regard the prevention of recurrence of death in police custody, all the recommendations made in paragraph 14 of the Summary of Recommendations of the Report are being implemented.

- 7. In light of the Committee's previous concluding observations (para. 16), please indicate:**
- (a) whether the amendments made to the Protection from Domestic Violence Act, in 2007 have entered into force;**
 - (b) whether the sexual offences bill has been adopted and marital rape has been categorized as a distinct criminal offence;**
 - (c) what action has been taken to make it easier for victims of domestic violence to file complaints, to educate them about the remedies available and to adopt legislative and administrative measures that provide protection for women who report incidents of domestic violence;**

(d) whether campaigns to increase awareness of domestic violence, in particular against women and children, have been carried out among women and girls to make them aware of the criminal nature of all forms of violence and the harmful effects on their health and encourage them to report acts of violence to the competent authorities; and

(e) how many shelters for women victims of domestic violence are currently operating, in view of.

(a) Whether the amendments made to the Protection from Domestic Violence Act, in 2007 have entered into force

The amendments made to the Protection from Domestic Violence Act in 2007 to enhance the protection of women, whereby now the Supreme Court can issue, *inter-alia*, Protection Orders and consider applications for alimony, have already entered into force. 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.

However despite the above amendments, the number cases of domestic violence has been increasing as illustrated in the disaggregated table as reply to question 21, and following the tragic deaths of women victims of domestic violence in early 2014, an Advisory Committee was set up to make recommendations on measures to reinforce the framework for the protection of women. The Committee observed that the Act as it stands still have several lacunas and weaknesses such as a narrow definition of domestic violence; not all acts of domestic violence are criminalized; weak support given to victims needs. In light of the report, Government proposes to further amend the Act so as to introduce, among others psychological and sexual abuses as well as economic deprivation within the definition of domestic violence.

(b) Whether the sexual offences bill has been adopted and marital rape has been categorized as a distinct criminal offence

The abovementioned Ministry is 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*’.

(c) What action has been taken to make it easier for victims of domestic violence to file complaints, to educate them about the remedies available and to adopt legislative and administrative measures that provide protection for women who report incidents of domestic violence

The Ministry of Gender Equality, Child Development and Family Welfare offers support services to victims of gender-based violence and to people having family problems through an institutional mechanism known as Family Support Bureau. These include hand counselling; psychological counseling, legal advice, assistance to victims of domestic violence and counseling services to perpetrators. Currently, there are six Family Support Bureaus around the island operating under the Family Welfare and Protection Unit. Officers are also on-call on a 24 hour basis on hotlines 139 and 119, to attend to emergency cases.

Moreover, a Protocol has been established with effect from March 2006 between the Ministry of Gender Equality, Child Development and Family Welfare, the Ministry of Health and Quality of Life and the Police Department to provide prompt services to victims of sexual assault. It aims at providing psychological and legal support to those victims. The Protocol ensures a coordinated approach of all authorities concerned with such cases. With the application of the Protocol, victims may now call either at the Police Station of the region where the incident allegedly took place or directly to any of the 5 regional hospitals. Victims who report cases at the Police Station are conveyed by the Police to the nearest regional hospital.

(d) Whether campaigns to increase awareness of domestic violence, in particular against women and children, have been carried out among women and girls to make them aware of the criminal nature of all forms of violence and the harmful effects on their health and encourage them to report acts of violence to the competent authorities

The Ministry of Gender Equality, Child Development and Family Welfare has reinforced its awareness raising programmes to sensitize women on the harmful effects of all forms of violence; eradicating cultural justifications for such violence and practices; and encouraging victims to report cases of violence through the 6 Family Support Bureaus and also through the hotline 139 which is operational on a 24 hrs basis.

The said Ministry also receives financial support from United Nations Population Fund so as to implement projects in line with gender-based violence and sexual and reproductive health. Topics

covered are violence at home; gender-based violence and its effects on Sexual and Reproductive Health; HIV Aids and Substance Abuse; and Sexual Reproductive Health and Sexually Transmitted Diseases. The Ministry has also mounted and broadcasted a clip against domestic violence to sensitise the public at large.

With a view to involving the community to combat domestic violence, this Ministry has set up eight Zero Tolerance Clubs. The members of these Clubs act as watchdogs to ensure that their respective localities are violence free. Furthermore, a Shared Faith Belief Programme was launched in 2013 which aims at engaging Religious Bodies in addressing the problem of gender-based violence (GBV), particularly, domestic violence. The objectives of the Shared Faith Belief Programme are to:-

- Raise awareness of religious bodies about GBV particularly, domestic violence;
- Motivate action planning to address the issue of domestic violence in their own organisations and communities;
- Strengthen the capacity of religious communities and networks to respond to domestic violence; and
- Equip religious communities with tools to deepen their awareness and understanding of domestic violence.

In year 2013, 26 religious bodies and 721 participants were reached and in 2014, 26 religious bodies and 211 participants were reached.

(e) How many shelters for women victims of domestic violence are currently operating, in view of the Government's decision, in 2011, to increase the number of shelters in Mauritius to nine

Presently, Government is collaborating with three shelters run by non-governmental organisations, namely:-

- **SOS Femmes**- for the temporary accommodation of women victims of domestic violence, pending Court Orders. The SOS Femmes is allocated a yearly budget of Rs 1M by the Ministry of Gender Equality, Child Development and Family Welfare.
- **Chrysalide** – In November 2013 an amount of Rs 2M was allocated to this non-governmental organisation (NGO) by the Ministry of Gender Equality, Child Development and Family Welfare through the Special Collaborative Programme for Support to Women and Children in Distress for the setting up of a shelter for women victims of gender-based violence.

- *Abri de Lumière*- Since 2015, several victims of gender-based violence have been accommodated at the level of this shelter. The latter is an NGO up in 2014, whose objectives are to accommodate pregnant women who have been compelled to move from their house being victims of abuse.

Moreover, Government has placed emphasis on the setting up of shelters for children who are victims of abuse. Five such shelters are now operational where children victims of abuse are placed and are provided temporary accommodation:

- *Shelter La Colombe* - The shelter has been in operation since April 2008 and is being managed by the National Children Council (NCC).
- *L’oiseau Du Paradis* - The Shelter situated at Cap Malheureux is managed by the Human Service Trust. According to the contract Shelter Cap Malheureux should accommodate 40 Boys aged 10 to 17 years.
- *La Marguerite* - The Shelter is situated at Belle Rose and is managed by the Vedic Social Organisation. According to the contract the Shelter La Marguerite should accommodate 25 girls aged 5 years to 11 years.
- *La Dauphinelle* - Following bidding exercise, Management Services was entrusted to Vedic Social Organisation on December 2013. According to the contract Shelter Dauphinelle should accommodate 10 girls aged 13 to 17 years.
- *Shelter La Cigogne* - Management Services was entrusted to Children Foundation on 14 December 2013. The shelter La Cigogne provides accommodation to some 12 babies aged 0 – 3 years.

