



**66th ORDINARY SESSION OF THE AFRICAN COMMISSION
ON HUMAN AND PEOPLES' RIGHTS**

(13 July to 7th August 2020)

By virtual means

Consideration of State Periodic Reports

**The Republic of Mauritius' Response to the General Observations
and Questions on the 9th to 10th Combined Periodic Report of the
African Charter on Human and Peoples' Rights**

(27 July 2020)

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1. Hon. Hatem Essaïem (Tunisia)

Chairperson

Hon. Commissioners,

We confirm that the preparation of the report was effected after wide consultations with all stakeholders through the National Mechanism for Reporting and Follow-Up.

Article 1 – Recognition and implementation of Rights, Duties and Freedom under the Charter

Allow me to start with the questions put forward by Hon. Hatem Essaïem.

Incorporating the African Charter

It is a fact that the provisions of the African Charter have not been incorporated into a single piece of legislation. However, most of the articles of the Charter are already afforded constitutional or legal status under mainly Chapter II of the Constitution and in a wide array of enactments such as the:

- Abolition of Death Penalty Act;
- Combating of Trafficking in Persons Act;
- The Environment Protection Act;
- Equal Opportunities Act; and
- Workers' Rights Act.

Status of signature or ratification of the Human Rights Instruments

As regards the signature or ratification of the human right instruments, The Republic of Mauritius has initiated the administrative process for signature of the **Protocol to the African Charter on**

Human and Peoples' Rights on the Rights of Older Persons and the **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa** and the relevant documents will be deposited to the African Commission to the Human and Peoples' Rights, in the coming months.

In respect of the **Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights**, the Republic of Mauritius has ratified the **Protocol on the Establishment of the African Court of Justice and Human Rights**. However, we have signed neither the **Protocol on the Statute of the African Court of Justice and Human Rights** nor the **Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights**.

Mauritius is, at this point in time, not considering the signature of the **Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights**.

The Republic of Mauritius, being a Small Island Developing State (SIDS) and a densely populated island with stretched limited resources, does not propose to sign or ratify the **African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa** (Kampala Convention). It is to be noted that we do not have problems associated with internally displaced people in its broader definition as is envisaged under Article 1(k) of the **Kampala Convention**.

It is for the same constraints that though Mauritius has signed the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, it is not intended for the time being to ratify this Convention. **We, nevertheless, adhere to the principle of non-refoulement and collaborates fully with UNHCR by authorising the non-citizens concerned to stay in the country on humanitarian grounds, pending their resettlement to another country willing to grant them refugee status.** In this respect, we work closely with the Office of High Commissioner for Refugees. Moreover, we are in the process of developing a guideline to assist the different stakeholders in attending to request from refugees and asylum seekers.

As regards the **African Charter on Democracy, Elections and Governance**, the ratification of the Charter is under consideration. Consultations with relevant stakeholders will be held shortly.

Mauritius, at this stage, is not in a position to ratify the **1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families**. The main reason is that Mauritius is geographically small and is among the most densely-populated island state. In addition, the country has limited resources and is unable to provide the core basic services that would be required to migrant workers and members of their families. Mauritius applies the essence of the Convention in cases of disputes between migrant workers and their employer.

Moreover, it is not proposed to accede to the **International Convention for the Protection of all Persons from Enforced Disappearance** as we do not have any reported case of enforced disappearance in Mauritius.

We wish to reassure the Commission that the State of Mauritius is fully aware of the importance of those Human Rights Instruments and we will keep monitoring our constraints and review our stand as and when the need arises.

Article 5 - Prohibition of Torture and Cruel, Inhuman and Degrading Treatments

Absolute prohibition of torture and sanctions

The prohibition of torture is already entrenched in the Constitution of Mauritius in section 7. Section 78 of the Criminal Code criminalises act of torture by public officials. There are numerous other provisions in the Criminal Code which would cover acts falling within the definition of torture.

During sentencing, the Court can take into consideration aggravating circumstances and inflict higher penalty accordingly.

As at date, the Independent Police Complaints Commission (IPCC) has referred 4 cases of Assault/torture for prosecution of police officers before respective District Courts. Out of these 4 cases, 1 case is on trial and 3 are awaiting date of trial.

The National Preventive Mechanism Division (NPMD), under the aegis of the National Human Rights Commission, is allocated sufficient human and financial resources to carry out their work effectively.

The status of the Police and Criminal Evidence Bill

A draft Bill has been prepared and the enactment of this legislation is still under consideration by the Government.

In conjunction, the Government is also exploring other avenues both by the enactment of legislation as well as administrative measures in order to strike this balance between the rights of the individual and the powers of the police.

In this respect, all police officers are provided with a copy of the Police instruction manual which comprises guidelines on Human Rights and other procedures that are in line with the fundamental human rights principles and other international standards to which Police Officers have to adhere to in the exercise of their duties.

Moreover, a module on Human Rights has been included in the training Programme of Police Officers.

Police Officers are issued with a booklet on “Code of Ethics” with a view to encouraging them to comply with professional ethical standards.

CCTV Surveillance Cameras have been installed in all Police Stations to promote transparency and accountability.

Status of the National Action Plan against Trafficking in Persons 2019 – 2024

The newly elected Government has decided to review the Draft National Action Plan with assistance from the local offices of the UNODC and the IOM. A Consultant will be enlisted shortly for this exercise.

In the meantime, proactive measures have been taken to raise awareness on human trafficking amongst migrant workers. To this end, migrant workers coming to Mauritius are being provided with pamphlets “Know Your Rights” which is available in 6 different foreign languages.

Measures are also taken to facilitate the tracking of child trafficking/child prostitution cases as well as providing for psycho- social support and alternative skilling to victims of trafficking. The Brigade Pour La Protection des Mineurs carries-out operations in game houses, hotels, discotheques and also investigate in suspected/alleged cases of child trafficking and Commercial Sexual Exploitation of Children (CSEC).

A Hotline is put at the disposal of the public to report cases of CSEC (inclusive of Child Trafficking and Prostitution).

Victims of child trafficking are provided with medical care and Police Medical Examinations as well as HIV testing and pregnancy tests.

Psycho-social counselling and support are provided to victims and their families.

A building in Vacoas has been identified to house victims of human trafficking.

Corporal punishment in all settings

Corporal punishment in all settings is being addressed in the forthcoming Children’s Bill. The Bill is at drafting stage and is expected to be introduced in the National Assembly in this current session. There has been delay in finalising the Draft Bill in view of the General Elections 2019 and lockdown of 3 months due to COVID-19.

Specific data on redress ordered by courts that were actually provided to victims of human trafficking and torture, or their families.

For the period 2018 to date, the Police has identified 7 alleged cases of trafficking in persons, out of which 5 cases are still under investigation, 1 has been referred to the Office of the Director of Public Prosecutions for advice and in one case, 1 accused has been convicted.

Moreover, the Intermediate Court has convicted 1 person, there is 1 case coming for pro forma and another scheduled for trial in the coming months.

Concerning redress for victims of human trafficking and torture, following conviction under the Combating of Trafficking in Persons Act, the Court may order the perpetrator to pay to the victim appropriate compensation.

2. Hon. Kayitesi Zainabo Sylvie (Rwanda)

Article 18 - Women's Rights

The National Women Council Bill and measures taken to achieve a *de facto* equality between men and women in political and public life.

As at date, the National Women's Council Act, which was enacted in May 2016, has been operationalized by 10-15%.

The challenges in operationalising the new legislation are:

1. Limited capacity of its human resource;
2. An ageing of existing Women's Associations already affiliated with the Council; and
3. Difficulties in regrouping the young generation in pursuing the gender equality agenda.

In order to achieve equality between men and women in political and public life, the Government is coming up, during the course of this year with a Gender Equality Bill.

In the meantime, capacity building programmes on leadership and communication skills are being carried out with a view to increasing participation of women in decision making instances.

Amendment to remove Article 242 of the Criminal Code (*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*)

An inter-ministerial High-Level Committee to address scourge of Gender-Based Violence has been set up under the chairmanship of the Prime Minister. The issue of the deletion of section 242 of the Criminal Code will be considered by the High-Level Committee in a holistic approach.

Affordable legal aid to women who are victims of domestic violence and how to improve adjudication of domestic violence cases.

It is to be recalled that legislation in Mauritius does not specifically distinguish between women and men in the provision of services. Furthermore, the Legal Aid and Legal Assistance Act was amended to increase the ceiling for monthly earnings of the applicant from Rs10,000 (\$ 250) to Rs 15, 000 (\$ 375) so that more persons are eligible to Legal Aid and Legal Assistance.

The Ministry of Gender Equality and Family Welfare has retained the services of legal resource persons on a sessional basis to provide legal advice to victims of domestic violence. With regard to application of Court Orders under the Protection from Domestic Violence Act and legal representation at Court, these services are provided by legal resource persons of the Ministry and are free of charge to victims at the level of the Family Support Bureaux of the Ministry of Gender Equality and Family Welfare.

As regards to other family issues such as divorce, alimony amongst others, free legal advice is provided to the public by the Ministry of Gender Equality and Family Welfare.

1116 legal Counselling sessions have been conducted during the period July 2019 – May 2020.

Access to legal aid for women in rural area.

Women coming from rural and urban areas obtain the same facilities.

Challenges in adjudicating domestic violence cases and measures put in place to mitigate them

"Some of the Challenges in the adjudication of domestic violence cases is the delay to determine an application for an order under the protection from domestic violence act. This delay is sometimes occasioned by the difficulty encountered in serving summons or any provisional order on the perpetrator.

As indicated previously, there is a High Level Committee which has been set up to address the scourge of Gender Based violence and these are issues which are likely to be considered."

Law(s) criminalizing gender-based violence

Some of the main enactments criminalising gender-based violence are as follows:

- The Criminal Code;
- The Protection from Domestic Violence Act;
- The Combating of Trafficking in Persons Act; and
- The Worker's Rights Act.

Articles 2, 18 - Les droits des personnes vivant avec le VIH

Transmission du VIH de la mère à l'enfant - statistiques

In 2019, out of 77 babies born to HIV positive mothers, there were 6 who were diagnosed with HIV.

In 2018, out of 68 babies born to HIV positive mothers, 3 were diagnosed with HIV.

