NATIONAL HUMAN RIGHTS COMMISSION

MAURITIUS

ANNUAL REPORT 2017
His Excellency
The Acting President of the Republic
Mr. Paramasiven Vyapoory G.O.S.K.
State House
REDUIT

Your Excellency.

In compliance with Section 11 of the Protection of Human Rights Act 1998 I have the honour to submit to you the Annual Report of the National Human Rights Commission of Mauritius for the period 1 January 2017 to 31 December 2017.

Yours faithfully,

Dheerujlall B. Seetulsingh, S.C.
Chairman
# THE NATIONAL HUMAN RIGHTS COMMISSION
## COMPOSITION
### 2017

<table>
<thead>
<tr>
<th>Group</th>
<th>Chairperson</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mr. Dheerujlall Baramlall <strong>SEETULSINGH, S.C.</strong></td>
</tr>
</tbody>
</table>

### Human Rights Division

<table>
<thead>
<tr>
<th>Category</th>
<th>Chairperson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy Chairperson</td>
<td>Vacant</td>
</tr>
<tr>
<td>Members (Part time)</td>
<td>Mrs. Rosemary Elizabeth Winifred <strong>ANODIN</strong></td>
</tr>
<tr>
<td></td>
<td>Mr. Samioullah <strong>LAUTHAN</strong></td>
</tr>
</tbody>
</table>

### Police Complaints Division

<table>
<thead>
<tr>
<th>Category</th>
<th>Chairperson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy Chairperson</td>
<td>Mrs. Marie Lourdes <strong>Lee Ying LAM HUNG</strong></td>
</tr>
<tr>
<td>Members (Full time)</td>
<td>Dr. Satiss <strong>GOWRY</strong></td>
</tr>
<tr>
<td></td>
<td>Mrs. Marie Desirée Ariane <strong>OXENHAM</strong></td>
</tr>
</tbody>
</table>

### National Preventive Mechanism Division

<table>
<thead>
<tr>
<th>Category</th>
<th>Chairperson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy Chairperson</td>
<td>Mr. Hervé <strong>LASSEMILLANTE</strong></td>
</tr>
<tr>
<td>Members (Part time)</td>
<td>Mrs. Anishta <strong>BABOORAM-SEERUTTUN</strong> (until 6.6.2017)</td>
</tr>
<tr>
<td></td>
<td>Mr. Vijay <strong>RAMANJOOLOO</strong></td>
</tr>
</tbody>
</table>

### Secretary to the Commission

<table>
<thead>
<tr>
<th>Category</th>
<th>Chairperson</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mr. Geeandave <strong>GUKHOOL</strong></td>
</tr>
</tbody>
</table>
# NATIONAL HUMAN RIGHTS COMMISSION

## STAFF – YEAR 2017

<table>
<thead>
<tr>
<th>TITLE</th>
<th>NAME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy Permanent Secretary</td>
<td>Mr Geandave GUHKOOL</td>
</tr>
<tr>
<td>Assistant Permanent Secretary</td>
<td>Mr Mamode Assad JOOMUN</td>
</tr>
<tr>
<td>Office Management Executive</td>
<td>1. Mrs Gaitry HASOWA</td>
</tr>
<tr>
<td></td>
<td>2. Mrs Marie Ange BAULACKY</td>
</tr>
<tr>
<td>Human Resource Executive</td>
<td>Mrs Sandhya RAMYED</td>
</tr>
<tr>
<td>Financial Officer/SFO</td>
<td>Mrs Aisah Bibi DILJORE</td>
</tr>
<tr>
<td>Procurement &amp; Supply Officer</td>
<td>Mrs Feryale RAWAT</td>
</tr>
<tr>
<td>Office Management Assistant</td>
<td>1. Mrs Seema Devi LUCKHO</td>
</tr>
<tr>
<td></td>
<td>2. Mrs Leena RAMKHALAWON</td>
</tr>
<tr>
<td>Confidential Secretary</td>
<td>1. Mrs Jeenee SEEVATHEAN</td>
</tr>
<tr>
<td></td>
<td>2. Mrs Youn Lung LAI CHEK</td>
</tr>
<tr>
<td></td>
<td>3. Miss Prayogeeta RAMDHAREE</td>
</tr>
<tr>
<td></td>
<td>4. Mrs Gayetree JHURY</td>
</tr>
<tr>
<td>Barrister at Law</td>
<td>Ms Diksha Lumbini BEEHARRY</td>
</tr>
<tr>
<td>Investigator</td>
<td>1. Mr Nivish Varma CHUMMUN</td>
</tr>
<tr>
<td></td>
<td>2. Mr Kunal Kumar SOTY</td>
</tr>
<tr>
<td></td>
<td>3. Mr Yashvind Kumar RAWOAH</td>
</tr>
<tr>
<td></td>
<td>4. Ms Geetanjali GOWRISUNKUR</td>
</tr>
<tr>
<td></td>
<td>5. Ms Yohinivaani CHETALEE</td>
</tr>
<tr>
<td>Management Support Officer</td>
<td>1. Mrs Moi Lin LEUNG FOR SANG</td>
</tr>
<tr>
<td></td>
<td>2. Mr Jugdishtsing NEERMUL</td>
</tr>
<tr>
<td></td>
<td>3. Mrs Sarita PEERTUM</td>
</tr>
<tr>
<td></td>
<td>4. Mr Kamdev PATANDIN</td>
</tr>
<tr>
<td></td>
<td>5. Miss Tanu LOOTOOA</td>
</tr>
<tr>
<td></td>
<td>6. Mrs Ridhimah HURLOLL</td>
</tr>
<tr>
<td></td>
<td>7. Mr Yogesh JANKEE</td>
</tr>
<tr>
<td>Word Processing Operator</td>
<td>1. Miss Sarah B.N FUTLOO</td>
</tr>
<tr>
<td></td>
<td>2. Mrs Joelle Marie Christine ANDRE</td>
</tr>
<tr>
<td>Office Auxiliary</td>
<td>1. Mr Rajendranath BOODHUN</td>
</tr>
<tr>
<td></td>
<td>2. Mr Nashrullah SYED-HOSSEIN</td>
</tr>
<tr>
<td></td>
<td>3. Mrs Manju GROODOYAL</td>
</tr>
<tr>
<td>Driver</td>
<td>1. Mr Ramesh BHAGOBAN</td>
</tr>
<tr>
<td></td>
<td>2. Mr Soondress IYUMPERMAL</td>
</tr>
<tr>
<td></td>
<td>3. Mr Sridev RUNGLOL</td>
</tr>
</tbody>
</table>
## CONTENTS

<table>
<thead>
<tr>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FOREWORD</strong></td>
</tr>
<tr>
<td><strong>CHAPTER I  BACKGROUND</strong></td>
</tr>
<tr>
<td><strong>CHAPTER II  THE CONSTITUTION</strong></td>
</tr>
<tr>
<td>1. Duties and Values</td>
</tr>
<tr>
<td>2. Enshrining economic, social and cultural rights in the Constitution</td>
</tr>
<tr>
<td>3. Women in Politics</td>
</tr>
<tr>
<td>4. Environmental Rights</td>
</tr>
<tr>
<td>5. The Electoral System</td>
</tr>
<tr>
<td>6. Other Proposals</td>
</tr>
<tr>
<td>7. Chapter II of Constitution in Kreol</td>
</tr>
<tr>
<td><strong>CHAPTER III  HUMAN RIGHTS ISSUES</strong></td>
</tr>
<tr>
<td>1. International Scrutiny</td>
</tr>
<tr>
<td>2. Economic Measures</td>
</tr>
<tr>
<td>3. Food Security</td>
</tr>
<tr>
<td>4. Right to water</td>
</tr>
<tr>
<td>5. Drugs</td>
</tr>
<tr>
<td>6. LGBT Rights</td>
</tr>
<tr>
<td>7. Digital Revolution</td>
</tr>
<tr>
<td>8. Domestic Violence</td>
</tr>
</tbody>
</table>
9. Sexual Harassment 35
10. Migrant Workers 37
11. Persons with Disabilities 42
12. Children’s Rights 43
13. Sustainable Development Goals 44

CHAPTER IV  HUMAN RIGHTS DIVISION 45

1. Police Enquiries 45
   1.1 Delays in Police Enquiries 45
   1.2 Distribution and Supervision of Enquiries 46
   1.3 Statistics and Corresponding Action Plan 46
   1.4 Some causes of delay in the completion of police enquiries 48
   1.5 Recommendations 49
   1.6 PRB Recommendations 50

2. Delays in Court 51
3. Tests for Motorcyclists 51
4. A Kreol Community 52
5. Kreol Language 52
6. Ombudsman for Parastatal Bodies 53
7. Body Search 55
8. Environment 61
9. Cases dealt with by the Human Rights Division 63
10. Applications for review of Case under Section 4A of the Protection of Human Rights Act 70
## CHAPTER V  POLICE COMPLAINTS DIVISION

1. The Police Complaints Division 71
2. PCD’s Values 71
3. Organisational Structure 71
4. Aim of the Police Complaints Division 72
5. The Main Functions of the PCD 73
6. Complaints against Police 73
7. Who can make a complaint? 74
8. Ways to make an official complaint 74
9. Nature of Complaint 76
10. Statistics 76
11. Types of Complaints 77
12. Investigation 78
13. Nature of the Civilian Investigation 79
14. Duration of an Investigation 79
15. Investigation of death of a person while in Police Custody 80
16. Complaints Process for Complaints made against Police 84
17. Example of a case referred to the Office of the Director of the Public Prosecutions 85
18. Example of a case referred to the Disciplined Forces Service Commission 86
19. Sensitisation 87
20. Recommendations 88
CHAPTER VI     NATIONAL PREVENTIVE MECHANISM DIVISION  90

1. General Remarks  90
2. Visits to Police Stations, Detention Centres, Correctional Youth
   Centres
   and Rehabilitation Youth Centres  95
3. Visits to Prisons  108

CHAPTER VII     RODRIGUES  114

CHAPTER VIII     THE RIGHTS OF ELDERLY PERSONS  117

CHAPTER IX     HUMAN RIGHTS EDUCATION AND PROMOTION  121

CHAPTER X     NEW LAWS CONCERNING HUMAN RIGHTS 2017  123

1. Environmental Rights, Safety, Climate Change  123
2. Right to Liberty  124
3. Card Readers  125
4. Non Discrimination in Employment  127
5. Privacy  128
6. Right to Work  129
The Annual Report is submitted in 2018 when we are celebrating the fiftieth anniversary of our Independence and the twenty-sixth year of our Republic. It is also the occasion to commemorate the fiftieth year of our Constitution, a Constitution which has survived the tribulations of time, and fortunately few political upheavals. Our Constitution has served us well, by providing the framework for a healthy democracy with regular, free and fair elections and political stability. Mauritius has also enjoyed a degree of economic prosperity allowing measures to be taken to combat absolute poverty and to work towards the Sustainable Development Goals (2010-2030) which the United Nations has prescribed and which the National Human Rights Commission helps to monitor. It is also the twentieth anniversary of the Protection of Human Rights Act 1998 under which the National Human Rights Commission was established and the time to entrust to the National Human Rights Commission the mandate to deal with economic, social and cultural rights. It is also an opportune time to reflect on Human Rights issues in our Constitution.
CHAPTER I

BACKGROUND

The National Human Rights Commission was set up in 2001 under the Protection of Human Rights Act 1998 to deal with violations of human rights, mainly civil and political rights, entrenched in Chapter II of the Constitution and to review complaints of members of the public against the Police when Police Officers were acting in the course of their duties. A Sex Discrimination Division was appended to the Commission in 2002 to deal with complaints particularly from women and girls discriminated against on grounds of gender and to receive complaints regarding sexual harassment. The jurisdiction of this Division was later transferred to a newly created Equal Opportunities Commission. The office of the Ombudsperson for Children was set up by law in 2003 to deal with the rights of the child.

The National Human Rights Commission was also designated as the National Preventive Mechanism to deal with complaints from detainees and to inspect places of detention (Prisons, Police Detention Centres, cells in Police Station, Rehabilitation Youth Centre, Correctional Youth Centre, the Mental Hospital) following the ratification by Mauritius of the Optional
Protocol to the Convention Against Torture in 2005. The Board of Visitors under the Reform Institutions Act ceased to operate.

In 2014 major amendments were brought to the structure of the National Human Rights Commission. It was divided into three Divisions:

1. Human Rights Division;
2. Police Complaints Division and
3. National Preventive Mechanism Division.

These Divisions became operational in 2014 after the proclamation of the legislation. All three Divisions are under the chairmanship of the Chairperson of the National Human Rights Commission.

In 2013 the National Human Rights Commission was entrusted by law with the additional responsibility of acting as a body for the purpose of referring to the Supreme Court the review of criminal convictions by that Court, in cases where convicted persons could adduce fresh and compelling evidence to challenge their convictions. The major case with which the National Human Rights Commission had to deal was the Amicale Case where four persons were sentenced to penal servitude for life in 2000 for the offence of arson causing death, after a casino was set on fire leading to the death of seven persons. The National Human Rights Commission found that there was no fresh and compelling evidence which could lead to a reference to the Supreme Court. But it concluded that the
fire took place as a result of mob violence and recommended that the life sentence should be reduced. The President of the Republic, acting on the advice of the Commission on the Prerogative of Mercy, reduced the sentence. The four detainees will be set free in 2018.

In spite of other applications for review, there has been until now no case of fresh and compelling evidence to recommend the review of any criminal conviction to the Supreme Court. Convictions by the Intermediate Court and the District Court do not fall within the purview of this new legislation.

In 2016, Parliament enacted the Independent Police Complaints Commission Act to create a new statutory body, the Independent Police Complaints Commission (IPCC), which would replace the Police Complaints Division (PCD). It is expected that the new IPCC will come into operation in 2018. All cases pending before the PCD will be transferred to the IPCC.

Like other National Human Rights Institutions in the world, the National Human Rights Commission has as mission not only to protect human rights, but also to promote human rights through education. This has been done by means of talks to members of the public, workshops etc. It is the Kreol language which is used in the majority of cases to explain
the provisions of the Constitution, the Universal Declaration of Human Rights, the Human Rights treaties at international and regional level to which Mauritius is a party.

The National Human Rights Commission also plays a role in the State reporting to treaty bodies set up under international covenants and conventions.

In 2017 the National Human Rights Commission entered into a major agreement with the European Union (EU) whereby the EU will be financing a three year campaign to educate the public on human rights. The targets are women, school children, the private sector, police officers and prison officers among others. The cooperation of the EU Delegation in Mauritius in promoting human rights education has been highly appreciated.

The Office of the High Commissioner for Human Rights through its regional office in Pretoria and the UNDP in Mauritius has financed the publication of a Compendium in 2017 bringing together the Concluding Observations of Treaty Bodies and of the African Commission of Human Rights on Mauritius, the Reports of Independent Experts as well as the Universal Periodic Review of Mauritius by the Human Rights Council.
CHAPTER II

THE CONSTITUTION

As we celebrate the fiftieth anniversary of our independence and the twenty-sixth year of our Republic the time is appropriate to reflect on the goals and ideals of the Mauritian nation.

The Mauritian Constitution was drafted by experts, deriving inspiration from other Constitutions already granted by Britain to its former colonies and from the European Convention on Human Rights and Fundamental Freedoms of 1950. Before independence our leaders discussed on behalf of the people of Mauritius with the colonial power, and accepted a system of Government on the Westminster model and what may be described as a Constitutional monarchy with the Queen as Head of State. Britain itself has never enacted a written Constitution and continues to rely on Conventions. Special features were introduced in the Mauritian Constitution in relation to the electoral system, the powers of the Director of Public Prosecutions, the operational independence of the Commissioner of Police and the possibility of derogations from Protection from discrimination in Section 16 as far as personal laws are concerned, amongst others.
The whole process of colonisation, from which Mauritius was being freed rested more upon a capitalist model with the exploitation of cheap labour to produce goods for the benefit of the colonial power. In Britain the harsh face of capitalism was well described by Sydney and Beatrice Webb in their book “A Constitution for the Socialist Commonwealth of Great Britain (1920)” and in which they introduced the ideal of Socialism as follows –

‘What the Socialist aims at is the substitution, for the Dictatorship of the Capitalist, of the government of the people by the people and for the people in all the industries and services by which the people live ..... The application of Democracy to industry, though it has its own inherent value as an unique educational force, is in the eyes of the Socialist also a means to an end, namely a more equitable sharing of the national product among all members of the community....... 

Hence the purpose of Socialism is twofold: the application of Democracy to Industry and the adoption by this Social Democracy of the principles of maximizing equality in “Life, liberty and the pursuit of happiness”.
In the Constitution bequeathed to us by Order in Council by the Queen of Great Britain in 1968, there was no aspirational model that set out similar ideals and values for the people of Mauritius in explicit terms. In Britain after two World Wars there was a lot of soul searching and political debate as to what would be best for the British people and its colonies. Britain was bound to follow the process of decolonization after the Second World War which process culminated in Prime Minister MacMillan’s Wind of Change speech in Cape Town in 1960. We still need to embed in Our Constitution the aspirations of the Mauritian people.

For fifty years after independence, there is no dispute whatsoever that there does exist a Mauritian nation. Our ancestors may have come from different continents and origins at different points in time, but there has gradually been forged a Mauritian psyche, a Mauritian way of thinking and a Mauritian way of life. There is a sense of belonging to one and the same country. Mauritians may not think alike on many issues, especially when it comes to politics. They do not need to have the “newspeak” of Orwell’s “1984” where with a limited vocabulary, people’s freedom of thought is circumscribed. On the contrary, Mauritians refuse any imposition of groupthink and strongly assert their individuality. Human rights, freedom of
thought and freedom of opinion are enshrined in our Constitution and ensure the diversity of views which enriches debate in the country. At the same time, we declare proudly that we are Mauritian. There is consensus on the political system that we have adopted. All political parties have claimed to adhere to Socialism or social democracy and have consolidated the Welfare State over the years, a welfare state that is to be found in very few countries.

After independence, we came to terms with what may be described as a less rigorous face of capitalism where wealth could produce more wealth while economic measures were adopted to enable part of the prosperity generated at the top to percolate to the mass of the people. Since 1968, there has been no plan of nationalization of the commanding heights of the economy and the factors of production by the State, though an amendment was brought to Section 8 of the Constitution in 1982 to forestall any legal challenge to compulsory acquisition of property if the acquisition was approved by a vote of three quarters of all the members of the National Assembly. The Constitution, in its Chapter II on Fundamental Rights has been strictly adhered to, compelling the State not to engage in any deprivation of property without fair and adequate compensation.
ENRICHING THE CONSTITUTION

The Constitution is a living document at the heart of Mauritian society. Its adaptability to changing times lies in the fact that it can be amended and it has indeed been amended on a number of occasions to reflect as well as trigger societal change. In the light of fifty years of Independence and of the Constitution, it is appropriate to examine the existing provisions of the Constitution and consider its lacunae so that the Constitution can continue to remain relevant and to faithfully serve the nation in the coming years.

In the national reflection taking place on the changes required, there are two schools of thought. One moots for a thorough review of the Constitution and the other one simply for carrying out a number of amendments to the Constitution to improve it. The latter school is of the view that our Constitution has served us well for the past fifty years. It has been respected, consolidated, defended by an independent Judiciary and has ensured the rule of law, peace and security and a large measure of stability leading to a level of development and relative prosperity almost unexpected for a former small island colony in the middle of the Indian Ocean.
HUMAN RIGHTS ISSUES IN THE CONSTITUTION

1. **Duties and Values**

   Our Constitution lacks an emphasis on the respect and enhancement of values. Our primary aim should be to make Mauritius a better country to live in. Chapter II of the Constitution of Mauritius has conferred fundamental rights on Mauritian Citizens. Rights place constraints and obligations upon the actions of the State and individuals or groups. They are regarded as established pillars of our society. But rights that are conferred on the individual carry with them duties and responsibilities. The Constitution mentions public interest, public morality, public health, public safety and respect for the rights and freedoms of others but it is not infused with the values and ideals to inculcate a sense of patriotism or a sense of belonging to a nation. The African Charter of Human and People’s Rights to which Mauritius is a party, lays great emphasis on such values. [Annex I]

   The Constitution of India for instance calls upon the citizens of India, to inter alia, “promote harmony and the spirit of common brotherhood amongst all the people of India…”, “protect and improve the natural environment…”,


“safeguard public property and to abjure violence”. The Preambles of many other Constitutions whether old (United States, France) or new (South Africa, Kenya) set out the aspirations of the people and provide a model that Mauritius can adopt.

.......
2. **Enshrining economic, social and cultural rights in the Constitution**

Chapter II of our Constitution guarantees the fundamental rights of the citizen. The rights that have been recognised to be fundamental are the right to liberty and protection of the law, freedom of conscience, freedom of association, of movement and of opinion, freedom of expression, freedom of thought and of religious belief as well as the right to private property. These rights are regarded as being the ‘first generation’ human rights.

Mauritius provides free state health services throughout the country to all its 1.3 million people. Education has been free for the secondary level since 1977 and at full time undergraduate level at the University of Mauritius since 1988. Since July 2005, the state has also introduced free bus transport for all students. The state has established a social security system to provide fair, equitable and responsive social protection in a sustainable manner to citizens of the Republic with special attention to senior citizens, persons with disabilities as well as vulnerable persons and to reinforce national solidarity. In order to safeguard and ensure that the pluralistic Mauritian society enjoys
cultural rights. The State has strived to preserve and foster cultural values both at individual and collective levels.

Yet, these socio-economic and cultural rights of the Mauritian Citizen are not enshrined in the Constitution and do not enjoy the same status as rights guaranteed under Chapter II. By contrast, neighbouring countries have expressly recognised socio-economic rights in their respective Constitutions.

The Constitution of Seychelles has recognised the right to health, the right to education, the right to shelter, the right to social security and the right to cultural life and values. Section 43 of the Constitution of Kenya has made provisions for the right to health care and education. Section 44 provides specifically for language and culture. The Constitution of South Africa has guaranteed the right to have access to health care services and social security, the right to education and the right to language and culture. The Constitution of India has made express provision for cultural and educational rights. Section 21A of the Constitution of India states that the State shall provide free and compulsory education to all children from the age of six to fourteen years in such manner as the State may, by law, determine. Section 41
provides that the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement.

Still, whether the right to free medical health care and the right to free education, the right to a social security net and cultural rights should be entrenched in the Constitution and become justiciable is open to debate. The South African experience has not been truly convincing since the provision of such rights still depends on the availability of economic resources and is subject to progressive realisation. The Indian Model of setting such rights up as ‘Directive Principles of State Policy’ may be more attractive.

It is well worth contemplating whether a measure of public interest litigation should be allowed in our judicial system, that is, whether individuals or NGOs may bring matters of public interest to Court. Rules could be made to restrict abuse, but much would depend on the readiness of judges to embark on judicial activism, as judges do in India, to protect the interests of citizens against the State.
3. **Women in Politics**

The Constitution in Mauritius prohibits discrimination on, inter alia, the ground of sex. It also provides that no law subject to certain exceptions shall be discriminatory either in itself or in effect. The Constitution does not provide for positive discrimination.

The Concluding Observations on Mauritius of the Committee on the Elimination of Discrimination against Women identified the systemic barriers that continue to hinder women’s equal participation in political life:

“The negative cultural attitudes, doubts about women’s leadership capabilities, lack of temporary special measures in the form of quotas for women and lack of capacity-building of potential candidates, limited financial resources, and lack of logistical support for women candidates …..”

There is therefore a pressing need to take pro-active measures to counter these barriers to the participation of women in public life.
Generally female students perform better than their male counterparts in the Higher School Certificate national exam and there are more women than men in Mauritius who are enrolled in tertiary institutions. The proportion of women in the most senior positions (Senior Chief Executive, Permanent Secretary, Deputy Permanent Secretary, Judge and Magistrate) has increased from 23% in 2001 to 40% in 2016. Thus women have already proved that they can play a major role in high level positions. One would therefore expect that Parliament in essence would be a fair representation of Mauritian society.