8. In light of the Committee’s previous concluding observations (para. 19), please provide up-to-date information on:-

(a) the adoption of the bill on the national preventive mechanism;

(b) the establishment of the mechanism and whether it has been provided with the necessary human and financial resources, in compliance with the requirements of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or

Degrading Treatment or Punishment and the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles); and

(c) whether the State party intends to make public the report prepared by the Sub-Committee on Prevention of Torture after its visit to Mauritius in 2007.

(a) The adoption of the bill on the national preventive mechanism

In 2012, the Protection of Human Rights (Amendment) Act, the Police Complaints Act and the National Preventive Mechanism Act were passed in the National Assembly in order to broaden the mandate and functions of the National Human Rights Commission in line with international best practices. The Acts have entered into force and are fully operational since June 2014. [Refer to information under question 3]

(b) The establishment of the mechanism and whether it has been provided with the necessary human and financial resources, in compliance with the requirements of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles)

The National Preventive Mechanism has been set up as a Division of the National Human Rights Commission and is chaired by a Vice Chairperson and is assisted by 2 members. Administrative support to the National Preventive Mechanism Division is provided by the staff of the National Human Rights Commission, which is an independent institution, fully operational since June 2014 and having its own operational budget.

(c) Whether the State party intends to make public the report prepared by the Sub-Committee on Prevention of Torture after its visit to Mauritius in 2007

Government has already provided all the information requested by the Sub-Committee on the Prevention of Torture (SPT) and a table of action taken by the Mauritian authorities following the report of the SPT as well as the status of implementation of the recommendations was also transmitted to the SPT in December 2008. As at date most of the recommendations made in the Report have already been implemented, *inter alia*: the review of the legal aid system; the operationalisation of the Segregation Unit of the Women's Prison; the establishment and functioning, through the National Preventive Mechanism Act and the Police Complaints Act, of a

National Preventive Mechanism Division and a Police Complaints Division, respectively, as divisions within the National Human Rights Commission; the amendment/strengthening of Standing Orders of the Police to ensure notification of the family of and prompt provision of medical care to detainees; the opening of the Melrose Prisons which has solved the problem of overcrowding in prisons; training of Police and Police Officers on Human Rights; the upgrading of Police cells; and the construction of 9 additional Police Stations with international norms for detention having been respected.

However, although due consideration have been given to the recommendations made in the Report, most of which have already been implemented, it is considered that it would not be appropriate to make the report public as it contains sensitive information that could undermine the smooth running and security strategies of the Prisons Department.

9. In light of the Committee's previous concluding observations (para. 20), please provide up-to-date information on the adoption of the human rights action plan designed to ensure effective protection for human rights, including protection against torture. If the plan has been adopted, please indicate whether civil society was consulted during its drafting and implementation.

The Human Rights Action Plan has been adopted by Government in 2012 and a Monitoring Committee has been set up under the aegis of the Prime Minister's Office to monitor its implementation.

The Committee is composed of representatives of all relevant Ministries/Departments, National Human Rights Institutions, NGOs and the private sector. A template has been worked out to monitor the implementation of the recommendations of the National Human Rights Action Plan 2012-2020.

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

10. Please indicate whether the State party has established juvenile courts that conform to international standards, including all provisions of the United Nations Standard Minimum

Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for Action on Children in the Criminal Justice System (Economic and Social Council resolution 1997/30). In addition, please indicate whether the State party has adopted legal provisions which set the minimum age of criminal responsibility at an internationally acceptable level.

The Juvenile Court operates within the District Court jurisdiction, for the purpose of hearing any charge against a juvenile or of exercising any other jurisdiction conferred upon it by virtue of Juvenile Offenders Act or any other relevant enactment. Hearings are conducted in camera to prevent undue publicity and to protect the privacy of the child. The juvenile is accompanied at the hearing by a parent or guardian.

A juvenile, if arrested and charged, is brought before the Juvenile Court presided by a District Magistrate. However, if a juvenile is charged jointly with an adult, the trial takes place before the ordinary Court as provided for under section 4(2) (b) of the Juvenile Offenders Act.

If a juvenile is found guilty by the Court, a social enquiry report is usually requested before sentencing. A juvenile is not sent to prison but can be detained at the Correctional Youth Centre which promotes social rehabilitation among other things. Other sentences are available e.g. – fine (to be paid by parent) or Probation Order (under supervision and control of a Probation Officer).

If a juvenile has to be detained pending trial, he is kept at the Rehabilitation Youth Centre which is a separate institution exclusively for children and young persons. Upon application being made by a parent or guardian on behalf of a minor charged with a crime or misdemeanour, free legal aid may be obtained subject to the approval of the Authority under section 7A of the Legal Aid and Legal Assistance Act (“Authority” under the Legal Aid and Legal Assistance Act being defined, in respect of proceedings before the Supreme Court or a Court of Appeal, as the Chief Justice or a Judge designated by him, and in respect of proceedings before any Court, a Magistrate of that Court).

The Juvenile Offenders Act is presently being reviewed. The Government Programme 2015-2019 states that the officers of the Prison Department *will be 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).

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. A children's Bill is under preparation and caters to the implementation of the Standard International Principles embodied in Beijing Rules.

There exists no legal age of criminal responsibility in our laws although our Courts are usually guided by the laws of the United Kingdom. However, this is being considered in the Draft Children's Bill.

