



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

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**Committee on the Elimination of Racial Discrimination**

**Combined twenty-fourth and twenty-fifth periodic  
reports submitted by Mauritius under article 9 of  
the Convention, due in 2021\*.\*\***

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

\*\* The annexes to the present report may be accessed from the web page of the Committee.



## Introduction

1. The Republic of Mauritius (the State) is recognised for its melting pot of cultures. It ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1972 where it took the commitment to ensure that racial discrimination is not tolerated within its territory and measures are taken to combat all forms of such discrimination.

2. The Treaty-Specific Document of the 24th and 25th periodic reports of the State on the ICERD, which covers the period July 2017 to May 2021, focuses on the progress made by the State in the implementation of the provisions of the Convention since it was last reviewed on 14–15 August 2018 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 20th–23rd periodic reports of Mauritius during the last review.

3. Following the receipt of the Concluding Observations and Recommendations, the Government of Mauritius set up an Inter-Ministerial Committee, in September 2018, under the Chair of the then Vice-Prime Minister, Minister of Local Government and Outer Islands and Minister of Gender Equality, Child Development and Family Welfare to look into the Concluding Observations made by the CERD Committee given that certain concerns and recommendations had far reaching implications on the social fabric of the Mauritian society.

4. The Ministerial Committee which was composed of seven Ministers including the Chair, examined the 26 recommendations and its proposal not to implement some recommendations of the CERD Committee was approved by Government. It pertains to:

(a) Provision of disaggregated data by ethnicity (recommendations numbers 2, 6, 10 and 11(partly)). (The Republic of Mauritius does not keep such data as it goes against National Unity. The State fosters Nation Building in a Rainbow Nation);

(b) Inclusion of Creole language as ground of discrimination (recommendation number 4) (Language is a qualification prerequisite for certain jobs and opportunities and as such it would not be appropriate to include same as a ground of discrimination);

(c) Racial discrimination against people of African descent (recommendation number 12) (The Republic of Mauritius is a land of immigrants. Everyone is equal in the Republic. Special measures are implemented for all vulnerable groups irrespective of their race or ethnicity);

(d) Ratification of international human rights treaties the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Protection of Persons from Enforced Disappearance (recommendation number 17);

(e) Individual communications (recommendation number 21). (There are adequate avenues of redress in our legal system against violation of human rights); and

(f) Ratification of the amendment to article 8 (6) of the Convention (recommendation number 22).

5. Consequently, in this present report, the State of Mauritius will not address the specific issues mentioned above.

6. It is to be recalled that the State of Mauritius, in accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, had provided, within one year of the adoption of the concluding observations, information on the implementation of the recommendations contained in paragraphs 29 and 31.

7. The present report has been worked out in consultation with the Committee members of the National Mechanism for Reporting and Follow-Up (NMRF). This mechanism has been set up since December 2017 and comprises representatives of Ministries/Departments, NGOs and the Civil Society. It is chaired by the Honourable Minister under whose portfolio, Human Rights fall.

## Article 1: Definition of Racial Discrimination

8. There is no specific definition of “racial discrimination” in the law. However, race, colour, descent, or national or ethnic origin are referred to in the Constitution and in laws prohibiting discrimination as depicted hereunder:

(a) The Constitution, which is the supreme law of the country, enshrines the principle of non-discrimination. Section 3 of the Constitution provides that “there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms:

- (i) The right of the individual to life, liberty, security of the person and the protection of the law;
- (ii) Freedom of conscience, of expression, of assembly and association and freedom to establish schools; and
- (iii) The right of the individual to protection for the privacy of his home and other property and from deprivation of property without compensation; (...). (emphasis added).

(b) The Constitution, furthermore, specifically prohibits at section 16, the enactment of a legal provision which is discriminatory either of itself or in its effect. The term discriminatory is defined at section 16(3) which as follows: “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such description.” (emphasis added).

9. Besides the Constitution, the provisions of the ICERD are incorporated in different pieces of legislations, namely:

(a) The Equal Opportunities Act (EOA) came into force in 2012 and further reinforces the protection from discrimination and the right to equal opportunities in various areas of life such as employment, access to certain facilities and services (including education), by prohibiting, discrimination, against a person on the ground of his status. “Status” is defined as including age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation. (emphasis added);

(b) The Workers’ Rights Act (WRA) was promulgated on 24 October 2019. It repealed the Employment Rights Act and inter alia, provides for the protection from discrimination in employment and occupation, in addition to the protection afforded under the EOA. An employer cannot treat in a discriminatory manner, any worker who is in his employment. Discrimination, in relation to the above provisions, includes affording different treatment to “different workers attributable, wholly or mainly, to their respective description by age, race, colour, caste, creed, sex, sexual orientation, HIV status, impairment, marital or family status, pregnancy, religion, political opinion, place of origin, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation; (...).” (emphasis added);

(c) Moreover, section 64(1) of the WRA provides for the protection against termination of agreement by an employer by reason of inter alia a worker’s race, colour, caste, national extraction, social origin, place of his origin, age, pregnancy, religion, political opinion, sex, sexual orientation, HIV status, impairment, marital status or family responsibilities. (emphasis added);

(d) The Employment Relations Act (ERA) 2008 as at 01 March 2021 provides for the protection of the fundamental rights of workers to freedom of association and protects their right to organise and engage in collective bargaining. Every worker shall according to section 29, have the right, subject to certain conditions, “to establish or join, as a member, a trade union of his own choice, without previous authorisation and without distinction

whatsoever or discrimination of any kind including discrimination as to occupation, age, marital status, sex, sexual orientation, colour, race, religion, HIV status, national extraction, social origin, political opinion or affiliation. (emphasis added).

#### **Direct and Indirect Discrimination**

10. Both direct and indirect discrimination are addressed under the domestic law of the State. For instance, at section 16 (1) of the Constitution, subject to subsections (4), (5) and (7), it is provided that no law shall make any provision that is discriminatory either of itself or in its effect and section 16 (3) defines “discriminatory” as “affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such description.” Thus, the Constitution generally prohibits both direct and indirect discrimination on the ground of race among other grounds.

11. The EOA also makes headway by defining and providing specifically for direct and indirect discrimination at sections 5 and 6 thereof as well as for discrimination by victimisation.

#### **Public Life and Scope of Anti-Discrimination Law**

12. ‘Public life’ is not defined in the domestic law of Mauritius, same can be determined from the Constitution as well as in the ERA, the WRA 2019 and section 3(2) of the EOA.

13. As regards the scope of anti-discrimination law, section 3 of the EOA provides the scope of application of the Act and, in particular, subsection (2) provide that “This Act shall have effect notwithstanding any other enactment relating to employment, education, qualifications for a profession, trade or occupation, the provision of goods, services, facilities or accommodation, the disposal of property, companies, partnerships, sociétés, registered associations, sports, clubs and access to premises which the public may enter or use.”

#### **Reservations and Declarations**

14. The State of Mauritius acceded to the Convention on the 30th May 1972 without any reservation or declaration.

#### **Information relating to the extent to which domestic law provides for differential treatment based on citizenship and immigration**

15. Although domestic laws are equally applicable to both citizens and non-citizens, there are certain areas where the law differentiates between the two categories of individuals.

16. Section 16(4) of the Constitution provides the legal basis for derogating to the principle of non-discrimination embodied in section 16(1) in respect of non-citizens. Section 16(4) lists a number of exceptions which include the making of laws making provisions in respect of persons who are not citizens of Mauritius.

17. A non-exhaustive list of laws which applies to, or makes provision in respect of, non-citizens include:

- (a) The Immigration Act;
- (b) The Economic Development Board Act;
- (c) The Deportation Act;
- (d) The Non-Citizens (Employment Restriction) Act;
- (e) The Non-Citizens (Property Restriction) Act;
- (f) The Civil Status Act;
- (g) National Adoption Council Act;

- (h) Registration of foreign professionals and firms such as under the Professional Quantity Surveyors' Council Act, the Professional Land Surveyors' Council Act and the Law Practitioners' Act;
- (i) The Firearms Act;
- (j) The Worker's Rights Act;
- (k) The HIV and AIDS Act;
- (l) The National Pension Act; and
- (m) The National Savings Fund Act.

**Special measures to secure the adequate advancement of groups and individuals protected under the convention**

18. In view of the pluri-ethnic fabric of the Mauritian society, a 'best loser system' (BLS) is embedded and provided for in the First Schedule of the Constitution to ensure adequate representation of all ethnic groups at the National Assembly. The National Assembly consists of 70 seats, out of which 62 are elected members at the general elections and the remaining 8 are pooled from unreturned candidates at the general elections on a communal and party basis aiming at a fair representation of the Mauritian society.

19. Moreover, the Constitution prohibits the making of discriminatory laws unless it falls under one of the permissible categories under article 16(4) of the Constitution which are *inter alia*:

- (a) For the appropriation of revenues or other funds of Mauritius;
  - (i) For a minimum number of candidates for election to local authorities to be of a particular sex, with a view to ensuring adequate representation of each sex on a local authority;
  - (ii) 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;
- (b) With respect to persons who are not citizens of Mauritius; or
- (c) For the application, in the case of persons of any such description as is mentioned in subsection (3) (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law applicable to persons of that description.

20. Legal and administrative measures are taken to secure the adequate advancement of groups or persons protected under the Convention, for instance:

- (a) The Truth and Justice Commission Act which set up the Truth and Justice Commission whose object shall be, *inter alia*, to make an assessment of the consequences of slavery and indentured labour during the colonial period up to the present; and
- (b) The enactment of various legislations set up Trust Funds, Cultural Centres, Speaking Unions and Heritage Funds.

**LGBT Community**

21. The State of Mauritius has indicated at various human rights fora that it has a fragile social fabric and amendments will be brought to relevant legislations for LGBTQI rights only once a consensus is reached in the population.

22. Different measures have however been taken for the inclusion of the Community in the society, *inter alia*:

- (a) Distribution of condoms and condom-compatible lubricants;
- (b) Pre-Exposure Prophylaxis (PrEP), since 2018; and

(c) Hormonal Therapy is available once weekly to Trans people in all Regional Hospital since 2019. Moreover, they are followed by an endocrinologist.

23. They are allowed to organise the annual Gay Pride March. There are currently three distinct cases against the State in Court by LGBTQI activists.

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

### **Legal Framework**

24. The Judicial and Legal Services Act provided, in 2018, for the repeal and replacement of, inter alia, sections 206 and 282 of the Criminal Code. These two sections now provide as follows:

#### *“206. Outrage against public and religious morality*

1. (a) Any person who – (i) by any writing which is sold, put up for sale, published, distributed, posted up, circulated, exhibited, exposed, broadcast or transmitted through the internet or in any public place, meeting or procession; (ii) by words, gestures, exclamations or threats used through the internet or in any public place, meeting or procession, commits any outrage against any religion, or against good morals or against public and religious morality (la morale publique et religieuse), shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 2 years and to a fine not exceeding 100,000 rupees. (...).

#### *282. Stirring up racial hatred*

1. Any person who, with intent to stir up contempt or hatred against any section or part of any section of the public 78 Acts 2018 distinguished by race, caste, place of origin, political opinion, colour, creed or sex – (a) publishes, distributes, posts up, circulates, exhibits, exposes, broadcasts or transmits through the internet or in any public place, meeting or procession any writing which is threatening, abusive or insulting; or (b) uses any word or makes any gesture through the internet or in any public place, meeting or procession which is threatening, abusive or insulting, shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 20 years and to a fine not exceeding 100,000 rupees”.

25. The Independent Police Complaints Commission Act came into force in April 2018. It establishes an Independent Police Complaints Commission (IPCC) to investigate into complaints made against police officers in the discharge of their functions, other than complaints of acts of corruption or money laundering offences.

26. The WRA provides for protection from discrimination in employment and occupation as highlighted at paragraphs 9(b), (c) above, in addition to the protection afforded under the EOA.

27. The ERA provides for the protection of the fundamental rights of workers to freedom of association and protects their right to organise and engage in collective bargaining. Every worker shall according to section 29, have the right, subject to certain conditions, “to establish or join, as a member, a trade union of his own choice, without previous authorisation and without distinction whatsoever or discrimination of any kind including discrimination as to occupation, age, marital status, sex, sexual orientation, colour, race, religion, HIV status, national extraction, social origin, political opinion or affiliation.

28. Moreover, the Employment Relations (Amendment) Act inserted in 2019 a new section 64(1A) which provides that “No dispute on the reinstatement of a worker in relation to the termination of his employment shall be reported except where the termination is effected by reason of – discrimination on the ground of a worker’s race, colour, caste, national extraction, social origin, pregnancy, religion, political opinion, sex, sexual orientation, HIV status, marital status, disability or family responsibilities.” (emphasis added).