Women know their situation best and they should participate equally with men to have their perspective effectively incorporated at all levels of government. Every human being has the right to participate in decision-making that would affect her/his life, this right is the foundation of the ideal of equal participation.

However, there is a dearth of women in decision-making bodies at the national level, both in Parliament and in Cabinet. The percentage of women in Parliament fell to a mere 12% following the 2014 polls from 19% in the previous Parliament. Mauritius now has a lower
proportion of female parliamentarians than countries such as Niger, Malawi and Djibouti. Only 3 out of 25 current Cabinet Ministers are women.

The Constitution needs to be amended if a fairer representation of women in Parliament in Mauritius is envisaged. The proposed amendment to the Constitution for a fairer representation of women would tally with the two amendments made to the Constitution to allow for better representation of women in Local Government.

In 2011, section 16 of the Constitution was amended to “allow 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”. This was a landmark decision and led to a considerable increase in women’s participation in the local elections held in 2012 and 2016. Secondly, the amendment made to the Constitution in 2016 provided 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 that Assembly.
4. **Environmental Rights**

Environmental protection is now an imperative and many countries have added explicit environmental rights to their Constitutions.

Environmental rights are classified as ‘third generation’ human rights. The right to life being paramount, the right to a safe and sustainable environment becomes important since other rights become dependent upon it. The 2012 Preliminary Report of the UN Independent Expert on the issue of human rights and the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, highlighted the fact that “the recognition of the close relationship between human rights and the environment has principally taken two forms: (a) adoption of an explicit new right to an environment characterized as healthy, safe, satisfactory or sustainable; and (b) heightened attention to the relationship to the environment of already recognized rights, such as rights to life and health”.

The right to have a sustainable and clean environment is vital to informed, transparent and responsive policymaking. Ensuring a sustainable environment is at the heart of the survival for Mauritius which, being a small island, is even more vulnerable to the consequences of climate change,
pollution and other environmental degradation. Development policies that protect the environment are beneficial in financial and economic terms. The State of Mauritius has the obligation to plan for sustainable development in a pro-active manner. The Constitution of South Africa, in section 24, states that everyone has the right to a safe environment. It also provides for having a protected environment for the benefit of present and future generations through reasonable legislative and other measures to prevent pollution, promote conservation and secure ecologically sustainable development. Section 42(a) of the Kenyan Constitution has a further provision related to the enforcement of environmental rights.

……..
5. **The Electoral System**

The electoral system that governs political representation in Mauritius is provided for in Section 31 of, and the First Schedule to, the Constitution. After several studies proposals have been made over the years for its improvement. The Best Loser System (BLS) which is practically unique to Mauritius has been widely discussed as to its merits and demerits but the major political parties are still not convinced that it should be entirely done away with. The Human Rights Committee set up under the International Covenant on Civil and Political Rights has expressed its views on the matter. Such views are not binding or enforceable, more specially when they enjoin a State to amend its Constitution. No consensus has been reached as yet in Mauritius as to a formula of Proportional Representation (PR). The crux of the issue is to produce an ideal mix of BLS and PR. Professor Thomas Eriksen, Professor of Social Anthropology at the University of Oslo, a keen observer of the situation in Mauritius and expert on identity, nationalism and identity politics is of the view that it is premature to do away with the Best Loser System since
“people identify with their community for a variety of reasons; it is about family and kinship, a sense of belonging and security – it is not just politics, power and privilege. So many trust ‘their own’ more than others.”

There is anticipation that before the next general elections a new formula will be found, more especially to resolve the anomaly that calculations for the BLS rest upon a population census that dates from 1972.

.......
6. **Other Proposals being made to amend the Constitution**

1. The mode of election of the President and Vice President of the Republic by a broader electoral college;

2. The powers of the President;

3. Nomination of the Chief Justice by the President and the Senior Puisne Judge by the Chief Justice;

4. Recourse to Referendum on crucial issues
   Consultative democracy;

5. The powers to amend the Constitution,
   Entrenching section 47;

6. Freedom of Information;

7. A clearer separation of powers with the possibility of appointing non-elected Ministers;

8. Reviewing the mode of functioning of the Public Service Commission and the Disciplined Forces Service Commission;

9. A Body for the appointment of Chief Executives of Statutory Bodies;

10. An Ombudsman to entertain complaints against parastatal bodies;

11. Voting to be made compulsory at General Elections and By Elections;

12. Permission to use the Kreol language in Parliament
7. **Chapter II of Constitution in Kreol**

A loose unofficial version of extracts of Chapter II of the Constitution on Fundamental Rights is at Annex II. The Kreol used is the Kreol traditionally adopted by the Police to record statements from members of the public during enquiries. Police officers have been among the first officials to write in the Kreol language and their recordings of statements constitute evidence accepted in Courts of Law in Mauritius.

.......
CHAPTER III

HUMAN RIGHTS ISSUES

General Human Rights issues that are relevant to Mauritius are surveyed in this Chapter

1. INTERNATIONAL SCRUTINY

The Human Rights situation in most countries is subject to international scrutiny. The United States Department of State produces an annual report on all countries except itself. The Report is used by many Treaty Bodies when examining Periodic Reports by countries which have to report to those bodies. There may sometimes be inaccuracies in the US Report (The 2016 US Report on Mauritius is reproduced at Annex III or information)

In 2017 Mauritius was examined by the Human Rights Committee and by the Committee against Torture. The Concluding Observations are at Annexes IV and V.


In 2017 the Mo Ibrahim Index ranked Mauritius first in Africa in terms of good governance.

.......
2. ECONOMIC MEASURES

Two revolutionary economic measures introduced in 2017 which alleviate the situation for thousands of Mauritians are -

(i) the Minimum wage; and
(ii) Negative Income Tax

A minimum national wage provide a decent salary for workers in all sectors. To ensure this minimum threshold and to narrow the gap between rich and poor the State is prepared to subsidise the scheme and to top up salaries where necessary, for example in the Export Processing Zone.

The Negative Income Tax introduces a system where workers earning below a certain amount do not have to pay income tax. They will instead receive financial support from the Government through the Mauritius Revenue Authority. Some 120,000 workers out of a total workforce of 400,000 would benefit from this tax.

A positive measure was taken in 2017 to the advantage of women cleaners who had been working for years in schools on a temporary basis for a low salary. After the women cleaners had gone on a hunger strike, the authorities decided that they should be given permanent employment and a decent wage. This measure was seen as compatible with Government policy to combat absolute poverty.
3. **FOOD SECURITY**

Consumer Rights and Rights of Peasants are both fast emerging internationally within the Third Generation of Human Rights.

Climatic conditions can cause a lot of imbalance and inconvenience in the agricultural sector both to vegetable growers and consumers. The State is setting up a central marketing scheme where farmers will be able to sell their products at a decent price when the level of production is high. This will provide them with a more steady income while the consumer will be less at the mercy of fluctuation of prices. Such a measure should contribute towards better food security in the country and decrease reliance on excessive importation of food products.

4. **RIGHT TO WATER**

By and large people in Mauritius enjoy access to drinkable water at a reasonable price. The coming into operation of the Bagatelle Dam is to guarantee supply of water to a large area. To ensure that there is water supply in the home 24 hours out of 24, the authorities are subsidising the purchase of water tanks. The right to water would be further enhanced, with the overhauling of old pipes distributing water in many areas of the island.
5. DRUGS

Drug trafficking, drug dealing and drug consumption are preoccupying human rights issues. Synthetic drugs appear to have invaded the market. A proposal in some quarters to legalize the use of cannabis is far from meeting universal approval. It is feared that this may encourage people to get addicted and then resort to more dangerous drugs.

What is needed in Mauritius is a fast track to deal with drug cases. A Drugs Court would try drugs offenders at all levels, whether it be traffickers, dealers, consumers. Drugs trafficking trials tend to be prolonged if the evidence of mules has to be used against big dealers in cases of controlled delivery.

More than half of the prisons population consists of drug offenders. The authorities should contemplate having a special place to detain them so that other offenders do not have to mix with them and so that proper programmes of disintoxication may be implemented to help them. This should not mean isolation and stigmatization. The Commission of Enquiry set up in 2015 is expected to publish its findings and recommendations in early 2018.
6. LGBT RIGHTS

There is still a need to inform and educate the public at large about LGBT rights. Mauritian society has come to accept foreigners who come here as single sex couples and even to tolerate homosexual tendencies of well-known figures. Moreover, Mauritius does have its annual Gay Pride Parade which is widely publicized in newspapers. While same sex marriages have not yet become a live issue, there is a wider tolerance of LGBT. Films whether from the West or East depicting such relationships are commonly shown helping towards a better understanding of LGBT issues.

.....
7. DIGITAL REVOLUTION

Information and Communication Technologies have transformed Mauritian society with people using social media to communicate and air their views, thus enjoying freedom of opinion and freedom of expression without restraint.

Even children have become addicted to the virtual world, sometimes with the internet being used for the wrong purposes. Klaus Schwab, Founder and Executive Chairman of the World Economic Forum, in his book “The Fourth Industrial Revolution” (2015) has pointed out that -

“digital technologies rewrite the relationships between society’s elements. Online networks decouple, for instance, the generation of information, ideas and entertainment from their distribution. New responsibilities arise from these changes. Powerful new actors in society’s communication system acquire new obligations to protect the quality of public reason. The new networks are, whether they like it or not, part of the ‘infrastructure of free expression’.”

It is now reported that Facebook has built the most lucrative advertising engine the world has ever seen.
The internet can also be used to teach and promote human rights. It is put to good purpose when it helps to bring violations of human rights to the attention of people so that they can react immediately and condemn the perpetrators. Information can be easily imparted to increase awareness of human rights abuses.

Artificial intelligence is now being developed and little is known of its future impact on human rights. Everybody will be affected whether at the individual or collective level.
8. DOMESTIC VIOLENCE

Domestic violence is dealt with by the Family Protection Unit of the Ministry of Gender Equality. Complaints are made to that Unit which after investigation decides whether to take the case to Court if the victim needs a Protection Order.

According to the latest statistics, in 2016, there were 2,225 cases lodged under the Protection from Domestic Violence Act in Mauritius of which 2,112 cases have been disposed of. 1,328 protection orders, 17 occupation orders and 3 tenancy orders were issued. There is a blatant unawareness of the existence and use of an occupation order and tenancy order such that victims do not normally apply for same.

Despite stringent laws, Mauritius has in 2017 experienced a number of cases of violence against women, some of which unfortunately have resulted in deaths. One in three women is believed to have experienced domestic violence.

Part of the problem seems to lie largely in the underreporting of the offence. Victims do not always report cases of domestic violence to the police because of the social and cultural stigma attached to victims of domestic
violence. It is considered to be a private matter that should be resolved at the level of the couple.

If the strictness of the law is not helping to decrease the number of victims of domestic violence, a more holistic mechanism is needed to combat this social ill. First, there is a need to continue the awareness-raising campaign that would bring a change in the mentality and behavior of men. Secondly women should receive material and psychological support when they report cases. Thirdly there may be a need for mediation within the couple at the initial stage.

A specific court should set up to deal with domestic violence. Magistrates, prosecutors, police officers and staff of the Family Welfare and Protection Unit would handle those cases expediently and would receive appropriate training. More perpetrators should be brought to justice and sanctioned to send the right signal to deter future acts of violence. Women victims and their children should have adequate assistance from the time the case is reported until and after prosecution of the case.
9. **SEXUAL HARASSMENT**

Towards the end of 2017, the world witnessed a historic upsurge of stories by women telling of sexual harassment on social media using “#metoo”. It all started with the allegations of sexual harassment made by prominent female actors in the US against the entertainment mogul Harvey Weinstein. This encouraged women to speak about their own experience of sexual violence in the field of business, media, and politics and at the workplace by using the connotation “#metoo”. The connotation became viral, worldwide. It has been used a million times over and was swiftly adapted into #BalanceTonPorc, #YoTambien, #Ana_kaman and many others.

Women in Mauritius were not indifferent to this movement. A few journalists created a page named “shame them” on Facebook to offer a platform for women to denounce sexual harassment. This page saw hundreds of testimonies being shared about women experiencing sexual harassment in their homes, at work and in public spaces. In 2016, there were 597 sexual offences cases reported to the police by women. On the other hand there is a dearth in statistics with regard to the number of reported sexual harassment cases at the workplace.
The glaring underreporting of sexual offences by women in Mauritius is due to many factors notably the stigma attached to reporting, the cumbersome reporting procedure, the non-victim-centric criminal justice system and the low number of convictions.

Children more specially may be victims of sexual abuse and need to be protected. Sometimes the paedophile may be a parent whose crime cannot be immediately uncovered. The offence is a more aggravated one since the parent is violating the element of trust between him and the child and is making an abuse of his parental power.

More focus should be laid on sensitizing the population on sexual violence and the law. The setting up of specialised Family Courts would help to deal expediently with sexual offences. The procedure from the time of reporting to the time of prosecution should be speeded up so as not to re-traumatise the victim whilst at the same time respecting the constitutional rights of the accused. The Police should be adequately trained and equipped to deal with victims.
10. MIGRANT WORKERS

The history of Mauritius especially during the colonial period is a part of the history of a global movement of people. The slave trade which can be assimilated to a forced migration of people was followed by the voluntary migration of indentured labourers partly attracted by the prospect of wages higher than they would earn at home and a better life. The movement of the people was motivated by the desire for profit by land owners in Mauritius, since cheap labour was essential to develop the sugar plantations.

The current employment of foreign labour is regulated by the Non-Citizens (Employment) Restriction Act 1970. According to recent statistics, there are some 39454 migrant workers in 2016 with a valid work permit in Mauritius. A majority of migrant workers, i.e., 31330 work in the manufacturing sector while some 5001 work in the construction sector. Other workers are in hospitality, education, health, agriculture and ICT. The demand for foreign workers is on account of two factors – a labour shortage in some sectors in Mauritius, and a mismatch of skills between available labour and industry demand. Foreign manual labour is also cheaper.
The vast majority of foreign workers, 21,157, are Bangladeshi nationals. Among the others, there are 8207 Indians, 3868 Malaysians, 2345 Chinese, 1523 Sri Lankans and 284 Nepalese.

Employers wishing to benefit from the services of expatriates must apply to the Ministry of Labour, Industrial Relations, Employment and Training for a work permit for the expatriate. There is a category of expatriates who are exempted from permits such as spouses of Mauritians or students who can work part-time.

Regulations are in place to ensure that the rights of migrant workers are respected. Under these regulations, workers must have the skills, qualifications and experience required for the job. They must be between the age of twenty and sixty and have successfully passed the appropriate medical examination. For the recruitment of qualified workers, the employer must obtain a housing permit.

Companies must submit copies of employment contracts to be approved by the Ministry of Labour, Industrial Relations, Employment and Training if the salary of an employee does not exceed MUR 30,000. Work permits are normally granted proportionately i.e. an expatriate worker for
three local workers. In the textile manufacturing sector and for bakery operators, the ratio is 1:1, i.e. a local worker to an expatriate. Employers bear the cost of the airfare of their foreign workers from their home country to Mauritius and for the return trip after the expiry of their work permit, or for any other reason whatsoever.

The Combating of Trafficking in Persons Act gives effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in persons and has as objective to protect and assist victims of trafficking. However, there is a low rate of prosecution of cases of trafficking. Section 11(2)(a) provides that

“Any person who knowingly leases a room, house, building or establishment or subleases or allows it to be used, for the purpose of harbouring a victim of trafficking commits an offence”.

It is not always easy for the prosecution to prove all the elements of the offence. Until 2015, there was only one case of human trafficking reported to the police.
The Mauritius Police Force and all stakeholders are coordinating their efforts and strengthening their action to combat trafficking in persons through a series of measures to prevent, identify, investigate and prosecute such offences. Despite efforts to track migrant workers, a number of migrant workers are currently staying in Mauritius illegally or are living in poor conditions.

The difficulty in dealing with the trafficking of migrant workers lies in the fact that the recruiting agents act outside the territory of Mauritius and it is difficult to track and prosecute them. The Mauritian authorities are required to work hand in hand with the Government of the countries of origin of migrant workers to set up an information sharing strategy and to take concerted action to combat trafficking and exploitation of the credibility of migrant workers.

Business nowadays is required to comply with human rights within the United Nations ‘Protect, Respect and Remedy’ Framework. The three interrelated pillars are: the state duty under international human rights law to protect against corporate human rights harm, the corporate responsibility to respect human rights, as a social expectation and the right of victims to an effective remedy, whether judicial or non-judicial. It is thus necessary for the
State to put into place a regulatory framework to protect migrant workers even if Mauritius has not adhered to the UN Convention on the Rights of Migrant Workers. It is still the view in Mauritius that the Convention may impose too many obligations which the country may not be ready to satisfy as yet. The Framework provides for a single law for recruitment, obligation for employers to provide adequate accommodation, pay decent wages to workers and model contracts as well as other fair conditions of work and repatriation. The unit which exists within the Labour Inspectorate would need to be strengthened and provided with adequate resources and manpower to act effectively and promptly.

The corporate customers who buy textile goods from Mauritius for resale are well aware of the issue and have launched a campaign to raise awareness among their Mauritian suppliers about the need not to exploit migrant labour. There is the underlying threat of their stopping to import from Mauritius if the human rights norms which they impose are not respected.

Annex VI is a Model recommended for Obligations respecting Corporate Social Responsibility.
11. PERSONS WITH DISABILITIES

Measures are being taken to integrate persons with disabilities in the mainstream of society. To suit the convenience of persons with disabilities all buses must now be low floor buses. New buildings also have to provide easier access to persons who are physically handicapped. Children with disabilities have to be integrated in schools as far as possible so that they do not feel left behind and benefit from the right to Education. Employers still have to be encouraged to employ persons with disabilities wherever possible so that the latter can earn a living and not rely solely on social aid. Until now the Training and Employment of Disabled Persons Act has not been used to compel employers having a workforce of 35 or more workers to have a number of disabled persons representing 3 per cent of the workforce.

......
12. CHILDREN’S RIGHTS

The Child Protection Act 1994 is the specific statute which provides for the protection of children. There is a general consensus that this statute is not ensuring the adequate protection of the rights of children. A Children’s Bill has been drafted and consultative meetings between the Government and stakeholders are currently being held to engage in a productive dialogue on the draft bill. The rights which are in the Convention on the Rights of the Child are to be included in the proposed bill.

Children living outside the family setting, i.e. in rehabilitation centres and in shelters are most vulnerable and they have been in one way or another deprived of some of their human rights. It is imperative that a special framework be put in place to ensure that their rights are given due respect during all administrative processes and legal procedures. For example, a child who has been charged with a criminal offence and whose parents cannot afford the services of Counsel should be granted legal aid as soon as the child is brought to the police station right up to the completion of the case. This would help the child through the legal procedures and afford him with a fair opportunity to defend the case.
A child who is in the process of being placed in a shelter needs adequate assistance to help express his/her views directly or through someone. This would help the decision-maker to make a better assessment of the situation and then take the appropriate measures.

13. **SUSTAINABLE DEVELOPMENT GOALS**

National Human Rights Institutions help to monitor the progress in achieving the Sustainable Development Goals. Although the goals and targets do not explicitly mention particular human rights, the issues covered encompass civil, political, economic, social and cultural rights and the right to development. Governments will be held accountable to fulfil their obligations. The 2030 Agenda calls for inclusive and transparent follow up and review processes of a participatory nature. In Mauritius emphasis is already being put on the rights of those living in absolute poverty as they are the most vulnerable elements of society.
CHAPTER IV

HUMAN RIGHTS DIVISION

The Human Rights Division deals with complaints alleging violation of the rights listed in Chapter II of the Constitution. Recurrent issues are set out below with recommendations in some cases. A summary of noteworthy cases follows.

1. POLICE ENQUIRIES

1.1 DELAYS IN POLICE ENQUIRIES

The Mauritius Police Force (MPF) is empowered to conduct enquiries into all criminal cases. The starting point of any enquiry is the reporting and the recording of cases (‘Declaration’) that is governed by Part II of Standing Order 130(18), Declaration, Enquiries and Prosecution.

As per Standing Order 130(18), an enquiry must be made in every case where the need arises as soon as possible by the Station Manager or any Police Officer deputed by him. In general, the Officer in Charge of a police station or unit selects enquiring officers based on their experience, competencies, job knowledge and other skills.
1.2 DISTRIBUTION AND SUPERVISION OF ENQUIRIES

(i) Enquiring Officers, usually Police Constables and Corporals, look into all cases of contraventions and misdemeanors.

(ii) Some cases of minor crime are assigned to Police Sergeants and Inspectors of Police at station level. All cases of major crimes, larcenies and cases where the suspects are unknown are sent to the local CID Unit for enquiry.

(iii) Cases reported at the National Coast Guard are enquired into by their Enquiring Officers.

(iv) All cases of murder and suspected homicide are enquired into by the Major Crime Investigation Team.

(v) High profile and complex cases that require technical knowledge are enquired into by different specialized units at the Central CID.

1.3 STATISTICS AND CORRESPONDING ACTION PLAN.

On 18 April 2017, the Office of the Commissioner of Police issued an Administrative Order entitled Measures to Reduce Outstanding Cases. A survey conducted by the Office of the
Commissioner of Police showed that for the period 2010 to 2016, there was a total number of 3163 and 34686 outstanding cases of crime and misdemeanor respectively. The approximate number of cases reported yearly was:

(a) at A-Class police stations 12,000 to 13,000;

(b) at B-Class police stations 8,500 to 9500; and

(c) at C-Class police stations 7,500 to 8,000.

An action plan was devised to reduce the number of outstanding cases. A list of officers was earmarked to oversee the progress of enquiries, decide and dispose cases in each area known as a Division.

Standing Order 131 provides that a police officer of at least the rank of Superintendent decides Cases of Crime before the case file is referred to the Office of the Director of Public Prosecutions (ODPP) for advice. Decisions on Cases of Misdemeanors and Contraventions are taken by an officer of the rank of Assistant Superintendent of Police and a Chief Inspector of Police respectively. According to a CP Circular No. in 2017, enquiry into cases of Crime and Misdemeanors should be completed
within three months, whereas contravention cases should be completed within one month. As regards cases which are complex in nature, they may be completed within a reasonable time.

1.4 SOME CAUSES OF DELAY IN THE COMPLETION OF POLICE ENQUIRIES

The following are some of the factors that cause delays in police enquiries:

(i) Enquiring officers (EOs) are not entrusted with enquiry duties full time. They are often engaged in miscellaneous duties, which include replacing colleagues on shift duties, patrol and escort duties, supervising processions and helping school children at pedestrian crossings in their localities.

(ii) Some Enquiring Officers (EOs) lack training. Not all of them get the chance to attend coaching on basic enquiry techniques that are conducted by the Police Training School. Most of the EOs get on the job training and learn enquiry techniques from senior EOs.

(iii) Sometimes improper and inadequate monitoring of enquiries by supervising officers.
(iv) Lack of logistics, transport and other facilities.

(v) Some cases sent to the State Law Office for instructions may take too long to be sent back.

(vi) Reports on Injury Forms (PF58) are not readily available at medical institutions.

(vii) Reports from Governmental institutions like Forensic Science Laboratory (FSL) take too much time.

1.5 **RECOMMENDATIONS**

The following measures are suggested to reduce delays in the completion of enquiries:

(i) The setting up of Enquiry Units at Divisional/Zonal level. Such Enquiry Units should be headed by Superintendents of Police assisted by Assistant Superintendents of Police, Chief Inspectors of Police and Inspectors of Police. This will enable fast decision making and proper supervision over cases under enquiry. Identifying potential enquiring officers based on merit and dedication will increase the chances that ‘the right person is selected for the right job’. After selection, they should devote their whole time to enquiring duties and should not be engaged in miscellaneous duties. They should, as far as practicable, be
given all logistic facilities to allow them to discharge their duties effectively.