In 2017, out of 69 babies born to HIV positive mothers, only 1 was diagnosed with HIV.

In 2016, out of 80 babies born to HIV positive mothers, 3 were diagnosed with HIV.

Les politiques, plans et programmes mis en place dans le cadre de l'élimination de la transmission du VIH de la mère à l'enfant

The HIV Ante Natal Care surveillance is in place to ensure close monitoring of the HIV trend in the country. HIV prevention starts with awareness sessions targeting the adolescent girls and young adults in and out of school through use of Information, Education and Communication (IEC) materials.

HIV testing and counselling in accordance with established protocol and the HIV and AIDS Act, condom distributions, Pre-Exposure Prophylaxis, lifelong Anti-Retroviral Therapy (ART), Post Exposure Prophylaxis for the newborn.

Breastfeeding is not indicated. Formula milk is provided free of charge till the newborn reaches 2 years of age.

Domestic violence in rural areas

The rural –urban divide in Mauritius is minimal. As such the customary norms alluded to are nearly inexistent. No such cases have been reported nor detected.

Law that prohibits sexual harassment

The laws which prohibit sexual harassment are as follows:

- The Criminal Code Act;
- The Equal Opportunities Act;
- The Worker’s Rights Act; and
- The Protection from Domestic Violence Act

Challenges that impede progress in the country’s general gender equality agenda

The challenges impeding progress in the country’s general gender equality agenda are:

- (a) The commitment of line Ministries to implement gender-sensitive programmes has been uneven;
- (b) The investment in both financial and human resources have been inadequate;

- (c) There is, at national level, a lack of expertise/ knowledge on gender issues;
- (d) The engagement of non-state actors in adopting a gender perspective within their respective sectors has been limited.

Strategies to reorganise the structures and mechanisms the Government has established to push forward this agenda

With a view to overcoming the challenges, the Parent Ministry proposes to:

- i. come up with a new National Gender Policy;
- ii. review the functioning of the National Steering Committee on Gender Mainstreaming;
- iii. come forward with the setting of a Gender Technical Working Committee for the Public Sector that will act as a consultative forum for Gender Focal Points to discuss progress, achievements and challenges of implementing their sectorial gender policies and action plans and provide guidance on adherence to gender mainstreaming; and
- iv. set up four Gender Technical Working Groups for the Private Sector, Media, Academia and Civil Society Organisations to ensure that gender is mainstreamed in these respective sectors.

Major stumbling blocks in the implementation of the gender-related structural changes and policies

The major stumbling blocks in the implementation of the gender-related structural changes and policies would be provision of adequate financial and human resources, including technical knowhow and capacity building.

Strategies in place to raise the female labour force participation rate to the male level in the country and women participate in micro, small, and medium enterprises

Women are encouraged to move from the informal to formal sector through registration of their businesses so that they could benefit from all schemes, support facilities and programmes put at their disposal.

In this respect the Development Bank of Mauritius LTD will provide MUR 200M (\$ 5M) for loans at concessional rate of 0.5% per annum.

The Government has established the National Women Entrepreneur Council (NWEC) to provide support and assistance to both potential and existing women entrepreneurs in Mauritius.

Moreover, in line with the 10-Year Master Plan prepared the Ministry of Industrial Development, SMEs and Cooperatives has initiated various schemes to develop the right entrepreneurial traits and skills to meet the challenges in global markets, namely:

1. Internal Capability Development Scheme;
2. the Technology and Innovation Scheme;
3. the SME Marketing Support Scheme;
4. the Inclusiveness and Integration Scheme; and
5. the SME Utility Connection Assistance Scheme.

Traditional harmful practices

We do not have any traditional harmful practices in the country.

Maternal and infant mortality rate and their causes in the country

Mauritius has achieved the 2030 SDG targets related to Child and Maternal Mortality.

In 2019, for 1,000 livebirths, Infant Mortality Rate was 14.5 whereas the Maternal Mortality Ratio was 62 per 100,000 livebirths.

Most infant deaths are due to congenital anomalies and diseases related to perinatal period, mainly respiratory distress of newborn.

As regard maternal mortality, it is mostly due to health-related complications.

Maternal and infant mortality in Mauritius:

- Maternal Mortality Ratio per 1,000 live births and Infant Mortality Rate per 1,000 live births for the last 10 years are as follows:

<i>Year</i>	<i>Maternal Mortality Ratio</i>	<i>Infant Mortality Rate #</i>
2010	0.33	12.5
2011	0.34	12.9
2012	0.62	13.7
2013	0.66	12.1
2014	0.52	14.5
2015	0.47	13.6
2016	0.46	11.8
2017	0.74	12.2
2018	0.39	14.0
2019	0.62	14.5
# per thousand live births		

Source: Ministry of Health and Wellness

- The related causes of death are listed below:

SELECTED CAUSES OF INFANT DEATHS – 2015 – 2019					
Cause:	Year				
	2015	2016	2017	2018	2019
Acute Bronchitis and Acute Bronchiolitis	3	3	4	3	8
Pneumonia	5	1	0	4	3
Congenital anomalies	31	34	38	28	39
Slow foetal growth, foetal malnutrition and disorders related to short gestation and low birth weight	8	8	5	10	11
Intrauterine Hypoxia and birth asphyxia	7	11	8	11	3
Septicaemia and infections specific to the perinatal period	21	19	21	21	21
Other septicaemia and bacterial diseases	1	1	0	2	2
Neonatal haemorrhage	9	1	0	2	2
Disseminated intravascular coagulation in newborn	7	4	5	8	11
Sudden Infant Death Syndrome	11	6	1	5	3
Ingestion of food causing suffocation	3	1	2	0	2
Respiratory Distress of Newborn	21	20	25	24	24
Pulmonary Haemorrhage	13	6	10	11	18
All other cases	25	28	29	39	26
TOTAL	165	143	148	168	173

Source: Ministry of Health and Wellness

Maternal Deaths by cause with age-at-death (years) 2015-2019										
Causes	2015		2016		2017		2018		2019	
	No	Age at death	No	Age at death	No	Age at death	No	Age at death	No	Age at death
Postpartum haemorrhage	-	-	-	-	-	-	1	33	1	40
Antepartum or intrapartum haemorrhage (with coagulation defect)	-	-	-	-	2	34 21	1	29	1	42
Disruption of obstetric wound and other compl of puerperium	-	-	-	-	-	-	-	-	1	33
Complications following abortion	-	-	2	26 19	-	-	-	-	1	41
Eclampsia and other maternal hypertension	2	31 32	2	27 23	3	34 40	-	-	1	26
Amniotic fluid, pulmonary and other obstetric embolism	-	-	-	-	-	-	-	-	-	-
Sepsis, pyrexia and other puerperal infections	-	-	-	-	-	-	1	24	-	-
Diseases of the Circulatory System complicating pregnancy, childbirth and puerperium	-	-	1	30	2	29 26	2	27 36	-	-
Placental Disorders	-	-	-	-	-	-	-	-	-	-
Abdominal or ectopic pregnancy	1	32	1	33	1	27	-	-	2	30 32
Diseases of the Resp. System compl. pregnancy, childbirth and puerperium	-	-	-	-	1	31	-	-	-	-
Diseases of the digestive System compl. pregnancy, childbirth and puerperium	1	21	-	-	-	-	-	-	1	16

Maternal Deaths by cause with age-at-death (years) 2015-2019										
Year Causes	2015		2016		2017		2018		2019	
	No	Age at death	No	Age at death	No	Age at death	No	Age at death	No	Age at death
Death from any obstetric cause occurring more than 42 days	-	-				-	-	-	-	-
Infections of genitourinary tract in pregnancy	-	-	-	-	1	17	-	-	-	-
TOTAL	4		6		10		5		8	

Source: Ministry of Health and Wellness

Additional questions:

1. Updated women participation (Senior Chief Executives, judges, ambassadors and Permanent Secretary)

An updated list of women's participation at Senior Level is as follows:

Position	Quantity	Percentage (%)
Members of the National Assembly	12 out of 70	17 %
Puisne Judge	14 out of 19	74%
Judge in Bankruptcy	1 out of 2	50 %
Ambassador	5 out of 18	28%
Clerk of National Assembly	1	100%
Clerk Rodrigues Regional Assembly	1	100%
Senior Chief Executive	3 out of 8	38%
Permanent Secretary	19 out of 36	53%

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

2. Amendment to family planning laws in 2018 - Delay to give effect to measures and any proposal to review law

The Mauritius Family Planning and Welfare Association act 2018 was passed in December 2018 and promulgated on 15 June 2019. It repeals the Mauritius Family Planning and Welfare Association Act 2005 (MFPWA) and provides a more modern approach to sexual and reproductive health in line with international norms. Delay is due to the fact that the National Executive Committee has not yet been constituted yet. Regulations are currently being finalised to supplement the provisions of the Act in relation to the constitution of the National Executive Committee.

3. Truth and Justice Commission - Impact of land seizure on women

No specific reference has been made in the Truth and Justice Commission Report regarding impact on women and measures to address same.

All the avenues taken to implement the recommendations of the Report, will surely benefit the aggrieved women.

3. Hon. Maya Sahli Fadel (Algeria)

Réfugiés, demandeurs d’asile et migrants

Cas des demandeurs d’asile issus de la République démocratique du Congo

Les raisons pour lesquels ces demandeurs d’asile étaient détenus

The Congolese nationals had in fact entered Mauritius as tourists and later on applied for Mauritius National Identity Cards and Mauritius Passports producing the documents of Mauritian nationals as their parents but who, in fact were their accomplice.

They were arrested by Police and sentenced to imprisonment. When detained in Prisons, they claimed that they were refugees and alerted the United Nations High Commissioner for Refugees (UNHCR). A UNHCR delegation thereafter came to Mauritius to facilitate their settlement in other countries, with the concurrence of the Mauritian authorities.

Directive pour les demandeurs d’asile et réfugiés.

Following a workshop held on 30 and 31 May 2019, a draft guideline was submitted in August 2019 by the UNHCR for consideration. After consultation with all the relevant stakeholders, the draft document is being reviewed in line with the general institutional and operational set up in Mauritius.

La Délégation peut-elle nous dire si cette initiative a eu un impact positif sur la situation des travailleurs migrants?