29. Section 31 furthermore protects workers in the exercise of their employment against discrimination, victimisation or otherwise being prejudiced. The scope of this provision is also extended to persons seeking employment. (emphasis added).

30. The Courts Act was amended in 2020, following the recommendations of the Truth and Justice Commission's Report. Section 41B provides for the setting up of a Land Division within the Supreme Court to ensure the just, expeditious and accessible resolution of land disputes. This Division has the jurisdiction to hear and determine:

“(a) any matter regarding ownership of land and property rights, other than any matter connected therewith which falls under the jurisdiction of the Intermediate Court or District Court under any enactment; and (b) any other matter connected therewith as the Chief Justice may direct.”

31. A special fund as well as a Land Research and Monitoring Unit have been set up under the Ministry of Housing and Land Use Planning (MHLUP). An amount of MUR 50 million was provided in Budget 2019–2020 and 2020–2021.

32. The task of the Unit is to investigate some 353 cases reported in the Truth and Justice Commission's report as well as the former Land Research and Mediation Unit report. A “Rapport de Constat” on each and every case will be prepared and submitted to Attorneys at Law retained by the Unit to decide on the way forward.

33. Section 46 of the Information and Communication Technology Act has been amended in 2018 to:

(a) Extend the scope of the offence of using a telecommunication equipment to send, deliver or show a message which is obscene, indecent, abusive, threatening, false or misleading, to circumstances where the use causes distress or anxiety or, causes or likely to cause, annoyance, humiliation or inconvenience;

(b) Extend the scope of the offence relating to uses of an information and communication service in any manner, other than that specified under section 46(ga) of the aforementioned Act, to circumstances where such use is likely to cause or causes annoyance, humiliation, inconvenience, distress or anxiety to that person;

(c) Add a new offence of using an information and communication service, including a telecommunication service, to impersonate, or by any other means impersonates, another person which is likely to cause or causes annoyance, humiliation, inconvenience, distress or anxiety to that person, and

(d) Increase the custodial sentence in case of conviction for an offence, to penal servitude for a term not exceeding 10 years, in addition to a fine not exceeding one million rupees.

34. These provisions were also made to protect individuals from being victims of racial discriminations by means of hate speech, impersonation or other types of harassment carried out through various information and communication technologies.

### **Rights of Migrant Workers**

35. As at October 2020, there were 34,821 valid work permits for 27,879 male and 6,942 female migrant workers working in the secondary economic activities including construction and manufacturing of food products, beverages, textile and garments, paper products, chemical products, plastic products, fabricated metal products, furniture and machinery and equipment. 20,003 Bangladeshis, 7,853 Indians, 1,531 Chinese, 3,464 Malagasies, 948 Sri Lankans and a few Nepalese, Filipinos, Nigerians, South Africans, Ghanaians, Kenyans, French, Italians and other nationalities.

36. The then Ministry of Justice, Human Rights and Institutional Reforms (MJHRIR), with the financial support of the UK Government, launched a “Know Your Rights Pamphlet” in March 2019, to inform current and prospective migrant workers (in secondary economic activities including the construction and manufacturing industry) of their rights and the possible remedial actions in case of violations. The pamphlet was provided in 6 languages namely English, French, Hindi, Tamil, Bangla and Mandarin. The pamphlets were distributed

to Migrant Workers already in Mauritius and new migrants are being provided with this pamphlet while he/she is finalizing his/her contract of employment. Copies are also being distributed at the immigration counter at the Airport. The publication of this pamphlet and wider publicity in respect of the rights of migrant workers have definitely prevented abuses and ill treatment of migrants.

37. Migrant workers also enjoy the same terms and conditions of employment as those laid down for local workers in our legislation. The contract of employment of a migrant worker, prior to his/her arrival in Mauritius, is examined and vetted by the Special Migrant Workers' Unit of the Ministry of Labour, Industrial Relations, Employment and Training to ensure that it contains no abusive clauses and that it is in full conformity with the prevailing labour law. Regular inspection visits are carried out by officers of the Special Migrant Workers' Unit at workplaces where migrant workers are employed to, inter alia, ascertain that the employer is complying with the terms and conditions of employment as provided for in the vetted contract of employment and in the prevailing labour legislation. Measures taken as from 2016 onwards to reinforce the work force of the Ministry of Labour, Human Resource Development and Training (MLHRDT) has had a huge impact both in terms of quality and effectiveness of the service provided. It has enabled a much larger number of cases dealt with and disposed. Moreover, the number of inspections/enquiries carried out to ensure compliance of the various labour legislations has increased.

38. Presently, there are 65 registered recruitment agencies.

39. Inspections are carried out at the Recruitment agencies by officers of the Employment Service to:

(a) Ensure that Recruitment Agencies are complying with the Recruitment of Workers Act 1993;

(b) Check office facilities and accessibility and whether the office is conducive for the recruitment activities;

(c) Verify the profile of the agencies and their employees; and

(d) Ensure that quarterly returns are being submitted within the prescribed delay.

40. For period July 2017 to December 2020, the Flying Squad of the Ministry (previously known as the Special Migrant Unit) effected 5,030 inspections and recovered MUR 34,321,935 on behalf of migrant workers. The unit also registered 2,108 complaints for which it recovered an amount MUR 70,780,907 on behalf of migrant workers and vetted about 124,295 Contracts of employment.

41. Additionally, the Occupational Safety and Health (Employees' Lodging Accommodation) Regulations 2011 came into operation on 28 January 2011. These regulations aim at establishing norms for workers' lodging accommodations with a view to improving the standards of living conditions in lodging accommodation provided to any employee including migrant workers.

42. From July 2017 to April 2021, the Employees' Lodging Accommodation Unit of the Occupational Safety and Health Division carried out 4,969 visits lodging accommodations. The Unit also enquired into 217 complaints and issued 2,585 lodging accommodation permits. Furthermore, 142 cases have been lodged before the Industrial Court. Additionally, the Division carried out 1,194 inspections related to COVID-19.

43. The national minimum wage in Mauritius is prescribed by the National Minimum Wage Regulations 2017, under the National Wage Consultative Council Act.

44. The national minimum wage applies to every worker, including migrant workers. A worker under the WRA, means a person who enters into, or works under an agreement or a contract of apprenticeship, other than a contract of apprenticeship regulated under the Mauritius Institute of Training and Development Act, whether by way of casual work, manual labour, clerical work, or otherwise, and however remunerated; and includes:

(a) A part-time worker;

(b) A former worker, where appropriate; and

(c) A share worker.

45. The National Minimum Wage Regulations passed on 27 December 2017 set the national minimum wage of every full-time worker at MUR 8,140 per month as from 01 January 2018. As from 01 January 2020, the quantum was reviewed to MUR 9,700 per month whilst that for a worker in the export enterprise was set to MUR 9,000 per month, in view of the vulnerability of the export-oriented enterprise. This measure was deemed necessary with a view to preserving the sustainability of the sector in terms of both employment security and fluidity in the finance of the enterprise.

46. As from 01 January 2021, the national minimum wage has increased to MUR 10,075 and MUR 9,375 a month respectively, pursuant to the payment of Additional Remuneration 2021 in line with National Minimum Wage (Amendment) Regulations 2021.

47. However, every full-time worker is guaranteed a minimum monthly income of MUR 10,575 through the payment of the Negative Income Tax and the Special Allowance. The Negative Income Tax is a system where, instead of paying taxes, employees deriving basic salary not exceeding MUR 9,900 per month, receive financial support from Government. The Special Allowance is prescribed according to the Workers' Rights (Payment of Special Allowance 2021) Regulations 2021.

48. The national minimum wage of every part-time worker, is calculated as stipulated in Part I of the Schedule, of the National Minimum Wage (Amendment) Regulations 2021.

49. The next review of the national minimum wage is due in 2025.

50. Mauritius is a party to ILO Convention No 100 on "equal remuneration for work of equal value". The philosophy and principles of the aforesaid convention has been domesticated.

51. The WRA replaces the Employment Rights Act since 24 October 2019 and provides for an enhanced protection of workers including migrant workers.

52. Migrant workers enjoy same terms and conditions of employment and have the same right to exercise trade union rights.

53. Any worker, including migrant worker, is protected from any form of discrimination. Under section 72(8) of the WRA, subject to subsections (5) and (7), where a worker claims reinstatement, he may apply to the Redundancy Board for an order directing his employer to reinstate him in his former employment with payment of remuneration from the date of the termination of his employment to the date of his reinstatement. Under section 73 of the Act, the Redundancy Board shall deal with all cases of reduction of workforce and closure of enterprises for economic, financial, structural, technological or any other similar reasons. Under section 123(2) of the Act, any person who commits an offence for which no specific penalty is provided shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 2 years.

54. Article 13 of the Code Civil Mauricien states, "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 non-citizens of Mauritius.

55. Section 8 of the Immigration Act provides that persons afflicted with an infectious or contagious disease, being a prohibited immigrant, is not be admitted to Mauritius, unless authorised by the Prime Minister. The State still applies HIV related restrictions on the entry, stay and residence of non-nationals. Migrant workers must provide evidence of their negative HIV status to qualify for work and residence permits.

56. Women migrant workers are protected from domestic violence and from being victims of Trafficking in Persons (TIP), through The Protection from Domestic Violence Act and The Combating of Trafficking in Persons Act respectively.

57. Migrant Workers may access most health-care services for free, including treatment for chronic conditions.

58. Foreign workers currently contribute to the CSG (Contribution Sociale Generalisee) which now replaces the contribution under the National Pension Fund. The contribution to the CSG is applicable after two years of completion of their contracts for migrant workers in the Export Manufacturing Enterprises.

59. There are at present two MOUs with respect to migrant workers coming to Mauritius namely with UAE and Nepal. An MOU with Bangladesh is in the pipeline.

#### **Measures taken for the Elimination of Human trafficking in Mauritius**

60. There is in force a Combatting of Trafficking in Persons Act, the objectives of which are to give effect to the United Nations Protocol to Prevent, Suppress and Punish TIP, in order to prevent and combat trafficking in persons and protect and assist victims of trafficking to Mauritius, as well as compensation to victims of trafficking, and penalties to offenders.

61. In addition to the Combatting of Trafficking in Person Act, there is also a Child Protection Act, which provides, inter alia, for the following offences: ill treatment of a child (section 13), child trafficking (section 13A), abandonment of child (section 13B), abducting child (section 13C), causing, inciting or allowing any child to be sexually abused or to have access to a brothel or engage in prostitution (section 14), taking or permitting to be taken or to make, distribute, show or publish any indecent photograph or pseudo-photograph of a child (section 15).

62. The Criminal Code makes provision, at section 253 for prosecution in cases of procuring, enticing and exploiting prostitute, and the Criminal Code (Supplementary) Act makes provision at section 90 for prosecution for the offence of brothel keeping.

63. Further, protection from slavery and forced labour is guaranteed under section 6 of the Constitution.

64. Since 2018 to date, the Mauritius Police Force (MPF) have taken several measures to eliminate TIP in Mauritius. The Police have adopted a zero tolerance approach in enforcing the Combating of Trafficking in Persons Act. Consequently, seven cases of TIP have been established.

#### **Some of the measures initiated are as follows**

65. The Tracking Team set up at the Passport and Immigration Office (PIO) are on the lookout for missing expatriates and other foreigners who are on illegal stay in Mauritius. Since 2018 to date, eighty-six such operations have been carried out.

66. Please see at Annex A the number of operations conducted by the Tracking Team of the PIO.

67. The Police has increased coordination with external agencies such as the Office of the Director of Public Prosecutions, the MLHRDT, the Ministry of Gender Equality and Family Welfare (MGEFW) and the Attorney General's Office for the purpose of elucidating TIP cases and prosecuting human traffickers on a fast track basis.

68. Eight Police Officers (four from Crime Record Office and four from the PIO), have been trained on 'Data Collection' related to TIP cases. They are now collating data and updating the centralized regional SADC database. This platform has enabled law enforcement agencies and other authorities concerned to monitor TIP cases, study the current trend and initiate corrective measures accordingly.

69. A module on human trafficking has also been included in the fresher, refresher and other courses run by the Police Training School. The aim is to enhance police officers' knowledge on human trafficking for the effective prevention and detection thereof.

70. The Crime Prevention Unit (CPU) had also organised, during period 2018 to July 2020, some 1,717 awareness/sensitization campaigns where 125,645 persons were sensitized on Human Rights, Rights of Women and Children including human trafficking. (See Annex B). The CPU also distributed 1,000 posters on TIP to educational institutions, Community Centers and Public offices amongst others for increasing awareness on this global phenomenon.

71. In order to provide better protection to victims of human trafficking, the Police has identified a shelter for TIP victims. An Expression of Interest for a NGO to manage the shelter has been launched.