Article 3

- 11. In light of the Committee's previous concluding observations (para. 12), please indicate:**
- (a) Whether the State party's legislation has been revised to fully guarantee the principle of non-refoulement;**
 - (b) Whether the Extradition Act has been amended to make it fully compliant with article 3 of the Convention;**
 - (c) The process by which extradition is requested and how decisions on whether or not to grant such requests are taken;**
 - (d) The guarantees offered, including the possibility of challenging the decision with suspensive effect, in order to ensure that the person being expelled, returned or extradited is not in danger of being subjected to torture;**
 - (e) Detailed statistical data on the number of extradition requests received, the requesting States and the number of persons whose extradition was authorised or refused.**

(a) Whether the State party's legislation has been revised to fully guarantee the principle of non-refoulement

Mauritius, being a small and densely-populated island with limited resources, has not yet adopted a policy or laws to grant refugee status to foreigners. Although Mauritius has not yet signed the 1951 Convention relating to the Status of Refugees and its 1967 Protocol Convention, it does however

attempt to treat applications for refugee status or political asylum on a humanitarian, case-to-case basis by facilitating their settlement in a friendly country willing to receive them. Moreover, we stand guided by the Deportation Act and the Immigration Act.

(b) Whether the Extradition Act has been amended to make it fully compliant with article 3 of the Convention

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

(c) The process by which extradition is requested and how decisions on whether or not to grant such requests are taken

Sections 8 to 13 of the Extradition Act 1970 of the Republic of Mauritius provide for the process which needs to be followed in general in extradition cases. 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 Act. 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 Act 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 complied with. However, The Supreme Court of Mauritius may order the release of the accused/offender in accordance with Section 13 of the Extradition Act.

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.

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.

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.

(d) The guarantees offered, including the possibility of challenging the decision with suspensive effect, in order to ensure that the person being expelled, returned or extradited is not in danger of being subjected to torture

Refer to reply to part (b) above.

(e) Detailed statistical data on the number of extradition requests received, the requesting States and the number of persons whose extradition was authorised or refused:

	Extradition Requests from	Extradition Request -Status
1.	Hungary	One Hungarian National-under consideration by the Attorney General’s Office
2.	Belgium	One Belgian National-under consideration at the level of the Ministry of Foreign Affairs, Regional Integration & International Trade
3.	India	One Indian National- extradition executed on 14 November 2015

Article 4

12. In light of the Committee's previous concluding observations (para. 8), please indicate whether the Criminal Code has been revised to make acts of torture punishable by appropriate penalties that take into account their grave nature, in accordance with article 4 of the Convention.

Under Section 78 of the Criminal Code any public official who commits the offence of torture shall, on conviction, be liable to a fine not exceeding 150,000 rupees and to imprisonment for a term not exceeding 10 years. The penalties are considered to be adequate and should not be compared, in the Mauritian context, with the scourge of drug trafficking whereby stringent measures have been taken to curb down same.

Article 10

13. In light of the Committee's previous concluding observations (para. 13), please provide up-to-date information on the human rights education and training, including training in the prevention of torture, provided to police officers and other personnel. Please also indicate whether law enforcement officers, medical personnel and persons involved in documenting and investigating acts of torture receive training on the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Please indicate whether a methodology for assessing the actual impact and results of such training programmes has been devised and whether the State party has sought technical assistance for training from international bodies and organizations.

The Police Training School and the Prisons Training School provide formal training on human rights including the prevention of torture. From 2010 to 2015, some 6100 Police Officers have attended course and workshops on Human rights, including the prevention of torture.

The National Human Rights Commission (NHRC) provides more informal training in the nature of talks, short videos on human rights and torture. Talks are given to recruits and also to officers already in post, especially those in charge of police stations. The National Preventive Mechanism Division of the NHRC 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.

No methodology for assessing impact or results of training has yet been devised, but following these courses, it is observed that both police and prisons officers are less apt to use brutal methods. For example none of the complaints received from detainees was related to any form of torture as given shown in table below:

COMPLAINTS FROM DETAINEES - 2014/2015				
	No. of Complaints		Disposed of	
Year	2014	2015	2014	2015
Prisons	150	335	110	335
Police Cell	2	2	2	2
TOTAL	152	337	112	337
<i>Source: National Human Rights Commission</i>				

14. Please say what training public servants have received on the issue of domestic violence, including sexual violence and violence against women in general. Please provide information on allegations of violence within the police force, including sexual violence against women police officers. Please also say what measures have been taken in respect of the obligation to investigate cases of violence, including ensuring that investigations and ex-officio prosecutions are carried through, and in respect of the obligation to prosecute and punish those responsible.

- **Training public servants have received on the issue of domestic violence, including sexual violence and violence against women in general**

In view of enabling a multi-sectoral and coordinated approach in the fight against domestic violence, an Area Domestic Violence Committee (ADVC) is operational at the level of each Family Support Bureau of the Ministry of Gender Equality, Child Development and Family Welfare.

These ADVCs have been set up with key stakeholders, including the Ministry of Health and Quality of Life, Ministry of Education, Human Resources, Tertiary Education and Scientific Research, the Police Department, Ministry of Social Security, National Solidarity and Reform Institutions, Ministry of Social Integration and Economic Empowerment, the Judiciary, Prisons Department and the

Probation & Aftercare Service to organise case conferencing in regard to actions taken by each stakeholder on cases of domestic violence.

The main objectives of the Area Domestic Violence Committees are, *inter alia*, to:

- (a) reduce and prevent the incidence of domestic violence;
- (b) provide accessible, reliable, timely and coordinated guidance on cases of domestic violence and ensure that victims receive appropriate treatment and care; and
- (c) create an environment free from any forms of violence for the family and the community.

Following the presentation of the sixth and seventh periodic reports to the UN Committee on the Elimination of Discrimination Against Women (CEDAW) in Geneva on 07 October 2011, the Ministry of Gender Equality, Child Development and Family Welfare in collaboration with the United Nations Office on Drugs and Crime, conducted a Training of Trainers Workshop on the “Development of Effective Police Responses to Violence Against Women” from 5 to 9 December 2011 and 20 Police Officers and 5 Officers of the abovementioned Ministry participated therein. All the participants were requested to train their peers.

Police Officers trained 639 Officers during 28 campaigns. The Officers of the Ministry trained 91 Officers during 11 campaigns. In 2012, 41 such campaigns were conducted and 1 626 people were reached and in 2013, 152 campaigns were organised and 6,594 people reached.

Since the launching in 2011 of the Costed National Action Plan to End Gender-Based Violence (2012-2015) a series of Capacity Building Programme to prevent and respond to GBV, in line with Pillar 2 of the Action Plan, have been conducted with 155 Medical Practitioners, 427 Police Officers, 81 members of Trade Union and 205 Human Resource cadres amongst others.