(ii) Since one of the major causes of delay in the police enquiry is the lack of power to convene suspects and witnesses in the cases of misdemeanors and contraventions, senior police officers should be conferred more authority to convene the parties concerned.

(iii) A proper training program to enhance the investigation skills of enquiring officers should be implemented.

1.6 PRB RECOMMENDATIONS

In 2016, the Pay Research Bureau (PRB) recommended that Police Constables and Officers up to the rank of Inspector of Police posted to Police Stations who perform the duties as Enquiring Officer (EO) be granted a monthly allowance equivalent to one increment at the point reached in their respective salary scale.

On 18 April 2017, the Office of the Commissioner of Police issued a Circular entitled ALLOWANCE TO POLICE ENQUIRING OFFICERS POSTED TO POLICE STATIONS laying down necessary instructions for the implementation of the said PRB recommendation.
2. **DELAYS IN COURT**

The Human Rights Division receives complaints about delays in Court matters. To provide better services to the public the Judiciary has launched a Customer Charter in 2017. Useful information is provided on administrative procedures. Access to justice is an important human right. It is difficult for members of the public to understand and accept why they may have to attend court for a simple case five or six times. Postponements may be due to absence of witnesses, illness of the Accused, witness or Counsel. The requirement that the same Magistrate should take up, follow and determine a case has complicated matters and resulted in delays. A lot of time would be saved if formal witnesses could be heard on the first day when a case is called, leaving it to another Magistrate, where applicable, to follow and determine a case.

3. **TESTS FOR MOTORCYCLISTS**

Tests for riding motorcycles at the Police Headquarters have proved to be totally inadequate to test the skills of motorcyclists. This may partly account for the high number of fatal road accidents where motorcyclists are victims. The Police and the Ministry of Public Infrastructure have taken the laudable initiative of having proper schools for those who wish to obtain licences to ride motorcycles. Proper training will be given and tests conducted.
4. **A KREOL COMMUNITY**

A complaint was received to the effect that the descendants of persons of African origin should be given due recognition as a separate community in Mauritius. In the First Schedule to the Constitution they are grouped with those sections of the population not belonging to the Hindu, Muslim and Sino-Mauritian communities, as part of the General Population which is itself regarded as a fourth community. Such a sensitive issue cannot be resolved at the level of the National Human Rights Commission and requires a major political decision before any amendment in the Constitution can be envisaged.

5. **KREOL LANGUAGE**

There is an ongoing battle for the Kreol language to be given official recognition though it is now used for teaching in schools. It is part of a degree course taught at the University of Mauritius. The Human Rights Division received complaints to the effect that the course would be scrapped. Representations were made at the level of Government and the matter resolved.
6. **OMBUDSMAN FOR PARASTATAL BODIES**

The Human Rights Division received several complaints pertaining to the conduct of affairs in parastatal bodies and about the services provided to the public by these bodies. These were not strictly within the purview of Chapter II of the Constitution.

Chapter Nine of the Constitution establishes the office of the Ombudsman. The Ombudsman is empowered to investigate any action taken by any officer or authority of a Government agency in the exercise of his functions in which a member of the public claims or appears to the Ombudsman to have sustained injustice in consequence of maladministration. However, the provisions of the Constitution do not empower the Ombudsman to investigate any alleged case of maladministration in a parastatal body.

There are numerous parastatal bodies such as Central Electricity Board, Central Water Authority, Beach Authority, amongst others that regularly take administrative decisions affecting members of the public.
It is recommended that there should be set up an Ombudsman for Statutory Bodies to deal with complaints against parastatal bodies. Members of the public should be able to have recourse to this new Ombudsman. It would be a non-costly and effective way to report any alleged maladministration in the provision of services and for remedying problems.

......
7. **BODY SEARCH**

A. **The Constitution**

Section 9(1) of the Constitution provides that “*Except with his own consent, no person shall be subject to the search of his person or his property or the entry by others on his premises*.”

But a law may make provision for a search in interests of defence, public safety, public order, public morality or public health (Section 9(2) (a)).

B. **Legislation permitting bodily search in specific cases**

B.1. **Section 14 of the Police Act, Search warrants and medical examination**

(1) *Where, in a case of urgency, communication with a Magistrate would cause delay that would defeat the ends of justice, a police officer, not below the rank of Assistant Superintendent, may -*

(a) *on sworn information that a person has unlawfully in his possession any dangerous drug, any property obtained by means of an offence, or any article used or likely to be used in the commission of an offence, issue a warrant to search for the dangerous drug, property or article; or*
(b) call upon a Government medical officer, or other medical practitioner, to make such examination of the person of an alleged offender as the circumstances of the case require.

B.2. Section 53 of the Dangerous Drugs Act, Body and luggage searches

(1) Subject to subsection (2), any police officer or customs officer may at any point of entry into Mauritius carry out body searches and searches of luggage whenever he has reason to suspect that a person seeking to enter Mauritius may be concerned in the commission of an offence against this Act.

(2) No woman shall be subjected to body search except by a woman police officer, woman customs officer or a police wardress.

B.3 Section 54 of the Dangerous Drugs Act, Drugs concealed in body

(1) Where a Magistrate is satisfied by information on oath from a police officer not below the rank of Superintendent of Police that a person is reasonably suspected of having concealed any dangerous drug inside his body, he may make an order for that person to be submitted to—
(a) such medical examination including X-ray or other tests as may be necessary to detect the substance; and

(b) such medical treatment as may be considered appropriate in the circumstances.

(2) The medical practitioner who conducts any examination under subsection (1) (a) shall forthwith submit an official report thereon to the police officer.

C. Standing Orders of the Mauritian Police Force

Standing Order 133(27), Care and Treatment of detainees, “Police are not to strip a detainee unless he/she so requests to show his or her injuries. In case s/he bears any injury a declaration will be recorded and a PF 58 issued”.

Standing Order 133(4), Safe Custody of detainees, administers and instructs all police officers that “before a detainee is committed to cell, s/he must be asked to remove all his/her properties and then thoroughly searched in privacy”.

D. **Recommendations**

It is recommended that the Mauritian draft *Police and Criminal Justice Bill*, should reflect a ‘blend’ of the *Australian Law Enforcement (Powers and Responsibilities) Act 2002*, The Code of Practice (UK ‘PACE’) - *Code C Detention, treatment and questioning of persons by police officers* and the *Code of Practice on the Exercise by Constables of Powers of Stop and Search of the Person in Scotland*. The ‘blend’ would uphold the fundamental principles of the Mauritian Constitution and address the issues of potential abuse of power by authorities.

……
The draft *Police and Criminal Justice Bill* could include the following:

- The definition of a strip search to be ‘a search involving the removal of more than outer clothing, including shoes and socks’.
- The Police should conduct the least invasive kind of search practicable in the circumstances. ‘Ordinary Search’ and ‘Frisk Search’ must be contemplated before conducting ‘Strip Search’.
- The Police must fully explain the reason for a search.
- Whenever a strip search involves exposure of intimate body parts, there must be at least two people present other than the detainee and no members of the opposite sex unless they are medical staff.
- The strip search must be carried out by a person of the same sex.
- The search must take place in private, away from the view of members of the public.
➤ Searches of people under 18 should take place with a responsible adult present, unless the minor does not want them to be present.

➤ A strip search should not follow a methodology that requires removal of all clothing at the same time and should allow the detainee to dress as soon as the procedure is complete.

➤ Regarding visual inspection the detainee may be asked to hold his arms up in the air, stand with his legs apart, open his mouth or bend forward, but he/she should not be touched.

➤ If something is found in the mouth during the search, this can be removed. If something is found in another orifice, this cannot be removed unless the police have a warrant for an intimate search. However, the detainee can remove this voluntarily.

➤ An entry must be made in the custody record of a strip search, including the reason it was considered necessary, those present and any result.

➤ Handcuffs and ‘foot cuffs’ may be used when strictly necessary and the record must specify the reasons for use of the same.
All these requirements are necessary in order to preserve a person’s privacy and dignity during a strip search. Police Officers must receive adequate training to provide a better treatment to suspects and detainees.

8. **ENVIRONMENT**

The Right to a healthy and clean environment is now at the forefront of Human Rights. The Human Rights Division receives complaints inter alia about noise pollution, lack of maintenance of drains which may put lives at risk.

Mauritians need to be more conscious of the need to preserve the natural environment on their island in the face of imminent threat, not merely to attract tourists but for future generations. Beach erosion, marine pollution destroying life and corals in the lagoons, multiplication of stray animals especially on beaches, noise pollution resulting from vehicles having their engines tuned, pollution of the air caused by vehicles without proper exhaust pipes are but a few of the issues on which the diligence of individuals is required. Since the right to a clean environment entails duties and responsibilities, existing laws such as the Environment Protection Act have to be strictly enforced especially when members of the public throw rubbish in rivers, build over natural drains, flout building regulations, do not have their dogs spayed and abandon puppies in the wild ……
Vehicles are a major factor for the increase in air pollution. There is a huge increase in the number of vehicles especially of private cars as many people shun public transport. The Metro Express will provide an alternate attractive mode of public transport. Free shuttles from parking areas outside town to the town centre where more roads are reserved for pedestrians are positive measures. It is likely that there will be more car cemeteries. The National Human Rights Commission has previously drawn attention of the authorities to the fact that old cars are abandoned on the road side and it is difficult to trace their owner. Further measures need to be taken to control emission and fuel specifications. Regular inspection of vehicles and programmes replacing old vehicles with new ones (as proposed in Rodrigues), control of tuning and limiting noise pollution all require more attention and regulation.

The Ministry of Local Government, the Ministry of Health, the Ministry of Environment and the Police de l’Environnement need to play a more proactive role and coordinate their efforts to prevent the deterioration of the environment. Cases where one authority shifts the onus of enforcing the laws and regulations on another institution must be avoided at all costs.
9. EXAMPLES OF CASES DEALT WITH BY THE HUMAN RIGHTS DIVISION

1. **Compulsory Land Acquisition**

   Complainants wrote to the Commission alleging that their proprietary rights had been breached following the compulsory acquisition of their land for the construction of the Link Road Terre Rouge/Verdun/Ébène. The Commission intervened as the case had been dragging for too long before the Board of Assessment. The Ministry of Housing and Lands accepted to make an interim payment as compensation for compulsory land acquisition, without compelling the complainants to abandon their claims for injurious affinity.

2. **Rights of Elderly Persons**

   o In the case of B.L., there was an allegation that B.L. was being sequestrated and ill-treated by his sister. The Ministry of Social Security was requested to investigate into the matter. However, no sign of abuse was found.

   o An elderly person made a complaint regarding noise disturbance by his neighbours. He alleged that the actions taken by several institutions that he contacted in connection with the
issue were unsatisfactory. The Commission conducted an enquiry and the matter was resolved.

- Two complainants, aged 76 and 60, alleged that they were victims of domestic violence at the hands of the son and daughter-in-law and their living conditions had deteriorated. The Office of Probation and Aftercare Service was solicited for a Social Enquiry Report and to conduct mediation among the parties concerned as they had to live under the same roof.

3. **Request for an early trial under Section 10 of the Constitution**

Mrs. S.J complained that the Civil Status Office made ‘a wrong entry’ in the Civil Status Register declaring her dead, as a result of somebody declaring the death of a person allegedly bearing the same name as hers. Mrs. S.J., through no fault of hers, had her passport seized, lost her job in Italy and had been suffering from depression. The matter had not been resolved since 2013. The Commission requested on humanitarian grounds that the Supreme Court give priority to the case. The request was positively received and the case was heard. Judgment was given in her favour and the relevant civil status records were amended.
4. **Human Trafficking**

The Commission received a complaint from two Nepalese workers who were detained as they could be witnesses in a human trafficking case. After investigation, the Commission concluded that they had been unfairly deprived of their liberty during their prolonged forced stay from January 2017 to November 2017 in Mauritius while police completed the enquiry. The Office of the Director of Public Prosecutions agreed that there was no case against other people suspected of trafficking under the *Combating of Trafficking in Persons Act*. It could not be proved that the workers were brought here for the purpose of exploitation. Both Nepalese were repatriated.

5. **Usurpation of Identity**

Mr. T. complained that he was being prosecuted for the offence of ‘driving under the influence of liquor’ and ‘no competent driver’. Complainant claimed that he had never committed these offences. The complainant had reported the loss of his driving licence about one year before and was using a Duplicate Licence. It was suspected that another person had usurped the complainant’s identity. The Human Rights Division carried out an investigation and identified the person who was driving at the date and time of the offence. The Human Rights Division recommended to the Director of Public Prosecutions that a *Nolle Prosequi*
be filed in the case against Mr. T and that the Commissioner of Police should carry out an enquiry for offence of ‘making use of forged document’ against the real culprit.

6. **Environment/Noise Pollution** (Neighbours)

The Commission received a complaint from Mrs. A.A. that the authorities were refusing to intervene against her neighbour who was creating too much noise. The Commission requested the Police de L’Environnement to investigate and settle the matter.

7. **Action in connection with Local Authority, ‘risk of flooding’**

The Commission received a petition from a group of individuals in connection with an obstruction of a natural drain. The Commission concluded that the ‘risk of torrential rain leading to floods’ is a relatively serious issue. All relevant stakeholders were contacted. As the drain was built on State Land, the Commission recommended that the Ministry of Housing should take action.
8. **Right to vote in Rodrigues**

The Commission received a complaint from Mr. M. L., a Rodriguan to the effect that Rodriguans living in Mauritius cannot cast their vote in the Rodrigues Regional Assembly Elections as no facilities are provided to them in Mauritius to do so. The matter was referred to the Electoral Supervisory Commission. The Supreme Court has already ruled in the case of *Joseph Clency Lisette & others v/s The Electoral Commission*, (2010) SCJ137. The Court held that an elector can only vote at the polling station in the place where he is registered as an elector and that he must present himself at that polling station in order to cast his vote.

9. **Foreign Woman denied liberty**

A NGO from India wrote to request the Commission to intervene in a case where Indian girl was allegedly forced to come to Mauritius to marry a Mauritian and that she was being detained at the man’s place. The Commissioner of Police was requested to look into the matter. The Commission was later informed that the girl had been able to leave Mauritius safely.
10. **Tardy declaration of birth, Right to pension**

The widow’s pension of Mrs. M was cancelled with immediate effect following an alleged case of impersonation. A pension was being paid to another person bearing the same name. Mrs. M had been abandoned in her childhood and had been brought up in a religious convent. Mrs. M had used her name since childhood and had to embark upon various lengthy procedures in order to obtain her pension. The Human Rights Division carried out an investigation and found that Mrs. M. has applied for a tardy declaration of birth and that police was still enquiring on the matter. The police was requested to exercise diligence in completing the enquiry.

11. **Recognition of training institutions**

Mr. B stated that his son had enrolled for a course in a private tertiary institution. Mr. B applied for a loan in order to support his son. After some time, the institution ceased its operation without refunding the students. Consequently, Mr. B. found himself in a difficult financial situation. The Mauritius Qualifications Authority and the Tertiary Education Commission were contacted. A Mediator was appointed to deal with disputes between the students and the training institution. Finally, an agreement was reached for the amount to be refunded to the students.
12. **Delay in enquiries**

The house of Mr. A caught fire in 2015 in the middle of the night putting in danger his life and those of his wife and members of his family. Mr. A wrote to complain that police was taking too much time in their enquiry. He stated that the delay was causing him much prejudice as he believed that the culprit was still free. At the time he made his complaint to the Commission, his statement had not been recorded by Police. An enquiry was carried out and the Commissioner of Police was requested to record the statement of Mr. A.

13. **Disruption of peaceful neighbourhood**

Several inhabitants living in a residential area claimed that the Municipal Council had granted permission for the construction of a building to be used as a place of worship. That would create inconvenience for all the neighbours. The complainants averred that the Municipal Council had never sought the consent of the residents before granting the construction permit. The Municipal Council was contacted. Finally, following a hearing, the application for the proposed development in a residential area was turned down by the Municipal Council.
14. **Conditions of work on St Brandon Island**

A police officer posted on St Brandon Island for a tour of duty of six months complained about harsh conditions of work and lack of communication by phone with his family in Mauritius. The Occupation and Health Safety Office of the Police Department was requested to deal with the situation.

10. **APPLICATION FOR REVIEW OF CASE UNDER SECTION 4A OF THE PROTECTION OF HUMAN RIGHTS ACT**

Mrs. M.K, the complainant, was sentenced for importation of Heroin. She requested a retrial based on an alleged breach of her constitutional right to secure the protection of law. The complainant explained that, among other things, there was no translator present at trial, the Court appointed a lawyer who was unfamiliar with the case and she was not granted her right to address the Court.

After examining the case, the Commission concluded that there was no fresh and compelling evidence adduced by the complainant to warrant referring her case to the Supreme Court for a review of her conviction.
1. The Police Complaints Division (PCD) was established under the Police Complaints Act 2012 as an independent body. It became operational in June 2014. The PCD replaced the Complaints Investigation Bureau. The PCD is currently in a period of transition in view of the fact that it will be replaced by the Independent Police Complaints Commission set up under the Independent Police Complaints Commission Act.

2. PCD’s values

- Justice and respect for human beings
- Independence
- Integrity
- Openness

3. Organisational Structure

Chairman

One Deputy Chairperson

Two members
The PCD is assisted by independent investigators and a full time secretariat to ensure that all complaints are thoroughly and impartially investigated.

4. **Aim of the PCD**

The primary purpose of the division is to increase public confidence in the police complaints system. The PCD has the duty to investigate complaints made by the members of the public against the police.

It ensures that complaints against the police are dealt with promptly and effectively.

It reaches its decisions independently of the police, political parties, the government and the complainants. The fact that a police officer cannot be part of the staff of PCD is a significant factor for independence. The police cannot intervene in an investigation and they can be held to account should they abuse of their position.

Potential complainants are not discouraged from making complaints as it is easy to access to the system. By being accessible at all stages of the process, the PCD ensures that the complainants are satisfied that their complaints are being dealt with fairly and with due thoroughness. Complainants are informed about the outcome of the investigation arising from the complaint.
5. **The main functions of the PCD**

- To investigate any complaint against any act, conduct or omission of a police officer in the performance of his duty.

- To investigate the death of any person which occurred when the person was in police custody or as a result of police action.

6. **Complaints against the police**

There are about 13,000 police officers in Mauritius and about 500 in Rodrigues.

Any dissatisfaction expressed by a member of the public about an act or omission by the police officer in the performance of his duty constitutes the basis of a complaint.

A complaint creates an official record of an incident. If substantiated, it is an essential step towards protecting the complainant and his community from future police abuse.

Complaints are a useful source of learning for the police and can be used to improve policies and procedures.

Complaints about corrupt practices are not handled by the PCD but are referred to the Independent Commission against Corruption.
7. Who can make a complaint?

A person who has been:

• victim of inappropriate behaviour by a police officer. For instance, the police officer has been rude or aggressive.

• adversely affected by the conduct of the police, even if it did not take place in relation to the person.

the responsible party of a minor person.

a person acting on behalf of someone who falls within any of the 2 categories listed above – for example a member of an organisation who has been given written permission by someone to make a complaint on his behalf.

complaints can be made in French, English or Kreol

8. Ways to make an official complaint

• A complaint can be made by calling at the NHRC to fill a standardised complaint form or in writing by Faxing 211 5776, by email or by post.

• Someone who wishes to make a complaint can also go to a police station to give a declaration of the complaint against the police. Within two days, this complaint must reach the
Commissioner of Police who in turn forwards it to the Secretary of the NHRC.

- Complaints can also be made online by downloading and completing the online form and submitting it to the PCD.

Any one of the above methods may be used.

*N.B: A complaint can be withdrawn at any time and a withdrawal form is available. Time Limit: A complaint has to be made within one year as from the date of the incident unless there are exceptional circumstances to justify the delay in making the complaint.*

- The complaint is acknowledged within two working days by the PCD.

*The complainant is notified in writing of the PCD’s decision on the complaint. A dissatisfied complainant cannot appeal against the outcome of the complaint.*
9. **Nature of complaint**

- A complaint is a record of dissatisfaction. It records the time, date and place where the incident took place as accurately as possible.

- The identity of the police officers involved should be given and whether they were in uniform, the identity numbers from their shoulder badges should be notified, where possible and if they are in car or van, the vehicle registration number.

- The names and contact details of witnesses.

- A detailed description of the incident.

- Proof of clear evidence to support the complaint: Medical Certificates, PF 58, CCTV camera footage, photos of damage or injuries.

10. **Statistics**

**COMPLAINTS AGAINST POLICE – STATISTICS 2017**

<table>
<thead>
<tr>
<th>SN</th>
<th>Categories</th>
<th>Number of complaints</th>
<th>Disposed</th>
<th>Pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Verbal abuse</td>
<td>42</td>
<td>32</td>
<td>10</td>
</tr>
<tr>
<td>2</td>
<td>Assault</td>
<td>175</td>
<td>103</td>
<td>72</td>
</tr>
<tr>
<td>3</td>
<td>Service Delivery</td>
<td>375</td>
<td>234</td>
<td>141</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>592</strong></td>
<td><strong>369</strong></td>
<td><strong>223</strong></td>
</tr>
</tbody>
</table>

76
11. Types of Complaints

There are generally two types of complaints

(1) Misconduct: Verbal abuse, abuse of authority, brutality and death in custody.

Section 4(2) of the Constitution allows the use of justifiable force to effect lawful arrest or to prevent escape of a person lawfully detained and to suppress riot. The law authorises police to use proportionate force to effect the arrest of a person. Allegations of brutality are made mostly to extract confessions from suspects and to compel signature of certain documents.

(2) Poor quality of services:

The excessive length of pre-trial detention (Provisional Charge) gives rise to complaint. Section 5 of the Constitution states that no person shall be deprived of his personal liberty same as may be authorized by law in a number of cases including the need to appear in court.

a) As a rule, any person who is arrested is brought before the court within 24 hours. The Bail and Remand Court is operational during weekdays and public holidays. PCD may query reasons of delay.
b) A new Police and Criminal Evidence Bill is expected to provide for the abolition of provisional information and charges and for a limit to be placed for the detention of persons awaiting trial.

Complaints at the PCD also relate to

- Absence of search warrants.

- Absence of warrant of arrest and

- Refusal to take declaration.

12. **Investigation**

The purpose of the investigation by PCD is twofold:

- To resolve the complaint by reaching a fair and independent view on the issue raised by a complainant.

- To provide an appropriate remedy if the service provided by the police has fallen short of what one could have reasonably expected and whether lessons can be learned.
13. **Nature of the Civilian Investigation**

- The investigator cannot be a Police officer or a retired Police officer.
- Statements under warning from the person/s concerned are recorded.
- Entry and search of any premises on the basis of a search warrant and inspection of any document on the premises (Copies of documents may be taken).
- Summons to police officers or witnesses to give statements or attend conciliation and/or hearings.
- No power of arrest.
- No power to hold an identification parade.

14. **Duration of an investigation**

- There is no time limit on the duration of an investigation. It should be proportionate to the nature of the complaint.
- The PCD’s policy is to complete an investigation as soon as possible. Much depends on the depth of the investigation and the availability of all involved.
• However, the PCD is unable to interfere in the Court process.

   It may exercise its discretion not to take any action in respect of the complaint if the matter is before Court.

15. Investigation of death of a person while in police custody

One of the major functions of the PCD is to investigate any death of person while in police custody or as a result of police inaction.

In Mauritius there are 3 Detention Centres and 34 out of 71 Police Stations are provided with cells. As for Rodrigues 3 out of 6 Police Stations namely Plaine Corail, La Ferme and Riviere Coco have cells.

.......
The death of Mr R. M. at Vacoas Detention Centre

An independent investigation was carried out into the death of a detainee who was found hanged with a towel tied to an unused shower head. The aim of the investigation was threefold:

- To provide an independent enquiry into the circumstances of his death, to the members of the family and the public at large.
- To establish if there had been misconduct or negligence on the part of the police and to recommend some form of redress and
- To make recommendations so as to prevent such an incident from recurring.