72. As regards to alleged cases of child trafficking and child prostitution, social enquiries are carried-out by the Child Development Unit of the MGEFW. The cases are simultaneously reported to the police for criminal enquiries.

73. The Child Sex Offender Register Act was passed in December 2020 but is yet to be promulgated. The objective is to establish a Child Sex Offender Register.

74. The Register will assist in:

(a) Monitoring and tracking persons in the community who have been found guilty of committing sexual offences against children; and

(b) Detecting and investigating sexual offences against children.

75. In addition, the Commissioner of Police will be empowered, in the interest of public safety, to disclose personal information of persons who have been found guilty of committing sexual offences against children to another Government agency for the purposes of :

(a) Monitoring the whereabouts of those offenders;

(b) Verifying personal information reported by those offenders;

(c) Managing the risk that those offenders may commit further sexual offences against children; and

(d) Managing any risk or threat to public safety.

76. Furthermore, notwithstanding any other enactment, under the aforementioned Act, the Commissioner of Police may disclose the personal information of a registrable offender to a corresponding overseas agency for the purpose of informing that agency of the offender's intention to travel to that agency's jurisdiction.

#### **Online child sexual abuse and exploitation**

77. The sexual abuse and exploitation of children online have become astonishingly widespread and common globally. The Republic of Mauritius is no exception. The local media is currently extensively reporting on cases of online sexual abuse and exploitation against children, especially on social media platforms such as Telegram.

78. In this respect, the Ombudsperson for Children, has recently, through a press communication, expressed concern with the reality that some children of Mauritius are being groomed online for sexual purposes. Videos portraying them engaging in sexual activities are being live streamed and indecent images circulated on the internet.

79. The Ombudsperson for Children has invited citizens, including children and young people, to provide their views on these issues by either phoning, messaging or emailing.

80. This will enable the Office of the Ombudsperson for Children to propose meaningful recommendations to the relevant authorities on these matters.

#### **Role of National Human Rights Institutions (NHRIs)**

81. The Chairpersons and Commissioners of all NHRIs are appointed by the President on advice of the Prime Minister in consultation with the Leader of the Opposition.

82. All the NHRIs are guided by the Paris Principles. They do not receive any directive(s) from any public or private authority which would compromise their independence.

83. The establishment of additional national institutions to facilitate the implementation of the ICERD is not warranted given that apart from the NHRIs listed below, the NMRF under the Chairpersonship of the Minister under whose portfolio Human Rights rest, do follow on the implementation of the Convention.

84. The National Human Rights Commission (NHRC) has a quasi-jurisdictional competence to receive complaints regarding violations of human rights, to summon witnesses, to call for the production of documents and to hold hearings.

85. The term “Human Rights” under the Protection of Human Right Act is defined as the rights protected under Chapter II of the Constitution of Mauritius. These rights are mainly civil and political rights. The NHRC is nevertheless widening its mandate by giving a generous interpretation to the right to life and deals with economic and social rights, where applicable.

86. With regard to financial resources, the NHRC has its own budget, which is approved by the National Assembly, as is the case for all budgetary units performing specialised functions.

87. The NHRC also has the important mandate to promote human rights in Mauritius. As such, the NHRC conducts several workshops and delivers talks to elderly people, persons with disabilities, women and LGBTQ persons to sensitize them about their human rights and their rights to be protected against all forms of discrimination. All the talks, workshops and public awareness campaigns which are organised by the NHRC touch on the issue of protection against discrimination based on race, caste, place of origin, political opinions, colour, creed, sex, age or other status.

88. Please see at Annex C, figure 1 – nature of complaints received at the NHRC.

89. The IPCC is mandated to investigate into any complaints made against police officers in the discharge of their functions, other than complaints of acts of corruption or money laundering offences. Any use of illegal force by a police officer in the exercise of his duties can be the subject of a complaint before the IPCC, either by the victim or a representative where he is unable to do so himself (section 11 of the Independent Police Complaints Commission Act).

90. The Ombudsperson for Children ensures that children’s rights are protected and is responsible for the implementation of the Convention on the Rights of the Child in Mauritius.

91. The Equal Opportunities Commission (EOC) deals with discrimination on the grounds of status (age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation) and with complaints of sexual harassment.

92. Please find at Annex C, figure 2 – categorisation of complaints based on grounds of discrimination at the EOC.

93. Please see at Annex C, figure 3 – categories of complaints by alleged discriminators at the EOC.

94. The EOC cannot entertain cases when it comes to the Public Service Commission, as the latter cannot be subjected to the direction or control of any person or authority (vide section 118(4) of the Constitution of Mauritius).

95. Nevertheless, the EOA empowers it to investigate complaints lodged against Public Servants. Moreover, if there is evidence of discrimination in the matter, same is referred to the Equal Opportunities Tribunal (EOT), with the consent of the complainant, for further consideration.

#### **Office of the Ombudsman**

96. The Constitution of the State provides at Chapter IX for the establishment of an Office of the Ombudsman. The mandate of the Office is to investigate any action taken by any officer or authority in the exercise of administrative functions of that officer or authority, in any case in which a member of the public claims, or appears to the Ombudsman, to have sustained injustice in consequence of maladministration. The Office is a public Office and the services provided by the Ombudsman are free of charge.

97. Please find at Annex C – cases and services provided by the Office of Ombudsman.

98. In 2019, the Office had embarked upon an awareness-raising campaign throughout Mauritius including Rodrigues Island, with a view to promoting human rights and educating members of the public in general on our role, powers and services.

99. The Office is pursuing its awareness raising campaign in collaboration with the Citizen's Advice Bureau. The campaign aims at facilitating access to the services of the Office to persons belonging to the most vulnerable social groups, who are often unaware of their rights.

#### **Ombudsperson for Financial Services**

100. The Ombudsperson for Financial Services Act of 2018 provides for the establishment of the Office of the Ombudsperson for Financial Services. The Act deals with inter alia, the office, functions, complaint, mediation, investigation, award of the Ombudspersons for financial services.

101. The main function of the Office of Ombudsperson for Financial Services is to protect consumers of financial services and to deal with complaints made by consumers of financial services against financial institutions.

102. The Office of Ombudsperson for Financial Services is also in the process of establishing a website following which complainants will be able to make their complaints directly on the online complaint form that will be available on the website.

#### **Ombudsperson for Sports**

103. The statutory function of the holder of the post, is regulated by section 46 of the Sports Act of 2016:

“any person who feels aggrieved by a decision of the Mauritius Olympic Committee, the Mauritius Paralympic Committee, a National Sports Federation, a Multisport Organisation, a regional sports committee, a sports club, a licensee, any member, referee, coach or other official of a sports organization, other than a decision or dispute related to doping, may, on good cause shown and within 21 days from the date of the decision or a dispute arises, appeal to the Ombudsperson for Sports for conciliation.”

104. The NHRIs referred to above, do attend to complaints pertaining to racial discrimination as and when the situation arises. Most of the time, complaints made to NHRIs cannot be sustained.

#### **Public Bodies Appeal Tribunal (PBAT)**

105. As regards the PBAT set up since 2009 to deal with Public Officers wanting to make an appeal against a decision of the Public Service Commission or Local Government Service Commission pertaining to an appointment exercise or to a disciplinary action taken against an officer, only two cases pertaining to racial discrimination have so far been received. The averments could not be substantiated.

#### **Administrative framework to prohibit all forms of racial discrimination**

##### *The Citizen Support Portal (CSP)*

106. The CSP, under the aegis of the Prime Minister's Office, is a powerful technological tool helping in assessing various socio-economic problems prevailing in Mauritius.

107. It is an online platform for all citizens, especially needy and vulnerable groups, to register their complaints and empower them to voice out their concerns. Consequently, no one is left behind.

108. The CSP has become, since its inception, a platform to report cases of poor conditions, discrimination, inequality and insecurity and for remedial actions to be taken in a timely manner. Migrant workers have also availed of this portal to report various grievances.

#### Article 4: measures to prohibit incitement to Racial Discrimination

109. Incitement to racial discrimination are further prohibited through recent amendments brought to sections 206 and 282 of the Criminal Code (offences of Outrage against public and religious morality and Stirring up contempt or racial hatred respectively) as well as under section 46 of the ICTA Act. It is to be noted that though, specific reference to racial discrimination is not made therein, it is likely to be caught by the effects of ideas disseminated, namely “obscene, abusive, threatening, which is likely to cause or causes annoyance, humiliation, inconvenience, distress or anxiety to any person”.

110. Apart from the Prevention of Terrorism Act (POTA) which allows the Commissioner of Police to make an application to the Judge in Chambers to declare an association or an organisation, a proscribed organisation and the Registration of Associations Act, under which the Registrar of Association may cancel the registration of an associations, there are no other further amendments in this respect.

111. In relation to the criminalisation of acts of the promotion and incitement of racial discrimination as well as the participation in organisations inciting racial discrimination, other than Section 5 of the POTA and Sections 188 to 191 of the Criminal Code, there has been no further changes to the legal framework.

#### Racial motives as aggravating circumstances under domestic penal legislation

112. Save for section 282 the Criminal Code which makes provisions for an offence of a racial nature, the penal legislation in Mauritius do not refer to racial motives as an aggravating circumstance. A court may nevertheless, take into consideration the racial motive of an offence when sentencing a person for an offence.

#### Decisions taken by national tribunals and other state institutions

113. Please find at Annex D - list of cases pertaining to racial discrimination dealt with by either national tribunals or other state institutions.

114. Moreover, please see below a table depicting reported cases of racial discrimination, stirring up racial hatred, inciting racial hatred, profanation for year 2019 in Mauritius.

Table 1

#### Reported cases of racial discrimination, stirring up racial hatred, inciting racial hatred, profanation for year 2019 island of Mauritius

<i>SN.</i>	<i>Offence</i>	<i>No of Reported Cases during the Year 2019</i>	<i>No further Action</i>	<i>Prosecution</i>	<i>Sentence</i>	<i>Enquiry</i>
1	Stirring Up Racial Hatred	6	3			3
2	Racial Discrimination	1	1			
3	Inciting Racial Hatred	1				1
4	Damaging Place of Worship	11	6	1		4
5	Defacing Wall of Religious Place	4	1			3
6	Larceny from Place of Worship	78	12	13	11	42
7	Violating Tomb	4	1		1	2

*Source:* Crime Records Office (July 2020).

## **Article 5: Non-Discriminatory implementation of the Rights and Freedoms under the Convention**

### **Fair Administration of Justice**

115. In order to improve the efficiency of the existing court system, the Courts Act was amended in September 2020 to add two further divisions of the Supreme Court namely the Financial Crimes Division and the Land Division.

116. The Financial Crimes Division was set up both at the Supreme Court and the Intermediate Court, both of which shall have jurisdiction to hear and determine a financial crime offence and any other matter under any enactment which is connected or ancillary to a financial crime offence.

117. The decision to lodge a case before the Supreme Court or Intermediate Court rests with the DPP, who shall, in his discretion decide before which Court to prosecute the offence depending on the nature of the offence.

118. Moreover, the creation of 4 additional posts of judges was made recently to ensure a timelier resolution of court cases.

119. Furthermore, the Children's Act which was enacted in December 2020 but yet to be proclaimed, will repeal the Child Protection Act and the Juvenile Offenders Act.

120. The jurisdiction of the Juvenile Court as well as that of the District Magistrate under the Child Protection Act will subsequently be taken over by the Children's Court established under the Children's Act. The Children's Court, once established, will be comprised of a Protection Division and a Criminal Division.

121. Various reforms have already been brought to the judiciary to expedite determination of court cases and improve services to the public. Among others, a dedicated state of the art Court Building for the Supreme Court and all its Divisions has been built and is operational. The required support services for a full-fledged Family Division have been provided. Digital and audio recording systems to ensure accurate record keeping and speedier delivery of justice have been upgraded. The Law Reform Commission had been empowered to bring further amendments to the Criminal Code and other laws to ensure that they meet the needs of contemporary Mauritius.

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

122. In the fight against terrorism, the Government of Mauritius has always been very careful to uphold the fundamental rights of every individual as enshrined in the Constitution of Mauritius. Measures have also been envisaged to give due attention to the Human Rights of victims of terrorism and stresses importance of assisting the victims of terrorism. The measures taken by the government to fight the terrorism do not discriminate on grounds of race, colour, descent or national or ethnic origin.

123. The POTA was introduced in 2002 to fight against terrorism.

124. In line with the State's international obligations and Government's resolve to fight international terrorism and violent extremism, a National Strategy to Prevent Radicalisation and Violent Extremism (2019–2022) has been developed since November 2019.