Furthermore, with a view to strengthening the institutional capacity of stakeholders engaged in the fight against gender-based violence and assist both abusers and victims, a Victim Empowerment and Abuser Rehabilitation Policy (VEARP) was launched in November 2013. It aims at the setting up of guidelines for both public and private sectors in the establishment of workplace initiatives to fight against gender-based violence and also at providing a minimum standard required in the provision of VEARP services by all stakeholders. From April to September 2014, 30 officers of the Human Resources Cadre in the Public Sector and 175 employees of the Private Sector were trained on the VEARP. In February 2014, 7 training sessions on effective police response to victims of GBV were organised and 427 Police officers were trained.

In May 2014, “Les Assises de La Famille” was held. It comprised the holding of the national consultation with all stakeholders concerned with the implementation of policies, programmes, projects and activities for the welfare of families and children. One of the sub-themes conducted was “Identifying gaps in the national legal framework on family protection”. The recommendations take into account the legal gaps, policy measures, sensitisation, capacity-building, research and data.

From 28 to 30 January 2014, the U.S Embassy in collaboration with the U.S Department of Justice and the Institute for Judicial and Legal Studies conducted a capacity building programme on “Intra-Family Violence: Children and other Vulnerable Victims in the Criminal Justice System”. The participants included those from the Judiciary, Police and Prison Departments, Ministry of Gender Equality, Child Development and Family Welfare, Ministry of Health and Quality of life, Ministry of Social Security, National Solidarity and Reform Institutions, and Non-Governmental Organisations .

On 1 and 2 July 2014, the Ministry in collaboration with the Australian High Commission, conducted a Capacity Building Programme (CBP) to prevent and respond to gender-based violence with the assistance of a Senior Sergeant from the Australian Northern Territory Police. The aim of this CBP was to share experiences on strengthening of laws in relation to gender-based/domestic violence and victim support mechanisms, including their implementation. The 65 participants present comprised members of the National Platform on GBV who are directly dealing with victims.

- **Information on allegations of violence within the police force, including sexual violence against women police officers**

From 2010 to 2015, six cases of violence against Women Police Officers within the Police Force have been reported. Enquiries have been conducted and in two cases the Director of Public Prosecutions has advised no further action. Enquiry has been completed in two cases and referred to the DPP and the advice of the latter is awaited. The two remaining cases are still under enquiry by the Police.

During the same period one case of violence was reported where an accused died in Police custody. A case of murder has been opened and investigation is still ongoing.

- **Measures that have been taken in respect of the obligation to investigate cases of violence, including ensuring that investigations and ex-officio prosecutions are carried through, and in respect of the obligation to prosecute and punish those responsible**

Investigation into cases of violence against Women Police Officers reported within the Force is conducted with due diligence. After completion of such cases, they are forwarded to the Director of Public Prosecutions for advice and eventual prosecution of the accused.

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

_Year	No. of Complaints	Disposed of	Pending	Referred to DPP
2011	23	23	-	Nil
2012	34	34	-	Nil
2013	339 (of which 229 were transferred from Complaints Investigation Bureau)	261	78	Nil
2014	168	56	110	2
2015 (as at September 2015)	120	59	54	7
Total	288	115	164	9
<i>Source: National Human Rights Commission</i>				

- **Other measures taken or to be taken against Domestic Violence by the Ministry of Gender Equality, Child Development, and Family Welfare**

It is also to be noted that the **Protection from Domestic Violence Act** was 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 above 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”*

Article 11

15. In light of the Committee’s previous concluding observations (para. 14), please provide detailed information on the new measures adopted to reduce prison overcrowding, in particular in the Beau Bassin, Petit Verger and GRNW prisons, and to improve conditions in all prisons. In particular, please indicate:

- (a) Whether the new prison for 750 detainees in Melrose has been completed;**
- (b) Whether alternative penalties and non-custodial measures have been used;**
- (c) Whether the length of pre- trial detention and judicial proceedings has been reduced;**
- (d) Whether measures have been taken to systematically separate remand and convicted detainees;**
- (e) Whether a plan to combat inter-prisoner violence has been adopted.**

(a) Whether the new prison for 750 detainees in Melrose has been completed

The Eastern High Security Prison (EHSP) situated in Melrose has become operational as from 27 March 2014. As at 31 December 2015, its population was 608. Since the operationalisation of the EHSP the population at the Beau-Bassin Prison which was 1223 in January 2014 has decreased by 50%.

(b) Whether alternative penalties and non-custodial measures have been used

According to the Probation of Offenders Act 58 of 1946, both juvenile and adult offenders can benefit from rehabilitation in the open through probation orders. As per the Probation of Offenders (Amendment) Act 2009, in making a probation order, the Court may impose one or more of the following requirements:

- (i) an attendance centre requirement- whereby the offender attends an institution specified in the probation order for such number of hours as may be specified;
- (ii) a curfew requirement- whereby the minor probationer is required to remain indoors on specified days and hours over a period which should be not more than 6 months;
- (iii) a drug or alcohol requirement- whereby a probationer is required to follow a treatment, where the Court convicts a person under section 34(1) of the Dangerous Drugs Act or is satisfied that the offender is dependent on drug or alcohol;

(iv) a resident requirement- whereby a probationer is required to reside in an institution for a period of time which shall not exceed 12 months; and

(v) a community service order- whereby persons who have been sentenced to imprisonment up to a maximum of 2 years and defaulters who have been fined for a maximum of Rs 30 000 can be accorded community service orders. In 2009, the Community Service Order Act was amended to enable juvenile offenders aged sixteen and above to also benefit from community service.

More over representations have been made with relevant authorities including the Judiciary to make more non-custodial detention as an alternative to imprisonment. With the eventual adoption of the Juvenile Justice Bill, the Probation and Aftercare Service will be responsible for:-

- (i) Child offenders placed on probation and those aged 16 and above who are subjected to Community Service Order, by the Courts.
- (ii) Child offenders referred by the office of the Director of Public Prosecutions for mediation/diversionary measures
- (iii) Child offenders committed to Probation Institutions (Hostel and Home)

(c) Whether the length of pre- trial detention and judicial proceedings has been reduced

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.

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 administratively. 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.

As already indicated above, 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 authoritative judgments in this matter is the case of **Dookee Ajay v State of Mauritius (2011PRV 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 cases which have now applied this principle. The case recent 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 Dookhee referred to above and granted that 80% of the time spent on remand was to be deducted from the sentence. The Board held that its “conclusion, therefore, is that, the differences in conditions notwithstanding, credit should ordinarily be given for time spent in custody on remand to the extent of 80- 100% (80% being the default position unless, for example, the detainee is a foreign national whose family lives abroad and cannot visit)”.