The production of the Know Your Rights Pamphlet in 6 languages has had a positive impact on the situation of migrant workers. It has enabled them to be fully aware of the parameters under which they should work, the role and responsibility of their recruitment agent as well as their employer. Moreover, it has also provided them with a list of contact numbers they can have recourse to in case of various problems they may encounter.

Situation des migrants en général

As at January 2020, there were 45,062 valid work permits for 36,508 Male and 8,554 Female Migrant workers working among others in economic activities such as manufacturing (including textile), Construction, Trade, Hotel and Restaurant and Information and Communication Technology. Among the Migrant Workers, 26,216 were from Bangladesh, 10,599 from India, 4,340 from Madagascar, 1,674 from China, 1,106 from Sri Lanka and a few from Nepal and other Countries.

Several measures are put in place to ensure the protection of migrant workers starting from their recruitment. Companies have to abide to stringent conditions safeguarding the rights of the migrant workers prior to be allowed to employ him/her. These include:

- the company is incorporated and has a legal entity;
- the company has a valid lodging accommodation permit;
- the company and the migrant worker has a valid contract of employment in line with existing labour laws duly vetted by the Migrant Unit of the Ministry of Labour, Human Resource Development and Training;
- the migrant worker is provided with a return ticket (i.e travelling to and from Mauritius) to enable the worker to return to home country after the required period of employment; and
- the migrant workers is aged between 20 and 60.

The Migrant Unit ensures that terms and conditions of employment of migrant workers employed in Mauritius are not less favourable than those prescribed by law and to that of local counterpart and that their rights are respected by employers. Furthermore, it has a complaint desk and take immediate action to remedy any dispute reported. As at December 2019 the Unit has dealt with some 666 complaints and an amount of Rs7,758,208 (\$195,544) was recovered on behalf of the migrant workers.

Additionally, the Occupational Health and Safety Division ensures that the migrant workers are provided with proper living conditions.

Employers are not allowed to retain Passports of migrant workers. Any case of non-compliance is referred to the Commissioner of Police for appropriate action.

Moreover, Memoranda of Understanding as signed between Mauritius and the sending countries to ensure that all the rights of migrant workers are respected from recruitment stage, during their stay and return to their country.

La protection des migrants en situation pouvant être considéré comme irrégulière

The Migrant Unit ascertains that all dues are paid to migrant workers prior to their departure and that they are provided with a return air ticket paid by the employer.

Basic necessities, including food, are provided to irregular migrants prior to their repatriation.

Apatride (Statelessness)

L'amendement sur la loi sur l'immigration intervenue en 2019 et son incidence sur les cas des enfants nés ou trouvés à Maurice

Section 22 of the Constitution guarantees Mauritian citizenship to children born in Mauritius provided that at least one of their parents is a Mauritian citizen.

However, the statement made by the distinguished Commissioner in respect of article 5 of the Mauritius Citizenship Act is not accurate.

Section 5(1) of the Mauritius Citizenship Act, provides that the Minister may cause any Commonwealth citizen, being of full age and capacity to be registered as a citizen of Mauritius, upon satisfying certain conditions under the said section or where it is in the public interest to do so as provided under section 5(3) of the Act.

Amendments which have been brought in 2019 to the Immigration Act are in relation to Section 5 (1) (c) which concerns the resident status of a **non-citizen married to a Mauritian** and to section 8 relating to prohibited immigrants.

There were no specific amendments made in 2019 in relation to children born or found in Mauritius with a view to protect them from statelessness.

Les mesures prévues par l'Etat concernant les cas d'enfants trouvés ou né de parents étrangers sur le sol mauricien pour les protéger contre l'apatridie

Section 2 (2) (e) of the Mauritius Citizenship Act provides for the following “A new born child found abandoned within Mauritius shall, unless the contrary is shown, be deemed to have been born within Mauritius”.

Moreover, section 6 (2) of the Mauritius Citizenship Act provides for “The Minister may in such special circumstances as he thinks fit, cause any minor to be registered as a citizen of Mauritius.”

Finally, Section 9 (5) of the Mauritius Citizenship Act provides that “*the Minister may grant a certificate of naturalization to an alien or British protected person if he is satisfied that it is in the public interest so to do.*”

These provisions are presently deemed adequate to address the problem of statelessness in Mauritius.

It is also worth being pointed out that there is no record and neither any report of stateless child found in Mauritius to-date.

Additional questions:

1. Consideration of situation of Mauritians of Chagossian origin as internal displacement

We take note of the wider definition made by Hon. Commissioner Fadel regarding displaced persons and its possible relevance to the Chagossians. We will reflect further with this perspective in mind.

2. Chagos Archipelago - why the State of Mauritius did not envisage “la voie contentieuse”?

Mauritius has always considered that the Chagos Archipelago issue is a matter of incomplete decolonization rather than a sovereignty dispute between the UK and Mauritius since the Chagos Archipelago was excised from the territory of Mauritius prior to independence, in breach of international law, including the right to self-determination.

Mauritius has therefore referred this issue to the UN General Assembly which has historically played a central role in addressing decolonization. In June 2017, the General Assembly adopted a resolution, which was tabled by African States Members of the United Nations, to request an Advisory Opinion from the International Court of Justice (ICJ) so that it would obtain the guidance of the Court for the fulfilment of its responsibility to complete the process of decolonization of Mauritius. On 25 February 2019, the ICJ gave an Advisory Opinion in which it found that the process of decolonization of Mauritius was not lawfully completed upon its accession to independence in 1968, in view of the unlawful excision of the Chagos Archipelago from the territory of Mauritius.

As members of the Commission are aware, contentious proceedings can only be brought before the ICJ if the States concerned have consented to its jurisdiction. The UK has argued on several occasions that by giving an Advisory Opinion on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965, the ICJ has allowed the circumvention of the principle that the Court should not consider a bilateral dispute without the consent of both States concerned. This stand clearly shows that the UK would have never agreed to contentious proceedings being brought before the ICJ in respect of the illegal excision of the Chagos Archipelago from the territory of Mauritius.

Mauritius is satisfied that, although the Advisory Opinion of the ICJ may not be a legally binding judgment, it is an authoritative statement of the law by the highest court in the world. The Advisory Opinion has recognized and confirmed existing legal obligations emanating from international law that are incumbent upon the UK, including the obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible, thereby enabling the completion of the decolonization process of Mauritius in a manner consistent with the right of peoples to self-determination.

3. Deportation and repatriation of illegal migrants including recent bulk repatriation of foreign workers following strike in a factory

Deportation

There have been no cases of deportation of migrant workers for the period 2018 to date.

Repatriation

Regarding repatriation of foreign workers, the number of workers repatriated are as follows:

- a) for 2018: 384 workers;
- b) for 2019: 379 workers; and
- c) for 2020 to date: 101 workers

The main reasons of the repatriations were *inter-alia*:

- a) they have overstayed in the country after the expiry date of their work and residence permits or tourist visa; and
- b) they were in breach of their contracts or labour laws and their contracts have been terminated.

4. Migration Policy – overview and effectiveness since implementation

The Migration and Development Policy was developed in June 2018. The Policy is guided by the Sustainable Development Goals (SDGs) and responds to the target 10.7: “facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”.

The Policy aims to formulate and forge a strategic vision and roadmap in relation to all facets of migration in Mauritius. It analyses and deals with the complexity of migration in a broad perspective with a view to ensuring better sustainable living conditions through measures such as addressing unemployment, boosting investment, innovation and prosperity.

With the National Migration and Development Policy:

- 1) all stakeholders including Ministries, Departments as well as NGOs have been able to understand the concept of migration and development;
- 2) a mechanism in the form of a National Steering Committee has been set up to address migration and development issues in a coordinated manner in collaboration with all stakeholders and the International Organization for Migration (IOM);
- 3) migration and development issues are being constantly monitored by the Steering Committee and bottle necks addressed effectively; and
- 4) the holistic approach to migration and development has become a reality for the Republic of Mauritius.

4. Hon. Jamesina E.L. King (Sierra Leone)

Honourable Commissioners

Article 9 - Freedom of Expression and Access to Information

Status of the Draft Freedom of Information Bill.

The Bill raises complex and far-reaching issues, including constitutional and public interest issues, which impact on public service delivery and has important financial implications. The exercise for the examination of all these issues and implications of the Bill is ongoing.

Measures put in place in the absence of a national Law on Freedom of Information

Government has already taken a number of important measures to enhance transparency, accountability and greater openness in our public administration.

The Citizen Support Portal is an innovative internet platform, accessible on the web, which enables any citizen to, either register a complaint or a suggestion or make a query online and follow up at any time.

As from March 2017, the proceedings of National Assembly are broadcasted live on television. This live broadcast has significantly raised the standard of parliamentary democracy in Mauritius and demonstrates the commitment of Government to transparency and openness.

Moreover, people have access to the media to express their views and have unrestricted exposure to different viewpoints. There is no official or unofficial censorship of the press. There is unrestricted access to the internet, which is widely used.

There is at present more than 60 dailies/weeklies/fortnightlies/monthlies in addition to the several online publications. The Press in Mauritius generally operates in a conducive environment free of violence or coercion, with journalists free to exercise their profession. Moreover, the audio-visual

landscape consists of the national radio and televisions (the Mauritius Broadcasting Corporation (MBC)) and equally private radio stations and web TVs.

The media operators do to a certain extent, self-regulate and co-regulate themselves. A few operators have their own internal code of conduct.

Moreover, the State of Mauritius provides funding to the Media Trust to carry out its activities, *inter alia*, capacity building and training for all its affiliated members. This affords to some means of co-regulation in a way.

Laws limiting the rights to freedom of expression and principle justifiable limitations

The recent amendments to section 46 of the ICT Act were brought so as to prevent transmission or reception of a message which obscene, indecent, abusive, threatening, false or misleading which is likely to cause or causes annoyance, humiliation, inconvenience, distress or anxiety to that person. The amendments to the ICTA do not violate the right to freedom of expression and are in line with section 12 of the Constitution.

The State does have laws which limit the right to freedom of expression but these laws do take into account the principle of justifiable limitations as provided in section 12 (2) of the Constitution.

Internet Shutdown

In Mauritius there is no specific legislation to prevent internet and social media shutdowns. Moreover, there is no legislation to specifically empower a shutdown. The Information and Communication Technologies Authority may take action if it is felt that content on the Internet and other information and communication services is harmful and illegal. This, however, relates to specific content and not an entire information and communication services.