125. The Strategy rests on four main tenets:

(a) Countering extremist ideologies – focusing on the motivations of individuals who engage in or have the potential to be radicalized and engage in violent extremism;

(b) Disrupting terrorist activities – identifying terrorist and radicalized individuals and their supporters and thwart their plans to carry out any subversive act through intelligence networking;

(c) Denying support to terrorism – denying terrorists and radicalised individuals' financial means by thwarting all attempts to raise funds to carry out their activities. Preventing and disrupting financing to terrorist organizations will obviously limit their capability to carry out attacks; and

(d) Developing response and recovery plan – responding proportionately and rapidly, in an organized manner to terrorist activities and mitigate their effects.

126. The Strategy also incorporates a Plan of Action resting on four pillars to ensure that the Mauritian society is able to withstand radicalisation and extremist ideologies:

- (a) Community Bonding;
- (b) Law Enforcement;
- (c) Intelligence Networking; and
- (d) Strategic messaging.

127. The Mauritian strategy, it is to be stressed, is based on a whole-of-governmental approach coupled with public and private partnerships which aims at enhancing social cohesion and inclusiveness as well as community resilience.

128. Under the POTA, acts of terrorism and proscribed organisations have been clearly defined.

129. Consequently, the author of any an act of terrorism against the State of Mauritius or its territories shall be dealt with, under this law. Despite the severity of procedures under such law, for instance, incommunicado detention, the law still upholds the rights and welfare of accused or suspect. For example, latter are given bail before a court of law (State v/s Khoyratty, 2006) for certain offence under the said Act.

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

130. The MPF through its community policing strategies regularly communicate and interact with different groups of people in the Mauritian society with regards to policing issues. Those formal interactions also include groups of victims or potential victims of racial discrimination. The objective is to maintain the social stability and at the same time permitting the multi-ethnic society practice its religious cultural belief in unity and in all respect.

131. Please find hereunder a table depicting awareness/sensitization campaigns on racial discrimination carried out by the CPU of the MPF for the last three years:

Table 2

#### **No. of Awareness/Sensitization Campaigns on racial discrimination carried out by the CPU**

<i>Year</i>	<i>Media (Radio, Press &amp; TV)</i>	<i>No. of Awareness/ Sensitization Campaigns</i>
2018	14	7
2019	6	8
2020	7	4
<b>Total</b>	<b>27</b>	<b>19</b>

*Source:* CPU (July 2020).

132. The MPF has a “Non-Discrimination and Anti-Harassment Policy” to reinforce its commitment to comply and enforce all domestic legislations as well as any order/rule/policy that prohibit any form of discrimination on the basis of race or ethnicity.

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

##### **Extradition**

133. A new Extradition Act (Act No. 7 of 2017) was enacted in 2017 to make better provision for the extradition of persons from, and to, Mauritius. It came into operation on 3 May 2018.

134. The Extradition Act does away with the distinction which was formerly made between Commonwealth and non-Commonwealth countries in matters of extradition in order to facilitate extradition even in the absence of treaties. It also simplifies extradition procedures, provide better guidance to the relevant authorities in dealing with requests for extradition and promotes cooperation, while respecting the rights of persons whose extradition or arrest is sought. “The Act also:

- (a) Makes particular mention of counterterrorism conventions;
- (b) Highlights the dual criminality requirement for extradition;
- (c) Affords better protection to Mauritian Citizens against extradition from Mauritius; and
- (d) Enables the Attorney-General to refuse to grant, in the public interest, a request for the extradition of a person from Mauritius.”

135. Sections 8 and 9 of the Extradition Act enumerates the grounds upon which a request for the extradition of a person may be refused. In particular, Section 8 of the Act prohibits the extradition of a person by a foreign state where,

“in the opinion of the Attorney General, there are substantial grounds to believe that the person sought:

- (a) is likely to be prosecuted or punished in that State on account of his race, religion, nationality, ethnic origin or political opinions;
- (b) is likely to be subjected in that State to torture or cruel, inhuman or degrading treatment or punishment;
- (c) is not likely to receive the minimum fair trial guaranteed in criminal proceedings in that State;
- (d) is liable to be tried or sentenced in that State by an extraordinary or ad hoc court or tribunal, unless that State gives assurances which, in the opinion of the Attorney General, are sufficient to ensure that the judgment will be passed by a court which is empowered under the rules of judicial administration of that State to try criminal offences.”

### **Prohibited Migrants**

136. The Immigration Act (Act No. 13 of 1970) was amended in 2019 to inter alia extend the category of persons, being non-citizens, falling within the definition of ‘prohibited immigrant’ who ought not be admitted into Mauritius, to the following persons:

- “(m) persons who, from information or advice which in the opinion of the Minister is reliable information or advice, are likely to be undesirable inhabitants of, or visitors to, Mauritius;
- (n) persons or class of persons whose presence in Mauritius, from information or advice which in the opinion of the Minister is reliable information or advice, is likely to be prejudicial to the interests of defence, public safety, public order, public morality or public health;
- (o) persons listed by or under the authority of the United Nations Security Council pursuant to any of the United Nations Security Council Resolution specified in the Second Schedule to the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019.”

137. The amendments above remove from the list of prohibited immigrants, persons who suffer from any physical or mental infirmity or persons who are dumb, blind or otherwise physically defective or physically handicapped and who are likely to be a burden on the State.

### **Refugees and Asylum Seekers**

138. 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

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.

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

139. 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.

140. Entry and exit visas are issued by the PIO to foreigners entering the country. Those staying for a longer period must apply for a residence permit. A non-citizen should hold a valid residence permit, unless they are exempt persons under the Passports Regulations and/or the Immigration Act, subject to the person:

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

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

142. The Constitution was, however, amended in November 2016 to provide for the imposition of restrictions on:

- (a) The movement within Mauritius; and
- (b) the right of any person to leave Mauritius,

pursuant to an order of a Court or a Judge of the Supreme Court under the POTA, being a law relating to offences or acts of terrorism.

143. Other restriction on the right to leave Mauritius may be imposed in the following instances:

- (a) By a Court of Law where the person is subject of a Court case;
- (b) The Mauritius Revenue Authority may also raise an objection to departure against a person who is indebted to the Authority;
- (c) A Police Officer, not below the rank of Assistant Superintendent of Police, may require the Passport and Immigration Officer to prohibit the departure of a detainee. Such prohibition against departure will lapse after 72 hours (section 13 of Bail Act); and
- (d) Under section 53(1)(a) of the Prevention of Corruption Act of 2002, the Independent Commission against Corruption may cause the police to arrest any person who may assist in its investigation and who is about to leave Mauritius.

144. Travel documents are issued in the following circumstances:

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

145. 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.

146. A person travelling to Mauritius without the required travel documents may be returned back to his country of origin or residence.

147. According to records available at the PIO, during period 2018 to 2020, 1001 foreign nationals were prohibited entry in Mauritius.

### **CHAGOS Archipelago**

148. The Chagos Archipelago, which is and has always formed an integral part of Mauritius, was illegally excised by the United Kingdom from the territory of Mauritius prior to its accession to independence in 1968 and all the inhabitants were forcibly removed. In its Advisory Opinion of 25 February 2019 on the Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, the International Court of Justice (ICJ) determined that the decolonization process of Mauritius was not lawfully completed in view of the illegal excision of the Chagos Archipelago, and that the United Kingdom is under an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible. The Court also determined that the United Kingdom's continued administration of the Chagos Archipelago constitutes an unlawful act of a continuing character entailing the international responsibility of that State.

149. In its Resolution 73/295 which was adopted on 22 May 2019 to give effect to the Advisory Opinion of the ICJ, the UN General Assembly demanded the United Kingdom to withdraw its colonial administration from the Chagos Archipelago unconditionally by 22 November 2019. The United Kingdom failed to meet that deadline and continues to occupy illegally the Chagos Archipelago.

150. In the Judgment which it delivered on 28 January 2021 in the case of *Mauritius v Maldives*, a Special Chamber of the International Tribunal for the Law of the Sea held that the determinations made by the ICJ in its Advisory Opinion have legal effect and clear implications for the legal status of the Chagos Archipelago. It also ruled that Mauritius has undisputed sovereignty over the Chagos Archipelago and that the United Kingdom's continued claim to sovereignty over the Chagos Archipelago is contrary to the authoritative determinations of the ICJ.

151. In the wake of the illegal excision of the Chagos Archipelago, the United Kingdom forcibly removed all the Mauritians born and residing at the time in the Chagos Archipelago ("Chagossians"). Most of them were moved to the main Island of Mauritius and have since been systematically prevented by the United Kingdom from returning to the Chagos Archipelago.

152. Mauritius continues to spare no efforts for the completion of its decolonization process so that it can effectively and fully exercise its sovereignty over the Chagos Archipelago, which in turn should lead to the resettlement of Mauritian citizens, including those of Chagossian origin on the Chagos Archipelago. These two processes are indissociable as has been observed by the ICJ in the following ruling:

"As regards the resettlement on the Chagos Archipelago of Mauritian nationals, including those of Chagossian origin, this is an issue relating to the protection of the human rights of those concerned, which should be addressed by the General Assembly during the completion of the decolonization of Mauritius."

153. For its part, the Government of Mauritius is strongly committed to implementing a resettlement plan in the Chagos Archipelago. In this regard, the special provision of MUR 50 million made in the Budget of Mauritius for the financial year 2019–2020 has been maintained in the Budget for the financial year 2020–2021 for meeting, inter alia, expenses relating to preparations for eventual resettlement in the Chagos Archipelago.

154. As full-fledged citizens of Mauritius, Chagossians enjoy the same rights as other Mauritian citizens, including access to free health services, free education, and free public transport for students, elderly persons and disabled persons. They are also free to participate fully in all walks of life, including in the economic, social and political fields. In fact, one

lady of Chagossian origin is a Member of Parliament; she was in the past a government Minister.

155. In order to further improve the living conditions of the Chagossians, the Government of Mauritius continues to take special measures in their favour through the Chagossian Welfare Fund, the Board of which comprises representatives of the Chagossian community who are elected by members of that community and is chaired by a member of the Chagossian community. The objects of the Fund are to, inter alia, advance and promote the welfare of the members of the Chagossian community and their descendants, develop programmes and projects for their total integration into Mauritius, and maintain community centres and other community facilities vested in it for the benefit of members of the Chagossian community and their descendants.

156. Over the past two years, the following measures have been taken by the Chagossian Welfare Fund:

- (a) Scholarships to eligible students of the Chagossian community;
- (b) Offer of motivational prizes to young graduates of the Chagossian community;
- (c) Grants/financial assistance to students of the Chagossian community attending universities and vocational institutions;
- (d) Talks for young Chagossians on nutrition and drug abuse;
- (e) Provision of sports facilities and equipment for recreational purposes and wellness of the Chagossian community;
- (f) Residential camp for senior citizens of the Chagossian community;
- (g) Distribution of provisions (edible items) to senior citizens and bedridden persons of the Chagossian community;
- (h) Recreational activities for primary and secondary school students of the Chagossian community;
- (i) Donation of building materials for repairs to be made to the roof of houses of Chagossians which leaked during heavy rainfalls;
- (j) Provision of food items, furniture and other necessities to Chagossians who are victims of fire and donation of building materials for repairs of houses of Chagossians destroyed by fire;
- (k) Assistance to needy Chagossians for repairs to their houses;
- (l) Visits to Chagossians in homes every three months, during which clothes and fruits are given to them;
- (m) Funeral grants to families of deceased Chagossians;
- (n) Free yearly medical check-up for Chagossians;
- (o) Financial assistance to Chagossians going for treatment abroad over and above that provided by the Ministry of Health and Wellness (MHW);
- (p) Financial assistance to a person accompanying a Chagossian going for treatment abroad;
- (q) Provision of transport facilities to Chagossians who have appointments at hospitals; and
- (r) Upgrading of Chagossian community centres for the conduct of activities, prayers and other events for the Chagossian community.

157. These measures have contributed to improve the well-being of members of the Chagossian community, whether they are children, adults or elderly persons. The measures taken in favour of students have helped them in their academic path and there has been an increase over the years in the number of university graduates of Chagossian origin. The Chagossian Welfare Fund has also assisted in alleviating the plight of needy Chagossians.

## Political Rights

### *Electoral Reform*

158. In regard to the electoral reform in general, the Government introduced the Constitution (Amendment) Bill into the National Assembly on 04 December 2018 after wide consultations. The objects of the Bill were, inter-alia, to:

- (a) Introduce a dose of Proportional Representation;
- (b) Do away with the requirement for the mandatory declaration as to the community to which a constituency candidate belongs to;
- (c) Seek better gender representation in the National Assembly; and
- (d) Provide for anti-defection measures to enhance stability.

159. The Government electoral reform proposals that were embodied in the Bill, aimed at consolidating and advancing constitutional democracy and republican values in Mauritius. The proposed measures were expected to address, to a significant extent, the major imperfections and deficiencies of our current electoral system. They aimed at preserving and promoting inclusiveness and fostering nationhood while at the same time maintaining social and political stability and governability, which have been the bedrock of our socio-economic developments since independence.