In the 2015 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**.

(d) Whether measures have been taken to systematically separate remand and convicted detainees

The Grand River North West Remand Prison is a dedicated prison for remand detainees but due to an increase in the remand population, the Beau-Bassin Prison is in the process of being converted into a remand detention centre. Remand and convicted detainees are located in different association yards and residential blocks/dormitories.

(e) Whether a plan to combat inter-prisoner violence has been adopted

(i) Intelligence Gathering

A team of dedicated officers have been trained with the collaboration of National Security Service and Mauritius Police Force. These officers form part of a specific unit of the Mauritius Prison Service known as Intelligence Unit and 24/7 Team. They have been trained to get hands-on information on all prisoners and based on their information gathered, necessary measures are taken to prevent inter-prisoner violence. Furthermore, all information submitted by the police concerning profiling of detainees admitted to the prisons is considered and detainees are segregated according to prevent any fight or violence.

(ii) Classification Tool

There is an Induction Unit at the New Wing Prison at Beau Bassin, which carries out risk assessment of detainees on admission and a classification tool is used to identify those prisoners who are vulnerable and to determine their place of detention taking into consideration special measures that need to be taken. The classification tool is a new method of categorising detainees based on risk element, age, case history, medical history, social background, educational background, gang formation and any previous related information.

(iii) Improved Security

In line with the 10-year Strategic Plan of the Prisons Department, an Inspectorate mechanism and an Emergency Management Planning Team have been introduced since 2014. These tools are used to identify challenges and threat to the system in terms of security and to take prompt remedial actions.

Despite the above measures, the risk of assault among prisoners, assault by detainees on prison officers, nurses and medical officers still exists. In fact the challenge is to find the right balance between the security issue and the privacy right of the patient. To reinforce security a squad comprising of prison officers trained in intervention techniques is deployed in the different prisons to ensure safety and security of the personnel and inmates.

Articles 12 and 13

16. In light of the Committee's previous concluding observations (paras. 11 and 15), please indicate whether the State party systematically conducts impartial, thorough and effective inquiries into all allegations of violence committed by police or prison officers. Please detail the specific measures taken to ensure that complaints lodged against police and prison officers are addressed promptly, thoroughly and impartially, that the perpetrators are prosecuted and that their punishment is commensurate with the seriousness of their acts. Please indicate whether

independent complaints mechanisms have been established for this purpose. In addition, please provide information on the allegations of violence inflicted upon a woman police officer in 2012 by her superior officer, a chief inspector, and on the allegations of acts of violence of the type prohibited under article 250 of the Criminal Code, committed by a police officer belonging to the Special Support Unit (anti-riot unit) against one of his colleagues.

The Police Complaints Division (PCD) and the National Preventive Mechanism Division (NPMD) of the National Human Rights Commission set up in 2012 conduct thorough investigations into allegations of violence. The PCD has quasi-judicial competence to summon witnesses, call for documents and to hold hearings if need be (as per the powers conferred in the legislation). After investigation, cases are referred to the Director of Public Prosecutions who, under the Constitution, has the sole power to prosecute perpetrators. The Courts are independent and inflict punishment commensurate with the offense.

Government is in the process of establishing an Independent Police Complaints Commission separate from the National Human Rights Commission. The required legislation is presently being drafted by the Attorney General's Office. The aim of establishing the Commission is to enhance the timeliness in addressing complaints made against the Police by the public [Refer also to information under questions 3 and 6]

- **Information on the allegations of violence inflicted upon a woman police officer in 2012**

In June 2011, a Women Police Constable posted to the Special Support Unit (SSU) filed a declaration at Line Barracks Police Station as a Precautionary Measure, wherein she reported that a Chief Inspector (CI) posted to the same Unit had reprimanded her in respect of a love affair. An internal enquiry was instituted to shed light into the complaint but she refused to give a written statement. The case was classed as trivial.

In April 2013, a Woman Police Constable reported a case of 'sodomy' against a Police Inspector at the Central Criminal Investigation Department (CCID). After completion of enquiry, the case was referred to the Office of the Director of Public Prosecutions (DPP) for advice. The advised was "No further action into the case".

Article 14

17. In light of the Committee's previous concluding observations (para. 15) and with reference to the content and scope of the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties, which aims to ensure full redress for victims of torture, please indicate whether victims of acts of torture and their families are entitled to obtain redress and fair and adequate compensation, including the means for as full rehabilitation as possible. Please also provide up-to-date information on the outcome of the proceedings and the results of the appeal lodged by the Director of Public Prosecutions against the dismissal of four police officers accused of acts of violence.

- **Compensation to victims**

Section 7 of the Constitution makes provision for the protection from inhuman treatment as follows:

"No person shall be subjected to torture or to inhuman or degrading punishment or other such treatment".

However, Section 7 does not provide for any redress, any fair and adequate compensation or any means for full rehabilitation. Nevertheless, any person can seek civil redress and compensation from individuals or the State as per Section 17 below:

"Enforcement of protective provisions

(1) Where any person alleges that any of sections 3 to 16 has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter that is lawfully available, that person may apply to the Supreme Court for redress.

(2) The Supreme Court shall have original jurisdiction to hear and determine any application made by any person in pursuance of subsection (1), and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of sections 3 to 16 to the protection of which the person concerned is entitled provided that the Supreme Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or

have been available to the person concerned under any other law.

(3) The Supreme Court shall have such powers in addition to those conferred by this section as may be prescribed for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

(4) The Chief Justice may make rules with respect to the practice and procedure of the Supreme Court, in relation to the jurisdiction and powers conferred upon it by or under this section (including rules with respect to the time within which applications to that court may be made)".

Furthermore, Section 5(5) of the Constitution provides that *"any person who is unlawfully arrested or detained by any other person shall be entitled to compensation from that other person"*.

Therefore, 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.

Moreover, the Protection of the Human Rights Act 1998, section 4(4)(b) makes provision for the National Human Rights Commission, on completion of its enquiry, to recommend the grant of such relief to the complainant or to such other person as the Commission thinks fit.

• **Up-to-date information on the outcome of the proceedings and the results of the appeal lodged by the Director of Public Prosecutions against the dismissal of four police officers accused of acts of violence**

On 5th September 2006, information was lodged against four Police Officers for offences of Abuse of Authority by Public Officers and Conspiracy before the Intermediate Court. Judgment was delivered on 29 May 2009 and the information was dismissed against the four Police Officers. On 17 June 2009, the Office of the Director of Public Prosecutions lodged an appeal before the Supreme Court against the judgement of the Intermediate Court. The Appeal was heard on 20, 21 and 27 October 2009 and 2 and 17 November 2014 before the Supreme Court and the judgment of the Supreme Court has been reserved.

