



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**

**Combined twentieth to twenty-third periodic  
reports submitted by Mauritius under article 9 of  
the Convention, due in 2015\***

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\* The present document is being issued without formal editing.

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## **Introduction**

The Treaty-Specific Document of the 20th to 23rd periodic reports of Mauritius on the International Convention on the Elimination of all Forms of Racial Discrimination, which covers the period June 2009 to December 2016, focuses on the progress made by the country in the implementation of the provisions of the Convention since Mauritius was last reviewed in February 2013 by the Committee on the Elimination of Racial Discrimination. The present combined periodic reports include the actions taken by the State to implement, as far as possible, the Concluding Observations made by the Committee following the consideration of the 15th-19th periodic reports of Mauritius during the last review.

### **Article 1: Definition of racial discrimination**

1. There is no specific definition for racial discrimination. However, section 16 of the Constitution, inter alia, provides that “no law shall make any provision that is discriminatory either of itself or in its effect”. The term “discriminatory” is defined in that section as “affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex, whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject to or are accorded privileges or advantages that are not accorded to persons of another such description”.

2. Besides the Constitution, the provisions of the International Convention on the Elimination of all Forms of Racial Discrimination are incorporated in different pieces of legislations, among which is the Equal Opportunities Act.

### **Articles 2 & 3: Legal and administrative framework to prohibit all forms of racial discrimination**

3. Section 3 of the Constitution of Mauritius firmly establishes the right of every citizen to be treated equally and to live a life free from discrimination. It prohibits discrimination on ground of race, place of origin, political opinions, colour, creed or sex, subject to the rights and freedoms of others.

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

- Section 183 (“Interference with freedom of conscience”) provides for a fine not exceeding 100,000 rupees, and by imprisonment for a term not exceeding 2 years;
- Section 184 (“Disturbing religious ceremony”) provides for a fine not exceeding 100,000 rupees and imprisonment for a term not exceeding 2 years;
- Section 185 (“Outrage on religious worship”) provides for a fine not exceeding 100,000 rupees, and imprisonment for a term not exceeding 2 years;
- Section 206 (“Outrage against public and religious morality”) provides for imprisonment for a term not exceeding 2 years and to a fine not exceeding 100,000 rupees;
- Section 282 (“Stirring up racial hatred”) provides under subsection (1) for a fine not exceeding 100,000 rupees and penal servitude for a term not exceeding 20 years and under subsection (2) for a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 4 years;
- Section 283 (“Sedition”) is an offence committed by any person who, by any means specified in section 206 — (a) holds or brings into hatred or contempt, or excites disaffection towards, the Government or the administration of justice, (b) raises discontent or disaffection among the citizens of Mauritius or promotes feelings or ill will and hostility between different classes of such citizens. The penalty provided for

is imprisonment for a term not exceeding 2 years and a fine not exceeding 100,000 rupees;

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

5. To counter the use of the internet in the dissemination of discriminatory or racist messages, the Information and Communication Technologies Act criminalises the use of an information and communication service in the following circumstances- (a) for the transmission or reception of a message which is grossly offensive, or of an indecent, obscene or menacing character, or (b) for the purpose of causing annoyance, inconvenience or needless anxiety to any person; and (c) for the transmission of a message which is of a nature likely to endanger or compromise State defence, public safety or public order.

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

#### **Article 4: Measures to prohibit incitement to racial discrimination**

7. An Independent Broadcasting Authority (IBA) was created in 2001 to oversee the provision of radio and television broadcasting services. Its objects also include the preservation and promotion of the plural nature of Mauritian culture by ensuring that licensees include, in their services, programmes reflecting the linguistic and cultural diversity of Mauritius. A Standards Committee set up under the IBA is responsible for the drawing up of a code of ethics for licensees and a code of advertising practice.

8. The Code of Conduct for Broadcasting Services, in its Preamble, stresses on the upholding of the fundamental principle “that the freedom of all broadcasting licensees is indivisible from, and subject to, the same restraints as those relevant to the individual person, and is founded on the individual’s right to be informed and to freely receive and disseminate opinions.” Furthermore, broadcasting licensees may not broadcast “any material which is indecent, obscene or offensive to public morals or offensive to the religious convictions or feelings of any section of the population or likely to prejudice the safety of the State or the public order or relations between sections of the population.”

9. The Authority has set up a Complaints Committee which considers and adjudicates, inter alia, on any complaint of breaches or anticipated breaches of the codes and unjust or unfair treatment or the likelihood of such treatment in a broadcast programme. Upon complaints made to the police, an investigation is carried out by the police and if charges are found to be substantiated, the office of the Director of Public Prosecutions advises prosecution.

10. The number of cases pertaining to acts of racial discrimination or incitement to racial hatred reported and prosecuted by the Police and outcomes thereof for the period May 2009 to December 2016 is as follows:

| <i>Type of offence</i>                           | <i>Number of cases</i> | <i>Outcomes of Cases</i>    |                                  |  |   |   |
|--|------------------------|-----------------------------|----------------------------------|--|---|---|
|  |                        | <i>No. of persons fined</i> | <i>No. of persons imprisoned</i> | <i>No further action as advised by DPP</i> | <i>No. of cases at the level of DPP</i> | <i>No. of cases still under enquiry</i> |
| 1. Outrage against public and religious morality | 14                     | 01                          | -                                | 02   | 01                                      | 10                                      |
| 2. Stirring up racial hatred                     | 16                     | -                           | -                                | 08   | 02                                      | 06                                      |
| 3. Alleged sedition                              | 02                     | -                           | -                                | 01   | -                                       | 01                                      |
| 4. Disturbing religious ceremony                 | 10                     | 01                          | -                                | 06   | -                                       | 03                                      |
| 6. Profanation                                   | 02                     | -                           | -                                | 02<br>(accused unknown)                    | -                                       | -                                       |
| 7. Breach of ICTA*                               | 04                     | -                           | -                                | -  | -                                       | 04                                      |
| <b>Total</b>                                     | <b>48</b>              | <b>02</b>                   | <b>-</b>                         | <b>19</b>                                  | <b>03</b>                               | <b>24</b>                               |

\* Information and Communication Technologies Act (ICTA) 2001.

## Article 5: Non-discriminatory implementation of the rights and freedoms under the Convention

### Fair Administration of Justice

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

12. The Government Programme 2015-2019 provides that reforms will be brought to the judiciary to expedite determination of court cases and improve services to the public and that a new Independent Court of Appeal will be set up in line with the MacKay Report of 1997. Government also proposes to introduce legislation to set up a separate Court of Appeal Section and a separate High Court Section of the Supreme Court. In this context, Government intends to:

- Renovate the Supreme Court Historical Building to accommodate the proposed Court of Appeal;
- Build a dedicated state of the art Court Building for the Supreme Court and all its Divisions;
- Improve the required support services for a full-fledged Family Division;
- Review and upgrade the premises of all District Court to ensure better services to all stakeholders since the bulk of court cases are dealt with at this level;

- Review and update the Code de Procédure Civile which dates back to 1808;
- Reinforce Special witness schemes to enable the Courts to provide certain facilities to special categories of witnesses;
- Upgrade the digital and audio recording systems to ensure accurate record keeping and speedier delivery of justice;
- Review legal aid fees to attorneys and barristers to ensure adequate legal representation during pre-trial and trial stages to all pauper litigants;
- Update the Criminal Code to provide for new criminal offences, including those related to “Ponzi Schemes”, financial crime as well as offences related to use of technology;
- Empower the Law Reform Commission and bring further amendments to the Criminal Code and other laws to ensure that they meet the needs of contemporary Mauritius;
- Review laws of evidence and rules with a view to codifying them in line with recent developments in the Commonwealth;
- Make better provision for the rights and interests of victims and, in particular, provide in the law for representations by or on behalf of a victim to be taken into account at sentencing stage;
- Amend the Criminal Code to provide for a better legal framework for dealing with sexual offences and enhance the procedural context in which such cases are dealt with;
- Introduce a Juvenile Justice Bill to provide for a more modern juvenile justice system; and
- Amend the Curatelle Act with a view to making further and better provision for the administration of vacant estates.

#### **Measures to ensure no discrimination in the fight against terrorism**

13. The Prevention of Terrorism Act was enacted in Mauritius in 2002 and it has all the provisions which are in line with section 3 of the Constitution of Mauritius which guarantees, among others, the fundamental rights and freedoms of the individual, right to life, liberty and security. It is also to be noted that no terrorism-related case has been reported since the enactment of this legislation.

14. Moreover, the National Counter Terrorism Strategy of Mauritius, which is currently in preparation, is in line with the UN Global Counter Terrorism Strategy, which has four pillars as follows:

- **Pillar I:** Addressing conditions conducive to the spread of terrorism;
- **Pillar II:** Preventing and Combating Terrorism;
- **Pillar III:** Building States’ Capacity to prevent and combat terrorism and strengthen the UN System’s role in this regards; and
- **Pillar IV:** Ensuring respect for Human Rights and the Rule of Law as the fundamental basis of the fight against terrorism.

15. Particular consideration is being given to Pillar IV to ensure that the fight against terrorism does not discriminate, in purpose or effect, on grounds of race, colour, descent, or national or ethnic origin and that individuals are not subjected to racial or ethnic profiling or stereotyping.

#### **Investigation on alleged cases of discrimination**

16. The mandate of the Equal Opportunities Commission established by the Equal Opportunities Act is to work towards the elimination of discrimination and the promotion of equality of opportunity and good relations between persons of different status. The Commission is mandated to address complaints alleging discrimination on the basis of one

or more of the 12 protected grounds under the law. Such complaints may emanate from individuals, a group of persons, corporate bodies or they may even be anonymous. Very often, complainants seek information from the Commission before lodging the complaint.