Defamation

Defamation is still a criminal offence under Section 288 of the Criminal Code.

Additional questions:

1. Model law access to information

Mauritius has taken note of the Model Law on Access to Information for Africa, prepared by the African Commission on Human and Peoples' Rights.

A law on access to information in Mauritius has to be home-grown and adapted to our local context and our local realities. There are far-reaching implications, ranging from constitutional to public interest issues.

Such a legislation requires a prior process of internal examination, taking into account the required resources, the impact on the working procedures of the public service, preservation of sensitive commercial information, cost implications, among others.

2. Details of cases of arrest/detention against journalists and reporters including the outcome

For the period January 2015 to date (25.07.2020), no case has been reported to the Police (Central Criminal Investigation Department- CCID) resulting in the arrest/detention of Journalists and Reporters whilst they were on duty.

5. Hon. Maria Teresa Manuela (Angola)

Articles 6 and 7 - Prisons, Conditions of Detention and Policing in Africa

Hon. Commissioners,

The replies to the Hon. Maria Teresa Manuela are as follows:

Total number of Prisons and prison population in Mauritius including statistical information

We have 7 male prisons in Mauritius with a total maximum capacity of 3017 detainees.

As at end of June 2020, we had a total of 2397 male detainees out of which 1488 detainees were on remand and 909 were convicted.

We have 3 female prisons in Mauritius with a total maximum capacity of 192 detainees. As at end of June 2020, we had a total of 152 female detainees out of which 121 detainees were on remand and 31 were convicted.

As at end of June 2020, in the Rodrigues Prison, we have 37 detainees out of which 34 (16 convicted and 18 on remand) are male and 3 (on remand) are female.

As regards juveniles, they are detained at Rehabilitation Youth Centre. As at end of June 2020, there are 11 boys and 17 girls in these centres in Mauritius and 11 boys in Rodrigues.

Prison Population as at 30.06.2020.

<u>Institutions</u>	<u>Maximum</u>	<u>Total</u>	<u>Total</u>	<u>GRAND</u>
<u>Prison Population as at 30 June 2020</u>	<u>Capacity</u>	<u>Convict</u>	<u>Remand</u>	<u>TOTAL</u>

Male Adult.

<i>Central Prison</i>	<i>1034</i>	<i>32</i>	<i>870</i>	<i>902</i>
<i>Phoenix Prison</i>	<i>24</i>	<i>8</i>	<i>3</i>	<i>11</i>
<i>Eastern High Security Prison</i>	<i>906</i>	<i>471</i>	<i>162</i>	<i>633</i>
<i>New Wing Prison</i>	<i>275</i>	<i>152</i>	<i>157</i>	<i>309</i>
<i>Grand River North West Remand Prison</i>	<i>284</i>	<i>18</i>	<i>296</i>	<i>314</i>
<i>Richelieu Open Prison</i>	<i>166</i>	<i>53</i>		<i>53</i>
<i>Petit Verger Prison</i>	<i>328</i>	<i>175</i>		<i>175</i>
<i>Total Males</i>	<i>3017</i>	<i>909</i>	<i>1488</i>	<i>2397</i>

Female Adult.

<i>Women Prison</i>	<i>160</i>	<i>23</i>	<i>121</i>	<i>144</i>
<i>Open Prison for Women</i>	<i>20</i>	<i>8</i>		<i>8</i>
<i>Segregation and Protection Unit Women</i>	<i>12</i>			<i>0</i>
<i>Total Females</i>	<i>192</i>	<i>31</i>	<i>121</i>	<i>152</i>

<i>GRAND TOTAL</i>	<i>3209</i>	<i>940</i>	<i>1609</i>	<i>2549</i>
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(a) Number of detainees in Rodrigues Prison:

	Convicted	Remand	Total
Male	16	18	34
Female		3	3
Total	16	21	37

Note: There are two baby girls currently living with their mothers at the Rodrigues Prison

Source: Mauritius Prison Service

Problem of overcrowding in prisons and detention centers and measures overcome problem

Mauritius does not experience the problem of overcrowding in prisons and detention centres.

Alternatives to imprisonment to curb overcrowding in prisons and pretrial detention centers

Though we do not have overcrowding in prisons and pretrial detention centres, there is the possibility for the court to issue a Community Service Order in lieu of imprisonment.

Types of meals served in prisons.

Veg and non-veg menus are provided. A typical non-vegetarian meal would consist of bread/rice, pulses, poultry/fish/egg/liver and vegetables.

Specimen menus are as follows:

Breakfast	Lunch (served with rice)		Dinner (served with two breads)	
	Non-Veg	Vegetarian	Non-Veg	Vegetarian
Butter Bread + Tea	Salted fish fried, potato + cabbage stew, greens soup	Potato + carrot doubé + cabbage stew, greens soup	Fried egg, pumpkin stew, red lentil soup	Sperling's Liane stew + pumpkin stew, red lentil soup
Butter Bread + Tea	Liver + potato salami, watercress salad, split peas soup	Potato salami, watercress salad, split peas soup + canned peas stew	Tuna salad, calabash stew, broad bean soup	Bitter gourd + calabash stew, broad bean soup
Butter Bread + Tea	Chicken + potato curry, cucumber salad, black lentil soup	Potato curry +soya curry + cucumber salad, black lentil soup	Fried fish salad, green banana stew, broad bean soup	Lady finger + green banana stew, broad bean soup

Butter Bread + Tea	Salted fish in tomato sauce, potato + split peas stew, green soup	Eggplant stew + potato + split peas stew, greens soup	Tuna tomato mix, pumpkin stew, white bean soup	Radish cooked in mustard + pumpkin stew, white bean soup
Butter Bread + Tea	Chicken + potato stew, watercress salad, black lentil soup	Soya curry + potato stew, watercress salad, black lentil soup	Fried fish salami, chayote stew, red bean soup	Taro leaves stew + chayote stew, red bean soup
Butter Bread + Tea	Liver + potato salami, cucumber salad, red lentil soup	Eggplant curry + potato salami, cucumber salad, red lentil soup	Egg in tomato sauce, calabash stew, broad bean soup	Cabbage/carrot pickle + calabash stew, broad bean soup
Butter Bread + Tea	Fish curry, eggplant stew, split peas soup	Cauliflower stew + eggplant stew, split peas soup	Sardine salad, potato chutney, white bean soup	Green bean + carrot stew + potato chutney, white bean soup

Source: Mauritius Prison Service

It is to be noted that the Mauritius Prisons Service is self- sufficient in eggs, chicken and bread. Moreover, it produces 40% of its annual vegetable requirements.

Statistical data on the number of detainees that have enrolled in the numeracy and literacy programmes mentioned as well as how many detainees if any, have completed the courses

During the period June 2019 to July 2020, 207 detainees have enrolled in different programmes and 204 detainees have completed these courses as given below –

S/no	Programmes	Number of detainees enrolled	Completed
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1)	Numeracy Literacy	125 (including 12 females)	All completed
2)	Primary School Achievement Certificate (PSAC)	10 (aged between 25 to 44 years old)	9
3)	Bsc course in Business Management with specialisation in Marketing	2	2
4)	MITD Welding	5	5
5)	MITD Wood Trade	4	4
6)	MITD Garment Making	4(Women)	4 (Women)
7)	MITD Pastry	2 (Men & Women)	Not Completed
8)	My Business Programme (SME Mauritius- how to set up a small enterprise)	19	19
9)	Alpha in Prisons (Spiritual Program by prison fellowship International, PFI)	36	36

Source: Mauritius Prison Service

Disbursement of these funds and how much each detainee receives per week

The detainee Enhanced Earning Scheme was established in January 2012.

As per the scheme, detainees are classified into three following categories, namely; unskilled, semi-skilled and skilled.

The daily rate payable for each category is as follows in (MUR):

Category	Daily Rate / Rs (week days only)	Maximum Weekly Expenditure /Rs	Saving /Rs
Unskilled	20 (\$0.50)	65 (\$1.64)	35 (\$0.88)

Semi-skilled	25 (\$0.63)	81.25 (\$2.05)	43.75 (\$1.10)
Skilled	30 (\$0.76)	97.50 (\$2.46)	52.50 (\$1.32)

Source: Mauritius Prison Service

Returns are submitted to the Prison Headquarters and imprest section for perusal and submission to the Finance Section for disbursement.

Requirements for Institutions and Civil Society organizations to visit prisons and places of detention

The Prisons Department works in collaboration with state and non-state actors including Governmental Organisations, Religious Bodies, NGOs, Local Authorities and Private Enterprises to provide a comprehensive rehabilitation programme.

The National Preventive Mechanism Division (NPMD) under the National Human Rights Commission (NHRC) and members of the 'Board of Visitors' established under the Reform Institutions Act carry out visits in prisons and submit reports for any remedial actions.

NGOs willing to visit and provide support to detainees need to make an official request to the Prison Authority. Following Police Clearance, an Agreement/MoU is entered with the Prison Authority. Subsequently, the representatives of the NGOs, are issued with access pass. They are required to give prior notice before visiting prisons and detention centres.

Special treatment for vulnerable groups in Prisons particularly women, pregnant women and those with children, persons affected by HIV/AIDS and people with disabilities

Special facilities are available for the vulnerable groups in prisons. Women detainees and their children are accommodated in an appropriate environment which is conducive to a proper growth and development of their children.

These children are allowed to stay with their mother, up to the age of 5.

Pregnant women are admitted in a special ward at a dedicated Public Hospital during their last stage of pregnancy so that they can deliver their babies.

After delivery, the newly born is automatically taken care of by the Paediatric Department and, should the need arise, by the Aids Unit of the Ministry of Health and Wellness.

Prisoners with disabilities are also provided with facilities depending on the nature of their disabilities.

HIV services are available in prisons for the HIV positive detainees.

Medical facilities and treatment available to prisoners living with HIV/AIDS

The Prisons Department in close collaboration with the Ministry of Health and Wellness, operates a Medical Unit which provides all the necessary treatment and facilities including anti-retroviral drugs to prisoners living with HIV/AIDS. Such detainees are also followed by Prisons Psychologist.

HIV doctors who are the HIV treatment prescribers attend the prisons on a roster basis. They conduct 4 sessions per week and the prisons are considered as HIV care delivery points.