Article 15

18. Please provide information on the measures taken to ensure, in practice, that any statement obtained through torture cannot be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made. Indicate whether:

(a) Any officials have been prosecuted and punished for extracting confessions in this way, giving examples of cases in which defendants have claimed that their confessions were obtained under duress; and

(b) The courts have identified any cases of wrongful conviction based on evidence obtained through torture and whether the victims have obtained redress.

Statements obtained through torture are not invoked as evidence in any proceedings. The admissibility of such statements is challenged before Court by the Defence Counsel.

(a) Whether any officials have been prosecuted and punished for extracting confessions in this way, giving examples of cases in which defendants have claimed that their confessions were obtained under duress

The case **Police v Jagdawoo & ORS 2007 INT 197** was the first criminal prosecution for the offence of torture in breach of section 78 of the Criminal Code. The case involved the prosecution of four police officers of the Major Crime Investigation Team. They were acquitted by the trial Court and the Office of the Director of Public Prosecutions has appealed against the acquittal. The appeal has been heard in 2015 and judgment is awaited.

Following the death of late Iqbal Toofany in Police custody in March 2015, five Police Officers were arrested for the offense of “Torture by Public Official” and an enquiry was opened and is still underway. A Judicial Inquiry into the death of the deceased was also lodged on 05 March 2015 by the Director of Public Prosecutions before the District Court of Black River Bambous pursuant to Sections 110 and 111 of the District and Intermediate Courts (Criminal Jurisdiction) Act.

(b) Whether the courts have identified any cases of wrongful conviction based on evidence obtained through torture and whether the victims have obtained redress

Statements obtained through torture are not invoked as evidence in any proceedings. The admissibility of such statements is challenged before Court by the Defence Counsel. On a number of occasions trial Courts, including the Supreme Court and the Intermediate Court, have ruled statements of accused parties whether confessions or admissions as being inadmissible on the

ground that they have been obtained by oppression or inducement (Refer to the case **R v Beegun 1988 MR 212**).

However, very rarely will an appellate Court quash a conviction which is based on a statement which the trial Court ruled to be admissible. The reason being that the appellate Court is always loath to disturb the findings of fact of a trial Court.

The case of **Rudolph Jean Jacques v State 2012 SCJ 181** is one of the rare instances where the Supreme Court exercising appellate jurisdiction quashed a conviction on the ground that the trial Court should have held that the statement of the accused was inadmissible.

Article 16

19. In light of the Committee's previous concluding observations (para. 17), please indicate:-

(a) The state of progress towards adoption of legislation to prohibit corporal punishment, particularly in social institutions and alternative care settings;

(b) Whether corporal punishment, including the punishment of children with disabilities, is addressed in the children's bill;

(c) Whether efforts to combat child abuse have been strengthened, including by investigating cases of abuse, bringing those responsible to justice and punishing them;

(d) Whether campaigns to raise awareness of the harmful effects of corporal punishment have been carried out;

(e) Statistical data on cases of child abuse, investigations carried out, prosecutions brought, sentences imposed and the redress and rehabilitation offered to victims.

(a) The state of progress towards adoption of legislation to prohibit corporal punishment, particularly in social institutions and alternative care settings

Corporal punishment is already prohibited in all schools, from pre-primary to secondary by virtue of Regulation 13(4) of the Education Regulations as well as under section 13(1) of the Child Protection Act and section 230 of the Criminal Code.

(b) Whether corporal punishment, including the punishment of children with disabilities, is addressed in the children's bill

Prohibition of Corporal Punishment in all settings is being considered in the draft Children's Bill.

(c) Whether efforts to combat child abuse have been strengthened, including by investigating cases of abuse, bringing those responsible to justice and punishing them

The National Education Counselling Service provides social and psychological support to school children suffering from psychological problems and learning difficulties. Educational Psychologists and Educational Social Workers provide help, support, counselling and guidance to pupils and students who experience behavioural, learning, social and emotional difficulties. These officers also promote the general welfare of the child, victims of abuse, violence and neglect with a view to facilitate care, recovery and reintegration of the child. Heads of Schools report on cases of abuse through an effective reporting mechanism, referral and networking system. Appropriate interventions and actions are taken.

Whenever a case of child abuse is reported to the Headmaster of a school, he has to start an enquiry while informing the Ministry, the Child Development Unit (CDU) and the Police. There exists a Protocol by which all Heads of Schools have to abide as follows –

- If the enquiry reveals that the perpetrator is a person who works or studies in the same school, the Headmaster takes disciplinary action against this person upon advice of the Ministry.
- If the enquiry reveals that the perpetrator is a person outside the school, the Headmaster informs the Ministry, the CDU, the Police and any other relevant authority for necessary action at their end.

Two Child Protection Services (CPS) have been set up in Vacoas and Port-Louis in 2013 and 2014, respectively, to provide a dedicated multi-disciplinary support in a one stop shop child friendly system through the services of a team of professionals when attending to the immediate and multi-disciplinary needs of children victims of abuse. The team at the CPS comprises one Family Welfare and Protection Officer, one Police Officer/investigator, one Psychologist, Legal Adviser as and when required and one administrative support.

The main objectives of the CPS are:-

- To reduce harm and prevent further injury or suffering to children victims of violence and abuse.
- To provide accessible and reliable services to victims of child abuse.
- To provide proper and appropriate environment for victims of abuse.
- To safeguard confidentiality of victim.
- To avoid multiple interviews of victims which normally lead to formal secondary victimization.

CPS Rehabilitation services include: Placement in Residential Care Institutions, Placement in foster care families, Placement of child with a child mentor, A specialised Residential Care/Drop-in-Centre for victims of Commercial and Sexual Exploitation of Children (CSEC), Psycho-social support and reunification with biological families.

In November 2010, a High Powered Working Together Committee was set up to look into the avenues of collaboration amongst all stakeholders dealing with children. The development and signature of Protocols by various Ministries bears testimony to the firm commitment of Government to adopt a multi-sectoral approach to improve service delivery to children victims of violence.

A Memorandum of Understanding will be signed with the Police Department, where the roles of the Police and the Child Development Unit would have been defined in the tackling of cases. Consultations and discussions are presently on-going.