160. However, the Constitution (Amendment) Bill was debated in the National Assembly but was not put to vote on 11 December 2018 as there was no consensus across the political spectrum with respect to the proposed reforms.

161. Subsequently, following the General elections in November 2019, a new Government with the same Prime Minister was elected and in its Government Programme 2020–2024, mention is made that Government intends to pursue its initiative to bring an electoral reform that will ensure political and social stability in the country and higher women participation.

162. The gender-neutral quota of two-thirds is already applicable in the case of Municipal Council Elections, Village Council Elections and the Rodrigues Regional Assembly Elections.

### **Communication no. 1744/2007, NARRAIN ET AL.**

163. Members of the political party '*Rezistans ek Alternativ*' submitted an individual communication to the Human Rights Committee in November 2019 alleging that the State of Mauritius failed to comply with the views of the Committee in as much as the State, by way of a constitutional amendment in 2014, rendered "legal" the qualification of a candidate at the general elections. It was reported that the candidates had failed to classify themselves under one of the required "ethnicity – or religion-based" categories in view of the fact that to qualify as a candidate for the general elections, one had to declare his/her belonging to one of the four communities prescribed under the Constitution of Mauritius. The authors of the Communication observed that the amendment was of a temporary application and consequently would not apply after the 2014 general election, and as such, the State had therefore failed to provide an effective and enforceable remedy for the "declared breach" of article 25(b) of the Covenant.

164. The Republic of Mauritius did not extend these provisions to the 2019 General Elections as these contained anomalies which were highlighted during the debates in relation to the Constitutional (Declaration of Community) (Temporary Provisions) Bill 2014. More specifically, during the debates of the 04 July 2014, it was highlighted that such piecemeal amendments could have very far-reaching and adverse consequences on inter-communal harmony and could even threaten the social fabric of the Mauritian multicultural society.

165. One major anomaly identified during the debates was that if several candidates belonging to a particular community do not declare their community during elections and are thereby returned as members of the National Assembly, there would be an "artificial" under representation of that community in the National Assembly, whereby with a view to ensuring a fair representation, the Electoral Supervisory Commission would have been under a

mandatory legal obligation to allocate additional seats under the BLS to unreturned candidates of that particular community. Consequently, this would, in lieu of ensuring fair representation of every community in the National Assembly, create a situation whereby that particular community, because of it being “artificially” under represented, would, after allocation of additional seats, be over represented, and, at the same time, resulting in another community to be under represented. In such a situation, the whole exercise of designating additional seats will thus be falsified, thereby defeating the whole purpose of having a fair representation of all communities in the National Assembly.

166. The Republic of Mauritius is of the view that piecemeal amendments to the Constitution in order to remove the reference to the 1972 census in the First Schedule to the Constitution are not considered appropriate as neither would this achieve broad consensus nor would this contribute to meeting the objective of building a truly Mauritian Nation, an aim to which the Government of Mauritius stands fully and unreservedly committed to.

167. As regards the holistic reform of the electoral reform to reconsider the necessity of the community-based electoral system, the Republic of Mauritius has attempted to introduce the Constitution Amendment Bill No. XXII of 2018, which includes amendments to do away with the requirement for the mandatory declaration of community to which a candidate belongs to.

168. However, again, the debates on the Bill before the National Assembly only confirmed the deep sensitivity related to the abolishing of the BLS within the Mauritian society. The tenor and nature of the debates in the National Assembly made it evident that the required majority to effect any constitutional amendment would not be obtained. Without in any way endorsing the merits of the BLS, it is still viewed by many as a way to secure the representation of minority communities in Parliament, and a reason for the continued political stability in a multi-cultural Mauritius.

169. Thus, despite sincere and genuine endeavours to have a national dialogue on this issue through the Constitution Amendment Bill No. XXII of 2018, the prevailing conjunctures within the National Assembly and Mauritius society made it impossible to bring holistic reforms of the electoral reform.

170. Notwithstanding the above and conjunctures permitting, the Republic of Mauritius stands committed to bringing an electoral reform, which will obtain widespread political and nationwide consensus whilst respecting the rights of all its citizens, including those of the authors of the complaint.

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

171. The Children’s Act 2020 (Act No 13 of 2020) was passed in the National Assembly on 15 December 2020 and yet to be proclaimed. It makes the following provision in relation to marriage of children:

“12. Marriage of, or cohabitation with, child

1. No person shall:

- (a) marry a child civilly or religiously; or
- (b) cause or force a child to marry civilly or religiously.

2. No person shall:

- (a) live together with a child, under the same roof, either as spouses or unmarried partners; or
- (b) cause or force a child to live together with another person, under the same roof, either as spouses or unmarried partners.”

172. Further, the Children’s Act will also amend the Code Civil in order to do away with the procedure and the provisions allowing a person under 18 years but over 16 years to be married. Thus, the age of marriage will be 18 years once the Children’s Act is proclaimed.

173. Hence, any person under the age of 18 years cannot marry or cohabit with another person under the Children’s Act 2020.

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

174. In 2018, the Sale of Immovable Property Act which inter alia provides for the procedure to be adopted in respect of the seizure of immovable property was amended to ensure that where notices which are required to be published under the Act are also published in French or in English in at least one newspaper which is published and distributed in Rodrigues where the notice relates to a property which is situated in Rodrigues.

175. The Affidavits of Prescription Act and the Affidavits of Prescription Act (Suspension of Certain Provisions) Act were repealed and the Acquisitive Prescription Act (Act No. 13 of 2018) was enacted to provide for a new and more appropriate legislative framework with better safeguards regarding acquisitive prescription. It imposes an obligation on a Notary where the latter is requested to draw up a deed of prescription, to ensure that notices are posted up and published in accordance with the Act.

176. Further, a Notary may not transcribe an affidavit of prescription until the delay of three months from the date of the posting up has lapsed and unless an objector who has served a notice of objection has withdrawn his objection or there is a judgment of the judge in chambers or of the competent court setting aside a notice of objection.

177. The Act brings the procedures for transcription of the affidavit of prescription in line with the procedures in force for the transcription of authentic deeds. Moreover, it provides further safeguards by prescribing certain requirements in relation to the occupier and his witnesses and in relation to further transfers of a property initially acquired by way of prescription.

### **The Right to Inherit**

178. Illegitimate or natural children have the legal right to inherit their father's property and wealth.

179. Under the Code Civil, there are no discrimination that are made when proceeding with the distribution of the succession of a deceased parent. In this line, there are no distinctions between children born from previous marriages. Hence, children born from previous marriages are also part of the succession and the estate is divided equally amongst all children, whether from preceding or succeeding marriages.

180. Illegitimate children are considered part of the succession provided a filiation is established to prove that they are the child of the deceased person.

### **The Right to Freedom of thought, conscience and religion**

181. Taking into consideration the importance of the social fabric of Mauritius, religious leaders are encouraged to:

(a) Discuss within their communities the causes of discrimination and develop strategies to counter those causes and to foster religious freedom and to promote all religious communities to manifest their religion and to contribute openly and on equal footing to society.

(b) Recognize that the open constructive and respectful debate of ideas as well as inter-religious, interfaith and intercultural dialogue at local, national, regional and international levels can play a positive role in combating religious hatred, incitement and violence.

(c) facilitate sharing popular religious practices, beliefs healing practices and food habits which may lead to a better harmonious environment and peaceful society.

### **Religious Harmony**

182. In its endeavour to promote religious harmony the Government provides yearly financial support to all religious bodies in relation to training, salaries and travelling expenses of priests and the construction and maintenance of places of worship.

183. There are two categories of Religious associations benefiting from subsidy. These are:

(a) Religious bodies affiliated to Federations, which receive an amount of subsidy based on the number of adherents as submitted by the Central Statistical Office on a per capita basis; and

(b) Religious bodies not affiliated to any Federation but which operate as branches of international religious organisations. Up to now, six non-affiliated religious organisations are paid a fixed grant.

184. The per-capita subsidy payable to religious bodies is calculated on the basis of the yearly estimated population of Mauritius by religion based on the housing and population Census, the latest census which provides information in detailed religious distribution of the population. By so doing it is expected that all citizens in the country benefit from the subsidy paid.

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

185. Freedom of expression is a fundamental freedom protected by sections 3 and 12 of the Constitution of Mauritius. The Press in Mauritius generally operates in a conducive environment free of violence or coercion, with journalists free to exercise their profession. However, as the rule of law prevails, the press is subject to the general laws on publications. The local media has always enjoyed a tradition of freedom and pluralism. There is at present more than 60 dailies/weeklies/fortnightlies/monthlies in addition to the several online publications. People have access to the media to express their views and have unrestricted exposure to different viewpoints. There is no official or unofficial censorship of the press. There is unrestricted access to the internet, which is widely used. The Media Trust, a body corporate, whose main objective is to cater for the training of journalists, has been reconstituted and is now fully operational.

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

##### *Intersectional discrimination to the rights of peaceful assembly and of association*

186. Intersectional discrimination (specifically on the basis of race, caste, place of origin, political opinions, colour, creed or sex) is prohibited by the **section 16** of the Constitution. Section 16 accordingly provides as follows:

“(1) Subject to subsections (4), (5) and (7), no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to subsections (6), (7) and (8), no person shall be treated in a discriminatory manner by any person acting in the performance of any public function conferred by any law or otherwise in the performance of the functions of any public office or any public authority.

(3) In this section, “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such description.

(4) Subsection (1) shall not apply to any law so far as that law makes provision

(a) For the appropriation of revenues or other funds of Mauritius;

(i) For a minimum number of candidates for election to local authorities to be of a particular sex, with a view to ensuring adequate representation of each sex on a local authority;

(ii) 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;

(b) With respect to persons who are not citizens of Mauritius; or for the application, in the case of persons of any such description as is;

(c) Mentioned in subsection (3) (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law applicable to persons of that description.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, caste, place of origin, political opinions, colour, creed or sex) to be required of any person who is appointed to any office in the public service, any office in a disciplined force, any office in the service of a local authority or any office in a body corporate established directly by any law for public purposes.

(6) Subsection (2) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or (5).

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) may be subjected to any restriction on the rights and freedoms guaranteed by sections 9, 11, 12, 13, 14 and 15, being such a restriction as is authorised by section 9 (2), 11 (5), 12 (2), 13 (2), 14 (2) or 15 (3), as the case may be”.

### **The right to work**

187. The Employment Rights Act was repealed and replaced by the WRA 2019 which is a modern and comprehensive legislation, and addresses the shortcomings of the previous legislation, harmonises core conditions of employment and provides for new benefits, makes provision for flexitime, and provides for new emerging forms of work, referred to as atypical work, such as online platform work. The protections of workers provided by the Act also include:

(a) Protection against discrimination by widening the definition of “discrimination” to include impairment and differential treatment of workers of a subsidiary company performing work of equal value as a worker employed by another subsidiary company of the parent company or the parent company, operating in the same line of business;

(b) Protection against precarious employment by restricting a fixed term contract to a work of a temporary nature and by considering the length of service of a worker on a fixed term contract as being continuous employment where the contract is renewed and where there is no break of 28 days between 2 fixed term contracts;

(c) Protection against being compelled to sign an agreement to their detriment by requiring that a compromise agreement must be vetted by a worker’s legal representative, an officer or a member of a registered trade union or representative of the Ministry responsible for the subject of labour and employment relations;

(d) Provides for a recourse to a protective order to safeguard workers’ remuneration and for an advance payment from a Wage Guarantee Fund Account where an employer fails to pay remuneration to a worker;

(e) Protection of workers’ employment by the setting up of a Redundancy Board; and

(f) Guaranteeing them a gratuity on retirement which will take into account their full length of service irrespective of the number of employers with whom they have been working with.

### **Measures against discrimination in employment and occupation**

188. Part II of the WRA exclusively provides for measures against discrimination in employment and occupation as follows:

“(1) (a) No employer shall treat, in a discriminatory manner, any worker who is in his employment.

(b) No prospective employer shall treat a person in a discriminatory manner in respect of access to employment.

(2) Any distinction, exclusion or preference in respect of a particular occupation based on the inherent requirements of the occupation shall not be deemed to be discrimination.

(3) A person does not discriminate against another person by imposing or proposing to impose on that other person a condition, requirement or practice that has or is likely to have a disadvantaging effect, where the condition, requirement or practice is reasonable in the circumstances.

(4) The matters to be taken into account in determining whether or not a condition, requirement or practice is reasonable in the circumstances include:

(a) the nature and extent of the disadvantage resulting or likely to result, from the imposition or proposed imposition of the condition, requirement or practice;

(b) the feasibility of overcoming or mitigating the disadvantage; and

(c) whether the disadvantage is proportionate to the result sought to be achieved by the person who imposes, or proposes to impose, the condition, requirement or practice.