Methadone Induction and Methadone Substitution Therapy are accessible and available to detainees who inject drugs.

HIV positive detainees have access to all facilities provided to the people living with HIV outside the prisons.

The HIV preventive package of measures in prison settings include HIV Testing and Counselling (pre-test and post-test) at entry point, Information, Education and Communication, initiation and patients' education on Antiretroviral treatment according to the established national treatment protocol, HIV disease management and follow-up to prevent resistance to HIV treatment (viral load testing).

There is a good referral system to ensure a multi-disciplinary approach to prevent AIDS related complications in prisons. HIV positive detainees who need admission are referred to the hospitals whenever required.

Status of the review of “the existing statutory framework with regard to juvenile offenders” and time frame for implementation

The Children’s Bill will repeal the Juvenile Offenders Act and make provision inter alia for the establishment of an age of criminal responsibility and the provision of diversionary measure. The jurisdiction of the juvenile Court will be taken over by the Criminal Division of the Children’s Court. It is expected that the Children’s Bill will be introduced in the National Assembly during the current Parliamentary session.

Minimum age of criminal responsibility

The forthcoming Children’s Bill will cater for a minimum age of criminal responsibility.

The Bill will also provide for the procedure for dealing with a child under criminal responsibility is suspected for having committed an offence.

Measures taken to disseminate and integrate the directives contain in the Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa and the Principles on Decriminalization of Petty Offences in Africa adopted by the Commission

Most of the directives contained in the guidelines on the conditions of arrest and pre-trial detention are integrated in the Police procedures on arrest, safe custody of detainees and pre-trial detention. The best practices in the guidelines are being considered therein for implementation.

As regard the Principles on Decriminalization of Petty Offences in Africa, we have yet to consider this matter.

Human Rights Training for police officers

Human Rights Course is a core module in the Police Training Curriculum, which all new recruits have to follow. Additionally, Police Officers attend regular seminars/workshops on Human Rights both locally and internationally.

Statistics on complaints disposed by IPCC of since its establishment and measures are being taken by the government to bring the perpetrators to justice, as well as, compensate victims

Since the establishment of the IPCC up to 30 June 2020, 1638 complaints have been attended by the IPCC, including 277 cases from the Police Complaints Division (PCD). Some 650 cases have been disposed of while 988 cases are still under investigation. Moreover, 29 cases have been settled through conciliation.

The percentage of Female Police Officers within the Police Service and measures put in place to ensure that women have equal opportunities and are equally represented within the law enforcement agencies

There are 1152 Female Police Officers in the Mauritius Police Force (MPF). They represent 10% of the workforce Police, which is 12,870. Women Police Officers are treated equally and given the same opportunity as their male counterparts in the Police Force.

Their salaries and conditions of service are similar to male Police Officers. Nowadays, we have Female Police Officers acting as Riders, Dog Handlers, Police Prosecutors, Investigators and Station Managers / Commanders amongst others.

It is to be noted that there is no discrimination in employment opportunity in line with the Constitution and the Equal Opportunity Act. Recruitment is done on a meritocracy basis.

Additional questions:

1. Ratio of police officers to detainees, ratio of police officers to population and ratio of female agents to female detainees.

As regards to the ratio of prison officers to detainees, it is 1 to 2.6 for both sexes. For male prison officers to male detainees, it is 1 to 2.15 and for female prison officers to female detainees, it is 1 to 1.61.

2. Statistics of prisoners by age

Prison Population as per Age Group (Male & Female Adults)

<u>Age group</u>	<u>Males</u>			<u>Females</u>			<u>Grand TOTAL</u>
	<u>Convicts</u>	<u>Remands</u>	<u>Total</u>	<u>Convicts</u>	<u>Remand</u>	<u>Total</u>	
18 - 21 years	51	123	174	0	3	3	177
22 - 25 years	147	256	403	1	16	17	420
26 - 30 years	233	331	564	4	24	28	592
31 - 35 years	166	216	382	11	29	40	422
36 - 50 years	364	399	763	16	47	63	826
51 – 60 years	70	78	148	4	6	10	158
Over 61 years	19	9	28	0	2	2	30
TOTAL	1050	1412	2462	36	127	163	2625
Total Convicts							1086
Total Remands							1539
Grand TOTAL							2625

Source: Mauritius Prison Service

3. Measures taken for effective/timely completion of police investigations

One of the main duties of the Police is to carry out investigation into criminal offences. These offences are classified as contravention, misdemeanours and crimes. In addition, the Police also investigates into petitions, applications and offences under other legislations which are enforced by Ministries/Departments other than the Mauritius Police Force. Investigation are carried out by Police Officers who are well conversant with Laws, Police duties and evidences and who have investigative skills and such skills are acquired over the years. Hence, only a team of selected Police Officers are assigned enquiry duties.

As a matter of information, enquiry into simple cases of contravention and misdemeanour do not take time to be completed but cases of crime due to their complexity usually take longer time for completion.

Depending upon the nature of the case, many cases of crime require reports from Forensic Scientific Laboratory, Police Medical Officer, Judge's Order, Telecom Service Providers (itemize bills). The Police can only complete such enquiries after obtaining these reports. Enquiries are delayed due to late submission of such reports.

6. Hon. Gertrude Alexia Amesbury (Seychelles)

Hon. Commissioners,

Our replies to the questions put to us by the Hon. Amesbury are as follows:

Les droits des Populations/communautés autochtones – Articles 2, 18

Autochtones (Indigenous people)

The Constitution of Mauritius guarantees the fundamental rights of all citizens without discrimination. Our motto is one people and one nation. There are adequate legislative and administrative frameworks to ensure non-discrimination.

We do not have an indigenous population in Mauritius.

Mauritius is a country of settlement of peoples from Africa, Asia and Europe. we have a diverse social fabric and every citizen is constitutionally guaranteed the freedom to practice his own religion and follow his ancestral culture and beliefs.

No study is currently envisaged.

Articles 2, 18 - Les droits des personnes vivant avec le VIH

Mesures pour supprimer restrictions qui sont contraires au droit à la liberté de mouvement consacré par l'article 12 de la Charte africaine

According to Section 8 (1) (b) of the Immigration Act, persons who are afflicted with any infectious or contagious disease are considered as prohibited immigrants and are not admitted to Mauritius.

However, provision exists under section 8(2) and (3) of the Immigration Act provide for the Prime Minister to authorize the admission to Mauritius of a non-citizen suffering from any infectious and contagious disease, under certain conditions that he deems appropriate.

There are various examples of cases where non-citizens afflicted with infectious and contagious diseases (HIV) have been allowed entry to Mauritius.

These cases are related to applications from non-citizens, including those from the African continent, for work permit and occupation permit as well as from dependents of occupation permit holders and foreign students.

Additionally, Non-Mauritian citizens who are HIV positive travelling to Mauritius for a short period are allowed to stay with a tourist visa.

Furthermore, the HIV and AIDS Act was amended in 2008 to allow a Mauritian Citizen to get married to an HIV positive non-Mauritian provided that he discloses to his intending spouse whether or not he is HIV positive or has AIDS.

Traitement antirétroviral

The ‘Treat All’ World Health Organisation recommendation has been implemented since August 2017. There is no discrimination in provision of HIV treatment to detainees. All individuals tested HIV positive are initiated on antiretroviral treatment (ART) irrespective of their immune status.

The detainee population is not static but dynamic. As at end December 2019 there were 74% of the HIV positive detainees receiving HIV medication. In April 2020, this figure increased to 78%.

The proportion of detainees not on ART is mainly due to:

- i. their baseline blood investigations which are needed for choice of ART is being awaited;
- ii. they are still in denial phase of their HIV status and they are not willing to start ART;
- iii. they are awaiting bail out incessantly and thus deferring ART;
- iv. ART is being deferred to prevent HIV drug resistance in view of detainees indulging in unsafe behaviors – active injecting drug use and/or other addiction; and

- v. they are on treatment for other infections which need to be treated first to prevent drug toxicity and increase in mortality due to Immune Reconstitution Inflammatory Syndrome.

Les mesures prises par le gouvernement et les autorités pénitentiaires pour prévenir la transmission du VIH au sein de la population carcérale

The HIV preventive package of measures in prison settings include HIV Testing and Counselling (pre-test and post-test) at entry point, Information, Education and Communication, initiation and patients' education on Antiretroviral treatment according to the established national treatment protocol, HIV disease management and follow-up to prevent resistance to HIV treatment (viral load testing). There is a good referral system to ensure a multi-disciplinary approach to prevent AIDS related complications in prisons. HIV positive detainees who need admission are referred to the hospitals whenever required.

La mise en œuvre des recommandations formulées dans le rapport de 2018 de la Commission d'enquête sur le trafic de drogue

Government has set up the following administrative framework to ensure effective implementation of the different recommendations found in the Commission of Inquiry Report 2018 on Drugs & Illicit Trafficking:

- i. A High Level Drug and HIV Council has been set up under the Chair of the Prime Minister to oversee and monitor the Drugs and HIV response in the country.
- ii. A National Drug Secretariat has been set up in 2018 under the Prime Minister's Office to ensure the overall coordination at national level with regard to implementation of the NDCMP as well as the recommendations of the Commission of Inquiry Report 2018 on Drugs and Illicit Trafficking.
- iii. Four sub-committees have been set up namely:
 - Drug Prevention Committee;
 - Harm Reduction Committee;

- Treatment and Rehabilitation Committee; and
 - Supply Reduction Committee.
- iv. A Task Force chaired by the Director-General of the Independent Commission Against Corruption was set up to coordinate the implementation of the recommendations of the Commission of Inquiry and its annexes, in relation to further inquiries that the Commission has earnestly called for in a number of identified areas and where the Commission has drawn attention to but has not been able to gather sufficient evidence to investigate into. As at date, the Task Force has submitted four reports.
- v. An agreement has been signed between the National Drug Secretariat and the Mauritius Broadcasting Corporation (MBC) to conduct a National Awareness Campaign against Drug Abuse on radio and television channels of the MBC.

Additionally, a specific committee will be set up to coordinate and ensure the follow-up implementation of the numerous legislative amendments required for implementation of the recommendations of the Commission of Inquiry.