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

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

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

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

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

22. The Equal Opportunities Commission has since its inception dealt with more than 1400 cases lodged by either individuals or by group of individuals seeking redress as to cases of discrimination. However, the Commission has had also a number of cases of frivolous, vexatious and unfounded nature from complainants. The population is being sensitized by the Commission with regards to lodging of complaints before it. Below are

figures concerning complaints dealt with by the Commission for the period April 2012 to 31 December 2016.

|   |       |
|---|-------|
| Number of complaints lodged as at December 2016                       | 1 769 |
| Number of complaints not yet examined                                 | 30    |
| Number of complaints examined by the Commission out of which:         | 1739  |
| Number of complaints not under purview of the Act                     | 630   |
| Number of complaints time barred                                      | 93    |
| Number of complaints withdrawn  | 127   |
| Number of complaints under Investigation                              | 198   |
| Number of complaints in which there was no evidence of discrimination | 427   |
| Number of complaints where additional information is being sought     | 36    |
| Number of complaints referred to Equal Opportunities Tribunal         | 31    |
| Number of complaints set aside  | 51    |
| Number of complaints referred to other instances                      | 17    |
| Number of complaints conciliated/settled                              | 129   |

*Source:* Equal Opportunities Commission.

23. Out of the above, the table below shows the cases lodged regarding discrimination on the basis of ethnic origin during the same period.

|   |     |
|---|-----|
| Number of complaints lodged as at December 2016                       | 296 |
| Number of complaints not yet examined                                 | 8   |
| Number of complaints examined by the Commission out of which :        | 288 |
| Number of complaints not under purview of the Act                     | 37  |
| Number of complaints time barred                                      | 15  |
| Number of complaints withdrawn  | 32  |
| Number of complaints under Investigation                              | 54  |
| Number of complaints in which there was no evidence of discrimination | 98  |
| Number of complaints where additional information is being sought     | 02  |
| Number of complaints referred to Equal Opportunities Tribunal         | 10  |
| No of cases set aside   | 08  |
| Number of complaints referred to other instances                      | 04  |
| Number of complaints conciliated/settled                              | 28  |

#### **Right and protection of person by the State**

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

25. Section 10 of the Constitution lays down provisions to secure the protection of the law, amongst which are the presumption of innocence, the right to be informed as soon as reasonably practicable of the nature of the offence and in a language that the accused understands, the right to be given adequate time and facilities for the preparation of one's defence, the right to defend oneself in person or by a legal representative of one's own choice or by a legal representative provided at the public expense, the right to the assistance

of an interpreter if one cannot understand the language used at the trial. If a person cannot afford to retain the services of a legal representative, there is the possibility to apply for legal aid under the Legal Aid Act and Legal Assistance Act.

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

#### **Pre-trial detention by the Police**

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

28. With a view to ensuring the right of the accused to be tried within the minimum delay, the specialised division of the Supreme Court, sitting as Assizes Court sits on a daily basis. Furthermore, in line with the recommendations of the Judicial Reforms Committee, it is intended to set up a Court of Appeal. The Government Programme 2015-2019 proposes reforms to the Judiciary and provides that 'reforms will be brought to the judiciary to expedite determination of court cases and improve services to the public'. Government will introduce legislation to set up a separate Court of Appeal Section and a separate High Court Section of the Supreme Court.

#### **Prevention of the use of illegal force by the Police**

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

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

31. The outcomes of the cases heard by the Police Complaints Division of the NHRC Commission for period July 2013 to December 2016 are as follows:

| Period       | No. of cases | No. of cases withdrawn | No. of cases set aside after enquiry (unfounded, unjustified) | No. of cases settled by conciliation | Sent to DPP for further action |   | Sent to DFSC for disciplinary action | Still under investigation |
|--------------|--------------|------------------------|---|--------------------------------------|--------------------------------|---|--------------------------------------|---------------------------|
|              |              |                        |   |                                      | Still at level of DPP          | No. of cases in which advice already obtained |                                      |                           |
| July-Dec     |              |                        |   |                                      |                                |   |                                      |                           |
| 2013         | 321          | 6                      | 311   | 2                                    | 1                              | 1*  | -                                    | -                         |
| 2014         | 529          | 13                     | 472   | 2                                    | 3                              | -   | 2                                    | 37                        |
| 2015         | 568          | 7                      | 501   | 4                                    | 1                              | -   | -                                    | 55                        |
| 2016         | 601          | 9                      | 390   | 2                                    | -                              | -   | 1                                    | 199                       |
| <b>Total</b> | <b>2 019</b> | <b>35</b>              | <b>1 674</b>  | <b>10</b>                            | <b>5</b>                       | <b>1</b>                                      | <b>3</b>                             | <b>291</b>                |

Notes: 893 cases were transmitted from the Complaints Investigation Bureau to the NHRC after the proclamation of the Police Complaints Act 2012 on 1 July 2013 and all the cases have been processed and recommendations have been made to the relevant authorities by the relevant Division.

\* DFSC: Discipline Forces Service Commission.

\* 1: DPP has advised no further action in this case.

32. As announced in the Government Programme 2015-2019, presented on 27 January 2015, Government has now enacted the required legislation to establish an Independent Police Complaints Commission to be chaired by a former Judge of the Supreme Court. The law has already been proclaimed and the institution will soon become operational. Its aim is to address cases of complaints against the Police in a more expeditious manner thereby further consolidating the fundamental rights of our citizens.

33. In addition to the Independent Police Complaints Commission, the recommendations made by the NHRC in its 2007 Report with respect to the conduct of Police are being implemented with, inter-alia, more interaction with the public through the "Community Policing" and the "Neighbourhood Watch" systems, regular patrols by the Police in risk areas, as well as the implementation of the other recommendations regarding search and warrant.

34. The Government Programme 2015-2019, has also highlighted that Government will come up with a modern legal framework modelled on the UK Police and Criminal Evidence Act to address the abusiveness and arbitrariness of the present system of "provisional charges". In this regard Government will review the policy underpinning the existing Bill and an international consultant has been approached to provide assistance in the drafting of the new Bill. The Government Programme further provides that Police Stations will be equipped with CCTV and audio recording systems and investigations will be conducted in a more professional manner with focus on scientific-led evidence rather than confession. Furthermore, with the coming into force of the DNA Identification Act, more emphasis is being laid on the reliance of scientific evidence instead of confession. These are additional safeguards against allegations to the effect that confessions are extracted by Police using force.

### **Recruitment in the Police Force and other enforcement agencies**

35. Recruitment in the Police Force is done through the Disciplined Forces Service Commission (DFSC) which is established by virtue of Section 90 of the Constitution. Section 91 of the Constitution vests the Commission with powers to appoint persons to hold office in the discipline forces as defined in Section III of the Constitution, namely, naval, military or air force; the Police Force; the Fire Services, and the Mauritius Prison Service. The DFSC is guided in the performance of its functions by the following principles:

- Responsible attitude and efficiency;
- Unrelenting and quality service;

- Respect for the Constitution and valuing people;
- Integrity and independence;
- Fairness and equity;
- Team spirit and timeliness;
- Innovativeness and improvement.

### **Procedures for the return of non-citizens from the country to another territory**

#### *Deportation*

36. A Deportation Order under the Deportation Act is required to make a non-citizen leave and remain out of Mauritius. The Deportation Act sets the procedures for a deportation order in respect of a convicted person, an undesirable person, a destitute person or a prohibited immigrant under the Immigration Act. The Deportation Act also provides, inter alia, for detention in custody pending decision; how deportation orders are to be executed; deportation orders in respect of persons undergoing a sentence of imprisonment; and expenses of or incidental to deportation of a person to be met by the State.

#### *Extradition*

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

38. Part II of the Extradition Act deals with extradition to a foreign State. Under section 8 of the Extradition Act, every request for the surrender of an offender who is in Mauritius is made to the Minister responsible for the subject of external affairs for transmission to the Attorney General through the diplomatic channel or by such other means as may be specified in the extradition treaty or in the case of a Commonwealth country, as may be agreed upon.

39. Pursuant to section 8 of the Act the request for extradition is transmitted to the Attorney General's Office which processes the extradition request in accordance with the relevant provisions of the Extradition Act and/or the relevant Extradition Treaty (between Mauritius and the Requesting State). The Attorney General may authorise, in writing, a Magistrate to issue a warrant for the arrest of the offender as provided for under section 9 of the Extradition Act.

40. The principles relating to the law of extradition have been clearly set out in the cases of *Danche D. v The Commissioner of Police & ORS (2002) SCJ 171* and ***Ramankhan M F. v The Commissioner of Prisons (2002) SCJ 140***, and both cases are still good law.

41. In the first case the applicant, a French National moved the court for the issue of a writ of habeas corpus so that his release be ordered. A warrant for arrest of the applicant had been issued under the Extradition Act since the latter had been accused of having committed in the United States of America (USA) the offences of mail fraud, interstate transportation of stolen property and wire fraud. The argument put forward by the applicant was that there was no extradition treaty between Mauritius and U.S.A. It was held by the court that the extradition treaty signed between the United Kingdom and the U.S.A, under the United Kingdom Extradition Acts 1870-1935 was succeeded to by Mauritius after its independence and it was open to Mauritius from 1968 onwards to give notice of termination of the treaty. Since neither Mauritius nor U.S.A had given notice of termination of the treaty, the court held that the treaty was still binding on both countries and the application was set aside.