The investigation analysed the relevant extracts of the occurrence book, the diary books, the statements of the witnesses, the layout, the photographs, the medical reports and the toxicological reports. The PCD interviewed the witnesses, namely the police officers of Vacoas Detention Centre and the Commander in Charge. The PCD concluded that it was a case of suicide and that some police officers had failed to abide by certain Standing Orders. The PCD sent this report to the Disciplinary Forces Service Commission for disciplinary action to be taken against them. The recommendations were as follows:
1. To have a suicide-proof detention centre, that is, to remove all hazards, such as potentially the unused shower head which could be misused.

2. To make First Aid safety equipment available, including latex gloves, resuscitation breathing masks and the wherewithal to succour any detainee who tries to hang/harm himself. The contents of first aid boxes should be examined frequently and be replenished as soon as possible after use.

3. To fix by Standing Orders the time and duration for detainees to take their shower.

4. To fix by Standing Orders the size of the towels to be used by detainees.

5. To specify those police officers who should be entrusted with the keys to the cell and to the main door leading to the cells.

6. To ensure that the officer-in-charge should not only inspect the cells and the buildings but also make appropriate recommendations for improvement.

7. To develop a Protocol to deal with suicide cases. The Protocol should be concise, easy to understand and should include an up-to-date list of contacts. It must be widely available in the detention centre and be regularly updated and police officers should rehearse its implementation.
All the different members of the police departments as well as other forensic disciplines should know exactly who should step in and at what moment during the investigation process.

8. All detention centres regardless of size should have a reasonable and comprehensive suicide prevention policy.

Most of these recommendations have been implemented for instance, installation of CCTV cameras, introduction of screening form for detainees, equipment kit, control of clothes and sizes of towels, first aid training to all police officers.

.......
16. Complaints Process for complaints made against police

**Initial action taken by the PCD**
- Letter written to complainant that complaint has been received.
- Begin to gather evidence
  - OB/DB entries
  - Status of any case related to the complaint
  - Medical report or PF 58
  - Analysing CCTV footage if any
  - Statements from witnesses and police officers involved
  - Other documents and records

**Liaison with:**
- Police Station
- DPP
- Enquiring Officers
- Hospital

**After completion of investigation**

**Filing**
No further action: Too vague, subject matter is trivial, frivolous, vexatious or not made in good faith. Complainant does not wish to go further or has passed away.

**Conciliation**
To see if complainant and police officer may come to terms.

**Hearing**
- Complainant
- Witnesses
- Police officers
- Inquiring officers
Procedure is investigatorial and not adversarial

**If complaint is upheld**
Options for recommendation
A complaint should be upheld where the findings of the investigation show that the service provided to the complainant did not reach the standard that a reasonable person could expect

**D.P.P**
The Police Complaints Division may refer complaint to Director of Public Prosecutions with recommendation that the police officer be prosecuted for a criminal offence.

**Attorney General**
The complainant to be granted compensation or relief.

**Disciplined Forces Service Commission**
The Police Complaints Division may refer complaint to the Disciplined Forces Service Commission with recommendation that disciplinary proceedings be taken against the police officer.
17. Example of a case referred to the Office of the Director of Public Prosecutions:

The complainant Mr S.I.A averred that he was travelling as pillion rider of a motorcycle with his nephew as rider. A police officer stopped them but the nephew immediately dismounted from the motorcycle at Total Filling Station of Riviere des Anguilles and bolted away. The Police Officer approached the complainant and questioned him. The police officer grew aggressive and manhandled him. Mr S.I.A was badly injured and was taken to Souillac Hospital.

As for the police officer, he denied the allegation and stated that the complainant was rude to him and that he fell down and got injured while trying to run away.

Based on the evidence such as the video recording available, the statements of the complainant and all witnesses concerned and the medical reports, the Police Complaints Division concluded that the police officer did assault the complainant. The matter was referred to the Office of the Director of Public Prosecutions.
18. Example of a case referred to the Disciplined Forces Service Commission

The complainant Mr I. P, owner of a shop in Port Louis was unloading some goods from a vehicle. Suddenly, some municipal officers accompanied by four police officers came along and one officer seized some of his articles. A discussion arose between the complainant and the police in the presence of his nephew. One male person wearing a yellow t-shirt dealt him several slaps while another officer wearing a blue t-shirt kicked him twice. The complainant even lost 8,100 rupees during the incident. Police compelled both of them to get into the police van. Later they released the complainant and the nephew. No charges were levelled against them. After the incident, the complainant attended Dr Jeetoo hospital for treatment where the medical report revealed no injury.

The Police officers argued that they did not use violence during the operation but on the contrary, the complainant was struggling with police and a police officer was even injured in the process. The police officers, however, neither reported the incident nor did they put an entry in the diary book at the station as required by the Standing Orders of the Police Force.
After hearing all the parties, the PCD concluded that officers were in breach of the Police Standing Orders and referred the case to the DFSC for disciplinary action to be taken against the four police officers concerned.

19. **Sensitisation**

Sensitisation programmes were conducted at the twenty six Citizens Advice Bureaux on the issue of complaints against the police and on the powers of the police.

The PCD also gave focused talks to the newly recruited police officers and newly promoted Sergeants at Les Casernes Curepipe, Police Training School Beau Bassin and NCG Le Chaland.

The PCD participated in workshops and in radio programmes and gave interviews to newspapers on the work of the PCD.

The PCD visited Rodrigues in November 2017 and gave talks for police and NGOs about the functions of the PCD.
20. Recommendations

The operation of the PCD would be enhanced if the following recommendations could be implemented.

Legal

- To give powers to the PCD to issue warnings or reprimands.
- To introduce the Police and Criminal Evidence Bill (on the line of PACE in the UK) to make it compulsory for the police to record confessions on video, not to arrest a person on the mere allegation of another person without a full enquiry being carried out first.
- Police officers should not execute a warrant of arrest on Saturdays and Sundays, when the arrested person cannot be presented before or released by the Bail and Remand Court pursuant to section 19 of the Bail Act.
- To provide counselling for offending police officers and victims of police brutality.
Police Unit

- To introduce a Disciplinary Police Unit to deal with disciplinary cases such as suspensions of police officers who though suspended are on full pay.

Standing Orders

- To incorporate in the Police Standing Orders, through circular or letters, recommendations made by the PCD.

Training

- More training in first aid to be given to police officers.
- Training in suicide prevention to be provided to police officers.

......
CHAPTER VI

NATIONAL PREVENTIVE MECHANISM DIVISION

1. GENERAL REMARKS

The National Preventive Mechanism Division (NPMD) was established in 2014 under the National Preventive Mechanism Act 2012 (NPMA 2012) in accordance with the Optional Protocol to the Convention against Torture, with the aim of upholding the rights of persons in places of detention. Relevant norms of the United Nations, the Reform Institutions Act and the Prisons Regulations are taken into account to make recommendations regarding the improvement of the treatment and conditions of detainees.

Section 4 of the National Preventive Mechanism Act 2012 stipulates that the Division shall:

(a) visit places of detention on a regular basis so as to examine the treatment of persons deprived of their liberty with a view to ensuring their protection against torture and inhuman or degrading treatment or punishment;
(c) make to the Minister recommendations regarding the improvement of the treatment and conditions of persons deprived of their liberty in places of detention, taking into consideration the relevant norms of the United Nations.

Whatever be the crime that he has committed, deprivation of liberty does not mean that a detainee should cease to be treated as a human being. As such the Reform Institutions Act and the Prisons Regulations have to ensure that the detainee is provided with accommodation in hygienic conditions, food of an acceptable standard and appropriate medical care as well as regular visits from and contact with the family. It is now necessary to update our legislation to render it in conformity with international standards stipulated in the UN Nelson Mandela Rules and the Bangkok Rules.

Recommendations made to grant remission to detainees convicted for drug offences have not been implemented. Drug trafficking and drug consumption continue to increase in spite of all efforts being made. The introduction of synthetic drugs on the market has compounded the problems the authorities face and is not conducive towards persuading them to adopt a more lenient approach toward drug offenders as far as remission is concerned.
The Commission of Enquiry on Drugs set up in 2015 to combat the scourge is expected to make recommendations during 2018.

The Fast track procedure to lodge cases speedily in Court for remand detainees who intend to plead guilty is operating successfully. However, timely completion of enquiries depends on the resources available to the Police.

Agreement was reached between the Commissioner of Prisons and the Bar Council about the procedure to be adopted for barristers to visit their clients detained in prison. This was done in the light of an alleged number of unsolicited visits made by some barristers, more especially to drug offenders. However, some visits were reportedly in relation to mandatory sentences inflicted by the Court in the past for drugs offences. Following a judgment of the Judicial Committee of the Privy Council (JCPC) that sentencing should be left to the discretion of the Judge who is in a position to assess the circumstances of each and every case, many detainees contended that the sentence imposed mandatorily was disproportionate to the seriousness of the offence committed. Consequently they needed legal advice to apply to the Supreme Court or to lodge a petition to the Commission on the Prerogative of Mercy for a reduction of sentence.
Some detainees also claimed, often rightly, that the time they had spent on remand should be reduced from the sentence imposed. The JCPC has ruled that the Judge or Magistrate should mention specifically that the time spent on remand has been taken into account when imposing sentence. The Court is still left a discretion not to deduct the whole amount. *(See Strimbu V State SCT of 2017)*. In the past the NHRC has pointed out that there is little difference between the regime for remand detainees and for convicted detainees. Prolonged detention in a police detention centre may be harsher than detention in jail. It would serve the ends of justice if the total time spent on remand were deducted from the sentence. The Judicial and Legal Provisions Bill to be debated in 2018 provides for this measure.

Sentencing is designed to be punitive, to act as a deterrent both for the offender and others and also to protect society from criminals. The Court also has to bear in mind the suffering of the victim and his relatives in inflicting punishment. But a prison sentence should also include the possibility of rehabilitation. Detainees should benefit from a chance of reform and also from rehabilitation programmes whether to learn a trade e.g. woodwork, metalwork or food production and from psychological support to try to wean them from a life of crime.
The rate of reoffending is very high. It was 67 per cent in 2016. Even if rehabilitative programmes may meet with some success, reinsertion is society is a problem. Most employers ask job seekers to provide a Certificate of Morality when they apply for a job. Former detainees have difficulty in finding an employer willing to overlook their past misdeeds.

The NGO Kinouété can cater for about 400 detainees willing to follow a support programme put into place when the detainee is still serving sentence. The family of the ex-detainee has an important role to play in welcoming him back in the family circle. Disintoxication is one of the biggest problems for drug offenders. Methadone treatment is not readily available in prisons. Reoffending may also be the result of the need to steal to satisfy the craving for drugs.
2. VISITS TO POLICE STATIONS, DETENTION CENTRES, CORRECTIONAL YOUTH CENTRES AND REHABILITATION YOUTH CENTRES

POLICE STATIONS

PORT LOUIS DIVISION

In 2017, visits were conducted to the police stations in Port Louis Division which have 19 operational cells. Issues include overcrowding, unhygienic conditions and the installation of more CCTV cameras to enforce the security of the detainees and the police officers.

As recommended by the NPMD, the Bain des Dames Police Station was closed because it was not fit for human detention. The police station was a rented house and there existed a lack of security between the charge room and the police cells.

Another serious issue was the high level of occupancy in a single cell, where two or more detainees were being detained in the same cell, for instance, at Plaine Verte Police Station and Roche Bois Police Station.

The Commissioner of Police in 2017 informed the NPMD that the reason for overcrowding was mainly due to the large number of suspects and
accused parties being arrested daily, coupled with the unavailability of cells in other police stations island-wide. Special directives have been issued to reinforce security through measures such as placing double sentries whenever a greater number of detainees are accommodated in these police stations.

**NORTHERN DIVISION**

The NPMD conducted visits to all the police stations of the Northern Division. The team took note that some of the police stations showed no progress in the maintenance and cleaning of the washrooms. The NPMD recommended that washrooms ought to be maintained properly on a daily basis. The installation of CCTV cameras in the corridor and cell was recommended for the safety and security of detainees and the police staff. The team is satisfied to note that this is being done.

**SOUTHERN DIVISION**

The NPMD visited the different southern police stations, including Grand Bois, Camp Diable, Mahebourg and Blue Bay. It was recommended at Grand Bois Police Station that a fresh coat of paint be applied on each cell door and that the walls of the cells be painted with an anti-moisture paint. With regards to Mahebourg Police Station, the team found that the cells are
not operational any more after a visit made by the NPMD three years ago recommending closure. The reasons for recommending closure were the interruption of water on a daily basis, the absence of a shower room in the cell block and the small size of cells which resulted in inadequate ventilation.

The team deplored the condition of L’Escalier Police Station, a very old building with defective infrastructure. Following this visit, the team recommended the closure of its cells, which are unfit for human detention.

**CENTRAL DIVISION**

At Midlands Police Station, there was a problem of lighting, a problem common to other police stations as well. The cell corridor had only one light for 6 male cells. The NPMD recommended that light bulbs be installed to the light fittings already fixed in the cell corridor, since the cells remain in constant darkness.

The NPMD recommended that Asian toilets be replaced by European toilets, in order to help detainees who might suffer from disabilities or those who may be wounded.
Uncovered mattresses are a common issue in police stations. For instance, at Curepipe and Vacoas Police Stations, the mattresses in the female cells were found without covers and in an unhygienic condition. The cleaning or replacement of mattresses should take place regularly to comply with human rights standards.

**EASTERN DIVISION**

In 2016, the NPMD enumerated a list of recommendations to the police stations of the Eastern Division. To ensure that same have been implemented, visits were carried out in September 2017.

In 2016 one of the three cells of Belle Mare Police Station was not operational on account of a damaged door and the NPMD had recommended that the door be repaired. The NPMD was satisfied that the police department had made the necessary repairs.

In 2016 the NPMD had recommended that Trou D’Eau Douce Police Station could be made operational again. In 2017, it was found that the cell block was built within human rights norms. This police station has all the
necessary facilities, such as a properly fitted air extractor, toilets in European style, sufficient light and adequate ventilation.

In some of the police stations, unsanitary conditions of the washrooms still require their regular maintenance and cleaning.

**WESTERN DIVISION**

The NPMD conducted several visits in this Division. Petite Rivière Police Station has 6 cells for male juveniles which are operational. Issues such as broken polycarbonate sheets, defective toilet facilities and water leakage were found. It was recommended that necessary repairs be made so as to ensure the safety of the minor detainees.

In 2017, the NPMD noticed some positive changes. Renovation work was underway. Mattresses were changed, water pipes were repaired and water leakage was eliminated by setting waterproofing on the roof.

With regards to Rivière Noire Police Station, the NPMD recommended that cameras be fixed and that the Technical Unit of the police force look into
the plumbing, ventilation and lighting problems. As such, the NPMD was in favour of renovation, rather than a closure.

**REMARKS:**

The NPMD notes with satisfaction that the installation of cameras in all police stations across the island has been initiated and that they should be operational as from May 2018. The NPMD welcomes this initiative of having CCTV cameras in police stations. It was noticed during the visits that some police stations are understaffed and as such, the cameras may have a key security function in replacing sentries in cell corridors.

**DETENTION CENTRES**

**METROPOLITAN DETENTION CENTRE (LINE BARRACKS)**

Following a visit made in the end of 2017, the NPMD recommended the closure of the detention centre for various reasons, notably the presence of rats on the ground and first floor, interrupted water supply on a daily basis, the ceiling of the ground floor being plagued with bugs and lack of proper ventilation on account of the air extractor being too old. Moreover only 3 out of the 15 cells were under camera surveillance. However, the NPMD met with
the Police Inspector from the Technical Unit of the Police Force, who reassured us that steps have been taken to operate all the cameras at the Metropolitan Detention Centre.

MOKA DETENTION CENTRE

Moka Detention Centre currently consists of eighteen operational cells; fourteen for male inmates and four for female detainees. During its visit, the NPMD noted that the detention centre is poorly ventilated. This issue was previously raised by the NPMD during its visit in 2016. The two electric fans affixed on the walls from cell 4 to cell 14 are clearly insufficient to aerate the eight cells. The NPMD recommended that appropriate ventilation systems be installed in order to relieve the inmates, especially during summer.

The team noted that new CCTV cameras have been installed in the Detention Centre. While visiting the Control Room, the NPMD noted that the images transmitted from the cameras were of good quality. Recommendations were made to install CCTV cameras in all the cells of the detention centre.
VACOAS DETENTION CENTRE

The NPMD visited Vacoas Detention Centre in 2017 and found that renovation works have almost been completed. The paint in the cells was fresh, the mattresses were clean and hygienic. The CCTV cameras were being installed. Since there was no guarantee that the push button used in washrooms cannot be used as a ligature point, the NPMD recommended that normal taps be installed. However strict permanent supervision should be exercised. A sentry should be present at all times until a detainee leaves the washroom.

The NPMD appreciates the efforts made by the police officers to minimize the risk of suicide by detainees. For instance, the level of the taps in the shower units was lowered to about thirty centimetres above the ground floor so as to deter attempts at suicide. Moreover, the water pipes feeding the taps are embedded in the walls, thus reducing the risk of their being used as ligature points.

During a meeting between the NPMD and the Technical Unit of the Police Force, several topics were discussed and cleared. The NPMD was informed that there is a project to construct a new detention centre at Piton to
solve the issue of overcrowding in some police stations. Moreover, the reopening of La Bastille Prison in Phoenix in March 2018 will provide accommodation for 24 detainees.

With regards to CCTV cameras, the Division was informed that all CCTV cameras in Vacoas and Moka Detention Centres will soon be operational.

**BROWN SEQUARD MENTAL HEALTH CARE CENTRE**

Several visits to Brown Sequard Mental Health Care Centre (BSMHCC) were made in the year 2017. The NPMD noted that iron bars have been installed on the hand rail of the staircase to reduce risk of potential fall, metal combs have been placed on windows to reduce the risk of their being used as ligature points and two high security wards have been set aside exclusively for aggressive and violent patients. The NPMD insisted on the installation of CCTV cameras inside the wards for security measures, except in the washrooms for privacy reasons.

With regard to the isolation rooms, the NPMD noticed a poor level of ventilation and dysfunctional emergency buttons. The team was informed that
an inspection had been carried out by the Safety and Health Inspectorate. Their observations on the deficiencies were relevant and the team pressed for diligent follow up.

Visits were also made to the old building of the hospital, namely Ward 12. Currently, this Ward can accommodate 33 patients, most of them suffer from schizophrenia and psychological disorders. The team was satisfied to see that the building was well maintained. The floor, the mattresses and the walls were in good condition. Fans fixed on the walls enabled proper ventilation. However, the team recommended that the ligature points in the bathroom and the metal bars to the windows be removed, so as to avoid any suicide or attempt.

A follow-up letter from the BSMHCC confirmed that action is being initiated for the installation of CCTV cameras at the hospital and that the Ministry of Public Infrastructure and Land Transport has already been requested to carry out a survey, so as to eliminate any ligature points.
REHABILITATION YOUTH CENTRES

Upon a visit at the Rehabilitation Youth Centre (Girls), it was noticed that the window panes of the second and the third floors were broken and no repairs have been carried out, despite correspondence exchanged between the administration of the centre and the authorities.

For security reasons, maintenance ought to be done urgently. The bird netting fixed on the third floor helps to prevent the birds from entering the building, thus keeping it in good condition.

With regard to the Rehabilitation Youth Centre (Boys), the NPMD recommended adequate maintenance of the building on a more regular basis and a fresh coat of paint to the building, so as to make it more user friendly.

......
During a visit to the *Correctional Youth Centre (Girls)*, the NPMD met two minor girls. The girls claimed that the yoga class which they used to have has been cancelled. The Division views that indoor activities, including yoga classes are essential for their mental health, taking into consideration that they are minors who primarily need to be rehabilitated. The Officer in Charge stated that the girls are able to participate in outdoor activities, such as theatre competitions at a national level and swimming which they attend each week.

The girls also complained about the canteen list, for instance, they have only one packet of noodles per person on a monthly basis, the biscuits are very limited and very often are out of stock at the supermarket. The girls also pointed out that they receive only one packet of hygienic pads per month per person. The Division noted such conditions may lead to poor menstrual hygiene for the girls and increase the risk of infection and asked that the situation be remedied.

At the *Correctional Youth Centre (Boys)*, the NPMD noted that one detainee was unable to talk to his mother through Skype. She is detained at the Women’s’ Prison. The NPMD sent a letter to the prison authorities to allow Skype contact between the detainee and his mother. Moreover, a hall
reserved for activities, such as music is provided to the boys. They also play football and volleyball.

During visits at the CYC and RYC for boys and girls, discussions were held between the NPMD and the Officers in Charge of the institutions to find practical and rapid solutions in order to improve the conditions of detention for the minors.

The NPMD noticed that many of the minor detainees, be it at the Correctional Youth Centre or the Rehabilitation Youth Centres for boys and girls, are not aware of their right to have a Counsel for legal aid. They were so advised by the NPMD.

......
3. VISITS TO PRISONS

During 2017 the National Preventive Mechanism Division (NPMD) made sixty four visits to prisons. There are nine penal institutions in the Republic of Mauritius. They are namely Central Prison, New Wing Prison, Women’s Prison, Open Prison for Women, Eastern High Security Prison (Melrose), Petit Verger Prison, Richelieu Open Prison, Grand River North West Remand Prison and Rodrigues Prison. The team assessed the prisons’ infrastructure and held private interviews with inmates. When a complaint was made by a detainee, the team tried to meet him/her as soon as possible. Inmates are encouraged to contact the NPMD should they encounter problems.

INFRASTRUCTURE

To assess whether the prisons’ infrastructure is in line with human rights norms, the NPMD visited the association yards, the kitchens, store rooms, washrooms, individual cells and dormitories in the prisons. As most of the prisons have been built several years back, and are in a poor state, the Division spoke with the responsible officers in order to find an agreement regarding renovation works.
During a visit to the New Wing Prison, the team noticed that the cells had been painted and the metallic tier beds were being welded, indicating that the Prison Department had initiated some work to improve the conditions of the cells. The NPMD has requested for improvement in the old buildings of the Central Prison, Women’s Prison, Petit Verger Prison, Grand River North West Prison, Richelieu Open Prison and The Correctional Youth Centre (Boys). The NPMD was told that this will depend on the budget allocated for renovation works.

**FOOD**

The NPMD received numerous complaints from detainees who averred that they received insufficient and unpalatable food. The NPMD visited the prisons’ kitchen to enquire into the veracity of those complaints and found that the quantity distributed to each detainee was adequate and according to norms.

During a visit to the Eastern High Security Prison (Melrose), prison officers informed the NPMD that the prisons administration is trying to provide a balanced diet to the inmates. The detainees are given rice once per day. With regard to the quantity of food, the officers informed that the detainees are allowed to purchase biscuits and other items at the canteen.
**MEDICAL TREATMENT**

Many detainees complained about medical treatment provided in prisons. They stated inter alia that the hospital officers spoke rudely to them, they were not given proper treatment, and their request to attend a public hospital was often turned down.

When enquiring into these complaints, the NPMD was informed by officers that they have to maintain discipline. The medical officers examine the detainees and give them appropriate medicines. As far as possible, the inmates are treated within the penal institution. They are transferred to a public hospital only if their condition so requires. Security measures have to be taken in such cases. For instance, transport arrangements need to be made and an officer has to accompany the detainee. If the latter is admitted, an officer must remain with the latter in hospital until the patient leaves the hospital.

The only hospital which has a detainee ward is the Jawaharlal Nehru Hospital at Rose Belle. Sometimes all the beds there are occupied. It is recommended to have more detainee wards in the hospital so that detainees can be treated within a secure area.
COMPLAINTS OF ASSAULT

The NPMD further enquired into complaints of assault by prison officers. The procedure is for the team to take a statement from the detainee or advise the latter to give a statement to the police giving as much detail as possible such as name of officer(s), the exact location and the presence of witnesses or cameras. Promotion of better relations between the prison officers and the NPMD is expected to prevent the use of any form of violence.