We wish to highlight that after in-depth analysis, that some of the recommendations found within the Report are not considered feasible and will not be implemented.

It is to be noted that various enforcement actions are carried out in parallel to track Drugs and Illicit Trafficking of Drugs. In this context, there is an effective coordination by the Police Department, Coast guards, MRA/Customs and all stakeholders, both at national and regional/international level.

There have been, since 2017, a sharp increase in the number of drug seizures. In 2019, the street value of drugs seized amounted to approximately MUR 2.6 bn. (\$65.53m).

Moreover, there is a legal framework, under the Good Governance and Integrity Reporting Act to enable the detection of unexplained wealth and its confiscation.

Conciliation des législations sur la drogue et l'usage des seringues par les personnes souffrant du VIH

The legal framework for the syringe and needle exchange is to be found in the HIV and AIDS Act and this Act expressly provides for the syringe and needle exchange programme.

Section 16 of the HIV and AIDS Act specifically provides that when it comes to possession of syringes and needles, a person who is in possession of a syringe or needle in compliance with the HIV and AIDS Act, shall not, by reason only of that possession, be considered as having committed an offence under the Dangerous Drugs Act.

Additional questions:

1. Follow up on released HIV detainees and measures taken to ensure HIV is not transmitted in community by detainee after release.

All detainees undergo HIV testing and counselling at entry in prisons. Released detainees with HIV are issued with a discharge ticket which they are advised to produce at AIDS Unit in their respective locality for follow-up. Medical staff of the Mauritius Prison Service constantly share information with the AIDS Unit regarding the discharged patient. The Aids Unit assures that the patient receives his or her treatment regularly. Moreover, there is a close collaboration between the social workers, NGOs, prison officers and AIDS Unit to follow-up on HIV patients.

2. Statistics on population of Rodrigues and all outer Islands

As regards to statistics of the population of Rodrigues and outer islands, as at 31 December 2019, there were 43,538 inhabitants in Rodrigues and 274 inhabitants in Agalega and St Brandon.

7. Hon. Marie Louise Abomo (Cameroon)

Articles 2, 18 - Older persons and persons with disabilities

Hon. Commissioners,

As regards the question put to us by the Hon. Marie Louise Abomo, in respect of article 2.1, our replies are as follows:

Non-inclusion d'un état des lieux des statistiques désagrégées sur les personnes handicapées et les personnes âgées dans le rapport.

Since the Report covered period 2016-2019 and Statistics Mauritius conducted its last official census in 2011, we did not deem it fit to include same in the report. Statistics compiled at the level of the Parent Ministry as at end of June 2020 for social benefits are as follows:

There are 230,602 elderly persons drawing retirement pensions, out of which:

- 226 071 are aged between 60 and 89;
- 4371 are aged between 90 and 99; and
- 160 aged over 100 years.

Moreover, 16 889 of them are severely disabled and draw a Carer's allowance and 35 276 elderly persons are also paid an Income Support.

The Number of persons in receipt of the Basic Invalidity Pension as at end of June 2020 is 33,449, out of which 7319 persons are severely disabled and draw a Carer's Allowance.

Les obstacles réels à l'adoption d'une Loi sur les Personnes Handicapées?

The Disability Bill is still under preparation and there are a few issues that still need to be addressed.

There is need to bring amendments to the Sections 3 and 16 of the Constitution which relate to the 'Fundamental rights and freedoms of individual' and 'Protection from discrimination' respectively.

Moreover, the Bill also needs to be aligned with the provisions of the UN Convention on the Rights of Persons with Disabilities. The Bill can only be enacted and provisions made thereunder be implemented in a progressive manner when the necessary conditions and environment are created for the protection of the rights of persons with disabilities. Otherwise, the State would be held responsible for any incident happening to persons with disabilities.

Although, the Bill has not yet been passed, several actions have already been initiated and upstreamed for creating enabling environment for the persons with disabilities. There are presently a series of legislations catering for the promotion and protection of the rights of persons with disabilities and for the elimination of discrimination against them.

We can provide the list of laws, if required.

L'adoption de la Loi sur les Personnes Handicapées qui est selon le rapport en projet ?

We cannot provide an exact timing for the eventual enactment of the Disability Bill at this particular time.

Les garanties mises en place pour s'assurer que les diverses aides et mesures pour l'effectivité de la protection des personnes handicapées et des personnes âgées sont non discriminatoires et adaptées aux besoins réels de ceux-ci selon leurs situations particulières.

There are set eligibility criteria and instances to ensure that elderly persons and persons with disabilities who are eligible to services and benefits given by Government are not being discriminated.

In cases where persons with disabilities and elderly persons feel aggrieved or discriminated upon, they can have recourse to the Appeal Tribunal or Medical Tribunal, established under the National Pensions Act.

Dimensions allocations et autres aides ou bénéfices pécuniaires, s'étend-t-elle à tous les résidents du pays ou est-elle exclusivement réservée aux seuls citoyens Mauriciens

Every Mauritian citizen aged 60 and over is entitled to a Basic Retirement Pension. The person should have resided in Mauritius for an aggregate period of 12 years since attaining the age of 18. For non-citizens, they should have resided in Mauritius for at least 15 years in aggregate since attaining the age of 40, three of those 15 years being immediately before the claim is made.

A Mauritian citizen under 60 years, who is certified by a Medical Board to be incapacitated to a degree of at least 60 percent and for a period of at least 12 months, is eligible to obtain a Basic Invalid's Pension. For a non-citizen to be eligible, he/she must have resided in Mauritius for at least five years in aggregate in the ten years immediately before the claim, one of those five years being immediately before the claim.

Les réserves émises au titre des Articles 9(2)(d), 11, 24(2)(b). » de la Convention des Nations Unies relative aux Droits des Personnes Handicapées.

The Republic of Mauritius proposes to withdraw its reservations on articles 9(2)(d) and 11 of the UN Convention on the Rights of Persons with Disabilities shortly.

The last reservation concerns Article 24.2(b) which relates to access to an inclusive, quality and free primary education and secondary education on an equal basis for persons with disabilities.

Mauritius has currently a parallel system with regards to education of children with disabilities: on the one hand, a string of special schools and on the other, mainstream schools.

Mauritius has officially adopted a policy of inclusive education and we are taking a number of measures to gradually allow for the integration of children with disabilities in mainstream education.

The reservation will be withdrawn once we comply with the obligations.

Partage de bonnes pratiques

Mauritius is keen to share its best practices and to benchmark with other countries and we welcome any request from member States. In a not too distant past, representatives of the Kingdom of Lesotho and the Republic of Seychelles have visited Mauritius to learn about our model of social protection and social benefits.

8. Hon. Ndiame Gaye (Senegal)

Article 4 - Right to Life

Challenges for the “Repeal the Constitutional provision which provides for imposition of the death penalty”

Section 4 of the Constitution provides for the protection of the right to life except in circumstances where there has been a pronouncement of a Court of law.

The need to abolish the death penalty under the Constitution has not been felt as with the passing of the Abolition of Death Penalty Act in 1995, all death sentences imposed before the passing of the said Act have been commuted to sentences of penal servitude for life. The Supreme Court may now inflict sentences of penal servitude for life or sentences for terms not exceeding 60 years.

It is to be noted that amending section 4 of the Constitution cannot be effected unless it is supported by the votes of not less than three quarters of the members of the National Assembly.

Information on the concrete measures that are put in place to improve prison conditions for those serving life imprisonment to prevent their premature death

In addition to the provision of round the clock medical care, since May 2017, psychological support is provided to all detainees, including those serving long sentences. Moreover, detainees are encouraged to engage themselves in constructive and recreational activities.

The number of prisoners sentenced to penal servitude for life or jail terms not exceeding 60 years.

There is only one male prisoner sentenced to penal servitude for life.

Deaths if any, of prisoners in Mauritius prisons and the causes of the deaths

As from beginning 2020 to mid-July, there have been 9 cases of death in prisons out of which 2 cases are reported as suicide, 5 natural deaths and the cause of death for the remaining 2 cases are yet to be determined by the Police.

Ratification of Second Optional Protocol to the International Covenant on Civil and Political Rights

Though Mauritius has abolished the death penalty by way of the enactment of the Abolition of Death Penalty Act in 1995, we are not proposing to ratify the **Second Optional Protocol to the International Covenant on Civil and Political Rights**. The more so, a three-quarter majority vote is required in the National Assembly for an amendment of the Constitution and this is not a routine process.

Information on the legal or policy measures adopted to prevent extrajudicial and arbitrary killings.

There has been no cases of extra-judicial or arbitrary killings in Mauritius.

What we are concerned with are a few cases involving death in police custody or detention centres. Legal and administrative measures have already been put in place with a view to reducing the number of such deaths.

Additional question:

Update on the case of La Bastille (Mr Cael Permes) including outcome.

With regards to the case of Cael Permes, we wish to apprise the Commission that the Police Enquiry is still in process.

So far, 11 Prison Officers have been arrested in the case of the death of detainee Jean Cael Permes which occurred on 05 May 2020. These Officers have all been released on bail, of whom nine have

been interdicted with effect from 11 June 2020. The remaining two have retired on ground of age on 14 May 2020.

9. Hon. Rémy Ngoy Lumbu, Vice Chairperson
(Democratic Republic of the Congo)

Articles 10 and 11 - Liberté d'association et de reunion

Lignes directrices sur la liberté d'association et de réunion adoptée par la Commission

The Republic of Mauritius is fully aware of the Guidelines on Freedom of Association and Assembly in Africa.

The main provisions of the guidelines are already incorporated in the Constitution and various legislations, including Employment Relations Act, Registration of Associations Act, National Women's Council Act, National Women Entrepreneur Council Act, amongst others.

Moreover, the various institutions emanating from the Acts sensitize members of the public on the services provided by them.

Manifestation au-delà de 11 personnes

The State is at this point in time not considering to amend the Public Gathering Act be it to allow more than twelve persons to take part in any assembly without notification to the Commissioner of Police or to remove the limit on the number of persons who may do so.

Est-ce que la loi antiterroriste respecte les Principes et directives de la Commission ?

The primary legislation aimed at combatting terrorism in Mauritius is the 'Prevention of Terrorism Act' (POTA).

It has been drafted in a manner which is respectful of the rights enshrined in the Constitution which is the supreme law of Mauritius.