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

- (a) There is no extradition treaty between Mauritius and England;
- (b) There was no prima facie evidence established against the applicant in respect of the charge on indecent assault;
- (c) His extradition is required for the purposes of a police enquiry. Consequently, he is only a suspect and not an accused party under the Act;
- (d) He will not be afforded a fair hearing in England in that: (i) his right to silence will be undermined; (ii) he will be amenable to a penalty which is more severe in England than in Mauritius for the offence with which he has been charged; and (iii) he will be denied the protection of stricter legal rules in Mauritius governing the evidence of child witnesses; and
- (e) There is a discrepancy between the charge laid against the applicant in the document that was put before the magistrate.

43. It was held by the Court that:

- (a) There was no need for extradition treaty between England and a Commonwealth Country like Mauritius;
- (b) There was sufficient evidence for the committal; and
- (c) The applicant was an ‘accused’ for an extradition crime namely indecent assault in England which is comparable to the Mauritian offence of attempt upon chastity.

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

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

46. Information on the number of extradition requests received, the requesting States and the number of persons whose extradition was authorised or refused is as follows:

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

### **Refugees and Asylum seekers**

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

Convention, it does however, attempt to treat applications for refugee status or political asylum on a humanitarian, case-to-case basis by facilitating their settlement in a friendly country willing to receive them.

### **Political rights**

#### *Electoral reform*

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

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

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

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

51. With a view to complying with the findings of the UN Human Rights Committee, Parliament, in July 2014, passed the Constitution (Declaration of Community) (Temporary Provisions) Act whereby it was not mandatory for a candidate to declare the community to which he belongs for the general elections of December 2014.

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

- (i) Stability;
- (ii) Fairness;
- (iii) Inclusiveness to ensure representation of all components of the Mauritian rainbow nation;
- (iv) Gender representation; and
- (v) Transparency and accountability.

53. Government stands committed to reform the electoral system so as, inter alia, to introduce a dose of proportional representation in the National Assembly, guarantee better women’s representation and address the issue of mandatory declaration of community. In this context a Ministerial Committee had been set up in January 2016 to examine the various

implications of the proposed changes and make recommendations. Thereafter, appropriate consultations will be held with all the stakeholders prior to implementation.

54. As at end of 2016, the Ministerial Committee has already met 10 times and has been looking into several issues pertaining to the electoral reform, namely, the financing of political parties, widening of powers of the Electoral Supervisory Commission (ESC), guaranteeing better women's representation in the National Assembly and amendments to the electoral system in Rodrigues. The Committee has submitted its proposals on the financing of political parties to Cabinet, which gave its approval thereon on 01 April 2016. The next step is to give drafting instructions to the Attorney General's Office for the preparation of the Draft Bill.

55. The Committee has also submitted its proposals on amendments to the electoral system in Rodrigues to the Cabinet, which gave its approval thereon on 21 and 28 October 2016. The said amendments make provision, inter alia, for a fairer representation of women and a more equitable representation of parties in the Rodrigues Regional Assembly. Consequently, amendments have been brought to the Rodrigues Regional Assembly Act, through the Rodrigues Regional Assembly (Amendment) Act 2016. Concurrently, an amendment has been brought to the Constitution, through the Constitution (Amendment No. 2) Act 2016 to make provision for a minimum number of candidates for election to the Rodrigues Regional Assembly to be of a particular sex, with a view to ensuring adequate representation of each sex in the Rodrigues Regional Assembly.

#### **Right to freedom of movement**

56. Chapter II of the Constitution guarantees the enjoyment of fundamental rights and freedoms which include the right to life, the right to personal liberty, protection from slavery and forced labour, protection from inhuman treatment, protection from deprivation of property, protection of the law, protection for privacy of home and other property, freedom of conscience, freedom of expression, freedom of assembly and association, freedom of movement and protection from discrimination.

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

#### **The right to leave any country including one's own and to return**

58. Entry and exit visas are issued by the Passport and Immigration Office to foreigners entering the country. Those staying for a longer period must apply for a residence permit. Those persons who are lawfully within the territory have the freedom of movement and to choose their residence.

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

#### *Restriction to travel*

60. Restriction on the right to leave Mauritius may be imposed by a Court of Law where the person is subject of a Court case. The Mauritius Revenue Authority may also raise an objection to departure against a person who is indebted to the Authority. A Police Officer, not below the rank of Assistant Superintendent of Police, may require the Passport and Immigration Officer to prohibit the departure of a detainee. Such prohibition against departure will lapse after 72 hours (section 13 of Bail Act — Interim Prohibition against Departure). According to Section 53(1)(a) of the Prevention of Corruption Act 2002, the Independent Commission against Corruption may arrest any person who may assist in its investigation and who is about to leave Mauritius.

*Issuance of travel documents*

61. Besides the issue of travel documents for citizens of Mauritius who wish to travel abroad, travel documents are also issued in the following circumstances:

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

62. All citizens of Mauritius are entitled to a travel document. However, a Court of Law may impose restrictions on the use of such travel documents where there are criminal proceedings pending against a person. Statistics on the number of Travel Documents and Passports issued by the Passport and Immigration Office (PIO) from years 2007 up to 2016 are as follows:

| <i>Year</i>                             | <i>2007</i>   | <i>2008</i>   | <i>2009</i>   | <i>2010</i>   | <i>2011</i>   | <i>2012</i>   | <i>2013</i>   | <i>2014</i>   | <i>2015</i>   | <i>2016</i>   |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| No. of<br>Travel<br>Documents<br>issued | 817           | 636           | 458           | 460           | 504           | 227           | 280           | 312           | 409           | 395           |
| No. of<br>Passports<br>issued           | 63 430        | 56 126        | 45 914        | 48 776        | 51 853        | 50 912        | 55 299        | 62 673        | 63 738        | 78 445        |
| <b>Total</b>                            | <b>64 247</b> | <b>56 762</b> | <b>46 372</b> | <b>49 236</b> | <b>52 357</b> | <b>51 139</b> | <b>55 579</b> | <b>62 985</b> | <b>64 147</b> | <b>78 840</b> |

*Source:* Mauritius Police Force.

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

*Requirements for the admission of Non-Citizen*

64. A non-citizen should hold a valid residence permit, except those who are exempt persons under the Passports Regulations and the Immigration Act, subject to the person:

- (a) Holding a valid passport;
- (b) Possessing a valid return passage ticket;
- (c) Having adequate funds; and
- (d) Being eligible to re-enter country of origin/residence.

**The Chagos Archipelago case**

65. The Republic of Mauritius includes the islands of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia and any other island comprised in the State of Mauritius.

66. The Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of Mauritius under both Mauritian law and international law. Although Mauritius has sovereignty over the Chagos Archipelago, it is being prevented from exercising its rights over the Chagos Archipelago because of the unlawful control of the United Kingdom over the Archipelago.

67. The Government of Mauritius does not recognise the so-called “British Indian Ocean Territory” which the United Kingdom purported to create by illegally excising the

Chagos Archipelago from the territory of Mauritius prior to its accession to independence. This excision was carried out in violation of international law and the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly Resolution 1514 (XV) of 14 December 1960) prohibiting the dismemberment of any colonial country prior to independence, and General Assembly Resolutions 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967.

68. Since this illegal excision, Mauritius has relentlessly pursued all efforts for the completion of its decolonisation process, thereby enabling Mauritius to effectively exercise its sovereignty over the Chagos Archipelago. In this context, Mauritius has continuously received the support of the African Union and the Non-Aligned Movement which have constantly recognised the sovereignty of Mauritius over the Chagos Archipelago.

69. The excision of the Chagos Archipelago from the territory of Mauritius also involved the shameful eviction by the British authorities of the Mauritians who were residing at the time in the Archipelago ('Chagossians') in total disregard of their human rights in order to pave the way for the establishment of a US military base in Diego Garcia. Most of the Chagossians were removed to Mauritius.

70. Chagossians, being fully-fledged citizens of Mauritius, enjoy the same rights as other Mauritian citizens. However, with a view to improving the well-being of the Chagossians, the Government of Mauritius has taken and continues to take special measures in their favour. These measures include the donation of land for the construction of houses and the setting up of the Chagossian Welfare Fund. In 2012, the Chagossian Welfare Fund Act was amended to provide for children of members of the Chagossian community to be eligible to stand as candidates and to vote at elections for members of the Board of the Fund.

71. The Government of Mauritius recognises the legitimate right and claim of the former inhabitants of the Chagos Archipelago, as Mauritian citizens, to be resettled in the Archipelago and it will continue to press for the completion of the decolonisation process of Mauritius and the early and unconditional return of the Chagos Archipelago to the effective sovereign control of Mauritius, whilst firmly supporting the right of return of the Chagossians and other Mauritians to the Archipelago.

### **The right to nationality**

72. The right to citizenship is enshrined in Section III of the Constitution. It provides, *inter alia*;

(i) That any person born in Mauritius after 11 March 1968 (Mauritius obtained its independence on 12 March 1968), shall become a citizen of Mauritius if either of his parents is a citizen of Mauritius;

(ii) That a person shall not become a citizen of Mauritius by virtue of his birth if neither of his parents is a Citizen of Mauritius;

(iii) A person who, after 11 March 1968, marries another person who is or has become a citizen of Mauritius shall be entitled upon making an application in the prescribed manner and taking the oath of allegiance shall be entitled to be registered as a citizen of Mauritius.

73. Pursuant to Section III of the Constitution, the Mauritius Citizenship Act provides, among others, that:

(i) Citizenship shall be granted to a non-citizen minor child, upon his adoption, given that his adaptor is a citizen of Mauritius;

(ii) Citizenship may be granted to a Commonwealth citizen of full age and capacity upon his application in the prescribed manner and subject to certain conditions;

(iii) A Certificate of Naturalisation may be granted to an alien (not a Commonwealth Citizen or a British protected person) of full age and capacity, who makes an application in the prescribed form and upon satisfaction of some criteria.