TELEPHONE & LETTERS

Some detainees have complained about their difficulty to communicate with the NPMD. Detainees generally communicate their grievances by post or on the phone. Inmates are allowed to make telephone calls if they have telephone cards. The team encouraged the inmates to contact the NPMD in case they encountered problems regarding their conditions of detention.

CANTEEN LIST

The team was apprised that the list of canteen items available has been reduced. A circular to that effect was affixed on the prisons’ board. The inmates previously had access to about 200 items including different varieties of biscuits, cereals, fruits and pastries. Female inmates complained that they are allowed to purchase only two packets of hygienic pads which is
insufficient. Strict conditions may negatively affect inmates who are following a special diet, for instance those suffering from AIDS or diabetes. The NPMD accordingly requested the prisons administration to review the canteen list, pressing for changes in particular with regard to female detainees and ailing inmates.

The NPMD emphasizes that a prison is not only a place of detention but also a centre for rehabilitation where inmates should be encouraged and taught to become responsible citizens.

**SEGREGATION**

The NPMD is aware that the prison officers are empowered to maintain discipline within the penal institutions. However Section 41 of the Reform Institutions Act 1988 which states that the officer in charge can segregate a detainee “for such period as he thinks fit” is problematic. The NPMD has recommended that the segregation period be based on the type and seriousness of the alleged infringement. The NPMD has intervened in cases where detainees were segregated for lengthy periods and the latter were released.
REMAND DETAINEES

The NPMD noted that the number of remand detainees is on the increase. This might be due to the fact that detainees held on provisional charges cannot afford bail and the length of imprisonment for non-payment of fines. The remand inmates requested the Division to intervene so as to put their case on a fast track. It is recommended that the terms of imprisonment imposed for non-payment of fines be reviewed and that the option of community service be resorted to by the Court in such cases.

......
CHAPTER VII

RODRIGUES

Rodrigues Island has a population of 42,260 people (20,760 men and 21,500 women) [Statistics Mauritius 2016].

Some fifteen complaints against Police were received in 2017 from Rodrigues, five of them alleging assault by police officers, four others, verbal abuse, misbehavior or harassment, two protesting about their premises being searched.

Complaints about delays in police enquiries due to late receipt of Police Form 58 in relation to medical examinations were resolved. The Health Director in charge of the hospitals in Rodrigues agreed that doctors from Mauritius who were posted in Rodrigues should sign the PF 58 before their tour of duty in Rodrigues came to an end.

A new building was opened to house the Rehabilitation Youth Centre. The Commissioner in charge of the administration of Prisons and Reform Institutions had plans to make it a genuine Centre for Rehabilitation, not a Detention Centre. Rodriguans at the RYC on the island of Mauritius will be
transferred to Rodrigues and will benefit from being closer to their parents and relatives. It is planned to allow the youngsters to attend school and have regular education so that they may reintegrate society.

Workshops on Human Rights have been held in Rodrigues for the benefit of the Police, students, NGOs’, citizens in Citizens Advice Bureaux and young people. The MBC in Rodrigues has also publicized the educational campaign on human rights.

It has proved difficult so far to identify an officer to be posted full time in Rodrigues so as to represent the NHRC to receive complaints, to assist complainants and to give information about Human Rights and complaints to the police. It is hoped that an office will be operational in 2018. The NHRC will provide training to the officer selected.

People in Rodrigues can call at a police station to file complaints. The Police are compelled by law to forward the complaint to the NHRC. Otherwise complainants may write to or email directly the NHRC in Mauritius. There were also complaints which related to maladministration, disputes with neighbours, or cases of prescription of land. The latter does not fall within the purview of the NHRC.
RODRIGUAN TRIED AT THE ASSIZES IN MAURITIUS

A person living in Rodrigues who had to be tried at the Assizes in Mauritius was released on bail. When the case was called before the Assizes to be fixed for trial, the person was absent as he could not pay his fare by air or ship to Mauritius. The Judge had perforce to issue a warrant of arrest against him. He was arrested in Rodrigues and sent to Mauritius, accompanied by a policeman. When presented before the Judge he was remanded to jail in Mauritius pending the trial. Although the Commission found this to be an unsatisfactory situation, it seems to be the only legal solution until an alternative is found. Eventually a Judge could go to Rodrigues for an Assize session. The advantage would be that the members of the Jury would be Rodriguans. Secondly, there would be financial savings by the authorities if they do not have to pay for the witnesses to come from Rodrigues and for their accommodation in Mauritius. Being given the presumption of innocence, the Rodriguan complainant was being deprived of his liberty for not attending Court on the island of Mauritius through no fault of his own (more especially when he could not be released on bail or parole in the island of Mauritius because he had no fixed place of abode here)
CHAPTER VIII

THE RIGHTS OF ELDERLY PERSONS

The Protection of Elderly Persons Act and the Residential Care Homes Act cater for the rights of Elderly Persons. The former Act sets up in every region an Elderly Watch whose functions are to –

(a) promote the welfare of elderly persons in the region for which it is responsible;

(b) provide support to families that need assistance and protection for elderly persons;

(c) endeavor to prevent acts of abuse on elderly persons;

(d) report cases of repeated abuse of an elderly person to an officer of the Elderly Persons’ Protection Unit.

The officers of the Elderly Persons’ Protection Unit within the Ministry of Social Security are empowered to summon Respondents against whom elderly persons complain of acts of abuse. They attempt mediation and conciliation especially if the parties concerned are members of the same family. However, Section 9 of the Act which provides for applications for protection orders to Court has never been
proclaimed. Instead, elderly persons who are victims of domestic violence may resort to the Protection from Domestic Violence Act to seek protection orders from the Court.

Mauritius has signed the Protocol to the African Charter of Human and People’s Rights on the Rights of Older Persons but has not yet ratified it, whereas 38 African Countries have already done so. In its Article 4, the Protocol requires State Parties to ensure the provision of legal assistance to Older Persons in order to protect their rights and to ensure that enforcement officers are adequately trained to protect older persons. Article 13 provides for special measures for the protection of Older Persons with Disabilities. Now that Mauritius is more prone to natural calamities like flash flooding as a result of climate change, older persons should be among those entitled to priority access to assistance during rescue efforts (Article 14).

Section 16 of the Constitution on ‘Protection from Discrimination’ does not list ‘age’ among the criteria for protection, whereas the Equal Opportunities Act does so. Nevertheless, all other provisions of the Constitution apply to elderly persons who have the same civil and political rights as everybody in Mauritius. Older Persons also benefit from economic and social rights available in our Welfare State, like the
right to health and the right to social security (Old Age Pension), free bus transport and other advantages. It is recommended that the list in Section 16 (3) of the Constitution should include age.

As a result of longer life expectancy, elderly persons need more protection from physical violence. They are vulnerable and prone to attacks by thieves whether in the home or in public places. There is a greater need for police protection and community policing. Older women need more protection against abuses related to property and land rights. The Civil Code contains provision to protect the right of inheritance of older women, but such provisions are not always accessible to or within the understanding of lay persons. Moreover, recourse to legal advice on such issues can prove costly.

The United Nations General Assembly has set up an Open Ended Working Group on Ageing (OEWG) which is examining the need for a UN Convention on the Rights of Older Persons. Submissions are made to the OEWG on such rights including autonomy and independence, equality and non-discrimination, freedom from violence, abuse and neglect, long term and palliative care. One of the objectives of an NGO in Mauritius, DIS-MOI (Droits Humains – Ocean Indien) is ‘healthy ageing in a healthy environment, in age-friendly cities where social
inclusion is the order’. It is expected that other NGOs will engage in the advocacy on the rights on the older persons. The National Human Rights Commission in its mission to promote Human Rights raises public awareness on the subject.

.......
CHAPTER IX

HUMAN RIGHTS EDUCATION AND PROMOTION

Human Rights Education at school level must include both the teaching of Rights and moral education. Education in morals must give children a sense of values and inculcate the notion that rights are accompanied by duties to society and the respect of others. Engagement in social work and volunteering could also be taught at an early age to further Human Rights.

The pilot project initiated by the Ministry of Education with the assistance of the Commonwealth Secretariat was well under way with Human Rights being introduced in Social Studies in the Curriculum for Forms I to III. With the introduction of Nine-Year Schooling the Ministry of Education and the Mauritius Institute of Education are working on a new syllabus for the new Grades 7, 8 and 9 which replace Forms I, II and III. It is now proposed to include Human Rights Education in Life Skills which is among the non-examinable subjects.
Otherwise the National Human Rights Commission continued its awareness raising campaign on Human Rights. Regular talks were delivered in Citizens’ Advice Bureaux and Social Welfare Centres throughout the year. (ANNEX X). Police Officers were also sensitized as to their own rights, the rights of suspects and how to respect the rights of members of the public. More emphasis was laid on Women’s rights in meetings at Women’s Centres and on Children’s rights and responsibilities in addressing students.

One of the biggest textile factories in Mauritius invited the Commission to lecture its Senior Management on human rights and corporate social responsibility and respect for the rights of migrant workers. The importers of our textile products insist that their Mauritian suppliers should adhere strictly to laws protecting workers’ rights.
1. **ENVIRONMENTAL RIGHTS, SAFETY, CLIMATE CHANGE**

   **The Land Drainage Authority Act** established the Land Drainage Authority. The objectives of the authority are as follows:

   (a) *the development and implementation of a land drainage master plan*;

   (b) *coordinating the construction of drainage infrastructure by the local authorities, the NDU, the RDA and any other relevant stakeholder*; and

   (c) *ensuring that there is a routine and periodic upgrading and maintenance of the drainage infrastructure.*

   .......
2. **RIGHT TO LIBERTY**

Section 5 of the Mauritian Constitution states that no person shall be deprived of his personal liberty except according to procedure established by law. One of the exceptions, as stated in section 5(i), is for effecting the expulsion, extradition or other lawful removal from Mauritius. The amendments to Section 4 of *The Extradition Act* in 2017 allow -

“A request for the extradition of a person by foreign State to be considered by virtue of comity where that State gives assurances which, in the opinion of the Attorney-General, are sufficient to ensure that it would comply with a comparable request from Mauritius or where, in his opinion, it is otherwise in the interests of justice to do so”.

…….
3. CARD READERS

In 2017, Section 37 of The Finance (Miscellaneous Provisions) Act amended The National Identity Card Act to allow reading card data by both public and private agencies as may be determined by the Ministry of Technology, Communication and Innovation according to set criteria. The amendments allow fingerprint images to be taken and the fingerprint minutiae extracted therefrom to be recorded on the identity card and in the register. The fingerprint images and fingerprint minutiae of a person, recorded in the register, shall be erased after the issue of the identity card to the person. The fingerprint images would stay in the card and the holder of an identity card shall be the sole owner of the card.

Moreover, Section 10 of National Identity Card Act, has been amended to empower the Minister to whom responsibility for the subject of civil status is assigned to make regulations, in particular, to –

(a) provide for the levying of fees and charges;

(b) prescribe card readers;

(c) prescribe SAM cards;

(d) authorise entities to use card readers to read civil data electronically from identity cards;
(e) authorise entities to use card readers equipped with SAM cards to read addresses and photographs electronically from identity cards; and

(f) authorise entities to use, solely for the purpose of identification, such devices, as may be prescribed, equipped with SAM cards to read fingerprint minutiae electronically from identity cards without copying or storing such data.
4. **NON DISCRIMINATION IN EMPLOYMENT**

The Equal Opportunities (Amendment) Act has been amended in 2017 so as not to discriminate against persons who have a criminal record which is irrelevant to the nature of the employment for which that person is being/has been considered. The burden of establishing the relevance of the criminal record to the nature of employment shall rest with the employer or prospective employer.

......
5. PRIVACY

The Data Protection Act 2017

Among his/her other functions the Commissioner shall -

(a) undertake research into, and monitor developments in, data processing, and ensure that there is no significant risk or adverse effect of any development on the privacy of individuals;

(b) examine any proposal for automated decision making or data linkage that may involve an interference with, or may otherwise have an adverse effect, on the privacy of individuals and ensure that any adverse effect of the proposal on the privacy of individuals is minimised;

......
6. **RIGHT TO WORK**

The National Employment Act is to regulate the field of work to provide for better opportunities for employment. The National Employment Department shall –

(a) *promote employment;*

(b) *facilitate the employment of job seekers and ensure that job seekers are able to find employment that meet their aspirations;*

(c) *provide assistance and guidance with regard to employment prospects, including future employment prospects;*

(d) *provide labour market information on the demand and supply of skills to local employers, job seekers and training institutions;*

(e) *promote placement and training of job seekers through approved programmes;*

(f) *promote labour migration;*

(g) *encourage and promote home-based work.*

......
Chapter II. Duties

Article 27

1. Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.
2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

Article 28

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

Article 29

The individual shall also have the duty:

1. To preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need;
2. To serve his national community by placing his physical and intellectual abilities at its service;
3. Not to compromise the security of the State whose national or resident he is;
4. To preserve and strengthen social and national solidarity, particularly when the latter is threatened;
5. To preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defence in accordance with the law;
6. To work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of the society:
7. To preserve and strengthen positive African cultural values in his Relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well being of society;
8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.
This simplified translation is not an official version of the Constitution.

ENE RESUMÉ CHAPITRE II DE NOUS CONSTITUTION LORS BANNE DROITS FONDAMENTALS EK LIBERTE L’INDIVIDU

Chapitre 2 ena 17 sections. Chaque section couvert banne different droit ki Constitution garanti pour chaque citoyen.

❖ SECTION 3

DROITS FONDAMENTAL EK DROITS KI ENE DIMOUN ENA

Section 3 li ene introduction. Li explique tout banne les autres droits, c’est à dire ki chaque dimoune n’importe ki so race, so l’origine, l’opinion politik, couleur la peau, sex, li bisin ena ca banne droit la. Selement droit ene dimoune li bizin dans respect l’interet public ek tant ki li pas pe affecter droits les autres dimounes:

- **Droit a la vie, liberté, securité personel et protection la loi;**
- **Liberté nou conscience, liberté expression, liberté pou créer bane l’assemblée ek association et liberté pou faire l’école;**
- **Respect pou so lakaz ek so dibien ek compensation en cas si prive li de so dibien.**
SECTION 4

PROTECTION LA VIE

Section 4 dire ki pas gagne droit touille dimoune.

Exceptéki li pas ene offence si dimoune la fine perdi la vie dans banne circonstance kot la force fine servi raisonablement pou banne raison kouma:

- *Pou defane nou meme cont violence ek pou protège nou kit chose;*
- *Pou ki capav d’après la loi arret ene dimoun ek oussi empeche ene dimoune ki fine arreté par la loi sauvé allé;*
- *Pou arret ene riot, la guerre ek mutinerie;*
- *Pou empeche sa dimoune la fer ene offense criminel; ou*
- *Si dimoune la fine mort pendant la guerre.*

SECTION 5

PROTECTION POU LIBERTE PERSONEL

Section 5 dire ki pas gagne droit arret ene dimoune ek prive li de so liberté excepté:

- *si la loi autorisé dans bane circonstance kine etablir par banne jugement ek l’ordre la cour dans enecondanation;*
- *si ena raison croir ki dimoun la fine fer ene offense criminel ou ki li pou comet ene offence criminel;*
- *Pou bane zenfant en bas 18 ans pou so prop securité, éducation, bienetre;*
- *pou empeche maladie contagieuse fané;*
- *si ene dimoune li fou ou bien li ena ene dependence a l’alcol ou ladrog pou so traitement et*
• *pou retourne ene dimoune dans so pays si li fine rentre Maurice dans ene facon illegal.*

Si ene personne fine arreter ou bien fine fermé dans cachot, bisin explik li dans ene langage ki li compren pou ki raison fine arrete li.

Kan fine aret ene dimoune bisin explik li so banne droit pou gagne avocat ek aussi bisin amene li la cour dans aine delai raisonable kot li capav gagne so liberté avec certaine conditions. Ena bane offence couma terrorisme ek la drogue kot dimoune la pas gagne meme droit pou so liberté.

Si dimoune fine arrete dans ene facon ki pas legal, li gagne droit ene compensation.

Ene Surintendant la Police capav done lordre pou ki dimoune ki fine arreter dans zafer ladrog ek terrorism, pou bisin reste dan cachot et pas pou capav coz avek so l’homme de loi ek so fami pendant 36 heures temps.

✈️ **SECTION 6**

**PROTECTION CONTRE L’ESCLAVAZ EK TRAVAY FORCÉ**

Section 6 explike qui personne pa gagne droit garde kiken comme ene esclave ou pou servi dimoune ou faire ene dimoune faire travail forcé.

Travail Forcé li pas appliqué dans banne cas cot ena condanation ek aussi kot pou so proprel’hygiene ene detenu li bisin nettoye so cellule ek non plus pou bane ki travaille dan la Police et aussi dans cas ban calamité.
SECTION 7

PROTECTION CONTRE TRAITEMENT INHUMAIN

Personne pas gagne droit torture ene dimoune ou donne li ene traitement inhumain ou degradan.

SECTION 8

PROTECTION QUAND PRIVE ENE DIMON DE SO PROPRIETÉ

L’Etat pas capave pren ou acheter obligatoirment aucaine propriété de n’importe qui qualité et qui genre sauf dans ban cas cote bizin prend lidans l’interet de la defence,l’interet public, la moralité, la santé, development pays ou bienetre social ou pou bane obligation couma paye taxe, l’amane depi la cour, saisi depi la cour ek loyer.

Obligé paye compensation ou sinon propriétaire capave alle a la cour pou dedomagement.

SECTION 9

PROTECTION ZAFFAIRES DANS LA CASE EK LES AUTRES DIBIEN

Pas gagne droit fouille ene dimoune, ni so lacaz, ni les autres propriétés ki pou li sans so consentement excepté:

- dans l’interet de la défence, santé publik, la moralité, la santé publik, development pays ou bienetre publik;
- ek aussi pou protèze droits ek liberté les autres dimounes
- banne officier gouvernement capav rentré pou evaluer di bien dans bane cas kot ena jugement la cour ki autorise sa.
SECTION 10

PROTECTION LA LOI

Tout dimoune ki ena ene charge criminel, a moins ki case la fine tirer, sa case la bisin prend devant ene la cour de justice independantet dans ene delai raisonable.

Tout dimoune ki accuséene charge criminel contre li, bisin:

- Considere li innocent juska ki la cour trouv li coupab ou line plaide coupab par li meme;
- Bisin informe accusé dans ene langage qui li comprend en detail la nature charge cont li;
- Bisin donne li assez le temps et facilité pour prepare so defense;
- Permet li defende li par li meme ou lor so propre frais par ene avocat;
- Bisin donne li facilite pou questione banne temoin ki fine appeler par la poursuite;
- Si li pas comprend langage dans la cour bisin donne li ene interprete gratis.

Ene dimoune ena les autres protections:

- La cour pas capav prend so case dans so l’absence excepté si so comportement pe empeche bon deroulement la cour;
- Li gagne droit dimaneene copie jugement ou record la cour contre ene paiement;
- Pas capav trouv ene kikaine coupable pou ene offense ki pas existe sa moment ki li fine comette li la; pas capav donne ene sentence ki plis fort ki ti ena le temp ki li ti commet offense la;
- Pas gagne droit poursuiv ene dimoune deux fois pou meme offense sauf pou ene jugement ki fine vine en appel lor sentence ou akitement;
- Pas capav poursuiv ene personne ki fine gagne ene pardon officiel;
- Aucaine dimoune ki ene accuser dans ene case pas obliger temoigné dans so case la cour.

**SECTION 11**

**PROTECTION DE LA LIBERTE CONSCIENCE**

Ene dimoune jouir so liberté de conscience couma liberté de pensée et de religion, liberté change so religion ou so croyance, liberté pratique so religion entre communauté en privé ou en publik, exerce ou propage so religion ou so croyance par la priere et l’enseignement.

Dans ene l’école pas gagne droit oblige ene etudiant prend part a banne activite religieux ki li pas pratiquer. Pas gagne droit oblige ene personne pou pret serment contre so croyance religieux.

**SECTION 12**

**PROTECTION DE LIBERTÉ d’EXPRESSION**

Excepté avec so consentement ou permission, personne pas capav empeche ene dimoune zouir so liberte expression, liberté pou ena so l’opinion, gagne ou partage l’idée ek information ek osi pou protez so bane correspondence contre interference.

Ena la loi qui capave limite ca liberté la:

- *Dans l’interet defense, securité publik, l’ordre publik, moralité publik ek la santé publik;*
- *Pou protez reputation, droit et liberté le zot dimoune;*
- *Pou empeche donne information confidentiel pou maintenir l’autorité ek l’independence la cour, ek pou administration tous ce ki*
concerne communication et télécommunication couma téléphone, télévision etc.; et

- *Pou impose restrictions lor fonctionnaires public.*

**SECTION 13**

**PROTECTION POU FER L’ASSEMBLE EK ASSOCIATION DANS LIBERTE**

Dimoun libre pou fer l’assemblé ek association avec les zot dimoune, pou forme banne syndicat pou protez zot l’interet.

Excepté dans bane cas limité par la loi:

- Dans l’interetdefense, securité publik, l’ordre publik, moralité publik ou la santé publik;
- Pou protez drwa ek liberté lezot dimoune;
- Pou impose restriction lor banne officier gouvernament.

**SECTION 14**

**PROTECTION DE LIBERTE POU OUVERT L’ECOLE**

N’importe ki association ek nimporte ki religion, groupe social, ethnique ek kulturel gagne droit ouvert ek maintenir ene l’école lors so propre frais excepté cote ena la loi:

- *Dans l’interet defense, securité publik, l’ordre publik, moralité publik ou la santé publik;*
- *pou faire reglement pou l’école dan l’interet etudiants;*

Tous dimoune gagne droit avoye so zenfant dans l’école de so choix privé ou publik.
SECTION 15

PROTECTION LIBERTE MOUVEMENT

Tou dimoune gagne droit circuler lib dan Maurice, li gagne droit pour choisir cot rester, kit Mauriceet retourner et pas gagne droit expulser depi Maurice excepté dans bane cas:

- si li fine arrete par la police pou ene offense;
- dans interet defense, securité publik, l’ord publik, moralité publik ek la santé publik;
- ek ousi dan ban cas kot la loi prevoir ki capav envoye ene dimoune de Maurice si line commette ène offense dans ène lot pays.

SECTION 16

PROTECTION CONTRE DISCRIMINATION

Discrimination oulé dire done different traitement a different dimoune d’apres zot race, caste, lieu d’origine, l’opinion politique, couleur la peau, croyance religieux et sex.

Aucaine la loi pas gagne droit ena bane provision discriminatoire ek aucaine bane dimoune ki travay dans fonction publik pas capave traite membre public dans facon discriminatoire.

Ena la loi qui capave appliqué pour certaine dimoune pour zaffaire adoption, mariaz, divorce et succession.
SECTION 17
ENFORCEMENT BAN PROVISIONS DE PROTECTION

Ene dimoune qui pensé so banne droits fine bafoué capave alle la cour Supreme pour retablir so droits.

NOTE: Si ène dimoune ena ène plainte concernant Chapitre 2 de la Constitution li capave tourne li vers la Commission Nationale des Droits Humains pour dépose so plainte par la poste, par mail, par téléphone, par fax ou en personne.

Adresse: National Human Rights Commission,
2nd floor,
NPF Building,
Port Louis.

Phone : 208 2856.
Fax : 211 5776.
Mail : mhrdbs@internet.mu
Website : nhrc.govmu.org

++++
MAURITIUS 2016 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Mauritius is a multiparty democracy governed by the prime minister, the Council of Ministers, and the National Assembly. International and local observers judged elections for both the prime minister and legislators in December 2014 to be generally free and fair.

Civilian authorities maintained effective control over the security forces.

The most significant human rights problems reported include security force abuse of suspects and detainees and violence and discrimination against women.