Several amendments have been made to the Prevention of Terrorism Act within the parameters allowed by the Constitution. The Act is in compliance with international and regional instruments relating to the combating of terrorism, including the Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa.

Additional questions:

1. Law for protection of human rights defenders/activists – whether it is envisaged

Mauritius is democratic state and the rights of the citizens of the Republic of Mauritius are guaranteed by the Constitution (Section 3 to 16). These provisions are safeguards and apply to all citizens including human rights defenders/activists.

We have taken good note of the comments made by the Vice-Chairperson regarding laws which have been adopted by Burkina Faso, Ivory Coast and Mali in relation to the protection of Human rights defenders and activists.

We will take cognisance of the content of those legislation and share same with all the relevant stakeholders.

2. What are the 'other islands' that constitutes the Republic of Mauritius, stated in Paragraph 1 of the State Report of Mauritius?

This description at paragraph 1 of the report echoes the definition of "Mauritius" in Section 111 of the Constitution of Mauritius and the definition of the "State of Mauritius" under the Interpretation and General Clauses Act.

It is worth noting that Mauritius is surrounded by several small islands / islets and some of those islets are managed in collaboration with the World Wildlife Foundation such as Ile aux Aigrettes and Round Island where we preserve their ecosystems.

10.Hon. Solomon Ayele Dersso, Chairperson (Ethiopia)

Hon. Commissioners,

Allow me to reply at one go to the questions put to us on the Economic, Social and Cultural Rights (Articles 14 to 17) and thereafter on Articles 21 and 24.

Economic, Social, and Cultural Rights

Article 14 - Right to property

Enactment of the Acquisitive Prescription Act

The Acquisitive Prescription Act which came into force on 01 September 2019 provides for better safeguards regarding acquisitive prescriptions.

Equitable protection of the matrimonial and inheritance law

Matrimonial and inheritance laws are mainly governed by the Mauritian Civil Code.

In respect to inheritance Law, the rights of the surviving spouse, be it man or woman, are protected in as much as the surviving spouse has the same share in the property of the deceased as a child; and the surviving spouse enjoys a right of usufruct over the matrimonial home. The spouses each retain the properties they acquired prior to the marriage and even properties acquired during the marriage, but through inheritance.

The share of the surviving spouse can, however, be reduced or suppressed by the will of the deceased. This does not apply to children, who are protected heirs and whose shares cannot be reduced or suppressed, unless they have been judicially debarred from the succession of the deceased (*“l’indignité”*).

Matrimonial Law

The spouses are free to choose the matrimonial regime which will govern their marriage. In case the assets of the couple are likely to be compromised by the debts contracted by one of them, a change in the matrimonial regime may be sought by way of an application to the Supreme Court. This provision not only protects the other spouse, but also protects the property rights and shares of the children of the marriage.

The property rights of the spouses and the children are also protected in the following manner-

- the matrimonial home cannot be given as security to a money lending institution, unless both spouses give their consent to same.
- the spouses, married under the legal community of goods and property, may contract household debts. A debt contracted by one spouse renders the other spouse liable. However, the liability of the other spouse cannot be invoked where the household debts are in excess of the daily lifestyle of the couple.
- a woman may freely take up a job, without having to seek the prior consent of her husband, and the proceeds of her salary accrue to her personally.

Article 15 - Right to work

Disaggregated data (males, females and the youth) on the unemployment rate in Mauritius

The unemployment rate in Mauritius as at 1st Quarter of 2020 is 6.9%, for both sexes (4.9% male and 9.9% female).

As regards the youth (16 – 24 years), the unemployment rate in Mauritius as at 1st Quarter of 2020 is 23.4% for both sexes (18.3% male and 30.1% female).

Entrepreneurship programmes targeting the youth

Government has introduced in 2018 the SME Employment Scheme with the aim of instilling an entrepreneurship spirit in unemployed graduates as well as supporting further development of SMEs. It also helps to address a number of existing challenges as regards youth unemployment and the inability of SMEs to recruit graduates.

Employment under this Scheme covers a period of two years and renewed after the first year upon satisfactory completion. A monthly stipend of Rs 14,000 (\$352.87) based on attendance is being provided to each graduate during this period while the employer will pay only the monthly travelling costs.

It is to be noted that a first batch of 478 graduates in Mauritius and some 43 graduates were placed in different SMEs since October 2018.

In Budget 2019/20, provision has been made to extend this scheme to diploma holders also, hence encouraging more youth to take entrepreneurship as a career option.

Administrative, fiscal or any other policies or measures fostering youth entrepreneurship

The Government Programme 2019 has laid emphasis on entrepreneur given that they are the work force of the future. To that end, digital entrepreneurship, innovation and research and development are being promoted. Measures are being devised to support youth-led start-ups. Additionally, appropriate courses on entrepreneurship are being dispensed at university level.

The Development Bank of Mauritius LTD is proposing to scale up its Campus Entrepreneur Challenge, whereby it will finance the 10 best projects at a concessional rate of 0.5% per annum for an amount up to MUR 500,000 (\$12,600).

Labour or Workers' Unions in Mauritius and their roles (determination of the national minimum wages)

The Employment Relations Act provides for the setting up and registration of a trade union which shall be a body corporate.

Section 29 of the Act provides for the right of every worker to be or not to be a member of a trade union and Section 30 protects trade union of workers against acts of interference.

As at December 2018, 409 Trade Unions were registered with the Registrar of Association. Most of the trade unions are affiliated to Federations and Confederations of Trade unions. At present there are 34 Federations and 10 Confederations.

The National Remuneration Board is responsible to make recommendation on Terms and conditions of employment of workers employed in the private sector. The National Remuneration Board is established under Section 90 of the Employment Relations Act and is constituted of representatives of ministries, employers and trade unions. The Chairperson and Vice-Chairperson of the Board are public officers.

Similarly, the National Wage Consultative Council, responsible for making recommendation on the national minimum wage comprises representatives of ministries, employers and trade unions.

Promulgation of the workers' Rights Bill

The Workers' Rights Act 2019 has been proclaimed and came into operation except for section 126(7) (b) of the Act.

Article 16 - Right to health

Ratio of physicians per 1000 inhabitants

The ratio of physicians per 1000 inhabitants was 2.6 in 2019. This is well above the level recommended by the WHO.

Emergency response

The Pre-Hospital Specialized Emergency Medical Services also known as the SAMU (Service D'aide Medicale D'Urgences) is operational in Mauritius since December 1997.

SAMU is equipped with 10 Advanced Cardiac Resuscitation and Life Support Ambulances for pre-hospital interventions (2 in each of the 5 Regional Hospitals).

Pre-Hospital interventions are done according to the five catchment areas each falling under the aegis of a Regional Hospital and concern mainly vital emergencies, including road traffic accidents and trauma.

Pre-hospital interventions by the SAMU team are done after screening of incoming call at the SAMU CONTROL Room by trained paramedical staff and Physicians on a 24-hour basis.

The average intervention time is 20 minutes.

Avenues of redress

Free healthcare services are provided through a network of 143 Primary Health Care institutions, 5 Regional Hospitals, 2 District Hospitals and 6 Specialized Hospitals. Complicated cases, which cannot be managed locally, are sent abroad for treatment at the expense of the Government. It is to be noted that universal access to free healthcare services are provided regardless to gender, age, disability, geographical location, social status and ability to pay.

There is no discrimination in accessing healthcare services.

Except for migrant workers and Citizens of Comoros Islands (covered by an MoU), all foreign nationals are required to pay for services provided at Public Health Institutions.

Consideration is being given to exempt foreign nationals married to Mauritian Citizens.

Yes, avenues of redress are available to a person who has suffered discrimination.

Right to economic, social and cultural development - Article 22

Poverty rate in Mauritius

Mauritius does not have a national poverty line. However, on the basis available data collected at the Household Budget Surveys, a Relative Poverty Line (set at half median monthly household income per adult equivalent) is used to assess the poverty situation in the country.

Presently, it is estimated that approximately 10% of the households are in situation of poverty.

Results of the Marshall Plan

For the purpose of implementing the Marshall Plan against Poverty, a Marshall Plan Social Contract was introduced in December 2016 as a point of entry for eligible households, who are registered under the Social Register of Mauritius, to benefit from various supports based on conditions that are laid out in the Contract.

The Social Contract was initially valid for a period of 1 year and have been subsequently extended to end of December 2020.

As at to-date, there are 10,274 eligible households under the Social Register of Mauritius, representing a population of 41,361 beneficiaries, who are benefiting from an income support under the monthly Subsistence Allowance Scheme.

With a view to assessing the impact of the Marshall Plan in the alleviation of poverty, the Social Integration Division is currently in the process of conducting a review of the profiling of the existing 10,274 households through a recertification exercise.

The recertification exercise will evaluate the progress made by households following personalized supports offered to them via case management with elements of conditionality.

The recertification process is being effected by way of a formal re-Registration and is expected to be completed by end this year.

Right to education - Article 17

Regulation of Private Actors in the Education Sector

The Government of Mauritius encourages active participation of the private sector in the provision of education and training. It ensures systematically that the provision is regulated as to operate within the defined norms and standards.

The regulation of private activities in Education is carried out by various agencies falling under the overarching responsibility of the Parent Ministry.

Statutory Bodies acting as Regulators for the different sub-sectors has been established, namely:

- (i) The Early Childhood and Care Education Authority (ECCEA) for Private Pre-Primary Schools
- (ii) The Private Secondary Education Authority (PSEA) for Private Secondary Schools;
- (iii) The Mauritius Qualifications Authority (MQA) for Private Technical and Vocational Training Centres; and
- (iv) The Special Education Needs Authority (SENA) for Private Special Education Needs Schools;

The Higher Education Commission (HEC) is the regulatory body for Higher Education in the Republic of Mauritius; and the Quality Assurance Agency (QAA) promotes, maintains and enhances quality assurance of higher education in line with international standards through appropriate quality assurance mechanisms.

Science, Technology, Engineering and Mathematics (STEMs)

The Ministry of Education, Tertiary Education, Science and Technology is specifically mandated to look into the subject of Science and Technology. Students, at all levels, are always encouraged to opt for science education and the Ministry is alive to the Science, Technology, Engineering and Mathematic (STEM) policy. There is no discrimination regarding gender in opting for science subjects.