74. However, the law also provides that a person who has acquired citizenship by registration or naturalization may be deprived of his Mauritian Citizenship if, among others:

- (i) The citizenship has been acquired by means of fraud, false representation or the concealment of any material fact;
- (ii) The person has shown himself, by act or speech, disloyal towards the State;
- (iii) The person has within 7 years after his registration or naturalisation under the Act, been sentenced in any country to imprisonment for a term of not less than 12 months.

#### **The right to marriage and choice of spouse**

75. The right to marriage and choice of spouse is provided for in the Code Civil Mauricien. There is no constraint regarding the choice of spouse. The law provides, *inter alia*, that:

- (i) The minimum age of legal marriage is 18 years. However, a minor aged at least 16 years may contract a civil marriage with the consent of his parents;
- (ii) There can be no marriage without consent. If ever there has been a marriage without the free consent of the two partners, the marriage may be dissolved upon application of either of the two; and
- (iii) There can be no second marriage before the dissolution of the first one.

#### **The right to own property alone as well as in association with others**

76. The rights, duties and freedoms provided for in Chapter 1 of the Charter have been enshrined in the law of Mauritius. Chapter II of the Mauritius Constitution guarantees the enjoyment of fundamental rights and freedoms which include the right to life, the right to personal liberty, protection from slavery and forced labour, protection from inhuman treatment, protection from deprivation of property, protection for privacy of home and other property, and protection of the law, among others.

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

#### **The right to inherit**

78. The right to inherit is also provided for in the Code Civil Mauricien which lays down the procedures for inheritance according to law and by testament, the rules of succession and the conditions for acceptance and renunciation of succession.

#### **The right to freedom of thought, conscience and religion**

79. The freedom of thought, conscience and religion is entrenched in Section 11 of the Constitution which provides that no person shall be hindered in the enjoyment of his freedom of conscience, including the freedom of thought and religion. Section 11 also provides that no person may be forced to accept an opinion or religious beliefs contrary to his convictions.

#### *Subsidies to religious bodies*

80. In order to enable citizens to practise their religion indiscriminately, the Government provides religious subsidies to religious bodies, and infrastructural facilities during all

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

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

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

#### **The right to freedom of opinion and expression**

82. Section 12 of the Constitution provides for freedom of expression, that is freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence. Freedom of the press is guaranteed and is an essential component of the right to freedom of expression provided for under section 12 of the Constitution. In the Government Programme 2015-2019, it is stated that a Freedom of Information Act will be enacted to promote transparency and accountability in public administration in contract allocations. Given that the nature and scope of such legislation is an evolving one, Government is presently doing the necessary ground work for the preparation of a legislation which will adopt innovative processes to improve access to information. Once this initial process is completed drafting instructions will be given to the Attorney-General’s Office to proceed with the preparation of the Bill.

#### **The right to freedom of peaceful assembly and association**

83. Section 13 of the Constitution ensures that the right to freedom of peaceful assembly can be enjoyed whilst striking the right balance with the need to maintain public order and safety. The Public Gatherings Act regulates the manner in which public gatherings shall be held or organised. Not less than 7 clear days’ written notice of the public gathering should be given to the Commissioner of Police. The latter may impose any condition on the holding of the gathering and gives due consideration to matters of defence, public safety and public order.

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

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

86. In conformity with section 13 of the Constitution, section 21 of the Equal Opportunities Act states that no person shall discriminate against another one when the

latter is invited to join him in the setting up of a company, partnership, “société” or registered association. Furthermore, a company, partnership, “société” or registered association, or an officer shall not discriminate against a member of the body by denying that member access, or limiting his access, to a benefit, facility or service arising from membership; by expelling that member; or by placing that member at a disadvantage in any other manner.

### **The right to work**

87. According to section 38 of the Employment Rights Act, employees benefit from protection against termination of their work agreement. An agreement shall not be terminated by an employer by reasons of a worker’s race, colour, caste, national extraction, social origin, pregnancy, religion, political opinion, sex, sexual orientation, HIV status, marital status or family responsibilities.

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

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

90. Although Mauritius is not a signatory to the 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, Government, as far as possible, applies the essence of the Convention in cases of disputes between migrant workers and their employer. Article 13 of the Code Civil Mauricien provides as follows-“L’étranger jouira à Maurice des mêmes droits civils que ceux qui sont ou seront accordés aux Mauriciens par les traités de la nation à laquelle cet étranger appartiendra.” However, section 16(4)(b) of the Constitution allows for the passing of laws which may afford a different treatment to persons who are not citizens of Mauritius.

91. Migrant workers enjoy the same terms and conditions of employment, including minimum wages as those laid down for local workers in our labour legislation. Employers are required to submit a duly vetted model contract of employment to migrant workers at the time they apply for work permits on behalf of their foreign workers. Payment of the total salary and other benefits has to be effected directly to the foreign workers in Mauritius itself and this clause should be included in the contract of employment before it is vetted.

92. As already stated, the Equal Opportunities Commission has been established by Government and is mandated to address complaints alleging discrimination on the basis of one or more of the 12 protected grounds under the law. This includes discrimination or victimization on the basis of community and caste. Such complaints may emanate from individuals, a group of persons, corporate bodies or they may even be anonymous.

### **The right to form and join trade unions**

93. In order to reform the industrial relations framework, promote effective tripartism and strengthen dialogue with social partners, the Employment Relations Act was passed in August 2008. The Act focuses on, inter alia, the protection and enhancement of the democratic rights of workers and trade unions; the promotion of collective bargaining; the promotion of voluntary settlement and peaceful resolution of disputes; the strengthening of the disputes and conflicts resolution procedures and institutions to ensure speedy and effective settlement; the right to strike, as a last resort, after conciliation and mediation have failed; and the building of a productive employment relationship.

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

### **The right to housing**

#### *Housing programmes*

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

96. In its 2015-2019 Government Programme, Government has undertaken to increase housing supply and home ownership for the economically and socially disadvantaged. The current policy direction in social housing is to:

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

#### *Social Housing Policy of the Government*

97. The Ministry of Housing and Lands has among its objectives, a National Housing Programme for period 2015-2019. This include the construction of 10 000 concrete housing units of 50m<sup>2</sup> each for households earning less than Rs 20 000 monthly. The housing units are meant to beneficiaries of the National Housing Development Corporation, with subsidy from Government as follows:

| <i>Family Income (Rs)</i> | <i>Purchase price of the housing unit</i> | <i>Government subsidy</i>    |
|---------------------------|---|------------------------------|
| ≤10 000                   | 1/3 of the construction cost              | 2/3 of the construction cost |
| 10 001-15 000             | 1/2 of the construction cost              | 1/2 of the construction cost |
| 15 001-20 000             | 4/5 of the construction cost              | 1/5 of the construction cost |

98. The eligibility criteria for the applicants to be allocated a housing unit are as follows:

- (i) Not be owner of a house (including National Housing Development Corporation or Central Housing Authority house);
- (ii) Not own a residential plot of land;
- (iii) Not hold a residential plot of State Land by lease;
- (iv) Not having been granted any Government sponsored loan by MHC Ltd;
- (v) Not having benefited from any Government grant for the casting of a roof slab; and
- (vi) Not having received any financial assistance from Government for the purchase of construction materials.

99. The beneficiaries can settle the cost of the houses either by cash or through Government sponsored loans from financial institutions such as the Mauritius Housing

Company or from other leading institutions. Also, all beneficiaries are granted a long term residential lease expiring on 30 June 2060, on the plot of land. Annual rentals for leases regarding sites built up with a housing unit are at a nominal rate based on the beneficiaries' income as follows:

| <i>Household income (Rs)</i> | <i>Annual rent (Rs)</i> | <i>Remarks</i>                                      |
|------------------------------|-------------------------|---|
| < 7 500                      | 1                       |   |
| 7 501-10 000                 | 1 000                   | 50% increase for each subsequent period of 10 years |
| 10 001-15 000                | 2 000                   | 50% for each subsequent period of 10 years          |
| 15 001-20 000                | 3 000                   | 50% for each subsequent period of 10 years          |

100. The Budget 2015 has allowed for the increase in size of the housing units to be constructed to 50m<sup>2</sup> to accommodate at least 2 bedrooms compared to previous schemes where the size of the housing unit varied from 36m<sup>2</sup> to 39m<sup>2</sup>. More than 5 700 families have benefited from this scheme.

101. To provide for decent housing facilities to the vulnerable group, the National Empowerment Foundation (NEF) operates a fully concrete housing scheme of size up to 50m<sup>2</sup> for land owners and non-land owners who are registered and found eligible in the Social Register of Mauritius. For owners of land, the housing unit is constructed by the NEF and the beneficiary has to reimburse only 25% of the housing cost in monthly instalments over a period of 20 to 25 years. As regard households who are not owners of land, the Ministry of Housing and Lands would reserve 10% of the total number of housing units in all its new housing projects of size 50m<sup>2</sup> undertaken by the National Housing Development Company Limited.