In this section:

‘discrimination’ includes affording different treatment to:

(a) Different workers attributable, wholly or mainly, to their respective description by age, race, colour, caste, creed, sex, sexual orientation, gender, HIV status, impairment, marital or family status, pregnancy, religion, political opinion, place of origin, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;

(b) Workers of a subsidiary company performing work of equal value as a worker employed by another subsidiary company of the parent company or the parent company, operating in the same line of business, on less favourable salary, terms and conditions of employment;

‘Employment’ or ‘occupation’ includes access to vocational training, to employment and to particular occupations, and terms and conditions of employment”.

189. The above provisions are in addition to those advocated by the EOA.

190. Section 64 of the WRA, stipulates that an agreement shall not be terminated by an employer by reason of:

“(a) A worker’s race, colour, caste, national extraction, social origin, place of his origin, age, pregnancy, religion, political opinion, sex, sexual orientation, gender, HIV status, impairment, marital status or family responsibilities;

(b) A worker’s absence from work during maternity leave and for the purpose of nursing her unweaned child;

(c) A worker’s temporary absence from work because of injury or sickness duly notified to the employer and certified by a medical practitioner;

(d) A worker becoming or being a member of a trade union, seeking or holding of trade union office, or participating in trade union activities outside working hours or, with the consent of the employer, within working hours;

(e) A worker, in good faith, filing a complaint, or participating in proceedings, against an employer, involving alleged breach of any terms and conditions of employment;

(f) A worker exercising any of the rights provided for in this Act or any other enactment, or in any agreement, collective agreement or award”.

191. Under section 64 of the Employment Relations Act of 2008, a worker whose employment has been terminated by reason of discrimination may report a dispute for his reinstatement at the Commission for Conciliation and Mediation. The latter, upon findings, may recommend the employer to reinstate the worker or bring parties to common ground of settlement or in case of no settlement may refer the matter to the Employment Relations Tribunal for an order of reinstatement else requiring the employer to pay severance allowance at the punitive rate of three months' wages per year of service to the worker.

#### **Protection from violence at work caused by an act of discrimination**

192. Given that discrimination may manifest itself by way of workplace violence, section 114 of the WRA makes provisions for the protection of workers from violence at work. Accordingly, no person shall harass, sexually or otherwise, assault, verbally abuse, swear at or insult or humiliate in any manner whatsoever, express intention to cause harm to, bully or use threatening behaviour towards, use aggressive gesture indicating intimidation, contempt or disdain towards, by words or act, hinder a worker in the course of or as a result of his work. The protection was extended to a person undergoing training under a training scheme in the Finance (Miscellaneous Provisions) Act 2020.

193. Employers are urged to take corrective measures in cases of workplace violence. Section 114(3) of the WRA provides that an employer is vicariously liable for violence at work including sexual harassment, committed by a worker or a third party where the employer has failed to take any action to prevent or stop the violence. The employer has to do so in a delay of not more than 15 days from the date the case has been reported to him or he has been aware of same.

194. The Act also provides that any person who commits an offence under section 114 shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 5 years.

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

##### *Protection against discrimination in the exercise of trade union rights*

195. Section 29 of the ERA 2008 provides that every employee shall have the right to establish or join, as a member, a trade union of his own choice, without previous authorisation and without distinction whatsoever or discrimination of any kind including discrimination as to occupation, age, marital status, sex, sexual orientation, colour, race, religion, HIV status, national extraction, social origin, political opinion or affiliation.

196. Pursuant to section 13 of the ERA, a person shall be entitled to be a member of a trade union where:

- “1. (a) He is a citizen of Mauritius or, in the case of a non-citizen, he holds a work permit; and
- (b) He is engaged, whether full-time, part-time, temporarily or permanently, in any undertaking, business, or occupation, the workers of which the trade union purports to represent; or
- (c) He has been a worker at any time.”

2. The minimum age for membership of a trade union shall be 16 years or such greater age as may be specified in the rules of the trade union”.

197. The Police (Membership of Trade Union) Act 2016 came into effect on 09 January 2017. Subsequently, Police Syndicates were created and they have regular meetings with management on Police Officers' concerns and are watchdogs of any case of victimization on the basis of discrimination.

**The right to housing***Housing programmes*

198. Social housing is one area where much is done in the State 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.

199. Housing forms part of the basic social conditions that determine the quality of life and welfare of people.

200. In Budget 2020–2021, the Government announced an exceptional effort to construct 12,000 residential units over the next 3 years for Mauritian families with monthly income of up to MUR 60,000.

201. The National Housing Development Co. Ltd (NHDC Ltd), a state-owned organization, has for mission the building of decent housing for low and middle income households.

202. Prospective beneficiaries are not required to disclose their community or ethnic group when applying for a housing unit. No information on the religion, race and community of applicants are collected or taken on board. The applicants should however meet the eligibility criteria.

*Eligibility Criteria*

203. For an applicant to be eligible for a housing unit, he/she should:

- (a) Not be owner of a house (including NHDC or CHA house);
- (b) Not own a residential plot of land;
- (c) Not hold a residential plot of State land by lease;

(d) Not have been granted any Government Sponsored Loan by the Mauritius Housing Company Ltd (MHC Ltd);

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

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

204. Regarding Rodrigues Island, since it is an autonomous island, the Rodrigues Regional Assembly caters for the access to housing provided on the island.

205. As regards housing facility at Agalega as per OI DC Act, it is the responsibility of the Corporation to provide decent accommodation to each employee on the Island. As from year 1996, the Corporation embarked on a housing project to replace old thatched houses with concrete and iron sheet roofing houses. The houses are provided with piped water and a septic tank. The kitchen is equipped with two tap water, one give access to the underground water for domestic use and the other gives access to a tank containing rain harvest water for consumption. Construction of houses has been an ongoing project and so far around 80 houses of about 1100 square feet have already been constructed for the employees in Agalega.

206. There is also provision for the construction of 50 additional quarters in collaboration with the NHDC.

207. Given that the whole island (Agalega) is State Owned land, the Government of Mauritius had in December 1998 put on lease the land and housing occupied by the Agalean employees through a nominal rent of MUR 1,000 yearly to the MHLUP.

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

208. 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. Government also reviewed in the budget 2019–2020 the roof slab grant and the purchase of building materials grant scheme and both schemes are now aligned as follows:

**Table 3**

<i>Existing Housing Schemes</i>	<i>Household Income Eligibility (MUR)</i>	<i>Amount</i>	<i>Remarks</i>
Roof Slab Grant/Purchase of Building Materials	≤ 10,000	Maximum one-off cash grant of MUR 100,000	Loan already taken must be less than MUR 500,000
	>10,000– ≤15,000	Maximum one-off cash grant of MUR 70,000	Loan already taken must be less than MUR 750,000
	>15,000– ≤20,000	Maximum one-off cash grant of MUR 50,000	Loan already taken must be less than MUR 900,000
			(i) Households who own a plot of land but cannot afford to complete construction of their house which has reached up to the beam level. The grant is for the casting of roof slab for an area up to 100m <sup>2</sup>  Allowable building plan area may reach up to 150 m <sup>2</sup>  (ii) Households who own a plot of land but cannot afford to start construction of a housing unit of up to 100m <sup>2</sup> . The grant is for purchase of building materials to start construction.

*Source:* Ministry of Social Integration, Social Security and National Solidarity.

### **The right to public health and medical care**

#### *Accessibility to health-care services*

209. The State acknowledges the right to health as a basic human right. The overall policy objective of Government is to achieve the highest attainable level of health regardless of gender, age, disability, geographical location, social status and ability to pay.

210. The national healthcare system in Mauritius is supported by the public and private sectors. Around 73% of the healthcare needs of the population are managed, free of any user cost, at the point of use, in the public sector. The remaining 27% of healthcare needs are dealt with in the private sector, on a fee basis, either through out-of-pocket payments, including deductibles or payments made by private health insurers.

211. The free of charge health services in public health institutions are provided to all citizens.

212. According to the latest National Health Accounts published in 2020, as at 2017, a total of MUR 25.91 billion was spent on health of which general Government Health Expenditure was MUR 12.04 billion and spending on health in the private sector, including out-of-pocket expenditure by households, was estimated at MUR 13.87 billion.

213. Migrant workers, who hold a work permit, do not pay for services in public hospital. Foreign spouses of Mauritian Nationals pay for the services offered in public hospitals unless they are holder of a National Identity Card. Tourists are liable to pay for services in public Hospitals including emergency cases. Resident Permit holders without work permit have to pay.

**Mauritius Island***Overview*

214. The population of the Island of Mauritius at the end of 2019 was 1,221,663 in 2019 compared to 1,222,208 in 2018 indicating a negative growth rate of 0.04%.

**Health delivery system**

215. In the Island of Mauritius, as at the end of 2019, the main health institutions were as follows:

- (a) Principal Regional General Hospitals – 5;
- (b) District General Hospitals – 2;
- (c) Psychiatric Hospital – 1;
- (d) Chest Hospital – 1;
- (e) Eye Hospital – 1;
- (f) ENT (ear, nose and throat) Centre – 1;
- (g) Cardiac Centres – 2;
- (h) Community Hospitals – 2;
- (i) Mediclinics – 5;
- (j) Area Health Centres – 18;
- (k) Community Health Centres – 116;
- (l) Maternal and Child Health Clinics – 145;
- (m) Vaccination Clinics (babies) – 158;
- (n) Family Planning Clinics – 149;
- (o) Health Offices – 13;
- (p) Dental Static Clinics – 55;
- (q) Dental Mobile Clinic – 3;
- (r) Ayurvedic Clinics – 6;
- (s) Dialysis Clinics – 7;
- (t) Diabetes and Vascular Health Centre – 1;
- (u) Day Care Centre for the Immuno-Suppressed – 8;
- (v) Methadone Substitution Therapy Centres – 3;
- (w) Detoxication and Rehabilitation Centres for Youngsters – 2;
- (x) Chest Clinic – 1.

216. These health institutions facilitate access to health services to all sections of the population irrespective of their place of origin/location and cover the whole island.

217. The number of beds in government health institutions was 3,768 as at the end of 2019.

218. People Living with HIV (PLHIV) as well as AIDS patients share the same wards as other patients:

- (a) Antenatal and postnatal Domiciliary visits by midwife/nurses;
- (b) Growth monitoring for children;
- (c) Flu vaccination for the elderly;
- (d) Expanded programme on immunisation targeting babies, pregnant women, school children;

- (e) Sensitisation campaigns on sexual, emotional and reproductive health;
- (f) Early detection of cancers for women and girls;
- (g) HPV vaccination among adolescent girls;
- (h) Provision of geriatric services as well as prevention and management of geriatric diseases; and
- (i) Screening for visual and auditory impairment and other conditions associated with ageing.

### **Rodrigues Island**

#### *Overview*

As regards Rodrigues, the population as at 31 December 2019 was 43,538 compared to 43,155 as at 31 December 2018, that is, an increase of 0.9%.

#### **Health Delivery System**

219. As at 2019, the main health institutions were as follows:

- (a) 1 District General Hospital with 168 beds;
- (b) Two health centres with in-patient facilities equipped with a total of 43 beds;
- (c) 3 Area Health Centres;
- (d) 14 Community Health Centres;
- (e) 14 Maternal and Child Health Clinics;
- (f) 15 Vaccination Clinics (babies);
- (g) 17 Family Planning Clinics;
- (h) 1 Health Office;
- (i) 3 Dental Static Clinics;
- (j) 1 Dialysis Clinic; and
- (k) 1 Day Care Centre for the Immuno-Suppressed.

220. Patients in need of specialised health care are normally referred to Mauritius.

#### **Other Health-Related Activities**

221. Similar to Mauritius, Rodrigues Island benefits from the expanded programme on immunisation. Moreover, sanitary inspections and food hygiene related activities are carried out.

### **AGALEGA**

222. Agalega consisting of two islands (North Island and South Island) have a combined population of 353 persons. The overall health status of the people of Agalega is comparable to that of the population in the main island of Mauritius.

223. Health services are provided to the population of Agalega, free of any user fee, through a network of two health centres located on each of the islands. Cases for surgeries and follow-up for further treatment are referred to Mauritius.

224. According to the Health Sector Strategic Plan 2020–2024, the Strategic Actions for Agalega in the health sector are as follows:

- (a) Provision of appropriate medical technology to improve medical services and provide additional services;
- (b) Carrying out of a feasibility study for the setting up of a community hospital;

- (c) The extension of telemedicine facilities;
- (d) The strengthening of health promotion activities to reduce the prevalence of Non-Communicable Diseases;
- (e) The promotion of school health activities; and
- (f) The further strengthening of the surveillance system of communicable diseases, including COVID-19.