Both girls and boys have equal access to the Primary and Secondary Schools, where a common curriculum is taught to all.

The curriculum in primary and secondary schools deals with matters of science.

The study of sciences is compulsory for all boys and girls up to 3rd year of secondary schooling subsequent to which they are encouraged to opt for science education.

There is no discrimination in Science, Technology, Engineering and Mathematic enrolment at secondary school level.

At the higher education level, research is encouraged in Science, Technology, Engineering and Mathematic. To that end, a Research Fund has been created at the level of the Higher Education Commission.

Moreover, the Rajiv Gandhi Science Centre (RGSC) has, as the agency responsible for promoting STEM sensitization, adopted strategies of popularizing Science and Technology as per its mandate to maximise awareness.

To this end, the Centre mainly organizes competitions, exhibitions, outreach programmes and awareness programmes, targeting primary and secondary students and the public.

Technical and vocational trainings offered in the educational system

The Mauritius Institute of Training and Development (MITD) is the provider for public vocational education.

It offers various technical programs to provide human resource training to meet the needs of the world of vocational nature.

Polytechnics are another set of institutions that serve to complement the provision of higher-level technical education (middle professional education level).

It is active across four clusters namely health sciences and nursing, engineering, ICT and emerging technologies and tourism and hospitality.

The Polytechnics adopts a future-focused orientation towards rebranding and modernising high-level and high-quality technical education with a view to address skills gaps at the middle-management and supervisory level in Mauritius and the region.

In addition to the MITD and the Polytechnics, there are about 350 private training institutions, registered with the Mauritius Qualifications Authority (MQA), which offer training, mainly in management and information technology.

Article 21- Right to freely dispose of wealth and natural resources

Specific legislative, administrative and judicial measures the government of Mauritius has undertaken to curb the establishment of “shell companies” that deprive communities around the continent of their right to benefit from the exploitation of their natural resources

A. On the part of the question referring to Mauritius having served as a tax haven, we wish to point out that Mauritius does not display any of the characteristic identified by the OECD of a tax haven. Mauritius is compliant with international norms and standards.

Hence, it cannot be contended that Mauritius is a tax haven.

Mauritius has been assigned an overall rating of "Compliant" by the Global Forum on Transparency and Exchange of Information for Tax Purposes during the second round of Exchange of Information on Request (EOIR) reviews. The Global Forum has commended the efforts of Mauritius to expand its exchange of information network.

B. As regards the Legislative, administrative and judicial measures the government of Mauritius has undertaken to curb the establishment of “shell companies”

Amendments have been brought to the Income Tax Act and the Financial Services Act, so that companies benefiting from any tax incentives would have to meet the substantial activities requirements which include –

- Core income generating activities should be in or from Mauritius.
- Employ directly or indirectly a reasonable number of qualified persons to carry out the core activities.
- Incur a minimum level of expenditure proportionate to its level of activities.
- Be managed and controlled from Mauritius.
- Be administered by a management company.

In view of the above, so called ‘shell companies’ cannot benefit from any tax incentives.

Reforms were brought to the Mauritian tax systems by legislative changes brought through the Finance Act 2018 and Finance Act 2019 to remove all features that may be considered as potentially harmful. (A list of these reforms may be made available to the Distinguished Commissioner and they are also available on the website of the Mauritius Revenue Authority).

Following these reforms, all our preferential tax regimes have been cleared by the OECD Forum on Harmful Tax Practices (FHTP). The FHTP is satisfied that Mauritius does not have any harmful features in its tax regimes, including in the reformed Freeport and banking regimes.

The preferential tax regimes of Mauritius have also been assessed by the EU Code of Conduct Group (COCG).

The tax reforms that have recently been implemented are in line with the strategy of Mauritius to be recognised as a well-regulated, transparent and compliant jurisdiction.

Measures put in place to ensure adherence to best practices such as ensuring Mauritians benefit from the exploitation of natural resources and conducting environmental impact assessments.

Respected Commissioners,

As you are aware, in March 2012, the Republic of Mauritius and the Republic of Seychelles signed two treaties confirming their sovereign rights and establishing a legal framework for the co-management of the Joint Area. The Treaty stipulates that all revenue from the resources will be shared on a fifty per cent basis.

These bilateral treaties paved the way for the sustainable co-management of the Joint Zone, for the elaboration of an Environmental Code of practice and a Safety and Security Code for the future exploration and exploitation of the living as well the non-living resources in accordance with International Conventions.

The two States have so far adopted the following:

- (i) A Model Petroleum Agreement for the Joint Zone. This Agreement shall be used as the basis for negotiation between private operators and the two States. It encompasses inter alia, clauses on fiscal regime, account and audit, assets and insurance and protection of environment. It also contains a set of legally binding codes which prospective operators will have to comply with. These include

integration of clean technology and best practices while adhering to a fully elaborated transparent process for Environmental and Safety Assessment and ensuring a precautionary approach.

(ii) A Joint Fiscal and Taxation Code. This code provides for the taxation of income generated from natural resources activities.

(iii) An Offshore Petroleum Safety Code for the safe, secure and sustainable exploitation of the petroleum resources in the Joint Area. All operations shall be regulated by international legal practices including prevention and control of pollution. The purpose of this code is to ensure that offshore petroleum operations carried out in the Joint Zone:

- a) Maintain the integrity of the offshore installation;
- b) Secure the safety of operational personnel; and
- c) Protect the marine environment.

iv) An Environmental Code of Practice for the sustainable management of the natural resources. This code set out the mechanism for the Environmental Impact Assessment. It provides, inter-alia, for environmental mitigations, remediation including compensation in the event of economic loss, incurred expenses, as well as property damage.

v) A ministerial Declaration on the protection of the environment and the sustainable development of the JMA.

Mauritius and Seychelles are the first two mid ocean island counties to have successfully established and manage a Joint maritime Jurisdiction.

Report of the Truth and Justice Commission (TJC) - addressing the issue of land

Following the Truth and Justice Commission Report, a Land Research and Monitoring Unit has been set up under the aegis of the Ministry of Housing and Lands in July 2019.

Furthermore, a special fund has been set up and provided with an amount of MUR 50 m (\$1.26 m) in Budget 2020-2021.

The Land Research and Monitoring Unit has taken possession of 355 files in July 2019. Out of these 355 cases, 46 cases have already been entered in court. Further investigation/ action is required in the case of the remaining 309 cases.

One of the other main recommendation of the Truth and Justice Commission was the setting up of a Land Division of the Supreme Court to expedite matters in relation to land dispute.

On 14 July 2020, Government has introduced into the National Assembly for first reading, the Courts (Amendment) Bill which provides for the setting up of several divisions within the Supreme Court, including a Land Division which will be specialised in the resolution of land disputes and be able to hear and determine matters regarding ownership of land and property rights.

Article 24 – Satisfactory environment

Funds earmarked to support most vulnerable communities

Government has made provisions, in this year's Budget, for Rs 2 billion (\$50.41 m) under the National Environment Fund for securing sustainable and all-inclusive development as follows:

- Rs 1.2 billion (\$30.25 m) to construct drainage infrastructure in high risk flood-prone areas across Mauritius and Rodrigues;
- Rs 215 M (\$5.42 m) for Rehabilitation, protection and management of beaches, lagoons and coral reef programs;
- Rs 1,272 M (\$32 m) for Flood Management Programs and Rs 314 M (\$7.91 m) Landslide Management Programme;
- Rs 207 M (\$5.22 m) for Clean-up Mauritius and Embellishment programs;

- Rs 153 M (\$3.86 m) for Solid Waste Management Programs;
- Rs 40 M (\$1m) for Disaster Risk Reduction Programme; and
- Rs 126 M (\$3.17m) for Green Economy.

Loss of wetlands and mangroves – Measures taken

The loss of wetlands is being addressed through different mechanism. Development activities in the wetland is not allowed under the Environmental Protection Act except, with an Environmental Impact Assessment license. Compensation mechanism are in place in these exceptional circumstances. At present, under the Environmental Impact Assessment (EIA) process, only one (1) case of wetland backfilling has been allowed under the condition that a new wetland be created on site to compensate for the loss. The RAMSAR Committee is advising on the matter.

Furthermore, Mauritius is in the process of developing a wetland bill which will provide further protection to wetland areas which will allow for better management and restoration of the sites of importance. The final draft of the bill is ready and the relevant annexes which will comprise of the description of different wetlands that exist in Mauritius are in the final stage of development. Government has already taken firm commitment for the promulgation of the bill.

Additional questions:

1. Whether any amendment to the Human Rights Act is being envisaged to include economic, social and cultural rights.

First generation rights (mainly civil and political rights) are already protected under Chapter II of the Constitution of Mauritius. Additionally, the provisions of the Welfare State in Mauritius already afford to a large extent second generation rights (the rights to education, health, housing, social

security and right to work) and third generation rights (right to clean water, right to development, right to a clean environment) to Mauritian Citizens.

The UN Committee on Economic, Social and Cultural Rights after examining the latest Periodic Report of Mauritius in April 2019 has recommended that the National Human Rights Commission be provided with an explicit mandate to protect and promote economic, social and cultural rights. This recommendation requires prior consultation with all the relevant stakeholders.

2. Requirements of the Environmental Impact Assessment for extracting of industries (EIA Licence)

The Environment Protection Act does not specifically mention extractive industries in the list of undertakings requiring an Environment Impact Assessment Licence and there are currently no such activities being carried out in Mauritius.

However, the Ministry responsible for the subject matter of Environment may at any time by regulations –

- (a) amend the Fifth Schedule to the Act to include extractive activities in the list of undertakings requiring an environmental impact assessment; and
- (b) issue policy and environmental guidance or standards for an activity that may have an adverse effect on the environment.

The State of Mauritius is committed to the protection and preservation of the environment and will ensure that all activities impacting on the environment are duly regulated.

The State of Mauritius is currently working on a Seabed Minerals Bill which will provide for the registration of prospection and mining activities in respect of seabed minerals and an Offshore Petroleum Bill to provide for the management of petroleum activities within the offshore area of Mauritius.

3. Reporting guidelines on Articles 21 and 24

We have taken good note of the guidelines issued by the African Commission on Human and Peoples' Rights on State Reporting under Article 21 and 24 and will ensure that they are duly adhered to in our next review.