*Financial assistance for roof slabs and purchase of building materials*

102. Government also encourages self-help construction of housing units by very low to low income families who already own a plot of land. These families are financially assisted through a grant scheme either for the casting of roof slabs to complete their construction or for the purchase of building materials to start their construction. As at end 2016, some 54,973 families have benefited from that scheme and Government has spent some Rs 2.30 Billion. Details of the scheme are as follows:

| <i>Existing Housing Schemes</i> | <i>Household Income Eligibility</i> | <i>Amount</i>                           | <i>Details of Scheme</i>  |
|---------------------------------|-------------------------------------|---|---|
| Roof Slab Grant                 | ≤Rs10 000                           | Maximum one-off cash grant of Rs 75 000 | Households who own a plot of land but cannot afford to complete construction of their house and has reached up to the beam level. The grant is for the casting of roof slab for an area up to 110m <sup>2</sup> . |
|                                 | >Rs10 000-≤Rs 15 000                | Maximum one-off cash grant of Rs 40 000 |   |
| Purchase of Building Materials  | ≤Rs10 000                           | Maximum one-off cash grant of Rs 65 000 | Households who own a plot of land but cannot afford to start construction of a housing unit of up to 110m <sup>2</sup> . The grant is for purchase of building materials to start construction.                   |

*Statistics from the Ministry of Housing and Lands*

*Financial assistance for purchase of State Land within specific Housing Schemes*

103. Government intervention in social housing in Mauritius dates as far back as 1955, with the construction of the first housing estates comprising 1000 houses and the creation of the Ministry of Housing and Lands, responsible for matters relating to social housing management, in addition to, some years later, the setting up of a Central Housing Authority (CHA) for the construction of some 19300 low cost houses. These houses and the land on which they had been built, were leased to the tenants by the CHA. In order to empower families to take full responsibility of their assets, Government introduced the “Right to Buy” policy in 1989 for beneficiaries of CHA houses to become owner of their housing unit, against payment of around Rs 500-1000 per unit. As at date, almost all the CHA beneficiaries have become owners of their housing unit.

104. The “Right to Buy” policy introduced in 1989 was extended in 2007 to enable the sale of State Land on which stood the Central Housing Authority (CHA) houses, against payment of a nominal amount of Rs2, 000 to Government. As at December 2016, some 10 634 families have become full owners of their land under that scheme. Yet, in year 2012, it was found that a number of vulnerable families, particularly lone mothers, could not benefit from this policy due to financial difficulties. Such vulnerable lessees of ex-CHA Housing Estates are now granted the land free of charge, through a waiving of the purchase price of Rs 2,000, and registration fees. Also fees for the Notary and for the survey of the plot of land are met by Government.

*National Home Ownership Programme*

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

106. In its 2015-2019 Government Programme, Government has undertaken to increase housing supply and home ownership for the economically and socially disadvantaged. This measure is being implemented by the Ministry of Housing and Lands via the construction of 10,000 housing units during that period. Some 655 housing units and 184 serviced plots have been constructed and allocated in 2015/2016. Furthermore, a financial provision has been made in the Budget 2016/17 for an amount of Rs 812M for the implementation of social housing projects during the period 2016/17 to fulfil the said measure.

*Democratising access to land*

107. In line with Government’s policy to democratise access to land, the State Lands Act was amended in 2013 to provide that where a person, holding a building site lease over a portion of State land of an extent not exceeding 422.087 square metres (10 perches), other than ‘Pas Géométriques’, on which stands a residential unit, is willing to buy the portion of land, the Minister may sell it to him by private contract at the price of Rs 2000. As at end of December 2016, some 5,849 persons have acquired the portion of land on which stands their residential units under this initiative.

108. Furthermore, the Local Government Act has been amended in 2016 to provide, where the owner of a house, standing on a portion of land belonging to a Municipal City Council or Municipal Town Council, is willing to buy the house as well as the portion of land on which it stands, he may do so by private contract at the price of Rs 2000. 114 families having their residential units standing on a portion of Municipal Land, belonging to the Municipal City Council or Municipal Town Council, are concerned with this initiative.

## **The right to public health, medical care, social security and social services**

### *Universal Access to health facilities*

109. Mauritius being a welfare State, medical care is free for everyone and the right to health care is guaranteed for everybody without any discrimination. As at end 2015, there were 5 regional hospitals and two district hospitals. There is also a psychiatric hospital and 3 other specialized hospitals for chest diseases, eye diseases, ENT diseases and a Cardiac Centre. The total number of beds in government health institutions was 3, 648 at the end of 2015. In the private sector, there were at the end of 2015, 17 private health institutions which were providing in-patient care with a total of 647 beds.

110. Mauritius provides universal access to Primary Health Care (PHC) services to all its citizens free of user cost. As the frontline entry point to the national health system, PHC Institutions act as “gatekeepers” for patients’ access to hospitals. The PHC system comprises of a network of 18 Area Health Centres (AHCs), 116 Community Health Centres (CHCs), 5 Medi-Clinics (MC), 2 Community Hospitals (CH) and other satellite PHC institutions to provide health promotion, health education, family planning, immunisation, diagnostic, treatment and referral services. 4.7 million attendances were recorded at the 141 primary health care institutions for the treatment of common diseases and minor injuries in 2015. Some 212,000 attendances were recorded at dental clinics. The Master Plan on Primary Health Care is being implemented to further reinforce the delivery of services and consolidate universal access.

111. The right to health to everyone is provided for in different legislations, inter-alia:

(a) The welfare of mental patients is governed by the Mental Health Act, which serves as guidelines for the management, security and welfare of patients;

(b) There is also a Trust Fund provided for under the Specialised Medical Care Act which caters for the operation of a Specialised Medical Care Centre and the management of other institutions for the provision of high-tech medical care;

(c) The HIV and AIDS Act protects the rights and privileges of people living with HIV and those affected by the disease. One of the objects of the Act is to respond to the HIV and AIDS epidemic through enhanced HIV prevention programmes and national mechanisms for HIV testing and counseling (HTC). It also safeguards a wide range of protection to key affected populations and ensures that stigma and discrimination do not hinder accessibility to health care services and needle exchange programme. The Immigration and the Civil Status Acts have further been amended to allow a non-citizen who is HIV infected to marry a Mauritian citizen, provided he has disclosed his HIV status to his partner;

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

(e) The Food Act regulates, inter alia, the determination of fitness of food, its preparation, packaging, storing, conveyance, distribution, as well as sale.

### **The right to social security and social services**

112. More than half of the total Government budget is spent on community welfare and social security to promote the socio-economic wellbeing of the population. This includes:

(i) A wide array of social benefits to the elderly including free healthcare and public transport and well as payment of old age pension on a monthly basis;

(ii) Allowances to widows and to three children under 18;

(iii) Free transport is provided to all children except for those who have recourse to private school vans. Government also provide textbooks to pupils of the Primary and Prevocational sectors.

(iv) Free specialised medical care to women during period of pregnancy;

(v) A range of social aids, facilities and services to persons with disabilities; and

(vi) Special care to students with disabilities.

### **The right to education and training**

113. Mauritius recognises the right of everyone to education and has been providing free, universal, primary education. Education has been free for the secondary level since 1977 and for full time undergraduate level at the University of Mauritius since 1988. Since July 2005, free transport facilities to and from educational institutions are also provided by Government to facilitate access to education to all.

114. Section 14 of the Constitution provides that no religious denomination and social, ethnic or cultural association or group shall be prevented from establishing and maintaining schools at its own expense. Amendment to section 37 of the Education Act provides for compulsory education up to age of 16. Government is also committed to inclusive policy vis-à-vis children with special needs.

115. The school curricula at the primary and secondary levels have been elaborated so as to encourage not only the cognitive but also the holistic development of all learners. Given that Mauritius is a multicultural society, much emphasis is placed on the promotion of tolerance and understanding of others. The curricula are flexible enough to incorporate emerging trends such as information technology and entrepreneurship studies.

116. Furthermore, with a view to promoting human rights through teaching and education, the Government of Mauritius in collaboration with the Commonwealth Secretariat has integrated human rights education is gradually integrating at secondary level. At tertiary level, Human Rights Education already forms part of the curriculum of LLB courses at the University of Mauritius. An LLM course in International Human Rights Law has also been introduced as from academic year 2013-2014.

#### *The “Zone d’Education Prioritaire” Project — ZEP Project*

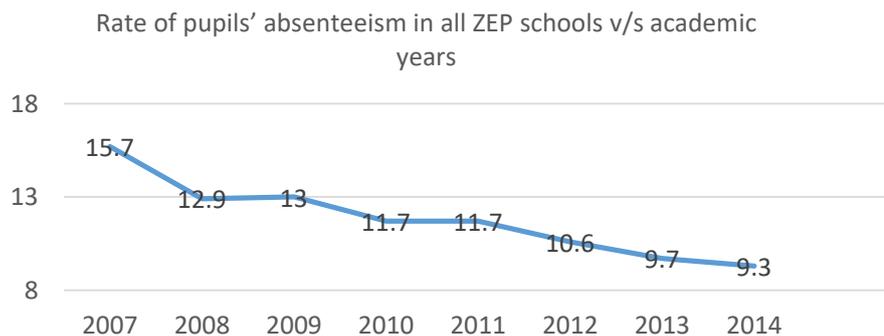
117. The ZEP project started in 2003 in view to break the cycle of poverty through education. The main objectives are combating social inequalities and ensuring the provision of equal opportunities for learning to all children of the Republic and thus improve achievement of both the pupils and the schools. The two main indicators of the project are the pupil’s attendance rate and the CPE pass rate. Thirty-three primary schools were identified as low performing having a percentage pass rate at CPE consistently below 40 percent for a number of consecutive years. The school population today is slightly above 8000. These schools have poverty as a common denominator.

118. A network of other Ministries and Agencies called the Parents Support Programme provides support to the communities and the parents through Parents’ Club in ZEP schools. There is also a Supplementary School Feeding Programme whereby bread/butter/cheese, a fruit and water is offered daily to all pupils of ZEP schools.