(d) Whether campaigns to raise awareness of the harmful effects of corporal punishment have been carried out

Head of Schools remind their staff during staff meetings and pupils during morning assemblies that corporal punishment and any physical aggression is strictly forbidden and will lead to disciplinary actions. Raising awareness of the harmful effects of corporal punishment is done in parallel.

The National Children's Council, a parastatal organisation operating under the aegis of the Ministry of Gender Equality, Child Development and Family Welfare, regularly conducts various awareness campaigns in School Child Protection Clubs. Topics of the campaign include Child Abuse and Child Violence, sensitisation campaigns inspired by Articles from the Committee on the Rights of the Child (CRC) as well as the delivery of a National Parental Empowerment programme which promotes positive parenting. The topic on Corporal Punishment is also addressed.

(e) Statistical data on cases of child abuse, investigations carried out, prosecutions brought, sentences imposed and the redress and rehabilitation offered to victims

In 2014 and from January to September 2015, 5903 and 4608 of cases of child abuse, respectively, were reported to the Child Development Unit (CDU) of the Ministry of Gender Equality, Child Development and Family Welfare. As regard sexual exploitation of children, 9 cases in 2014 and 20 cases from January to September 2015, were reported to the CDU.

Criminal investigation is done at the level of the Police, while prosecutions are handled, sentences inflicted at the level of the Office of the Director of Public Prosecutions. The CDU carries out social enquiry reporting. Rehabilitation is done via psycho-social support by both Family Welfare and Protection Officers, psychologists and non-governmental organisations, to children victims of violence and their family.

The challenge to the Ministry concerned is to provide support to those children victim of abuse which are not reported and therefore not known to the CDU. Currently, prompt follow up action and support can only be given to those cases which are reported on the hotline or the six outstations of the CDU. It is expected that the collaboration with the NGOs will remedy the situation.

20. Please detail the general measures taken to assist street children, who do not attend school and often begin working at the age of 13. Please detail also the measures taken to combat the sexual exploitation of street children.

Education is compulsory in Mauritius up to the age of 16 years. The Educational social workers of the Ministry of Education and Human Resources do intervene in cases of repeated and long absences of students.

According to Amnesty International there are two categories of street children, namely children on the street and children of the street. In Mauritius, there are children on the street, that is, children who spend most of their times on the street and go back to their families at the end of the day. There are no reported cases of children of the street as such since no child remains 24 hours on the street.

The Ministry of Gender Equality, Child Development and Family Welfare has a formalised collaboration with the NGO *Service d'Accompagnement, de Formation, d'Insertion et de Réhabilitation de l'Enfant* (SAFIRE) to work with children in street situations. Under the Special Collaborative Programme for Children and Women in Distress managed by the Ministry, SAFIRE has benefitted from funds for the purchase of a 15 seat van in order to facilitate the transportation of 20 street Children from different parts of the island to enable them to attend the educational farm training offered by SAFIRE on a daily basis. The rehabilitation of the 20 street children is on-going. A plot of land to the extent of 1.5 Acres situated at Verdun was donated by Messrs Espitalier-Noel Limited (ENL Ltd) for implementation of an agricultural project by the 20 street children.

SAFIRE participates in case conferences on a case to case basis when it refers a child to the Child Development Unit of the Ministry. The *Brigade pour la protection des mineurs* under the

responsibility of the Police Department do also respond promptly to complaints related to street children.

Sensitisation campaigns are carried out at the level of “*Ecoles des Parents*” and “*School Child Protection Clubs*” by the National Children’s Council (NCC). Networking is also done through the Community Child Watch Committee whereby children at risk are referred to the Child Development Unit for psychological counselling and placement.

The Ombudsperson for Children’s Office (OCO) runs sensitisation programmes on the rights of children. The Office continually appeals to people to be its “eyes and ears” and report to the Office, any cases of children wandering the street. Cases reported to the OCO are channelled towards competent authorities for relevant action at their end. The authorities are requested to keep the Ombudsperson posted of the situation after their intervention. The OCO sensitises parents, teachers and children on child sexual exploitation through talks, radio programme and workshops. The sensitisation programmes are carried out in the Citizens Advice Bureaux, Social Welfare centres, Rehabilitation Youth centres, Police Training Schools, Mauritius Institute for Training and Development and schools throughout the island as well as in Rodrigues.

The Child Development Unit and the *Brigade pour la protection des mineurs* protects the child victims of sexual abuse. Support services are provided by the Ministry to these children at the level of their families. In cases where a child is deemed to be in immediate danger and is exposed to harm, arrangements are made through the issue of an Emergency Protection Order to have the child accommodated in a “place of safety”.

21. In light of the Committee’s previous concluding observations (para. 21), please provide statistical data on complaints, investigations, prosecutions and convictions of persons found guilty of acts of torture or ill-treatment, on ill-treatment of migrant workers, on death row prisoners, on trafficking in human beings and on domestic and sexual violence, disaggregated by age, sex, ethnicity and type of crime, as well as on the avenues of redress, including compensation and rehabilitation, available to victims.

The Combating of Trafficking in Persons Act 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.

The Police Complaints Act provides that the Police Complaints Division, upon completion of an investigation may, where appropriate, refer the matter to the Attorney-General, with a recommendation that the complainant or his representative be paid such compensation or granted such relief as may be deemed appropriate.

Data

- Data on complaints from detainees – refer to reply to question 13
- Data on complaints against Police Officers – refer to reply to question 14
- Data on compensation to victims - refer to reply to question 17. 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.