Other reported human rights problems included arbitrary arrests, corruption, abuse and sexual exploitation of children, human trafficking, discrimination against persons with HIV/AIDS, restrictions on labor rights, antiunion discrimination, and child labor.

The government took steps to prosecute and punish officials who committed abuses, whether in the security services or elsewhere in the government; but enforcement was inconsistent and sometimes politically motivated, resulting in the appearance of impunity.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings

Unlike the previous year, there were no reports that the government or its agents committed arbitrary or unlawful killings. In March 2015 Iqbal Toofany died in police custody. The commissioner of police completed an investigation and referred the case to the Office of the Director of Public Prosecutions. There were no further developments at year’s end.

b. Disappearance
There were no reports of politically motivated disappearances.

C. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices, but there continued to be widespread reports of police abuses. For example, on February 3, police arrested Fareenah and HassenjeeRuhomally, for a posting on a public media site (see section 1 d.). The Ruhomallys were stripped naked and made to kneel on the floor during their detention. On September 27, police officers of the Criminal Investigation Division of QuatreBornes beat Arnaud Casquette upon his arrest. The physical abuse continued while in police detention.

Prison and Detention Center Conditions

Conditions did not always meet international standards.

Physical Conditions: Media reported cases of drug abuse in the country’s six prisons. There were reports that the inmates did not always have enough food or water, were not regularly provided soap or shampoo for their basic hygiene needs, and were given medical assistance as a last resort.

Administration: The country had no ombudsman to represent prisoners, but it permitted prisoners and detainees to submit complaints to judicial authorities and the National Human Rights Commission (NHRC) without restriction; however, this mechanism was reportedly inactive. Thus, inmates’ relatives sometimes turned to private radio stations to denounce hygiene conditions or other problems in the prisons.

Independent Monitoring: The government permitted prison visits by independent observers, including the press, the National Preventive Mechanism Division of the NHRC, independent local nongovernmental organizations (NGOs), UN Office of Drugs and Crime, Joint UN Program on HIV/AIDS, the EU, and other foreign missions.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, but the government did not always respect these rights.
Role of the Police and Security Apparatus

The police force is headed by a police commissioner, who has authority over all police and other security forces, including the Coast Guard and Special Mobile Forces (a paramilitary unit that shares responsibility with police for internal security). The police commissioner reports directly to the prime minister. Police corruption and the abuse of detainees and suspects were a problem. The NHRC and an independent ombudsman, appointed by the president in consultation with the prime minister, and the leader of the opposition are empowered to investigate security force abuses. Police have accepted public complaints and referred them to the NHRC since the government disbanded the Police Complaints Investigation Bureau in 2013; however, in July the Independent Police Complaints Act established a new commission, which has the power to investigate allegations against police officers in the discharge of their duty. The law stipulates that the chairperson and members of the commission, who are not members of the police force, be appointed by the president, following advice from the prime minister and consultation with the leader of the opposition.

While the government took steps to prosecute and punish officials who committed abuses, enforcement was inconsistent and sometimes politically motivated, resulting in the appearance of impunity.

Arrest Procedures and Treatment of Detainees

The constitution and law require arrest warrants be based on sufficient evidence and issued by a magistrate. A provisional charge based on a reasonable suspicion, however, allows police to detain an individual up to 21 days with the concurrence of a magistrate. If authorities grant bail but the suspect is unable to pay, authorities detain the suspect in Beau Bassin Prison pending trial. Authorities must advise the accused of his or her rights, including the right to remain silent and the right to an attorney. The law requires that authorities arraign suspects before the local district magistrate within 48 hours of arrest. Police generally respected these rights, although they sometimes delayed suspects’ access to defense counsel. Detainees generally had prompt access to family members, but minors and those not advised of their rights were less likely to obtain such access. A magistrate may release an individual on bail the day of arrest, with or without police consent. Authorities may detain individuals charged with drug trafficking for up to 36 hours without access to legal counsel or bail. Courts granted bail for most alleged offenses.

Arbitrary Arrest: Arbitrary arrests occurred. On January 23, police arrested Nitin KhelawonSookun, known as IshSookun, and GianeshwarSooklall, known as KishanSooklall, for allegedly sending a threatening email to the Prime Minister’s Office. Sookun was detained for 10 days without any proof of wrongdoing. In April police officers arbitrarily arrested a transgender person for wearing women’s clothing. She was slapped and threatened and later released
without any charges against her. She filed a complaint at the National Human Rights Commission against the police officers. There were no further developments at year’s end.

On February 3, police arrested Fareenah and HassenjeeRuhomally after the vice prime minister and the minister of housing and lands filed a complaint (see section 1.c.). Prior to the arrest, the Ruhomallys posted on a social media site claiming that the minister’s 396,000 rupee ($11,000) medical bill at the Apollo Bramwell Hospital was cancelled. On February 15, Minister Soodhun withdrew his complaint against the Ruhomallys.

There were no developments in the February 2015 case involving two French businessmen who claimed, upon the intervention of three members of the National Assembly, authorities held them in the country against their will to obtain information on previous business deals with the Labor Party administration. There were no developments in the March 2015 case concerning PazhanyThandrayen, the lawyer of a Mauritius Labor Party activist, who was arbitrarily arrested upon his return to the country.

Pretrial Detention: Due to a backlogged court system and detainees’ inability to post bail, more than half of the prison population was in pretrial detention. Pretrial detainees typically remained in custody for at least three years before going to trial. Judges routinely credited time served in custody against sentences ultimately imposed.

Detainee’s Ability to Challenge Lawfulness of Detention before a Court: Persons arrested or detained, regardless of whether on criminal or other grounds, are entitled to challenge in court the basis or arbitrary nature of their detention and obtain prompt release if found to have been unlawfully detained. The law makes provision for any wronged citizen to seek compensation; however, few opted for this option because it is a costly and lengthy process.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence.

Trial Procedures

The constitution and law provide for the right to a fair public trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence, and trials are public. Defendants have the right to prompt and detailed information on the charges against them (with free interpretation as
necessary from the moment charged through all appeals). Defendants have the right to be present at their trials and to consult an attorney in a timely manner. An attorney is provided at public expense when indigent defendants face felony charges. Defendants have the right to adequate time and facilities to prepare a defense, access government-held evidence relevant to their cases, confront or question prosecution or plaintiff witnesses against them and present witnesses and evidence on their own behalf, not to be compelled to testify or confess guilt, and appeal. The law extends these rights to all citizens. The courts respected these rights, although an extensive case backlog delayed the process, particularly for obtaining government-held evidence.

**Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

**Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary for civil matters. The law provides access to a court to bring lawsuits seeking damages for human rights violations. As an alternative to the judicial system, the constitution provides for an ombudsman to investigate complaints from the public and members of the national assembly against government institutions, and to seek redress for injustices committed by a public officer or other authority acting in an official capacity. The ombudsman can make recommendations but cannot impose penalties on a government agency. After exhausting all local appeals, individuals or organizations can appeal decisions to the United Kingdom’s Privy Council, which is the highest court of appeal.

**Property Restitution**

In April 2015 the government revoked the banking license of the Bramer Bank, based on mismanagement allegations. The Bramer Bank was a major financial institution of the British American Investment (BAI) group belonging to Dawood Rawat and his family. Police issued an arrest warrant, but no charge, against Dawood Rawat, and the government seized the BAI group’s assets, which included investments in retail, real estate, leisure/hospitality, and health care. The government subsequently seized property and bank accounts of the Rawat daughters. In September 2015 the court granted Laina and Adeela Rawat access to their respective bank accounts; however, on August 17, Laina Rawat filed an affidavit in the Supreme Court requesting an investigation into the disappearance of 13 million rupees ($360,000) in her bank account, held at the defunct Bramer Bank. The Rawats had close ties with former prime minister, Navinchandra Ramgoolam, leading observers to conclude that political retribution could have motivated the seizure. At year’s end the travel ban and provisional charges on the Rawat daughters and their respective spouses remained in effect.
f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, but the government did not always respect these prohibitions. There were anecdotal reports police tapped the mobile phones and electronic correspondence of at least two chief editors of private media outlets.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, but the government did not always respect these rights.

Press and Media Freedoms: Independent media were active and expressed a wide variety of views, but they faced restrictions.

The government owned the sole domestic television network, MBC TV, and opposition parties and media commentators regularly criticized the station for its allegedly progovernment bias and unfair coverage of opposition parties, as well as alleged interference in the network’s daily operations by the minister in charge of MBC TV. International television networks were available by subscription or via cable box. Stringent limitations on foreign investment in local broadcast media contained in the Independent Broadcasting Authority Act were a deterrent to the establishment of independent television stations. On January 6, journalists Ashok Beeharry and Ritvik Neerbun of MBC TV received a warning for having participated in a debate in November 2015 organized by the Media Trust on the future of public media. In addition to the warning, the journalists were demoted and lost financial privileges; however, by February 19, both journalists were reinstated, following questions raised by the prime minister and the president.

Censorship or Content Restrictions: The government attempted to remove what it termed “racist comments” from a social media site after press reports of a Hindu temple vandalized by two individuals, one of whom the media identified as a Muslim. On June 14, Santi Bai (known as Maya) Hanoomanjee, speaker of the National Assembly, banned Touria Prayag, the editor in chief of Weekly, from the
National Assembly for four sessions, after Prayag wrote an editorial about Hanoomanjee’s alleged bias in the National Assembly. The Media Trust, a semigovernmental organization, also criticized the speaker’s actions as an affront to freedom of expression and access to information.

The government continued its ban since 1989 of *The Satanic Verses* by Salman Rushdie, but, while bookstores could not legally import the book, purchasers could buy it online without further scrutiny.

**Libel/Slander Laws:** On September 14, police forcefully tried to bring Gerard Sanspeur, senior adviser to the minister of finance, to the police headquarters in Port Louis, following a complaint filed by Minister RoshiBhadain on allegations of defamation. Bhadain alleged that Sanspeur was also behind an anonymous report that allegedly undermined an estate development project.

**Internet Freedom**

The government did not restrict or disrupt access to the internet; but there was anecdotal evidence the government monitored private online communications of some journalists. According to 2015 International Telecommunication Union statistics, 50 percent of the population used the internet.

**Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

**b. Freedom of Peaceful Assembly and Association**

The constitution and law provide for the freedoms of assembly and association, and the government generally respected these rights.

**Freedom of Association**

On February 9, the government terminated the contract of Jean Max Baya, a former journalist who was recruited as press advisor to the minister of gender equality, children’s rights and family welfare, allegedly due to his close ties with the former administration led by the Labor Party. The recruitment of private radio journalist YaasinPohrun as press advisor for the minister of financial services, good governance, and reform institutions did not go through for the same reason.
C. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).


The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation; but the government did not always respect this right.

**Foreign Travel:** The government generally issues a prohibition order, preventing individuals with pending provisional charges from leaving the country, regardless of citizenship. As of year’s end, the court maintained the travel ban on Laina and AdeelaRawat (see section 1.e.).

**Protection of Refugees**

**Access to Asylum:** According to the Office of the UN High Commissioner for Refugees, there were no registered refugees or asylum seekers in the country. The law does not provide for granting of asylum or refugee status, and the government has not established a system for protecting refugees. The government, however, did not expel or return refugees to countries where their lives or freedom would be threatened because of their race, religion, nationality, membership in a particular social group, or political opinion.

**Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

**Elections and Political Participation**

**Recent Elections:** International and local observers characterized National Assembly elections held in December 2014 as free and fair. The constitution provides for filling 62 of the up to 70 National Assembly seats by election. It also provides for the Electoral Supervisory Commission to allocate up to eight
additional seats to unsuccessful candidates from any potentially unrepresented community, based on the 1972 census statistics through a system known as the Best Loser System (BLS).

Various political observers claimed the BLS undermined national unity and promoted discrimination. In 2012 the UN Human Rights Committee ruled that a requirement obliging citizens running for election to declare their ethnic and religious status violated the International Covenant on Civil and Political Rights. In response to that ruling, the government amended the constitution in July 2014 to exempt candidates in the 2014 legislative elections from having to declare themselves as belonging to one of four recognized “communities”: Hindu, Muslim, Sino-Mauritian, or General Population (those who do not belong to one of the other three categories). The growth of the Muslim and General Population groups relative to the other two communities since 1972 was a particular source of concern, and critics proposed reforms to eliminate the BLS system altogether after the 2014 election. Candidates who did not declare their membership in a specific community during the most recent election were not eligible for a BLS seat.

International observers of the 2014 legislative elections noted some problems. These included unequal representation because of the failure to redraw electoral district lines to reflect population changes since 1999, the low number of female candidates, inequitable access to media to promote wider coverage of candidates, counting ballots on the day after elections, and the absence of legislation effectively governing the financing of political parties and candidates.

**Political Parties and Political Participation:** Political parties operated without restriction or outside interference. Opposition parties alleged the government-owned television station MBC TV favored the ruling party.

**Participation of Women and Minorities:** The law allows women and minorities to vote, run for office, serve as electoral monitors, and otherwise participate in political life on the same basis as men or nonminority citizens. Ameenah Gurib-Fakim became the first female president of the country in June 2015. The law promotes the participation of women in local government by requiring that at least one of three candidates contesting elections in each ward or village be of a gender different from the others. One-third of elected candidates in the 2012 village and municipal elections were women; however, since the 2014 legislative elections, women constituted only 11 percent of elected members. On December 6, the speaker of the National Assembly created a Parliamentary Gender Caucus to create a more gender-sensitive culture in the National Assembly.

Although the Hindu plurality (48 percent of the population) has dominated politics since independence, the political system did not exclude any groups from participation.

**Section 4. Corruption and Lack of Transparency in Government**
The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. The World Bank’s most recent Worldwide Governance Indicators underscored that corruption remained a problem.

**Corruption:** Authorities disbanded the Police Complaints Investigation Bureau in 2013, but corruption complaints against police officers could be filed at the Independent Commission Against Corruption (ICAC). On March 22, Radio Plus revealed a voice recording, in which Minister of Environment Raj Dayal allegedly solicited a bribe from a businessman in exchange for a permit. On March 23, Minister Dayal resigned from office, and on April 6, he was arrested and released on bail. ICAC completed its investigation, and the case was referred to the Office of the Director of Public Prosecutions for further action.

**Financial Disclosure:** The law requires national government cabinet officers and commissioners of the Rodrigues Island Regional Assembly to make a public disclosure of assets upon taking office and at the dissolution of the national assembly or the Rodrigues Island Regional Assembly. The government, however, did not enforce the law.

**Public Access to Information:** No law provides public access to government information, but members of the public may request information by contacting the permanent secretary of the appropriate ministry. The government generally complied with requests from citizens and noncitizens, including foreign media.

**Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

**Government Human Rights Bodies:** The president appoints an ombudsman to investigate complaints against public servants, including police officers and prison guards. Individual citizens, council ministers, or members of the national assembly may request the ombudsman to initiate an investigation. As an alternative to filing judicial charges, the ombudsman makes recommendations to the appropriate government office for administrative responses to offenses committed by a public officer or other authority carrying out official duties. The ombudsman is independent, adequately resourced, and effective.
The Equal Opportunities Commission (EOC) investigates allegations of discrimination and promotes equality of opportunity in both the private and public sectors. The EOC is independent, adequately resourced, and effective.

The NHRC, an independent parastatal organization, enjoyed the government’s cooperation and operated without government or party interference. The NHRC had adequate resources. The commission last released a report in 2015.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law prohibits rape, but there is no provision criminalizing spousal rape. Police and the judicial system did not effectively enforce the law. The penalty for rape is 20 years’ imprisonment, with a fine not exceeding 200,000 rupees ($5,600). Rape was widespread, but most victims chose not to report or file charges against their attackers due to cultural pressures, fear of retaliation, and the lengthy court process. Authorities had not reported by year’s end statistics on the incidence of rape or numbers of prosecutions and convictions for the offense.

The law criminalizes domestic violence, but it remained a major problem. Amendments to the Protection from Domestic Violence Act (PDVA) came into force on September 1, establishing a list of offenses separate from the criminal code, which was not the case prior to the amendment. The amendments redefine the term spouse to include unmarried couples of the opposite sex; redefine domestic violence to include verbal, psychological, economic, and sexual abuses; and empower police officers and enforcement officers to act on behalf of the victims, instead of waiting for a formal complaint from the victim. Although the amendments do not mention spousal rape, section 2.d. stipulates that a spouse cannot force or threaten the other partner into a sexual act “from which the spouse or the other person has the right to abstain.”

Domestic violence activists stated police did not effectively enforce the law. According to women’s rights NGOs, police were not always effective in protecting domestic violence victims to whom authorities had granted court protection orders. As of September 2, the Ministry of Gender Equality, Child Development, and Family Welfare recorded 3,776 cases of domestic violence, and police received 1,775 such cases. Although there are no statistics on the number of domestic violence cases prosecuted, authorities claimed that most reported cases were prosecuted. Authorities prosecuted crimes including assault, aggravated assault, threats, and blows under the criminal code, but law enforcement recordkeeping did not always indicate whether they were linked to domestic violence.
The law provides for protection and housing rights for victims, as well as counseling for the abuser; however, there are few shelters available to house victims. Anyone found guilty of violating a protection order under the Domestic Violence Act may be fined up to 50,000 rupees ($1,400) or imprisoned for up to one year for first time offenders. Under the newly amended PDVA, the penalty is 100,000 rupees ($2,800) and an imprisonment not exceeding two years for a second offense and up to five years’ imprisonment for subsequent offenses under the PDVA. The local NGO SOS Femmes reported women often remained in abusive situations for fear of losing financial support, and, as a result, few filed complaints against their abusers. The Ministry of Gender Equality, Child Development, and Family Welfare maintained an abuse hotline and a website on legal protections for victims.

**Sexual Harassment:** The law prohibits sexual harassment, which is punishable by up to two years’ imprisonment. Sexual harassment was a problem, however, and the government was not effective at enforcing the prohibition against it. The EOC is responsible for investigating allegations of sexual harassment and gender discrimination, a mandate formerly carried out by the NHRC.

**Reproductive Rights:** Couples and individuals have the right to decide the number, spacing, and timing of their children; manage their reproductive health; and to have access to the information and means to do so free from discrimination, coercion, or violence. Couples and individuals were able to access contraception and skilled health attendance during pregnancy and childbirth, which the government provided free of charge in government-run hospitals together with free essential obstetric and postpartum care.

**Discrimination:** Men and women enjoy the same legal status and rights under the constitution and law. The courts upheld these rights. Nonetheless, cultural and societal barriers prevented women from fully exercising their legal rights (see section 7.d.).

The Ministry of Gender Equality, Child Development, and Family Welfare has a mandate to promote the rights of women. The National Women Entrepreneur Council, operating under the ministry, is a semiautonomous government body established to promote the economic empowerment of women.

Women had equal access to education, employment, housing, government services, and could inherit land. Women had equal access to credit and could own or manage businesses. The law criminalizes the abandonment of one’s family or pregnant spouse for more than two months as well as the nonpayment of courtordered food support.

**Children**
Birth Registration: Children derive citizenship by birth within the country’s territory if one or both parents are citizens of the country. Authorities register births, and the law provides for late registration. Failure to register births resulted in denial of some public services. Differences in birth registration, and law policies and procedures, between girls and boys did not exist.

Child Abuse: NGOs asserted child abuse was more widespread than the government acknowledged publicly. The law criminalizes certain acts compromising the health, security, or morality of a child, although the government was unable to ensure complete compliance, such as in child labor cases. The statefunded National Children’s Council; the Ministry of Gender Equality, Child Development, and Family Welfare; and the Office of the Ombudsperson for Children provided counseling, investigated reports of child abuse, and took remedial action to protect affected children. The police unit for the protection of minors and the Family Protection Unit conducted public education programs on the sexual abuse of minors.

Early and Forced Marriage: The minimum legal marriage age for boys and girls is 16 years with parental consent. Forced or early marriages were not reported to be problems.

Sexual Exploitation of Children: The law prohibits child prostitution and child pornography and provides for a maximum penalty of 20 years’ imprisonment and a fine not exceeding 100,000 rupees ($2,800) for each of these offenses. Child prostitution was nonetheless a problem. As of October 6, there were two cases before the court regarding the commercial sexual exploitation of children. The minimum age for consensual sex is 16 years. Any person found guilty of statutory rape may face a sentence of up to 20 years’ imprisonment and a fine not exceeding 100,000 rupees ($2,800). Sexual exploitation of children was a problem. On April 14, authorities arrested two men who sold a 13-year-old Mauritian girl to an Indian citizen for 4,000 rupees ($110).

The government assisted victims of child abuse by offering counseling at a drop-in center in Port Louis and referring victims to government-supported NGO shelters. Both medical treatment and psychological support were available at public clinics and NGO centers. For example, the National Children’s Council operated a daycare center in Baie du Tombeau to help single mothers of abused children find employment. A child welfare officer accompanied children victimized in prostitution to the hospital, and police worked in conjunction with these officers to obtain statements from the children.

Institutionalized Children: In its 2015-16 annual report, the Office of the Ombudsperson for Children reported a case of police brutality in a shelter, from which six female teenagers were thought to have run away. It was later established that the girls were playing on the rooftop of the shelter and that police used unnecessary force to bring them down. In October 2015 daily newspaper L’Express reported that the Ministry of Gender Equality, Child Development, and Family Welfare opened an investigation of Vedic Social Organization, an NGO that manages four shelters for children, following complaints of child abuse, violence, and breach of contract.

Anti-Semitism

Approximately 120 Jews resided in the country. There were no reports of anti-Semitic acts during the year.

Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination in employment (see section 7.d.), education, access to health care, and the judicial system, or the provision of other state services against persons with physical, sensory, intellectual, and mental disabilities. Such prohibited discrimination includes access to transportation, including by air; however, despite the introduction of new buses, authorities did not effectively enforce the law with respect to public conveyances where, for example, high steps and narrow doors on heavily used public buses presented particular problems to persons with mobility disabilities. Many buildings also remained inaccessible to persons with disabilities despite a legal requirement for all buildings to be accessible for them. The Training and Employment of Disabled Persons Board is an advocacy agency promoting participation in the workplace for persons with disabilities and discouraging discrimination against them in either job recruitment or advancement. The law stipulates that persons with disabilities must constitute 3 percent of a workforce of 35 or more employees; however, authorities did not effectively enforce the law.

The government implemented programs to provide that persons with disabilities had access to information and communications, such as subtitles and sign language interpretation of news broadcasts. The state-run television station broadcast a weekly news program for persons with disabilities. The government did not restrict the right of persons with disabilities to vote or participate in civic activities, although lack of accessible transportation posed a barrier to some voters with disabilities. The government made provisions to render polling stations more accessible to persons with disabilities and elderly persons by providing wheelchairs. Children with physical disabilities have the right to attend mainstream schools, but, according to students with disabilities and their parents, schools turned them
away because they could not be accommodated. Children with mental disabilities attended specialized schools that received minimal government funding.

National/Racial/Ethnic Minorities

Pervasive poverty continued to be more common among citizens of African descent (Creoles) than in any other community.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The law does not specifically criminalize consensual same-sex sexual activity. It criminalizes sodomy, however, among both same-sex and heterosexual couples. Sodomy cases that reached the courts almost exclusively involved heterosexual persons, especially as an aggravating factor in divorce cases. Authorities rarely used the sodomy statute against same-sex couples, unless one of the partners cited sodomy in the context of sexual assault.

Lesbian, gay, bisexual, transgender, and intersex (LGBTI) victims of verbal abuse or violence within the family reported such incidents to local NGOs, including Collectif Arc-en-Ciel and Young Queer Alliance. Victims generally refused to file complaints with police, however, for fear of ostracism or, in some cases, fear of reprisal from family members. Anecdotal reports from a local NGO found unemployment rates higher among transgender people, forcing them into prostitution. Following a complaint about the questionnaire used by the Ministry of Health and Quality of Life to prohibit blood donation from LGBTI persons, the ministry amended its policy and website in 2013 to indicate individuals who have had same-sex sexual activity could donate blood. There were anecdotal reports, however, that health officials still prevented LGBTI persons from donating blood. In April police officers arbitrarily arrested a transgender person for wearing women’s clothing. She was slapped, threatened, and later released without any charges against her. She filed a complaint at the National Human Rights Commission against the police officers. There were no further developments at year’s end.