#### *Achievements associated with the ZEP project*

119. The achievements are as follows:

(a) Decrease in the pupil’s rate of absenteeism from 15.7 % in 2007 to 9.3 % in 2014. 24 schools out of 30 scored pupil’s attendance rate better than 90 % in 2014;



Source: Ministry of Education, Human Resource Tertiary Education & Scientific Research.

(b) Constant increase in CPE pass rate from 2006 to 2016 as shown in the table below. In 2015, 20 schools out of the 33 ZEP schools scored CPE pass rate better than 45 %, and in 2016 it was 19 schools.

#### Performance of ZEP schools for the Certificate of Primary Education (2006-2016)

| Year | Gender | No Examined | % Pass |
|------|--------|-------------|--------|
| 2006 | Boys   | 1 358       | 29.7   |
|      | Girls  | 1 163       | 44.5   |
|      | Total  | 2 521       | 36.5   |
| 2007 | Boys   | 1 208       | 28.1   |
|      | Girls  | 1 063       | 45.0   |
|      | Total  | 2 271       | 36.0   |
| 2008 | Boys   | 1 178       | 29.8   |
|      | Girls  | 1 019       | 42.9   |
|      | Total  | 2 197       | 35.9   |
| 2009 | Boys   | 1 111       | 27.5   |
|      | Girls  | 1 012       | 43.7   |
|      | Total  | 2 123       | 35.2   |
| 2010 | Boys   | 1 021       | 30.3   |
|      | Girls  | 937         | 42.7   |
|      | Total  | 1 958       | 36.2   |
| 2011 | Boys   | 983         | 28.7   |
|      | Girls  | 973         | 42.7   |
|      | Total  | 1 956       | 35.6   |
| 2012 | Boys   | 978         | 33.9   |
|      | Girls  | 889         | 47.8   |
|      | Total  | 1 867       | 40.6   |
| 2013 | Boys   | 775         | 39.1   |
|      | Girls  | 742         | 54.0   |
|      | Total  | 1 517       | 46.4   |
| 2014 | Boys   | 671         | 36.2   |
|      | Girls  | 651         | 57.8   |
|      | Total  | 1 332       | 46.8   |
| 2015 | Boys   | 694         | 39.6   |
|      | Girls  | 676         | 51.8   |
|      | Total  | 1 370       | 45.6   |

| <i>Year</i> | <i>Gender</i> | <i>No Examined</i> | <i>% Pass</i> |
|-------------|---------------|--------------------|---------------|
| 2016        | Boys          | 620                | 37.6          |
|             | Girls         | 624                | 51.1          |
|             | Total         | 1 244              | 44.4          |

*Source:* Mauritius Examinations Syndicate.

### **The right of access to places of service**

120. Mauritius is a democratic society where the rule of law prevails and there is no prohibition to access to any place or service intended for the use of general public.

### **Measure in favour of descent-based communities**

#### *The Truth and Justice commission*

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

122. A Ministerial Committee has been set up to consider the recommendations contained in the Report and has so far initiated the following actions:

- (a) A Land Research and Mediation Unit has been set up to continue research on possible dispossession of land;
- (b) A Land Monitoring and Research Unit is in the process of being set up at the Attorney-General's Office to conduct inquiries, settle disputes or refer matters to Court for cases where there are sufficient evidence of land dispossession; and
- (c) The Ministry of Arts and Culture has identified a building in the capital city for the establishment of a 'Museum of Slavery'.

123. In July 2016, Government has agreed to the implementation schedule of the main recommendations of the Report to be implemented, wherever possible, by ministries. The Ministerial Committee will monitor progress periodically on inter alia the following main recommendations:

- Creation of an anti-discrimination unit to, inter alia,
  - (i) Ensure that racial language and epithets are prohibited;
  - (ii) Engage on positive discussions regarding the contribution of Creoles to the making of the Mauritian Society; and
  - (iii) Engage on a continuous dialogue with NGOs and the general public to discuss matters relating to discrimination and marginalisation in our society.
- Provision of reparations to poor families in terms of social reparations such as housing and education so that the Creole community is better able to create a more stable social and economic existence going into the future. It was noted that this was an on-going process.
- To implement a system and policy of affirmative action in Mauritius so as to address the social and economic imbalances created and fostered under slavery, indenture and colonialism.

**Rights of women**

124. In line with the provisions of the ILO Convention No. 100 and Article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), section 20 of the Employment Rights Act was amended in June 2013 to read as follows:

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

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

125. Section 30 of the Employment Rights Act contains a number of provisions protecting the rights of workers with family responsibilities as detailed below:

(a) Notwithstanding any other enactment or Remuneration Regulations, a female worker who remains in continuous employment with the same employer for a period of 12 consecutive months immediately preceding the beginning of leave shall, on production of a medical certificate, be entitled to 14 weeks' maternity leave on full pay to be taken either before confinement, provided that at least 7 weeks' maternity leave is taken immediately following confinement or after confinement;

(b) Where a female worker has been in continuous employment with the same employer for a period of 12 consecutive months, gives birth to a still-born child, she shall, on production of a medical certificate, be paid within 7 days of the confinement, an allowance as prescribed;

(c) A female worker who has been in continuous employment with the same employer for a period of 12 consecutive months, immediately preceding the beginning of leave as entitled under section 30 and who gives birth to a still-born child, shall be entitled, on production of a medical certificate, to 14 weeks' leave on full pay;

(d) A female worker is entitled to 2 weeks' leave on full pay in case of miscarriage immediately after the miscarriage, subject to same being duly certified by a medical practitioner;

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

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

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

(h) A female worker, who is nursing her newly born child, shall be entitled to either 2 breaks of half an hour each or 1 break of one hour, at a time convenient to her and having regard to the need of the child, for the purpose of nursing the child. The breaks shall be for a period of 6 months from the date of confinement or such longer period as may be recommended by a medical practitioner, and shall not be deducted from the number of hours of work of the female worker.

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

127. Section 31 of the Act provides that a male worker is entitled to 5 continuous working days' paternity leave upon the production of a medical certificate certifying that his spouse has given birth to his child and a written statement from him that his spouse and himself are living under a common roof. This benefit is also extended on a pro-rata basis to part-time male employees. The leave is on full pay for a worker reckoning more than 12

months' continuous employment. The application of this provision has been extended to all sectors of employment, including those covered by Remuneration Regulations. It is to be noted that under this section, 'spouse' is defined as a person with whom the worker has contracted a civil or religious marriage.

*Participation of women in public life*

128. Regarding the participation of women in the national decision-making process, Mauritius is committed to the decision taken by South African Development Community (SADC) to increase women's participation in politics and decision-making by 30%. For the three last general elections held in July 2005, May 2010 and December 2014, the main political parties honoured their pledge to increase women representation in National Assembly and there was a marked increase in the number of women candidates. With regard to the National Assembly Elections 2014, on Nomination Day, 739 candidates deposited their nomination papers in the 21 constituencies whereby 128 were women candidates. 8 women candidates were elected as Members of the National Assembly.

129. Mauritius is also committed to an increased participation of women in the political arena. There has been a marked increase in the number of women participating in the last national elections in 2014 whereby out of 726 candidates, 127 were women as compared to 58 in 2010 as shown in Table below:

| Candidates   | 2010       |              | 2014       |              |
|--------------|------------|--------------|------------|--------------|
|              | Number     | %            | Number     | %            |
| Men          | 471        | 89.0         | 599        | 82.5         |
| Women        | 58         | 11.0         | 127        | 17.5         |
| <b>Total</b> | <b>529</b> | <b>100.0</b> | <b>726</b> | <b>100.0</b> |

*Source:* Electoral Commissioner's Office.

130. The Ministry of Gender Equality, Child Development and Family Welfare in collaboration with the US Embassy conducted in 2012, a training programme for the political empowerment of around 200 women, as well as a Training-of-Trainer's programme which aimed at empowering 20 representatives of different political parties including three senior officials of the abovementioned ministry.

131. Following the enactment of the Local Government Act in 2012 which stipulates that at least 1 out of 3 candidates to be fielded for elections at local/Municipal level should be of the opposite sex, there has been a significant leap in the number of women participating in Municipal and Village Council elections. At Municipal level, there has been an increase from 12.5% in 2005 to 28.2% in 2012. At Village Council level, the increase has been from 5 % in 2005 to 30.3% in 2012. In 2015, Government further amended Section 11(6) of the Local Government Act and replaced it by Sections 11(6)(a) and 11(6)(b). Section 11(6)(a) reads as follows:

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

132. Section 11(6) (b) of the Local Government Act has also catered for the common situation that a group may form part of an alliance and thus provided:

*"Where the group forms part of an alliance, it shall be sufficient for the alliance to comply with paragraph (a) without each group forming part of the alliance necessarily complying with that paragraph."*

133. As regard women's representation in decision-making bodies, same is illustrated in the table below:

| <i>Grade</i>                                 | <i>Number</i> | <i>Percentage</i> |
|--|---------------|-------------------|
| Ministers <sup>1</sup>                       | 2 out of 24   | 8.3               |
| Members of Parliament <sup>2</sup>           | 8 out of 70   | 11.4              |
| Ambassadors <sup>3</sup>                     | 1 out of 19   | 5.3               |
| Senior Chief Executives <sup>4</sup>         | 3 out of 7    | 42.9              |
| Permanent Secretaries <sup>4</sup>           | 16 out of 38  | 42.1              |
| Deputy Permanent Secretaries <sup>4</sup>    | 38 out of 79  | 48.1              |
| Assistant Permanent Secretaries <sup>4</sup> | 53 out of 95  | 55.8              |
| Judges <sup>5</sup>                          | 10 out of 21  | 47.6              |
| Magistrates <sup>5</sup>                     | 24 out of 36  | 66.7              |
| <i>Information from Statistical Unit</i>     |               |                   |

<sup>1</sup>PMO as at 31 January 2017; <sup>2</sup>General Elections, December 2014; <sup>3</sup>The current Secretary for Foreign Affairs is a woman; <sup>4</sup>PMO, as at 13 January 2017; <sup>5</sup>Employment Survey in Government Services, March 2016.