- Number of cases of trafficking in persons or having bearing on human trafficking:-

Trafficking in persons	Period							Total
	2009	2010	2011	2012	2013	2014	2015	
Under the Combating of Trafficking in Persons Act	Nil	Nil	Nil	Nil	Nil	1	Nil	1
Child Trafficking under the Child Protection Act	4	5	4	3	3	5	1	25
Cases having a bearing on human trafficking	2	Nil	8	7	4	5	2	28
Total	6	5	12	10	7	11	3	54
<i>Source: Mauritius Police Force</i>								

- Domestic violence disaggregated by sex and type of offence:-

Year	2012						2013					
	New cases			Old cases			New cases			Old cases		
	Male	Female	Both Sexes	Male	Female	Both Sexes	Male	Female	Total	Male	Female	Total
Damage to property	8	45	53	0	8	8	8	41	49	0	9	9
Emotional abuse (by spouse)	0	20	20	0	10	10	2	18	20	0	4	4
Harassment by spouse	19	272	291	11	99	110	17	286	303	9	118	127
Il-treatment by spouse	10	178	188	4	53	57	19	194	213	5	64	69
Il-treatment by others	11	48	59	7	16	23	26	98	124	7	34	41
Physical assault by spouse/partner	36	739	775	18	241	259	40	704	744	20	267	287
Physical assault by others living under the same roof	16	95	111	3	21	24	29	156	185	10	30	40
Psychological violence	3	21	24	0	7	7	3	59	62	1	4	5
Rape	0	8	8	0	0	0	1	7	8	0	1	1
Sexual abuse by spouse	0	2	2	0	0	0	0	7	7	1	2	3
Sexual harassment by spouse	0	16	16	0	6	6	0	5	5	0	0	0
Sodomy (marital)	1	8	9	1	0	1	1	8	9	0	7	7
Threatening assault by spouse	21	366	387	7	123	130	28	349	377	9	150	159
Threatening assault by others	5	46	51	2	11	13	22	67	89	7	21	28
Verbal assault by spouse (harassment, abuse, humiliation)	31	432	463	17	148	165	36	479	515	17	139	156
Verbal assault by others living under the same roof	5	54	59	7	12	19	32	137	169	4	19	23
Other, specify	1	4	5	0	1	1	2	8	10	0	0	0

Source: Statistics Department of Ministry of Gender Equality, Child Development and Family Welfare

Year	2014						2015					
	New cases			Old cases			New cases			Old cases		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Damage to property	4	38	42	0	12	12	15	61	76	0	15	15
Emotional abuse (by spouse)	3	15	18	1	2	3	4	13	17	3	7	10
Harassment by spouse	38	312	350	11	130	141	31	279	310	13	94	107
Illtreatment by spouse	17	141	158	9	45	54	15	136	151	8	48	56
Illtreatment by others	18	75	93	6	18	24	19	83	102	4	22	26
Physical assault by spouse/partner	57	786	843	21	263	284	47	820	867	15	273	288
Physical assault by others living under the same roof	27	143	170	10	42	52	47	144	191	6	42	48
Psychological violence	1	12	13	2	3	5	1	27	28	1	2	3
Rape	1	2	3	0	6	6	1	4	5	0	1	1
Sexual abuse by spouse	2	6	8	1	4	5	1	11	12	0	4	4
Sexual harassment by spouse	0	1	1	0	1	1	0	5	5	0	1	1
Sodomy (marital)	1	19	20	1	9	10	1	15	16	0	2	2
Threatening assault by spouse	18	269	287	8	103	111	16	281	297	6	100	106
Threatening assault by others	17	60	77	8	22	30	16	62	78	5	14	19
Verbal assault by spouse (harassment, abuse, humiliation)	44	389	433	13	158	171	32	326	358	13	128	141
Verbal assault by others living under the same roof	16	53	69	3	15	18	23	75	98	3	29	32
Other,	2	10	12	0	1	1	2	10	12	1	0	1

Source: Statistics Department of Ministry of Gender Equality, Child Development and Family Welfare

22. Please provide up-to-date information on measures adopted by the State party to respond to potential terrorist threats and indicate whether these measures have had any impact on human rights guarantees, in law or in practice, and if so, in what way. Please also indicate what steps the State party has taken to ensure that counter-terrorism measures are consistent with all its obligations under international law. Describe the relevant training given to law enforcement officers and specify the number and types of convictions handed down under counter-terrorism legislation and the remedies available to persons subjected to antiterrorist measures. Please also indicate whether any complaints of non-observance of international standards have been made and, if so, what the outcome of these complaints was

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
- (iv) The Convention for the Suppression of Financing of Terrorism Act 2003
- (v) Data Protection Act 13/2004
- (vi) Firearm Act 2006
- (vii) Prevention of Terrorism (International Obligations) Act 11/2008
- (viii) Asset Forfeiture Act 2012

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;
- (iv) UN Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons 2003;
- (v) International Convention for the Suppression of Acts of Nuclear Terrorism 2005

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.

As regards complaints against law enforcement officers, over and above other existing legislations, Mauritius has also enacted the Police Complaints Act 2012 which 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 piece of legislation consolidates measures already in place to prevent any abuse of authority including that of torture and cruel, inhuman or degrading treatment.

23. Please provide information on the measures taken in respect of protection of the Chagos Islanders forcibly displaced from Diego Garcia and the Chagos Islands.

The Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of the Republic of Mauritius under both Mauritian law and international law. The Republic of Mauritius is, however, being prevented from effectively exercising its sovereignty over the Chagos Archipelago because of the unlawful control of the United Kingdom over the Archipelago. The United Kingdom illegally excised the Chagos Archipelago from the territory of Mauritius prior to its accession to independence, 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.

The illegal excision of the Chagos Archipelago also involved the shameful eviction by the United Kingdom 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.

Chagossians, being fully-fledged citizens of the Republic of Mauritius, enjoy the same rights as other Mauritian citizens, including access to free health services, free education, and free public transport for students, elderly persons and disabled persons. However, with a view to improving the well-being of the Chagossians, the Government of the Republic 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.

The objects of the Chagossian Welfare Fund are to, *inter alia*, advance and promote the welfare of the members of the Chagossian community and their descendants, and develop programmes and projects for their total integration into Mauritius. The Chagossian Welfare Fund Board is responsible for organizing educational, recreational, sports and social activities aimed at advancing and promoting the welfare of Chagossians. These activities, *inter alia*, include:

- (a) scholarship schemes for primary and secondary school, and tertiary students;
- (b) payment of funeral grants;
- (c) medical check-up;
- (d) Sports Day and other sports tournament;
- (e) educational and residential seminars for the youth and senior citizens;
- (f) provision of construction materials and labour to needy persons;
- (g) distribution of provisions to Chagossians aged 60 and above;
- (h) visits to old and bedridden Chagossians as well as those in homes; and
- (i) distribution of school materials to children whose parents face financial difficulties.

There are two Chagossian Community Centres under the jurisdiction of the Board, which are staffed by 4 full-time workers and 4 part-time contract workers of Chagossian origin. The Office of the Board also employs two staff members of Chagossian origin on a full-time basis. 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.

The Government of the Republic 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. The Government of the Republic of Mauritius will continue to press for the early and unconditional return of the Chagos Archipelago to the effective control of the Republic of Mauritius, whilst firmly supporting the right of return of the Chagossians and other Mauritians to the Archipelago.

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