#### **Statistics, Disaggregated By Sex In Respect Of Health Sector**

225. The MHW publishes the Health Statistics Report on an Annual basis. The report provides for health statistics disaggregated by sex. Copies of the different Health Statistics Reports, the Health Sector Strategic Plan 2020–2024 and the National Health Accounts are accessible on the website of the MHW: <https://health.govmu.org/Pages/default.aspx>.

226. The implementation of the National e-Health Project which was announced in the Government Programme 2019–2024 is being finalised. Once operational it will provide for more disaggregated data to improve health services.

#### **The Right to Social Security and Social Services**

227. All citizens of Mauritius are entitled to the Universal Basic Retirement pension on reaching the age of 60 years. However, they have to satisfy the residency requirements.

228. Please see at Annex E – list of pensions and allowances provided by state.

#### **The Right to Education and Training**

##### *Primary Level*

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

229. The ZEP which already came into operation in 2003 is still ongoing and is quite successful in its mission to combat poverty through education. Its philosophy is based on positive reinforcement reducing school and social inequalities. It aims at providing equal opportunities to all primary school children through the mobilization of all the resources to contribute in raising the standard of achievement of the school. There are currently 30 ZEP schools out of which 27 ZEP schools in Mauritius, 1 in Rodrigues and 2 in Agalega.

##### *Secondary Level*

##### *The Fortified Learning Environment (FLE) Programme*

230. The FLE Programme, implemented in Secondary Schools since September 2020, aims to provide additional educational support to the neediest students by facilitating the acquisition of basic numeracy, literacy and also for their socio-emotional development. To this effect, 46 tutors were recruited by the National Social Inclusion Foundation and posted to schools. The objective of the FLE schools is to support vulnerable children and raise their performance. The Extended Programme provides specialised and focussed support to students who were not able to secure a seat in the normal stream and are given an opportunity to sit for the National Certificate of Education.

##### *Teaching of Kreol Morisien at upper secondary level*

231. A Ministerial Committee chaired by the Prime Minister was set up in April 2021 to look into the development of a road map for the teaching of the Kreol Morisien at upper secondary level.

##### *Tertiary level*

232. From Tertiary education perspective, there is no discrimination in place regarding students applying for a course at the Higher Education Institution. Students are free to apply for any courses.

233. Moreover, the University of Mauritius is a signatory of the Magna Charta Universitatum. As such:

“No discrimination on account of nationality, race, caste, religion, place of origin, political opinions, color, creed, all sex shall be shown against any person in determining whether he or she is to be appointed to the academic or other staff of the University, to be registered as a student of the University, to graduate thereat or to hold any advantage or privilege thereof”.

### **Special Education Needs (SEN)**

234. Government works closely with NGOs to deliver education to students with special needs. There are currently 41 NGOs managing 53 SEN – registered primary and secondary schools.

235. The Special Education Needs Authority Act was proclaimed on 19 December 2018. It provides for the establishment of a Special Education Needs Authority that will monitor and facilitate implementation of SEN policies of the Government. It is responsible inter alia for the harmonisation and promotion of programmes and policies for the education and holistic development of persons with special needs.

236. As from the financial year (2016/2017), five scholarships are being offered annually to students with SEN to pursue Post-Secondary/Tertiary courses.

237. Moreover, the Ministry of Education, Tertiary Education and Science and Technology (METEST) has taken several measures for the inclusion and integration of children with SEN to ensure that no child is deprived of education on account of any form of impairment or disability.

238. These are inter alia:

(a) A flexible approach is adopted towards parents who wish to call at school during the day to provide assistance to their physically disabled pupils. Parents are strongly encouraged to register their wards in the nearest primary schools;

(b) Schools are being retrofitted with ramps to facilitate access to the classrooms and all new secondary schools constructed have already been provided with adapted toilets for the disabled. Links between building blocks have been made to facilitate access, using wheelchairs to the first floor where specialist rooms are located;

(c) Facilities like music room, library, science laboratory, computer room are available on the ground floor where necessary. In primary schools, Head Masters usually make arrangements to move the whole class to the ground floor wherever necessary;

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

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

(f) Educators are encouraged to provide individual extra assistance to children with disabilities so as to allow them to keep pace with their classmates. Children with disabilities benefit from extra time for the CPE examination. Enlarged print school books/manuals and question papers are produced for children suffering from visual impairment;

(g) A Mauritian Sign Language has been developed to ease communication for children with deafness. Children with hearing impairment are provided with the service of sign language interpreters for the purpose of examinations;

(h) Integrated units in government primary schools around the island so as to reach out those who have to travel long distance. There are at present 11 such Integrated Units and the majority of them are run in partnership with specialist NGOs.

239. The Special Education Needs Resource and Development Centre (SENKDC) operates as a One-Stop-Shop to provide specialised services, such as those of psychologists,

occupational therapists, physiotherapists and parent mediators to learners with special needs. All SENRDCs have at least two classrooms where the educational needs of learners with heavy impairments are catered for. Specialised equipment for use by Psychologists, Occupational Therapists and Physiotherapists and equipment for Multi-Sensory rooms, as well as specialised furniture have been procured for these Centres. 6 SENRDCs are operational around the island and 7 vans are currently servicing the above-mentioned Centres for the conveyance of children attending the Centres.

### **Bullying at schools**

240. Bullying occurs almost daily at schools. The students from lower forms/classes seem to be more affected by bullying than students from higher forms/classes. The main reasons certain students perpetrate bullying are poor anger management, for petty things like cigarettes, food and money, boyfriend/girlfriend relationship problems; and revenge.

241. Examples of bullying acts observed at schools are hitting, pinching, humiliation, verbal abuse, nicknaming, harassment, exclusion, sexual, sexist, racist or ethnic remarks.

242. Most cases are not being reported because the bullied or the by-standers are afraid of retaliation. Moreover, many teachers do not like to get involved in matters concerning bullying. In most cases the bullied is afraid.

Table 4

#### **Cases of bullying from 2016 to January 2021**

<i>Indicator</i>	<i>Year 2016</i>	<i>Year 2017</i>	<i>Year 2018</i>	<i>Year 2019</i>	<i>Jan 2020–Jan 2021</i>
Bullying	83	52	52	89	119

*Source:* METEST.

243. The following facilities are provided by Educational Psychologists at the level of the METEST in respect of bullies and bullied:

### **Counselling Sessions**

244. The Educational Psychologists provide help, support, guidance and counselling to pupils and students who are experiencing behavioural, learning, social and emotional difficulties.

### **Counselling Units ‘Service D’Ecoute’ in State Secondary Schools**

245. The criteria for the selection of school is based on schools referring more cases requiring psychological and social support and with recurrent, difficult and of a sensitive nature; and 48 Counselling Units ‘Service d’écoute’ have been set up in State Secondary Schools.

### **Student Care and Counselling Desk in State Secondary Schools**

246. The METEST has set up in each State Secondary School a Student Care and Counselling Desk – “Service d’écoute” with a view to provide necessary support to students who are in distress with the support of volunteer Educators.

247. The main objective of the Desk is to facilitate prompt intervention, support and counselling whenever a student shows signs of psychological suffering.

### **Class talks to pupils and students**

248. Class talks are conducted in pre-primary, primary and secondary schools on “Promoting Positive Behaviour”, “Managing Exams Stress”, “Bullying” and “Developing Good Practices” among others.

### Anti-Bullying Policy

249. The METEST is proposing to come up with an ‘Anti Bullying’ policy which is still at a ‘draft stage’ and will be disseminated once it has been validated. Each school presently includes bullying in its ‘school behaviour policy’ which is laid down in the school journal.

### The Right of Access to Places of Service

250. There is no racial discrimination in terms of access to places such as hotels, restaurants, etc. These are open to the public with general terms and conditions, if any.

### Rights Of Women

#### *Maternity Protection Convention*

251. Mauritius ratified the Maternity Protection Convention, 2000 (No. 183) of the International Labour Organisation in June 2019. The Convention applies to all employed women, including those in a typical form of dependent work and makes provision for the following:

- (a) Extension of protection to all employed women;
- (b) At least 14 weeks of maternity leave, including six weeks of compulsory postnatal leave;
- (c) Additional leave in case of illness, complications or risk of complications arising out of pregnancy or childbirth;
- (d) Cash benefits during leave of at least two-thirds of previous or insured earnings (or at an equivalent level where benefits are not calculated on the basis of previous earnings);
- (e) Access to medical care, including prenatal, childbirth and postnatal care, as well as hospitalisation when necessary;
- (f) Health protection, that is the right of pregnant or nursing women not to perform work prejudicial to their health or that of their child;
- (g) Minimum of one daily break with pay for breastfeeding; and
- (h) Employment protection and non-discrimination.

### Participation of Women in Public Life

Table 5

#### Women in Politics

<i>Category</i>	<i>Total Number of Seats/Positions</i>	<i>Number of Positions held by Women</i>	<i>Percentage of women (%)</i>
Representation in Cabinet			
<i>Prime Ministers</i>	1	0	0
<i>Deputy Prime Minister</i>	1	0	0
<i>Ministers</i>	21	3	14.3
Representation in Parliament	70	14	20
Representation of Ambassadors	21	5	23.81

*Source:* PMO as at May 2021 & Ministry of Foreign Affairs, Regional Integration & International Trade as at 2020.

252. As regards women’s representation in decision-making bodies, same is illustrated in the table below:

Table 6  
**Women in Management Positions in the Public Sector 2021**

<i>Category</i>	<i>Total Number of Positions</i>	<i>Number of Positions held by Women</i>	<i>Percentage of women (%)</i>
Senior Chief Executive	8	3	37.5
Permanent Secretaries	42	11	26.2
Deputy Permanent Secretaries	79	48	60.8
Directors	531	195	36.7

*Source:* PMO as at March 2021 & Survey of Employment by Statistics Unit as at March 2020.

### **Gender Equality**

253. The State of Mauritius is in the process of preparing a Gender Equality Bill which will:

- (a) Promote, protect and regulate gender equality in public and private spheres;
- (b) Eliminate gender-based discrimination, ensure that human rights of men and women are guaranteed and acknowledged in existing as well as the proposed legislation in order to achieve gender equality;
- (c) Provide for gender equality principles that aim at reducing socio-economic inequalities so as to achieve substantive equality in all spheres, that is socially, economically and politically;
- (d) Provide for equal opportunities for both men and women and create responsibilities of all entities, public and private, to eliminate barriers that lead to gender discrimination; and
- (e) Promote equality and gender balance between family roles, unpaid care work and employment for men and women.

### **Empowerment through education and entertainment**

254. During period November 2017 to 2019, the E's project: "Empowerment through Education and Entertainment" targeting girls and young women (aged between 13–29 years) was implemented in deprived regions. The aim of the project was to empower the participants on various pertinent issues related to their well-being and livelihoods. The project comprised Educational sessions, leisure and sports activities as well as cultural visits/exchange programmes.

## **Article 6: Effective protection and remedies against Acts of Racial Discrimination**

255. 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**

256. Financial assistance with legal representation in Mauritius is governed by the Legal Aid and Legal Assistance Act. The Act benefit every citizen without discrimination and irrespective of inter alia ones' race, culture or religion. To benefit from legal aid or legal assistance, the person's assets must be less than MUR 500,000 and his total monthly earnings less than MUR 15,000. The person applying for legal aid must make a sworn statement concerning his/her income.

257. Access to legal aid is available in respect of proceedings before the Supreme Court and Lower Court (Intermediate Court and District Courts). Any person who wishes to obtain

legal aid to be a party to civil or criminal proceedings, must, subject to certain conditions, make an application in writing to the Authority. The Authority in respect of proceedings before the Supreme Court / Court of Appeal, is the Chief Justice or a Judge designated by him. In respect of the proceedings before any other Court, the 'Authority' is a Magistrate of that Court. The Act makes special provision for the granting of legal aid to be approved, in relation to minors who have been charged with a crime or misdemeanor. Minors are exempted, in this case, from the application of the assets and earnings thresholds.

258. Legal assistance is available to a detainee or accused party. It includes legal advice and counselling during the recording of a statement under warning, in respect of court proceedings, as well as legal representation during a bail application. Also, any detainee or accused party, being suspected of having committed an offence specified in the First Schedule of the Legal Aid and Legal Assistance Act, must upon arrest, be informed by the police officer in charge of the police station that he may make an application for legal assistance during police enquiry and for bail applications.

259. The Legal Aid and Legal Assistance Act provides that legal aid is available to needy persons depending on their monthly income threshold.

260. Application in writing must be made to the Court in question stating the cause of action or ground of defence or appeal, or the nature of the extra-judicial matter in respect of which the application is made.