## **Article 6: Effective protection and remedies against acts of racial discrimination**

134. Section 17 of the Constitution provides that a citizen who alleges that his right under Chapter II of the Constitution is being or is likely to be contravened, may apply to the Supreme Court for redress.

### **Legal aid**

135. The Legal Aid Act was amended in 2012 and is now known as the Legal Aid and Legal Assistance Act. It extends the provision of legal assistance and now provides, in line with the recommendations of the Residential Commission chaired by Lord Mackay, for legal assistance and legal aid to be available to a wide range of persons in need. Legal assistance in the form of free legal advice and counselling at the police enquiry stage and free legal representation at bail application is now available in prescribed circumstances.

136. Apart from the Equal Opportunities Commission, the Office of the Ombudsman, as provided for under Section 96 of the Constitution, also addresses issues arising from alleged maladministration in the public sector and wrongs that may be found to have been committed. The Ombudsman does so through independent, objective and impartial investigations. For complaints falling outside the jurisdiction of the Office of the Ombudsman, the complainants are informed accordingly and are directed to the authority concerned. Statistics from the Office of the Ombudsman for year 2016 are as follows:

| <i>Year</i>                            | <i>2016</i>                    |
|--|--------------------------------|
| Case intake                            | 620                            |
| Cases dealt with                       | 722                            |
|  | 620 + 102 pending at 31.12.15) |
| Cases rectified                        | 131                            |
| Cases not justified                    | 17                             |
| Cases explained                        | 178                            |
| Cases discontinued                     | 24                             |
| Cases not investigated                 | 7                              |
| Miscellaneous and Copies of complaints | 265                            |
| Cases pending as at 31 December 2016   | 100                            |

*Source:* Office of the Ombudsman.

## **Article 7: Education and information on human rights including on the prohibition of racial discrimination**

### **Introduction of human rights in schools**

137. With a view to promoting human rights through teaching and education, the Ministry of Education and Human Resources, Tertiary Education and Scientific Research in collaboration with the Commonwealth Secretariat intends to gradually integrate human rights education across the curriculum at pre-primary, primary and secondary levels. The first step is to introduce human rights in the curricula of lower secondary schools. To this effect a first validation workshop has been successfully carried out in 2015 on the Tool Kit developed for the concerned teachers. A pilot project has also been conducted in 30 secondary schools, including one in Rodrigues, and a final report has been submitted. The Commonwealth Secretariat will conduct further training for educators before the formal introduction of the subject in lower secondary schools, in the first instance, after the introduction of the nine-year schooling system in 2017.

138. Furthermore, with a view to promoting human rights through teaching and education, the Government of Mauritius in collaboration with the Commonwealth Secretariat is gradually integrating human rights education human rights across the curriculum at pre-primary, primary and secondary levels. At tertiary level, Human Rights Education already forms part of the curriculum of LLB courses at the University of Mauritius. An LLM course in International Human Rights Law has also been introduced as from academic year 2013-2014.

### **Introduction of Mother Tongue in primary schools**

139. In line with internationally accepted best practices, Government encourages the use of mother tongues to facilitate teaching and learning. With a view to promoting teaching of the mother tongue, the Kreol Morisien was introduced in Standard I in 2012 as an optional subject. Bhojpuri has also been integrated during the same year, as a corollary of Hindi Language, in Standard I. Implementation will be pursued incrementally for the teaching of Kreol Morisien across the primary cycle. The Kreol Morisien will ultimately be reckoned as an examinable subject for end of year primary examination on the same lines as other optional languages.

140. The Prime Minister's Office, the Rodrigues Regional Assembly and the University of Mauritius have, on 20 June 2016, signed a Memorandum of Understanding to collaborate with regard to the conduct of a study on the linguistic and ethnographic specificities of Rodrigues. This collaboration is based on the fact that language and cultural rights are provided in several of the Human Rights Conventions to which Mauritius have adhered. A first workshop, mainly to sensitise the inhabitants of Rodrigues on the importance of this project was successfully held from 30-31 August 2016 in Rodrigues.

### **Training to law enforcement officials to uphold human rights**

141. The teaching of human rights is an essential component in the training of Police and Prison Officers. The Prison Authorities have worked out a new draft Prisons Bill which has been submitted to the Prime Minister's Office for discussion. The draft Bill also makes provision for the implementation of Human Rights recommendations related to Prison Management made by Treaty Bodies.

142. Training and workshops attended by members of the Police Force during year 2016 are as follows:

- (a) Courses delivered on Human Rights (including prevention of torture) in year 2016;

| <i>Year 2016</i>                           | <i>From</i> | <i>To</i> | <i>No. of Participants</i> |
|--|-------------|-----------|----------------------------|
| Inspectors' Development Course (2 batches) | 02.05.16    | 28.07.16  | 173                        |
| Sergeants' Development Course (5 batches)  | 09.05.16    | 03.12.16  | 378                        |

| <i>Year 2016</i>                           | <i>From</i> | <i>To</i> | <i>No. of Participants</i>  |
|--|-------------|-----------|-----------------------------|
| TPCs Foundation Course (1/2016)            | 15.07.16    | 17.12.16  | 188<br>(89 TWPCs & 99 TPCs) |
| Continuation Training for SMF Probationers | 05.09.16    | 22.10.16  | 192                         |
| <b>Total</b>                               |             |           | <b>931</b>                  |

*TPC: Trainee Police Constables; TWPC: Trainee Women Police Constables.*

(b) Courses/Workshops delivered on Trafficking in Persons in year 2016;

| <i>Year 2016</i>   | <i>No. of Participants</i>   |
|--|------------------------------|
| Workshop on Trafficking in Persons (Lecture delivered by representatives from the Office of DPP) (Senior Police Officers at mid and strategic level) | 194                          |
| Inspectors' Development Course (2 batches) and Sergeants' Development Course (5 batches)   | 173                          |
| Lecture on Organised crime and Trafficking in Persons  | 378                          |
|  | } Front Line Police Officers |
| <b>Total</b>   | <b>745</b>                   |

(c) Police Manual in year 2015, a revised Instructions Manual was issued to every member of the Police Force. The manual, inter-alia, contains instructions on the obligation of Police in upholding Human Rights and the relevant essential principles of Human Rights.

143. The National Human Rights Commission (NHRC) provides more informal training through talks and short videos on human rights and torture. Talks are given to recruits and to officers already in post, especially those in charge of police stations. The National Preventive Mechanism Division of the NHRC sensitises prisons officers on the need for a human rights approach towards detainees during meetings and visits to Prisons. The Istanbul Protocol is used as a reference document and source of materials for training.

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

| <i>Complaints From Detainees — 2014/2015/2016</i> |                          |            |            |                    |            |            |
|---|--------------------------|------------|------------|--------------------|------------|------------|
| <i>Year</i>                                       | <i>No. of Complaints</i> |            |            | <i>Disposed of</i> |            |            |
|   | 2014                     | 2015       | 2016       | 2014               | 2015       | 2016       |
| Prisons   | 150                      | 335        | 344        | 110                | 335        | 344        |
| Police Cell                                       | 2                        | 2          | 4          | 2                  | 2          | 4          |
| <b>Total</b>                                      | <b>152</b>               | <b>337</b> | <b>348</b> | <b>112</b>         | <b>337</b> | <b>348</b> |

*Source: National Human Rights Commission.*

### **Awareness campaigns**

(a) *Sensitisation programmes*

145. Over the last few years the Equal Opportunities Commission has embarked on a major awareness campaign programme across the island with a view to sensitizing the public about the law on equal opportunities and the work of the Commission. As shown in the table below, more than 10 000 people have already been targeted through these awareness campaigns:

| <i>Sensitisation Programme</i> |                              | <i>No. persons targeted in 2012</i> | <i>No. persons targeted from 2013 to December 2016</i> |
|--------------------------------|------------------------------|-------------------------------------|--|
| 1                              | Women's Centre               | 70                                  | 549  |
| 2                              | Community Centre             | 120                                 | 130  |
| 3                              | District Council             | -                                   | 190  |
| 4                              | Municipal Council            | -                                   | 155  |
| 5                              | Employer Programme (Public)  | 240                                 | 1 050  |
| 6                              | Employer Programme (Private) | 205                                 | 815  |
| 7                              | Youth Centre                 | 320                                 | 690  |
| 8                              | School Programme             | 915                                 | 2 280  |
| 9                              | Citizen Advice Bureau        | -                                   | 1 767  |
| 10                             | NGOs                         | 265                                 | 625  |
| 11                             | Community Outreach (others)  | -                                   | 497  |
| 12                             | EOC Workshop                 | -                                   | 150  |
| 13                             | In Agalega                   | -                                   | 75   |
| 14                             | In Rodrigues                 | 165                                 | 85   |
| <b>Total</b>                   |                              | <b>2 300</b>                        | <b>9 058</b>   |

*Source:* Equal Opportunities Commission, Mauritius.