HIV and AIDS Social Stigma

The law provides that persons with HIV/AIDS should be free from stigmatization and discrimination; however, there were reports of discrimination against such persons and their relatives (see section 7.d.). In 2013 the National AIDS Secretariat completed a study of 400 HIV-positive persons, which found that during the year, 26 percent of respondents reported having been verbally insulted, harassed, or threatened; 22 percent reported having been physically harassed or threatened; and 18 percent reported having been physically assaulted.
The local NGO Prevention Information Lutte contre le Sida reported continuing problems with breaches of confidentiality of HIV/AIDS patients’ medical records in public hospitals, including on Rodrigues Island. The NGO also reported authorities denied HIV/AIDS patients social aid due to the absence of appropriate referral doctors on the medical board of the Ministry of Health and Quality of Life, thus forcing HIV/AIDS patients to live with uncertainty.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The constitution and law provide for the rights of workers, including foreign workers, to form and join independent unions, conduct legal strikes, and bargain collectively. With the exception of police, the Special Mobile Force, and persons in government services who were not executive officials, workers are free to form and join unions and to organize in all sectors, including in the export-oriented enterprises (EOE) formerly known as the export-processing zone. The law grants authorities the right to cancel a union’s registration if it fails to comply with certain legal obligations. The law provides for a commission to investigate and mediate labor disputes, and a program to provide unemployment benefits and job training.

The law allows unions to conduct their activities without government interference. The law also establishes a mandatory process for declaring a legal strike. This process calls for labor disputes to be reported to the Commission for Conciliation and Mediation only after meaningful negotiations have occurred and the parties involved have reached a deadlock—a process that is not to exceed 90 days unless the parties involved agree. If the parties reach no compromise, the workers may call a strike. Worker participation in an unlawful strike is sufficient grounds for dismissal, but workers may seek a remedy in court if they believe their dismissals were unjustified. The law prohibits antiunion discrimination, but it does not provide for reinstatement of workers fired for union activity. Dismissed workers can turn to the Industrial Relations Court to seek redress.

National labor laws cover all workers in the formal and informal sectors, with exceptions in the EOE pertaining to overtime. Although growing over the years, there has been no research or estimate of the informal economy, which traditionally includes street vending of food and clothing.

The government effectively enforced applicable laws, but there were a few delays in procedures and appeals. Penalties for violations by employers including fines of up to 25,000 rupees ($700) were insufficient to deter violations.
Freedom of association and the right to collective bargaining were generally respected, and workers exercised these rights. Most unions collectively negotiated wages higher than those set by the National Remuneration Board (NRB). Worker organizations were independent of the government and political parties. There were no reports of government interference in union activities.

Despite the law, antiunion discrimination remained a problem in the private sector. Some employers in the EOE reportedly continued to establish employer-controlled work councils for EOE workers, effectively blocking union efforts to organize at the enterprise level. Approximately 59,000 persons worked in the EOE; only 10 percent belonged to unions.

b. Prohibition of Forced or Compulsory Labor

The law prohibits most forms of forced or compulsory labor, including by children. A provision of the Merchant Shipping Act, however, provides that refusal to obey the master’s order or neglect of duty by a seafarer is punishable with imprisonment (involving compulsory prison labor). The government made some efforts to prevent and eliminate forced labor in the country (see section 7.c.), but generally it did not effectively enforce the applicable law. Resources, inspections, and remediation were inadequate. Penalties for violations, including 30 years’ imprisonment for child trafficking, were sufficient to deter violations. Data, however, on the number of victims removed from forced labor or trafficking situations during the year were not available.

Trade unionists reported cases of forced labor during the year among migrant workers involving passport confiscation, underpayment of wages, substandard living conditions, lack of clearly defined work titles, denial of meal allowances, and deportation. As of September 1, there were nearly 38,300 migrant workers in the country, mainly from Bangladesh, India, Sri Lanka, Nepal, China, and Madagascar. Additionally, Malagasy women reportedly transited the country while traveling to other countries, where employers subjected them to forced labor conditions.

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

C. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children younger than 16 years and prohibits employment of children under age 18 in work that is dangerous, unhealthy, or otherwise unsuitable for young persons. The penalties for employing a child are a fine of no more than 10,000 rupees ($280) and imprisonment not to exceed one year.

While the government generally respected this law, it did not effectively enforce it.
The Ministry of Labor, Industrial Relations, and Employment is responsible for the enforcement of child labor laws and conducted frequent inspections. The ministry employed 60 labor and industrial relations officers, including six labor inspectors in the Migrant Labor Unit, to investigate all reports of labor abuses, including child labor.

The ministry developed vocational training programs to prevent employment of underage children and conducted programs to identify and integrate street children into its vocational training program.

While child labor occurred, data on child labor cases were not available. Children worked in the informal sector, including as street traders and in small businesses, restaurants, agriculture, and small apparel workshops.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

Labor laws and regulations prohibit discrimination regarding race, sex, gender, disability, sexual orientation, HIV-positive status or having other communicable diseases, social status, religion, political opinion, and national origin. The law affords women broadly defined wage protections and requires equal pay for equal work for both men and women; it also states that employers should not force women to carry loads above certain weight limits. The government did not effectively enforce these laws and regulations.

Discrimination in employment and occupation with respect to gender, race, disability, and HIV/AIDS status occurred. While women had equal access to education, the private sector paid women less than men for substantially similar work. Women filled few decision-making positions in the private sector, and there were even fewer women sitting on corporate boards. In September 2015 the Mauritius Police Force recruited 10 female police riders for its Traffic Enforcement Squad. The first female firefighter was recruited in 2011, and recruitment since has brought the total number to 11. A large majority of women held unskilled labor jobs.

The law requires organizations employing more than 35 persons to set aside at least 3 percent of their positions for persons with disabilities, but the government was not always effective in enforcing this law.

Many Creole leaders claimed there was discrimination in the employment of Creoles (citizens of African descent) in the public service.
There were reports of discrimination against HIV/AIDS patients and their relatives involving foreign workers whom authorities denied a work permit due to their HIV status.

In 2012 the government instituted the Certificate of Character Act for employees to provide proof to their employers that they have no criminal records. Some workers complained employers fired them once the employer learned they lacked a clean Certificate of Character. Many individuals complained the certificate makes no distinction between minor offenses, such as street littering, and more serious offenses. Observers noted all offenses remain permanently on the Certificate of Character.

e. Acceptable Conditions of Work

In the private sector, the NRB sets minimum wages for nonmanagerial workers outside the EOE. The established minimum wages varied by sector. The government mandated the minimum wage rise each year based on the inflation rate. The minimum wage for an unskilled domestic worker in the EOE was approximately 607 rupees ($17) per week, while the minimum wage for an unskilled domestic factory worker outside the EOE was approximately 794 rupees ($22) per week. According to the National Empowerment Fund, the national poverty threshold was a household monthly income level of 6,200 rupees ($172).

The standard legal workweek in the EOE was 45 hours. By law employers cannot force a worker outside the EOE to work more than eight hours a day, six days a week. According to local trade union, Mauritius Labor Congress, 10 hours of overtime a week is nonetheless mandatory at certain textile factories in the EOE. Regulations require remuneration for those who work more than their stipulated hours at one and a half times the normal salary rate. Those who work during their stipulated hours on public holidays are remunerated at double their normal salary rate. The law provides for paid annual holidays but does not prohibit compulsory overtime in the EOE. For industrial positions, regulations do not permit workers to work more than 10 hours a day. If the worker has worked until or past 10 p.m., the employer cannot require work to resume until at least 11 hours have elapsed. The law requires the ministry to investigate cases of overtime violations. If an employer fails to take action to address the violations (for example, paying wages owed or allowing 11-hour breaks), the ministry initiates a court action.

The Employment Rights Act and the Employment Relations Act cover the laws relating to acceptable conditions of work outside the EOE. These laws provide for a standard workweek and paid annual holidays, require premium pay for overtime, and prohibit compulsory overtime. A worker (other than a part-time worker or a watchperson) and an employer, however, may agree to have the employee work in excess of the stipulated hours without added remuneration, if the number of hours covered in a 14-day period does not exceed 90 hours, or such lesser number of hours as agreed by both parties.

The government sets occupational safety and health standards. Ministry of Labor officials inspected working conditions. The ministry effectively enforced the minimum wage law in the formal sector. Authorities generally applied these standards generally to both foreign and citizen workers. Despite the
increase in the number of inspectors in the Ministry of Labor, Industrial Relations, Employment, and Training, the number of inspections decreased. Penalties were not always sufficient to deter violations.

The actual market wage for most workers was much higher than the minimum wage due to a labor shortage and collective bargaining. There were reports, however, that employers did not always pay full-time employees in the cleaning industry the NRB-recommended minimum wage; some reportedly received only 1,500 rupees ($42) per month.

Unions reported cases of underpayment for overtime in the textile and apparel industries due to differences in existing legislation and remuneration orders for the calculation of overtime hours.

Employers did not always comply with safety regulations, resulting in occupational accidents. There were reports of foreign workers living in dormitories with unsanitary conditions.

There were no industrial accidents during the year. Major industrial accidents, which injured or killed workers, historically occurred mainly in the construction and manufacturing sectors.

By law workers can remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively protected employees in these situations; however, workers did not always exercise this right.
Concluding observations on the fifth periodic report of Mauritius

Draft prepared by the Committee

1. The Committee considered the fifth periodic report of Mauritius (CCPR/C/MUS/5) at its 3424th and 3425th meetings (CCPR/C/SR 3424 and 3425), held on 23 and 24 October 2017. At its 3443th meeting, held on 6 November 2017, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fifth periodic report of Mauritius, despite it being six years overdue, and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party’s delegation on the measures taken by the State
party since the last review, to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/MUS/Q/5/Add.1) to the list of issues (CCPR/C/MUS/Q/5), which were supplemented by the oral and additional written responses provided by the delegation.

B. Positive aspects
3. The Committee welcomes the following legislative, institutional and policy measures taken by the State party:
   (a) The Police Complaints Act, in 2013;
   (b) The Amendments to the Criminal Appeal Act, in 2013;
   (c) The Amendments to the Criminal Procedure Act, in 2011;
   (d) The Local Government Act, in 2012;
   (e) The Equal Opportunities Act in 2012;
   (f) The Protection of Human Rights (Amendment Act), in 2012;
   (g) The International Criminal Court Act, in 2012;
   (h) The Legal Aid and Legal Assistance Act, in 2012;
   (i) The National Preventive Mechanism Act, in 2012;
   (j) The Institute for Judicial and Legal Studies Act, in 2011;

4. The Committee also welcomes the ratification of, or accession to, the following international instruments by the State party:
   (a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in June 2011;
   (b) The Convention on the Rights of Persons with Disabilities, in January 2010;
   (c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in February 2009;

C. Principal matters of concern and recommendations

Applicability of the Covenant
5. The Committee is concerned that the Covenant has not yet been given full effect in the domestic legal order, and about the limited number of cases in which the Covenant has been referred to by courts (art. 2).

6. The State party should give full effect to the Covenant in its domestic legal order and should also raise awareness of the rights in the Covenant among judges, lawyers and prosecutors so that its national laws are interpreted and applied in line with the Covenant.

National Human Rights Commission

7. The Committee is concerned: a) that the process for the selection and the appointment of the members of the Commission and, of its divisions, is not sufficiently transparent and participative; b) about the lack of clarity regarding the guarantee of tenure of mandate holders; c) about possible overlap of missions of the Commission’s divisions; d) that the absence of conflict of interests for the members is not guaranteed and; d) about the lack of sufficient staff to enable the Commission to fully discharge its mandate (art. 2).

8. The State party should: a) ensure a more transparent and participative process for the selection and the appointment of the members of the Commission and of its divisions, with the view to guaranteeing their independence; b) guarantee their tenure; c) take measures to prevent conflicts of interest over the members’ duties; d) clarify the missions devoted to each division of the Commission; e) provide the Commission with sufficient and stable trained staff, to enable it to properly discharge its mandate, in full compliance with the Paris principles.

Discrimination against lesbian, gay, bisexual, transgender (LGBT) persons

9. The Committee is concerned about reported cases of hate speech and violence including death threats, brutality and humiliation against lesbian, gay, bisexual and transgender (LGBT) persons. The Committee is also concerned that LGBT persons are not authorized to officially enter marriage or civil partnerships, and are denied other rights related to personal status. The Committee is further concerned that the provision of article 250 of the Criminal Code of Mauritius criminalizing “sodomy” and “bestiality” has not yet been repealed (arts. 2 and 23).

10. The State party should firmly prevent and protect LGBT persons from all forms of discrimination based on sexual orientation and gender identity, include this ground of discrimination in all relevant legislation, including in the Criminal Code. The State party should also take all the necessary measures to eradicate discrimination against LGBT persons with regard to marriage or civil partnerships and repeal article 250 of the Criminal Code. Furthermore, the State party should ensure that all complaints of violence including death threats and brutality based on discrimination against LGBT persons, are registered by the police, investigated and those responsible are duly prosecuted and, if convicted, sanctioned with appropriate penalties.
Moreover, the State party should train police officers, judges and prosecutors, and conduct awareness-raising campaigns on the rights of LGBT persons.

Gender equality

11. The Committee is concerned about discrimination against women at work in the public as well as in the private sectors. It is also concerned that women mostly occupy low-skilled jobs and receive low wages. It is further concerned about the very low number of women in decision-making positions. The Committee regrets that only a very limited number of complaints is lodged before the Equal Opportunity Commission or referred to the Equal Opportunity Tribunal, situation which raises questions about the difficulties women victims of discrimination, may face in accessing those bodies (art. 3).

12. The State party should: a) facilitate complaints from women victims of discrimination at work and take appropriate measures to protect them from reprisals; b) enforce regulations on the equal pay for the work of equal value; c) increase inspections at workplace, investigate and sanction companies that do not comply with such regulations; d) take measures to empower women in higher-skilled jobs and in decision-making positions.

Representation of women in political and public affairs

13. The Committee welcomes that the implementation of the Local Government Act of 2012 has improved the representation of women in decision-making bodies at the municipal and village council levels. However, the Committee remains concerned that the percentage of women elected at the national assembly (11.4%) and appointed in the State party’s Cabinet (12%), remain low (arts. 3, 25).

14. The State party should continue improving the representation of women at the decision-making bodies at the national level including in the Cabinet. For that purpose, the State party should increase women’s participation in politics and decision-making bodies by 30%, in light of the Southern African Development Community’s decision. The State party should also pursue awareness-raising campaigns to encourage women to engage in public and political affairs.

Voluntary termination of pregnancy and reproductive rights

15. The Committee takes note of the 2012 amendments to the Criminal Code, which authorize the voluntary termination of a pregnancy in specific circumstances. However, the Committee is concerned that the data provided by the State party on “cases treated for complications of abortion” contrast with those on “authorized termination of pregnancies”, causing the Committee to be concerned that a high number of women resort to clandestine abortions, which endanger their lives and health, including abortions resulting in deaths (art. 3, 6, 7, 17, 26).
16. The State party should amend its legislation to guarantee safe, legal and effective access to abortion where the life or health of the pregnant woman or girl is at risk, and where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or non-viable. In addition, the State party may not regulate pregnancy or abortion in all other cases in a manner that runs contrary to its duty to ensure that women and girls do not have to undertake unsafe abortions, and it should revise its abortion laws accordingly. It should not apply criminal sanctions against women and girls undergoing abortion or against medical service providers assisting them in doing so, since taking such measures compels women and girls to resort to unsafe abortions. The State party should ensure access to affordable contraceptives, to quality information and education programmes on sexual and reproductive rights for men, women and adolescents throughout the country.

Death penalty

17. The Committee regrets that, although it has abolished the death penalty in 1995, the State party has not yet ratified the Second Optional Protocol to the International Covenant on civil and political rights, aiming at the abolition of the death penalty. The Committee does not consider the language of the Constitution, which does not prohibit the death penalty, to constitute an impediment to ratification of the Second Optional protocol to the Covenant (art. 6).

18. The State party should consider ratifying the Second Optional Protocol to the International Covenant on civil and political rights, aiming at the abolition of the death penalty.

Domestic violence, including violence against women

19. While noting the amendments to enhance the Protection from Domestic Violence Act of 2007 and the various mechanisms set up to reinforce the protection framework against domestic violence in particular gender-based violence, the Committee is concerned about the persistence of violence against women in the State party, which, in some instances, results in deaths. It is also concerned that the State party has not yet criminalized marital rape. While noting an increased number of cases reported, the Committee is further concerned that women do not always report cases of violence to the police (arts. 3, 7, 23).

20. The State party should further strengthen its efforts to combat violence against women, in particular: a) effectively implement its existing legislation on domestic violence including by bringing to justice and sanctioning perpetrators; b) pursue and intensify its awareness-raising campaigns on the negative effects of violence against women, encourage women to report cases of domestic violence, facilitate
complaints to the police and protect women against any form of reprisals or social reprobation; d) continue to train police officers, judges and prosecutors who handle gender-based violence cases; e) provide adequate assistance to women victims and train staff in shelters or in government institutions.

21. While noting the different measures taken by the State party, the Committee is concerned about reports of increased acts of violence and abuse against elderly persons, which mostly take place within families and in care institutions (arts. 2, 23).

22. **The State party should ensure the effective application of the Protection for the Elderly Persons Act by: a) facilitating the reporting of instances of, and complaints for violence and abuse against elders; b) strengthening the Welfare and Elderly Persons Protection Unit; c) carrying out awareness-raising campaigns targeting elderly persons and their families and; d) training staff working in care institutions. It should also accelerate the adoption of National Strategy Paper and Action Plan on Aging and allocate the necessary human and financial resources for its effective implementation.**

**Corporal punishment**

23. The Committee is concerned that corporal punishment has not yet been explicitly prohibited at home, in day-care and alternative care settings as well as in penal institutions (arts. 7, 24).

24. **The State party should prohibit corporal punishment in all settings.**

**Trafficking in persons**

25. While noting that the State party has enacted The Combating of Trafficking in Persons Act of 2009, the Committee is concerned that trafficking for sexual and labour exploitation purposes, including of children and migrants, persists in the State party. It regrets the low number of cases related to trafficking brought before courts (art. 8).

26. **The State party should ensure a more effective enforcement of The Combating of Trafficking in Persons Act of 2009 and other relevant legislation. It should also facilitate complaints from victims of trafficking in particular those with migrant origin; protect them from reprisals; setting-up centres with trained staff to provide material, medical and psychological support to victims. The State party should further train its law enforcement officers including police officers, border officers, judges and prosecutors who handle cases related to trafficking in persons.**

**Human rights and terrorism**

27. The Committee is concerned that under Section 3 of The Prevention of Terrorism (Denial of Bail) Act, a detainee suspected of an offence related
to terrorism can be denied release on bail in certain cases. It is also concerned that under Section 27 of the Prevention of Terrorism Act, a person under suspicion of an offence related to terrorism can be detained without access to any person including to counsel for a period up to 36 hours. It regrets the lack of statistical data on the application of the legislation on terrorism in particular the number of arrests, detentions, investigations and convictions (art. 9).

28. The State party should ensure that its legislation on terrorism is in full compliance with the provisions of article 9 of the Covenant; that all legal guarantees against arbitrariness and abusiveness are available to the persons arrested and detained including the possibility to access a lawyer as soon as possible. It should further guarantee that judges are authorized to decide whether to release any suspect on bail. The State party should collect and publish statistical data on the application of The Prevention of Terrorism Act, in particular on the number of arrests, detentions, releases, investigations, convictions and sentences pronounced.

Pre-trial detention

29. The Committee is concerned about the high number of persons in pre-trial detention whose duration proves excessive in many instances, in particular in drug-related cases (art. 9).

30. In the context of its 10-year strategic plan on pre-trial detention, the State party should firmly address the problem of pre-trial detention and consider using more frequently alternatives to the deprivation of liberty. It should also speed up the examination of cases pending before tribunals and courts. The State party should further amend its legislation to deduct from sentences imposed the time already served on pre-trial detention and render the payment of the bail affordable to a great number of detainees.

Provisional charges

31. While noting the information provided by the State party and its intention to abolish the system of provisional charges, the Committee is concerned that the system under which a person may be detained upon suspicion of commission of serious offence, may result in abusiveness and arbitrariness. It also reiterates the concern expressed in its previous concluding observations (CCPR/CO/83/MUS, para. 14) about the absence of conformity of articles 5, paragraph 1(k); and 4 of its Constitution with the Covenant (art. 9).

32. The State party should amend its legislation to remove the rule of provisional charges as well as articles 5, paragraph 1(k); and 4 of its Constitution, to bring them to full conformity with the Covenant. It should accelerate the adoption of the new bill on criminal evidence and align it with the provisions of the Covenant.
Complaints against security forces

33. The Committee is concerned about reports of ill-treatment inflicted by security forces to persons deprived of liberty. The Committee regrets not receiving clear information about the overall number of complaints lodged, the nature and authors of alleged acts, the investigations carried out, the convictions, the sanctions imposed on those responsible and the reparation granted to victims. The Committee notes the establishment of a new Police Complaints Division within the National Human Rights Commission tasked to investigate complaints against security forces, but regrets the lack of details on the human and financial resources at its disposal (arts. 7, 14).

34. **The State party should ensure that in all cases of ill-treatment by security forces (police and prison officers):** a) victims can complain; b) impartial, thorough and effective investigations are carried out into allegations; c) and those responsible are prosecuted and, if convicted, punished with appropriate sanctions and victims have access to effective remedies. The State party should provide the Police Complaints Division with adequate and sufficient human and financial resources enabling it to properly carry out its mandate. The State party should extend the use of video recording in all police and detention settings to prevent ill-treatment.

Conditions of detention in prisons

35. The Committee is concerned about reports of poor conditions of detention in the prisons of the State party. It is also concerned about reported suicides that occurred in prisons. The Committee is further concerned that detainees are not always separated irrespective of their detention regime (art. 6, 10).

36. **The State party should improve the detention conditions in its prisons including by ensuring the separation of remand detainees from those serving a prison sentence.** It should also take concrete measures to prevent suicides of detainees. It should further continue to apply alternatives to detention.

Refugees, asylum seekers and stateless persons

37. While noting the information provided by the State party, the Committee remains concerned about the absence of a national legal framework for the determination of refugee status and to protect the rights of those in need of international protection. It is also concerned about the lack of a national mechanism on statelessness. It regrets the lack of information on the number of asylum seekers, refugees and stateless persons living in the territory of the State party (art. 2, 6, 7, 13).

38. **The State party should consider establishing a national framework on asylum including a mechanism for assessing and determining refugee status in order to also ensure the respect of the principle of non-**
refoulement. It should also take the necessary measures to prevent statelessness. The State party should further collect and publish information on the number of asylum-seekers, refugees and stateless persons residing in its territory.

Juvenile justice

39. The Committee is concerned about: a) the absence of a clear legal provision concerning the minimum age of criminal responsibility; b) the absence of juvenile justice tribunals with specialized judges; c) reports that lawyers do not always assist children facing justice and legal aid is not always available to them; d) information that children are often tried in the absence of their legal representatives or guardians. While noting the information provided, the Committee is further concerned that, under the Juvenile Offenders Act, children considered as being “beyond control”, are placed in closed institutions at the request of their parents (art. 14, 24).

40. The State party should: a) set a minimum age of criminal responsibility in its legislation in accordance with international standards; b) finalize the setting-up of juvenile justice tribunals and procedures and provide them with adequate human, technical and financial resources, and designate specialized trained judges; c) train police officers to handle juvenile justice-related cases; d) ensure that children in conflict with the law are systematically assisted by a lawyer or a counsel, and appear for trials with their legal representatives.