261. Legal aid is available at the first instance and on appeal in respect of Civil Cases. As regards Criminal Cases, legal aid is also available only in the first instance in respect of:

- (a) Certain offences under the Criminal Code;
- (b) Attempts at or complicity in the offences mentioned at (a); and
- (c) Offences which are:
  - (i) punishable by penal servitude;
  - (ii) excluded from the jurisdiction of a District Magistrate.

262. In so far as criminal cases are concerned the DPP appears on behalf and for the State to prosecute cases. No costs are involved on the part of the victims.

### **Rights of Victims**

263. Section 161A of the Courts Act provides that where the court considers it necessary or expedient to do so, it may exclude from the proceedings (except the announcement of the decision) any person other than the parties to the trial and their legal representatives. Circumstances calling for such an exclusion include namely (i) in circumstances where publicity would prejudice the interests of justice or of public morality, (ii) in order to safeguard the welfare of persons under the age of 18, (iii) in order to protect the privacy of persons concerned in the proceedings or (iv) in the interests of defence, public safety or public order.

### **Burden of proof in Civil Proceedings for cases alleging Racial Discrimination**

264. Where a civil claim is made, based on an alleged act(s) of racial discrimination, (including under section 17 of the Constitution) before the Courts of Mauritius, the standard of proof which has to be met by the Plaintiff is on a balance of probabilities. The same standard applies in respect of proceedings before the EOT.

## **Article 7: Education and Information on Human Rights including on the Prohibition of Racial Discrimination**

### **Human Rights Education**

265. Young people are exposed as early as possible to the fundamentals of Human Rights. Human Rights Education has been integrated in the school curricula. At the primary level components of Human Rights, are infused across the various modules found in History and

Geography textbooks. At the lower secondary level, Human Rights Education is taught both in an integrated manner during Social and Modern Studies classes and during stand-alone activities in the Life Skills & Values Education. At tertiary level, Human Rights Education already forms part of the curriculum of LLB courses and other courses at the University of Mauritius.

### **Training To Law Enforcement Officials To Uphold Human Rights**

#### **Awareness Campaigns**

266. Police Officers and Prison Officers have a module on Human Rights in their Training Course. Moreover, the NHRC delivers refresher talks to them on Human Rights, including the rights of suspects and victims, the primary duty of being of service to the public and the need to respect our human rights obligations under different international human rights treaties.

267. Furthermore, relevant training courses are provided to Police Officers on domestic legal provisions and Conventions which offer a range of generalized protection of rights and freedoms against discrimination on such grounds as race, colour, descent, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The Police Training School has developed targeted training programmes that raise awareness among officers of the various social biases that may affect their conduct. Topics inter alia include:

- (a) Profiling of Suspect/Crime Scene Profiling;
- (b) Interpersonal communication;
- (c) Stereotyping;
- (d) Ethical and Legal Conduct/Code of Conduct for Police Officers;
- (e) Racial Incidents;
- (f) Declaration of rights of vulnerable groups;
- (g) Policing in Democracies;
- (h) Investigation Skills;
- (i) Intercultural Communication.

268. Please find at Annex F – courses held at police training school from year 2017 to 2020.

269. The Institute of Judicial and Legal Studies (IJLS) also provide training for members of the legal profession. Please find at Annex G – courses and workshops carried out by IJLS with respect to un treaties and human rights: from January 2017 to March 2019 [judges, magistrates, and law practitioners].

270. On 10 December 2018, the MJHRIR launched 8 video clips in Creole language on Human Rights Awareness to mark the Human Rights Day. The clips were also broadcasted on the National Television and distributed to all secondary schools.

271. The Human Rights Division (HRD) has also developed two social media tools, namely; a Facebook Page and a YouTube Channel. They are live since December 2020. A maximum of 8 posts are uploaded on a monthly basis for better communication and knowledge of the public at large on Human Rights including forthcoming and ongoing activities/events, trending human rights issues worldwide and other human rights instruments and mechanisms. It is worth noting that three distinct dedicated posts on fight against racial discrimination are to be found on the Facebook page of the HRD dated 17th and 21st March and 28th April 2021 respectively. In the context of the International Day for the Elimination of Racial Discrimination, a specific call was targeted to the youth to stand up against racial prejudice and intolerant attitude.

272. Moreover, on the HRD's website, relevant information on Human Rights in Mauritius, the various Conventions the State has ratified, state reports are available.

273. Please find at Annex H – various activities organised by the State for the period 2018 to date.

### **Cultural Rights**

274. The Mauritian Nation is a multicultural community comprising of descendants of migrants hailing from Africa, Asia and Europe. The Ministry of Arts and Cultural Heritage has for objectives the following:

- (a) To preserve our cultural heritage and foster values both at individual and collective levels;
  - (b) To promote cultural interaction among different components of the Mauritian Society for mutual understanding and enrichment;
  - (c) To upgrade, strengthen and extend the existing cultural infrastructure and to construct new structures;
  - (d) To provide support to associations of artists and individuals involved in artistic, cultural and heritage activities;
  - (e) To organise cultural activities for the public at large;
  - (f) To encourage the development of a dynamic arts, culture and heritage sector;
- and
- (g) To consolidate National Unity.

275. The said Ministry and its parastatals encourage respect for diversity and inclusion by ensuring the participation of all ethnic groups in events, programmes, projects, assistance schemes and other activities that contribute towards cultural development.

### **Measures In Favour Of Descent-Based Communities**

276. In recent years, a number of institutions as well as a series of incentives have been put in place under its aegis to ensure cultural diversity and national unity:

(a) Different Cultural Centres have been set up by way of legislation, namely the Mauritius Marathi Cultural Centre, Mauritius Telugu Cultural Centre, Mauritius Tamil Cultural Centre, Nelson Mandela Centre for African Culture and the Islamic Cultural Centre, among others to carry out activities which promote intercultural dialogue and foster mutual cultural understanding; and

(b) Different Speaking Unions namely the Bhojpuri Speaking Union, the Creole Speaking Union, the Hindi Speaking Union, the Chinese Speaking Union, the English Speaking Union, the Marathi Speaking Union, the Tamil Speaking Union, the Telugu Speaking Union, the Urdu Speaking Union and the Sanskrit Speaking Union have been set up with the aim of promoting the different languages in its spoken and written forms in Mauritius as well as promoting better understanding and friendship among the people speaking those languages nationally and globally. The setting up of an Arabic Speaking Union is in the pipeline.

277. Assistance is also provided to socio-cultural organisations to enable them to promote their respective culture through cultural gatherings at regional and grass root levels. Such practice enhances cultural exchanges between Mauritians and promotes a peaceful and inclusive society.

### **Follow-Up to The Durban Declaration and Programme of Action**

#### *Background*

278. As previously pinpointed in this report, there is a strong legal framework in place which ensures that legal protection is afforded to any person alleging a violation of their human rights including an alleged violation-based on race. Non-discrimination is deeply entrenched in the Constitution of Mauritius. Moreover, any discriminatory law or discriminatory treatment by public officials or bodies and which are based on race, caste,

place of origin, political opinions, color, creed or sex are strictly prohibited, subject to certain provisos.

279. The term “xenophobia” has not been defined in our legal and judicial frameworks but there are sufficient provisions in our law which provide protection from discrimination to individuals, including discrimination on the basis of race.

280. Throughout this report, we have attempted to highlight various measures taken by the State of Mauritius to fight racial discrimination. In this section devoted to the Durban Declaration and Programme of Action, we shall be reporting on other aspects not included previously.

### **Legal framework**

#### *Interference with freedom of conscience*

281. Section 183 of the Criminal Code provides that: “Any person who by open and overt act, or by threats, compels another to practise one of the authorised religions or to attend the practice of such religion, or to celebrate certain days of rest, or prevents him therefrom, and any person who, in consequence, compels him to open or shut his manufactories, shops or premises, and to perform or discontinue certain works, or who prevents him therefrom, shall be punished for such offence alone, by a fine not exceeding 100,000 rupees, and by imprisonment for a term not exceeding 2 years”.

#### *Disturbing religious ceremony*

282. Section 184 of the Criminal Code s provides that: “Any person who, whether in a building devoted to or actually used for the practice of a religion which is established in Mauritius, or even at the outside of such building, disturbs, or prevents the ceremonies of such religion, shall be punished by a fine not exceeding 100,000 rupees and imprisonment for a term not exceeding 2 years”.

#### *Outrage on religious worship*

283. Section 185 of the Criminal Code provides that: “Any person who, by word or gesture, commits an outrage on the objects used for religious worship in the place devoted to or actually used for such religious worship, or upon any minister of such religion whilst officiating as such, shall be punished by a fine not exceeding 100,000 rupees, and imprisonment for a term not exceeding 2 years”.

#### *Outrage against public and religious morality*

284. In addition to paragraph 24 above, section 206 of the Criminal Code also provides that:

“(a) Matters of opinion on religious questions, decently expressed or written, shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 2 years and to a fine not exceeding 100,000 rupees;

(b) Any writing or any copy of such writing in respect of, or in connection with, which an offence has been committed under this section shall be forfeited and destroyed, or deleted, as the case may be”.

### **Promotion of Arts and Culture**

285. To preserve and enhance access to cultural heritage, the National Heritage Fund has initiated research in view of putting together an inventory and document its Intangible Cultural Heritage (ICH). The State has two World Heritage Sites on the island, namely; Le Morne Cultural Landscape (2008) and Aapravasi Ghat (2014). Segá Tipik, ‘Geet Gawai’, ‘Segá Tambour’ of Rodrigues and Segá Chagos have all been inscribed, over the past few years, on the UNESCO Representative List of ICH of Humanity.

### **Le Morne Cultural Landscape**

286. It is a testimony to maroonage or resistance to slavery in terms of the mountain being used as a fortress to shelter escaped slaves, with physical and oral evidence to support that use. It is a symbol of slaves' fight for freedom, their suffering, and their sacrifice, all of which have relevance beyond its geographical location, to the countries from which the slaves came in particular the African mainland, Madagascar, India, and South-east Asia- and represented by the Creole people of Mauritius and their shared memories and oral traditions.

### **The Aapravasi Ghat**

287. The Aapravasi Ghat World Heritage Site is a place of shared history, heritage, and memories since more than 80% of the ancestors of the Mauritian population passed through its gates after spending 2 to 3 days there.

### **Intercontinental Slavery Museum (ISM)**

288. The Intercontinental Slavery Museum (Phase 1) was officially launched on 20 October 2020 together with an inaugural exhibition entitled "Breaking the Silence". Its setting up was one of the various proposals made by the Truth and Justice Commission. This project is geared towards remembering the sufferings, resilience and struggle for freedom of our forefathers. The ISM is also a 'Site of Conscience' to honour our interculturality and promote remembrance and reconciliation.

### **Promotion of racial harmony and unity**

289. Apart from providing subsidies/grants to religious bodies, Government, 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, has set up Trust Funds, Cultural Centres, Speaking Unions and Heritage Funds. These unions and funds 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. Festivals such as the Spring Festival, Divali, Eid-Ul-Fitr and Christmas are celebrated at a national level with government's active participation in the organizational aspects.

290. Moreover, public holidays have been decreed for National Events such as Thaipoosam Cavadee, Maha Shivaratree, Chinese Spring Festival, Ougadi, Eid-ul-Fitr, Ganesh Chaturthi, Diwali and Christmas; and two commemorative events, namely, Commemoration of the Anniversary of the Abolition of Slavery and the Commemoration of the Anniversary of the Arrival of Indentured Labourers.

291. The vision of the Nelson Mandela Centre for African Culture is to convert the awareness of the African and Creole culture into a strong sense of belonging and its Mission is to disseminate African and Creole culture in all strata of the society.

292. The Centre aims at preserving and promoting African and Creole arts and culture. It does so by the organisation of lectures, seminars, workshops and exhibitions. Its ultimate objective is to reflect on the impact slavery has had and establish useful links with organisations engaged in similar activities locally and internationally.

### **The right to access and enjoy cultural heritage**

293. The National Archives Department is the official custodian of documentary heritage. It houses the collective memory of the nation's history dating back to early 18th century in a non-discriminatory manner. The holdings of the National Archives consist of about 350,000 volumes of documents in either manuscripts or printed formats. The national collection includes records of French and British administration of the island, notarial deeds dating back to 1724, copies of maps and plans, stamps, currency notes and coins, minutes of proceedings of municipalities and district councils, lithographs, portraits, photographs, seals and private papers, civil status and census reports and reference library materials.

294. Several of its documents are inscribed as UNESCO Documentary Heritage, namely:

- (a) The records of the French Occupation of Mauritius; and

(b) The Indentured Immigration Records.

295. The above information are in line with paragraph 37 of the Concluding Observations of the CERD Committee whereby the State was requested to include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

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