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

(b) *Dissemination of information on human rights by the State*

147. The Prime Minister's Office which has the responsibility for the portfolio of Human Rights has since 2011 embarked on sensitisation and training programmes targeting the whole population. Some of the programmes covering aspects of civil and political rights are as follows:

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

(ii) The Prime Minister's Office in collaboration with the Ministry of Youth and Sports, the NHRC and the Equal Opportunities Commission has implemented a Human Rights Education Programme in all youth centres around the island reaching out about 500-750 youths each year. The Human Rights Education Programme was conducted in 4 sessions whereby emphasis was laid on, inter alia, the basic Human Rights, Human Rights treaties to which Mauritius is a party, the Constitution of the Republic of Mauritius and on Human Rights Institutions. Resource persons included personnel of the Equal Opportunities Commission, the Mauritius Police Force, Lawyers, and the Ombudsperson for Children. Around 1555 youths have been reached through this programme from 2011 to 2015; and

(iii) Upon the initiative of the Prime Minister's Office, consultative workshops are being held with all stakeholders, including the private sector, the civil society and NGOs to discuss on the human rights periodic reports prior to finalising same. A consultative workshop was thus held on this periodic report on 07 December 2016 and inputs received have been considered in this final report.

*(c) Promotion of human rights awareness through the mass media*

148. Promotion of human rights through the mass media has been carried out as follows:

(i) The Prime Minister's Office in collaboration with the National Human Rights Commission and the Mauritius Broadcasting Corporation presented a series of TV programme on Human Rights in order to sensitise the population about their rights in 2013 and 2014. The programme was previously broadcasted once every fortnight. From August to December 2015 the programme is being broadcasted on a weekly basis. As from January 2016, arrangements have been made with the NHRC to conduct awareness sessions; and

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

(a) Informing all stakeholders about the human rights status and strategy of the Republic of Mauritius;

(b) Lending support to policy makers, trainers in human rights and students in terms of database on human rights indicators;

(c) Acting as a platform for training and sensitisation; and

(d) Acting as a communication tool between all human rights stakeholders.

**The right to equal participation in cultural activities**

149. The Mauritian Nation is a multicultural community comprising of descendants of migrants hailing from Africa, Asia and Europe. The Ministry of Arts and Culture celebrates several festivals and commemorative events at national level along with a significant number of other artistic and cultural events on the basis of an elaborate annual Calendar of Activities duly approved by Government, to ensure the promotion of all aspects of cultural heritage and to encourage artistic creation. All major cultural celebrations are marked by public holidays to enable the entire population to understand, appreciate and participate therein.

150. The policy of Government in the field of culture is to provide financial and institutional support to ensure that all practised aspects of arts and culture in Mauritius are preserved and promoted. Workshops, exhibitions, cultural programmes, concerts and plays in ten languages are also organized by the Ministry of Arts and Culture on a regular basis. Financial and other support are provided to artists and groups of artists to encourage artistic creation. The Ministry has also two theatre halls which are put at the disposal of the artist community at a reduced rate with a view to promoting arts and culture and encouraging the Mauritian public to attend cultural events.

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

152. To preserve and enhance access to cultural heritage of mankind, the following institutions have been set up:

- National Heritage Fund (NHF)

The National Heritage Fund (NHF) which was set up in 1997 has been actively promoting our tangible and intangible heritage. Following the ratification of the Convention on the Safeguarding of the Intangible Cultural Heritage and in its endeavour to safeguard the Intangible Cultural Heritage, the NHF has initiated research to inventory and document its Intangible Cultural Heritage. Segá Tipik is the first element to have been inscribed on the Representative List of the Intangible

Cultural Heritage of Humanity in December 2014. It comes mainly from the Creole community of African descent whose ancestors had been slaves on the Island of Mauritius. The nomination dossier for Bhojpuri Folk Song and Music has already been submitted to UNESCO for examination in 2016. The NHF is also working on the nomination dossiers of the Segha Tambour of Rodrigues and Segha Chagos.

- Aapravasi Ghat Trust Fund (AGTF)

The Aapravasi Ghat was inscribed on the World Heritage List of UNESCO on 16 July 2006. The AGTF is responsible for the promotion of the Aapravasi Ghat World Heritage Site as a national, regional and international memorial site. In June 2011, the Planning Policy Guidance for the Aapravasi Ghat Buffer Zone was issued to protect and sustain the Outstanding Universal Value of the Aapravasi Ghat World Heritage Site. The objective is also to preserve and enhance the inherent qualities, urban character and cultural significance of the Buffer Zone. Following the submission of the Management Plan for the Aapravasi Ghat World Heritage Site (2013-2018) in January 2014, the World Heritage Centre Committee, at its 38th session, took note with satisfaction of the measures taken to mitigate the threats on the Outstanding Universal Value” and indicated that the Aapravasi Ghat was no more at threat.

- The Beekrumsing Ramlallah Interpretation Centre

The Interpretation Centre project was initiated in 2010 to promote World Heritage and its Outstanding Universal Value while allowing access to the public. The project has now been completed and was inaugurated on 2nd November 2014. The Centre proposes a dynamic permanent public programme including educational and outreach activities at sites and in schools (an average of 100 schools is visited per year since 2010).

- Le Morne Heritage Trust Fund (LMHTF)

The Le Morne Cultural Landscape was inscribed on the UNESCO World Heritage List on 10 July 2008. The LMHTF is responsible for preservation and management of the Cultural Landscape of Le Morne so that it can be used in a wise and sustainable manner that is fully cognisant of its Statement of Universal Value, and without compromising its Authenticity and Integrity.

- The Conservation of Indentured Sites

Several conservation projects were completed (Aapravasi Ghat, Vagrant Depot) or under way (Trianon Heritage Site) to restore heritage associated with indenture. Indenture Labour Route deals with the establishment of a network between countries which have experienced indenture. The purpose is to share data on projects related to indenture. This project is based on the model of the Slave Route Project established by UNESCO. The proposal from Mauritius was supported by the UNESCO Executive Committee in October 2014. So far, the AGTF has conducted several projects to collect elements of intangible cultural heritage throughout the island. 60 elements were thoroughly documented and this research has led to the publication of 10 books authored by the AGTF.

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

- (a) National Heritage Fund
- (b) Aapravasi Ghat Trust Fund
- (c) Board of Film Censors and Stage Play Censors
- (d) Centre de Lecture Publique et d'Animation Culturelle
- (e) Le Morne Heritage Trust Fund
- (f) Islamic Cultural Centre Trust Fund
- (g) Nelson Mandela Centre for African Culture Trust Fund
- (h) Mauritian Cultural Centre Trust
- (i) Malcolm de Chazal Trust Fund
- (j) Mauritius Council of Registered Librarians
- (k) Mauritius Museums Council
- (l) Rights Management Society
- (m) National Library
- (n) National Archives Department
- (o) Prof. Basdeo Bissoondoyal Trust Fund
- (p) President's Fund for Creative Writing
- (q) Ramayana Centre
- (r) Conservatoire National de Musique François Mitterrand
- (s) Mauritius Film Development Corporation
- (t) Mauritius Marathi Cultural Centre Trust
- (u) Mauritius Tamil Cultural Centre Trust
- (v) Mauritius Telegu Cultural Centre Trust
- (w) National Art Gallery
- (x) Hindi Speaking Union
- (y) Arabic Speaking Union
- (z) Bhojpuri Speaking Union
- (aa) Chinese Speaking Union
- (bb) Creole Speaking Union
- (cc) English Speaking Union
- (dd) Marathi Speaking Union
- (ee) Sanskrit Speaking Union
- (ff) Tamil Speaking Union
- (gg) Telegu Speaking Union
- (hh) Urdu Speaking Union

154. The lowest amount of Government grant allocated is Rs 56, 000 and the highest so far is Rs 15.9 Million in the 2016/2017 budget. The grants are meant for the activities and administrative expenses of the bodies which have been set up to promote languages and cultures in Mauritius.

155. To promote the diffusion of culture, the following measures have been taken by Government:

(a) Financial assistance is provided by way of grants under the ‘Assistance Scheme to Artists’ for the local production of cultural goods and ‘International Development Grant’ to encourage the development of the Creative Industries in Mauritius. The assistance provided to artists from 2009 to 2016 is as follows:

| <i>Year</i> | <i>Assistance Scheme to artists</i> | <i>International Development Grant</i> |
|-------------|-------------------------------------|--|
|             | <i>Rs</i>                           | <i>Rs</i>                              |
| 2009        | 510 000                             | Was implemented as from 2010           |
| 2010        | 750 000                             | 1 587 247                              |
| 2011        | 795 000                             | 2 946 120                              |
| 2012        | 1 215 000                           | 1 306 172                              |
| 2013        | 3 852 528                           | 1 044 899                              |
| 2014        | 1 680 000                           | 267 900                                |
| 2015        | 1 620 000                           | 831 776                                |
| 2016        | 3 158 450                           | 644 121                                |

*Source:* Ministry of Arts and Culture.

(b) International exposure is given to artists through financing their participation in events of worldwide repute under the ‘International Development Grant Scheme’. Cultural entrepreneurs and artists have been empowered through the different forms of assistance and incentives, thereby promoting the cultural industry to ensure sustainable development;

(c) The Ministry of Arts and Culture ensures respect for cultural diversity by promoting cultural pluralism through cultural exchanges with foreign countries. The Cultural Exchange Programmes which Mauritius has with friendly countries, such as India, Egypt, Seychelles and China provide for exchanges of artists, groups of artists, exchange of documentation as well as exchange of professionals in various artistic and cultural fields. These programmes also provide the necessary platforms for Mauritian artists to showcase their talents at international and regional levels; and

(d) The Ministry of Arts and Culture also provides financial assistance to artists with disabilities for their creative works and encourages their participation in programmes at national level.

156. However, although the social status of artists has improved considerably and the importance of quality performances and creativity are valued, legal protection of artists’ rights has not been fully accomplished. They are not enjoying legal treatment consistent with their talents. Government intends to come up with a new legislation which will acknowledge the rights of artists for the creation, distribution and enjoyment of their cultural goods and services.