Participation in public and political affairs

41. While noting that the State party has set up a Ministerial Committee to work on reforming the electoral system in light of the Committee’s Views in the Narrain et alii v. Mauritius case, the Committee is concerned about the lack of fair representation of the various components of the population of the State party in public and political affairs (art. 25).

42. The State party should ensure that the new electoral system addresses obstacles to the participation in public and political life by, and adequate representation of, all components of its population.

D. Dissemination and follow-up

43. The State party should widely disseminate the Covenant, its initial report, the written replies to the Committee’s list of issues and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and NGOs operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into the official languages of the State party. 44. In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the
State party is requested to provide, by 10 November 2019, information on the implementation of the recommendations made by the Committee in paragraphs 8 (National Human Rights Commission, 38 (Refugees, asylum seekers and stateless persons) and 40 (Juvenile justice) above.

45. The Committee requests the State party to submit its next periodic report by 10 November 2022 and to include in that report information on the implementation of the present concluding observations. The Committee also requests the State party, in preparing the report, to broadly consult civil society and NGOs operating in the country, as well as minority and marginalized groups. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. Alternatively, the Committee invites the State party to agree, within one year after the adoption of the COBs, to use its simplified reporting procedure, whereby the Committee transmits a list of issues to the State party prior to the submission of its periodic report. The State party’s replies to that list will constitute its second periodic report to be submitted under article 40 of the Covenant.
Committee against Torture

Concluding observations on the fourth periodic report of Mauritius

1. The Committee against Torture considered the fourth periodic report of Mauritius (CAT/C/MUS/4) at its 1588th and 1591st meetings, held on 17 and 20 November 2017 (CAT/C/SR.1588 and 1591), and adopted the following concluding observations at its 1606th meeting, held on 30 November 2017.

A. Introduction

2. The Committee welcomes the submission of the State party’s fourth periodic report prepared on the basis of a list of issues prior to reporting drawn up by the Committee (CAT/C/MUS/QPR/4). It expresses its appreciation to the State party for having accepted the simplified reporting procedure, as this improves the cooperation between the State party and the Committee and gives focus to the examination of the report as well as the dialogue with the delegation.

3. The Committee welcomes the dialogue held with the State party’s delegation, as well as the responses provided to the questions and concerns raised during the consideration of the report. It also thanks the State party for the additional statistical data supplied that are relevant to the monitoring of the implementation of the Convention at the national level.

B. Positive aspects

4. The Committee welcomes the political commitment to legal, policy and institutional reforms laid out in the Government Programme 2015–2019 that will help improve compliance with the State party’s obligations under the Convention.


6. The Committee welcomes the adoption of, among others, the following legislative measures by the State party in areas of relevance to the Convention:
(a) The Independent Police Complaints Commission Act, in 2016, which establishes the independent commission replacing the Police Complaints Division of the National Human Rights Commission;

(b) The Protection from Domestic Violence (Amendment) Act, in 2016, which, inter alia, broadens the definition of domestic violence;

* Adopted by the Committee at its sixty-second session (6 November–6 December 2017).

GE.17-23146(E)

(c) The Criminal Appeal (Amendment) Act, in 2013, which enables a convicted person to apply for a retrial on the basis of sufficient fresh and compelling evidence;

(d) The Protection of Human Rights (Amendment) Act, in 2012, which broadens and strengthens the mandate of the National Human Rights Commission;

(e) The National Preventive Mechanism Act, in 2012, which gives effect to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(f) The Criminal Code (Amendment) Act, in 2012, which authorizes the termination of pregnancy in specific circumstances;

(g) The Legal Aid (Amendment) Act, in 2012, which, inter alia, provides for legal assistance to persons in need during police enquiries and for bail applications.

7. The Committee welcomes the administrative and other measures taken by the State party to give effect to the Convention, including:

   (a) The operationalization of the National Preventive Mechanism Division of the National Human Rights Commission, since June 2014;

   (b) The adoption of the National Human Rights Action Plan 2012–2020, in 2012;

   (c) The extension, since 2012, of the operating days of the Bail and Remand Court to weekends and public holidays;

   (d) The opening of new detention facilities, which has helped address overcrowding in prisons;

   (e) The measures taken to prevent inter-prisoner violence and suicide in places of detention.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

8. The Committee notes with regret the State party did not provide information on the implementation of recommendations identified for follow-up in its previous concluding observations (CAT/C/MUS/CO/3). It also notes with regret that its recommendations relating to police legislation, conditions in detention and the publication of the report of the visit by Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2007 (see CAT/C/MUS/CO/3) have not been fully implemented.

Incorporation of the Convention into domestic legislation
9. The Committee remains concerned that the State party has not fully incorporated the provisions of the Convention into its domestic law, especially in view of the shortcomings in its anti-torture legislation (art. 2).

10. Recalling its previous recommendation (see CAT/C/MUS/CO/3 para. 7), the Committee recommends that the State party should fully incorporate the provisions of the Convention into its domestic legislation so that they can be applied by domestic courts.

**Absolute prohibition of torture**

11. While noting that in its judgement in the case of Director of Public Prosecutions v V. Jagdawoo & Ors the State party’s Supreme Court referred to the non-derogable right to freedom from torture and other cruel, inhuman or degrading treatment and its peremptory nature, the Committee nonetheless notes the absence in the State party’s legislation of an express provision on the absolute prohibition of torture (art. 2).

12. The State party should introduce a statutory provision on the absolute prohibition of torture declaring that no justification may be invoked for this crime under any circumstances, in accordance with article 2 (2) of the Convention. It should also bring its laws, such as the provisions of section 245 of the Criminal Code on homicide and wounds and blows under lawful authority, into line with the absolute ban. The Committee draws the attention of the State party to paragraphs 5 to 7 of its general comment No. 2 (2007) on the implementation of article 2.

**Penalties for acts of torture**

13. The Committee expresses once against its concern that penalties provided by the State party’s legislation do not correspond to the grave nature of the crime of torture and do not take account of aggravating circumstances (art. 4).

14. The State party should make the necessary legislative amendment to ensure that acts of torture carry appropriate penalties, taking into account aggravating circumstances such as permanent disability sustained by victims or death, in line with article 4 of the Convention.

**Impunity for acts of torture and ill-treatment**

15. While noting the strong statement of the State party’s Supreme Court condemning the perpetration of torture and any form of inhuman or degrading treatment by State agents, the Committee is deeply concerned that those responsible for the death of Ramdoolar Ramlogun, who was subjected to physical abuse and killed in State custody, have not been found and duly prosecuted. The Committee notes that the State party awarded monetary compensation in the above-mentioned case (arts. 2 and 12).

16. The State party should draw lessons from the judicial proceedings in relation to the death of Ramdoolar Ramlogun and bring about the necessary changes to ensure accountability for acts of torture.

**Non-refoulement**

17. The Committee notes the explanation provided by the delegation that the geographic configuration of the State party and its limited resources constrain its capacity to receive and accept asylum seekers and refugees. Moreover, it notes that provisions on the protection of human rights and the right to appeal an extradition decision were introduced into the Extradition Act of 2017. Nevertheless, the Committee is concerned at the lack of a legal and procedural framework for safeguarding the rights of persons in need of international protection who are present on the State party’s territory (art. 3).
18. The State party should establish a legal and procedural framework regulating expulsion and refoulement so as to safeguard the rights of persons in need of international protection, in accordance with article 3 of the Convention. The Committee also encourages the State party to consider ratifying the Convention relating to the Status of Refugees, the Protocol relating to the Status of Refugees and the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa.

Fundamental legal safeguards

19. The Committee notes the information provided by the State party that the right to legal counsel and to have access to a doctor is guaranteed to arrested and detained persons in police custody and that information thereon is properly recorded. At the same time, the Committee is concerned that doctors’ visits take place under supervision for safety and security reasons as a matter of routine (art. 2).

20. The State party should:

(a) Stipulate in police standing orders and other relevant regulations that doctors’ visits to arrested and detained persons be conducted in a confidential manner and that supervision, when requested by the doctor, be within sight but out of hearing distance;

(b) Improve the mechanism for monitoring the fundamental safeguards afforded to detainees by including detailed information on, inter alia, access to a lawyer and medical visits in the records transmitted to the police information room and the divisional or branch operations.

Arrest and pretrial detention

21. The Committee is concerned at the number of arrests made in the State party without passing the test of reasonable suspicion of having committed an offence. Moreover, the Committee notes the explanation provided by the delegation that the pattern of pretrial detention is attributable to the complexity of investigations of drug-related crimes with international ramifications. At the same time, it remains concerned that as a result, pretrial detention is increasingly used and that some detainees have been in pretrial detention for as long as three years. More generally, the Committee is concerned at the slowness of judicial procedures in the State party (arts. 2, 11, 12 and 16).

22. The State party should:

(a) Specify in its enactments, including in the police and criminal evidence act to be adopted, safeguards for ensuring the full justification of arrests and detentions, and provide the necessary training thereon to law enforcement personnel and members of the judiciary;

(b) Strengthen efforts to promote the use of alternative and non-custodial measures to reduce the number and length of pretrial detentions. Pretrial detention should be used only as a means of last resort, in exceptional circumstances, and for limited periods, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

(c) Take the necessary measures to reduce the delays in criminal proceedings.

Inadmissibility of statements made as a result of torture

23. The Committee is concerned at reports about the overreliance of the police in the State party on confessions for the purpose of investigation and prosecution and at reports of extraction of confessions under duress. The Committee also notes with regret the lack of information on cases where officials have been charged for having coerced arrested persons into giving evidence. Moreover, the Committee is concerned at the judicial culture whereby an appellate court would rarely quash a
conviction based on a statement that the trial court had deemed admissible (arts. 2 and 15).

24. **The Committee urges the State party to:**

(a) Expedite the installation of video and audio recording facilities in police stations to ensure the monitoring of interrogation procedures;

(b) Redouble efforts to improve methods of investigation based on scientifically-based evidence, including training police officers on non-coercive interrogation methods;

(c) Make the necessary legislative changes so that statements obtained through torture or cruel, inhuman or degrading treatment are invalidated as evidence;

(d) Permit appeal courts to review the admissibility of evidence, building on the jurisprudence of the Supreme Court in the case of *Rudolph Jean Jacques v the State*;

(e) Investigate all reports of extraction of confession allegedly obtained under duress, prosecute alleged perpetrators and punish anyone found responsible, and ensure that such testimony is not allowed to be entered as evidence.

**Juvenile justice**

25. The Committee notes the information provided by the delegation of the State party that in camera proceedings could be considered for hearings involving minors. The Committee is nevertheless concerned that, under section 4 (2) (b) of the Juvenile Offenders Act, the trial takes place before the ordinary court if a juvenile is charged jointly with an adult. It is also concerned at the lack of a statutory minimum age of criminal responsibility (arts. 2, 12 and 16).

26. **Referring to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the Committee recommends that, in the revision of relevant laws, including the juvenile justice bill and the draft children’s bill:**

(a) **The State party establish a statutory minimum age of criminal responsibility at an internationally acceptable level;**

(b) **Provisions be made to ensure that children in conflict with the law are tried in juvenile courts by specialized judges.**

**Sentencing rules**

27. The Committee is concerned that different rules have been applied by the Supreme Court of the State regarding the deduction of the time spent on remand from the sentence (arts. 11 and 16).

28. **The State party should lay down in law that time served in pretrial detention be deducted from the sentence, as advised by the Supreme Court in its Kamasho ruling.**

**Conditions of detention**

29. The Committee is concerned at reports of poor hygiene and inadequate access to food and water in the State party’s prisons (arts. 11 and 16).

30. **The State party should promptly improve material conditions in its prisons by guaranteeing the right of all detainees to the basic rights to water, sanitation and adequate food, in keeping with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The Committee also invites the State party to make public the report of the Subcommittee on Prevention of Torture on its visit in 2007.**
Complaint mechanisms

31. The Committee is concerned at reports of torture and ill-treatment by law enforcement officials, which on some occasions have led to death. Moreover, while noting the large number of complaints lodged against the police, which indicates that existing procedures are accessible, the Committee is concerned that very few cases have been referred to the Director of Public Prosecutions and to the Attorney-General’s Office since the establishment of the Police Complaints Division. The Committee also notes that the Division will be replaced by the Independent Police Complaints Commission (arts. 2, 12 and 13).

32. **The State party should:**
   
   (a) Promptly and thoroughly investigate in an impartial manner all complaints of torture and ill-treatment by law enforcement officials and, as warranted, submit the alleged perpetrators to public prosecution;
   
   (b) Ensure that the new Independent Police Complaints Commission has the necessary capacity to carry out timely, impartial and exhaustive inquiries into complaints of improper conduct by the police and that the difficulties encountered by the Police Complaints Division are taken into account when designing the procedures and operations of the new institution;
   
   (c) Mandate the Commission to issue recommendations on corrective measures to prevent future misconduct by law enforcement officials and the improper treatment of arrested and detained persons.

Independence of oversight and complaint bodies

33. The Committee is concerned that the independence of the National Human Rights Commission, including its National Preventive Mechanism Division, as well as the Independent Police Complaints Commission that is about to become operational, is not guaranteed under the current legislation, especially in the light of the power held by the President of the State party to remove the members of these institutions (arts. 2 and 11–13).

34. **The State party should guarantee the independence of the National Human Rights Commission and its National Preventive Mechanism Division as well as that of the Independent Police Complaints Commission, including by securing in law the tenure of the mandate of their members. The Committee refers the State party to the principles relating to status of national institutions for the promotion and protection of human rights (the Paris Principles).**

Redress and reparation

35. The Committee notes with concern that, in the State party’s legislation, redress and reparation for victims of torture are limited to monetary compensation (art. 14).

36. **The State party should ensure that legal provisions and procedures are in place to enable victims of torture and ill-treatment to access and enjoy the right to adequate and appropriate redress, including restitution, compensation, as full rehabilitation as possible, satisfaction and right to truth, as well as guarantees of non-repetition. In this regard, the Committee refers the State party to its general comment No. 3 (2012) on the implementation of article 14.**

Violence against women police officers

37. The Committee is concerned that none of the complaints of sexual harassment and assault filed by female police officers have hitherto resulted in criminal charges. It is also concerned at the prolonged delay in their resolution (arts. 2, 12 and 13).

38. **The State party should:**
(a) Ensure that complaints mechanisms for violence against women police officers are effective, gender-sensitive and gender-responsive;

(b) Conduct further investigation into the slowness of proceedings in cases of violence against women police officers and provide detailed information about the state of investigation of these cases;

(c) Ensure that such violence is prevented through, inter alia, gender-sensitive trainings.

Training

39. The Committee notes the various training provided to police and prison officers on human rights. However, it notes with regret that specific and systematic training on the Convention and its Optional Protocol is limited (art. 10).

40. The State party should ensure that training programmes on the Convention and its Optional Protocol be extended to all law enforcement personnel, including both civil and military; medical personnel; public officials; and other persons dealing with persons deprived of their liberty. Such training should include the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). The State party should also assess the impact or results of these programmes.

Violence against women

41. While welcoming the fact that the State party has taken various steps, including the adoption of a national action plan to end gender-based violence, the passing of an amendment to broaden the definition of domestic violence, and recognition in the constructive dialogue that “the eradication of domestic violence is a long-term undertaking”, the Committee is concerned that:

(a) Marital rape has not yet been criminalized;

(b) The provisions of section 242 of the Criminal Code relating to manslaughter in cases of adultery have not been repealed;

(c) The perpetrators of trafficking-related crimes have not been prosecuted and convicted under the Combating of Trafficking in Persons Act, largely because other laws are still used instead (arts. 1, 2 and 16).

42. The State party should pursue its efforts to modernize its criminal legislation to address cases of violence against women, including domestic violence and trafficking, by, inter alia:

(a) Defining marital rape as a specific criminal offence with appropriate penalties;

(b) Abrogating section 242 of the Criminal Code, which excuses manslaughter committed against a spouse caught in the act of adultery;

(c) Promoting awareness and the actual use of the Combating of Trafficking in Persons Act.

Follow-up procedure

43. The Committee requests the State party to provide, by 6 December 2018, information on follow-up to the Committee’s recommendations on interrogation methods and confessions obtained under duress, conditions of detention, and complaint mechanisms (see paras. 24 (a), (b), (d) and (e), 30 and 32 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

Other issues
44. The Committee recommends that the State party consider making the declarations under articles 21 and 22 of the Convention recognizing the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction.

45. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet party.

46. The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

47. The State party is invited to submit its fifth periodic report by 6 December 2021. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party’s replies to that list of issues will constitute its fifth periodic report under article 19 of the Convention.
ANNEX VI

CGEM’S CSR CHARTER

CORPORATE SOCIAL RESPONSIBILITY

AS MEMBERS OF THE CGEM,

- We are committed to the objectives of sustainable development. We are committed to act in a responsible and continuous manner to achieve this goal while conducting our economic activities, in our industrial relations and in general, in our contribution to the creation of value.

- We carry out our social responsibility in strategic decisions and daily operations. We accept to notify our stakeholders through sincere information, appropriately communicated.

- We are committed to respect, to promote any attempt, by means at our disposal, to promote fundamental rights and the legitimate expectations of our stakeholders. We will take into account their material and moral interests when they are, or could be, impacted by our managerial decisions or by company activities that we handle or with which we operate.

- We continuously work to strike a balance between economic, social and environmental development while abiding by ethics and transparency rules.

In this spirit, we namely commit to:

1. RESPECT HUMAN RIGHTS

   - Respect freedom of association and the right of all employees to choose union membership;
   - Prevent all forms of discrimination and promote equal opportunities, and encourage diversity namely to the benefit of vulnerable or under-represented groups such as the disabled;
   - Act in favour of equality between men and women by reducing the constraints hampering the professional advancement of women within businesses;
   - Prohibit the use of direct or indirect child labour under the age of 15;
   - Promote collective bargaining, prevent labour conflicts and find peaceful solutions to conflicts.

2. CONTINUOUSLY IMPROVE WORKING CONDITIONS AND LABOUR RELATIONS

   - Improve competencies and employability of employees and favour training and skills development;
   - Strictly respect the legal obligations to declare all employees to social security and protection organisms;
   - Provide health and safety conditions to all employees, at least in line with legal requirements and decent sanitary infrastructure;
   - Strictly respect the legislation on occupational accidents and diseases paying particular attention to occupational health services and promote quality of life at the workplace;
   - Provide precise information to all employees on the criteria and methods applied for professional reviews and evaluations as well as transparent internal appeal systems for appraisals and decisions that concern them;
   - Continuously improve the conditions and contents of social dialogue;
   - Prevent the use of atypical and precarious work contracts;
   - Manage restructuring processes or site closures after providing information to employee representatives and authorities within reasonable deadlines; cooperate with the relevant stakeholders in order to alleviate the social consequences and favour the creation of sustainable activity.

3. PRESERVE THE ENVIRONMENT

   - Set up an environmental policy with a framework of actions to reduce the impact of the company’s activities on the environment and develop communication and cooperation with public
sector, institutional, local, associations and neighbourhood stakeholders;
- Fight climate change by periodically measuring the company’s activities impacts, and in particular generated greenhouse gas emissions to reduce them. Evaluate the adaptation of the company’s activities to climate change and make them evolve if necessary;
- Rationally use resources such as water, energy and raw materials, reduce polluting emissions, curb waste generation, recycle and add value to it;
- Promote the use of renewable energies;
- Evaluate and minimise the environmental impacts of our investment projects;
- Define an urgency plan to prevent and mitigate accidental damage on environment, health or on safety.

4. PREVENT CORRUPTION
- Prohibit all behaviour that, directly or indirectly, promises, offers, requests or grants illegal payments or unwarranted advantages aiming at obtaining or preserving a market or any other irregular or illegitimate advantage;
- Not to offer, nor accept or deposit any payments, commissions or gifts to public or private agents or to their relatives in exchange for a contract or modification of contract;
- Make visible the company’s action principles against corruption and extortion by the use of adapted means;
- Make employees aware of the measures taken by the company regarding corruption and extortion and promote the respect of these clauses by using adequate information channels, training programs and disciplinary procedures.

5. RESPECT FAIR COMPETITION RULES AND REGULATIONS
- Not to practice under-billing;
- Not to make counterfeits;
- Not to conclude, nor implement agreements aiming at:
  - Imposing prices, collusive bidding or establishing production restrictions;
  - Participating in market sharing by distributing clients, suppliers, geographical zones or activity’s branches.

6. REINFORCE CORPORATE GOVERNANCE TRANSPARENCY
- Maintain truthful accounting records reflecting the entire activity and assets of the company;
- Make sure the composition of the management bodies enables them to effectively perform their oversight role by paying special attention to the expertise, diversity, fairness, availability and independence of the members;
- Ensure that the management bodies exercise their prerogatives fully and that the decision-making process is carried out in an objective and balanced way, while respecting the company interests with a view to sustainable growth;
- Strengthen internal control and broaden the scope of review of risks through audits and independent accounts along with communications issued to the decision making and control bodies;
- Define objective methods of nomination, evaluation and remuneration for Directors that are linked to measurable performance criteria;
- Equal treatment of all stockholders, regularly provide them with reliable and truthful information on the company’s results and perspectives and guarantee their voting rights.

7. RESPECT THE INTERESTS OF CLIENTS AND CONSUMERS
- Watch over the safety of products and services and the health of the consumers;
- Disclose clear and precise information to consumers regarding the characteristics of products and services in order to help them make informed purchasing decisions;
- Define efficient and transparent procedures for claims and disputes ensuring quick and fair treatment of client disputes.
Avoid untruthful advertising statements as well as omissions, deceitful, misleading or unfair practices;
Respect the private life of clients and consumers and protect the confidentiality of personal data.

8. PROMOTE THE SOCIAL RESPONSIBILITY OF SUPPLIERS AND SUBCONTRACTORS
- Ensure respect for human rights in the company’s supply chain, and consider as purchasing criteria: the regularity with which a subcontractor or supplier declares to a social security and protection organ; the social protection of their employees, the respect of minimum employment age;
- Bring technical assistance and cooperation to maintain sustainable relations with subcontractors or suppliers whose compliance is recognized, in line with competition rules and regulations;
- Respect contractual commitments towards suppliers and subcontractors, in particular those relating to payment deadlines.

9. DEVELOP COMMITMENT TO THE COMMUNITY
- Define the general interest serving causes to which the company provides its support and help associations working along the same line, by encouraging in particular sponsorship of employees’ skills;
- Contribute to human and economic development in the community where the company is located and improve living conditions for local residents;
- Encourage local employment and training of employees in the regions and areas where the company is located;
- Favour accessibility of the company’s products and services that are of public interest;
- Contribute to all initiatives of local or national scope, dedicated to the prevention or mitigation of the impacts of natural catastrophes, ecological imbalances or diseases, the fight against poverty, the exclusion of young people by encouraging their employment, illiteracy, inequalities in regional development and, more generally, to the promotion of culture, the arts and knowledge.
PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES’ RIGHTS ON THE RIGHTS OF OLDER PERSONS IN AFRICA
WE, MEMBER STATES OF THE AFRICAN UNION:

CONSIDERING that Article 66 of the African Charter provides for special protocols or agreements, if necessary, to supplement the provisions of that Charter;

CONSIDERING that the African Charter makes specific provisions for the protection of the rights of Older Persons, under Article 18(4) which stipulates that, “Older Persons and people with disabilities shall also have the right to special measures of protection in keeping with their physical or moral needs”;

NOTING Article 2 of the African Charter which states that, "Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status”;

RECALLING Article 22 of the Protocol to the African Charter on the Rights of Women in Africa which provides for the special protection of elderly women;

CONSIDERING recommendation (1) contained in paragraph 4.1 of the African Union Policy Framework and Plan of Action on Ageing (2002) which states that "Member States recognise the fundamental rights of Older Persons and commit themselves to abolish all forms of discrimination based on age; that they undertake to ensure that the rights of Older Persons are protected by appropriate legislation; including the right to organise themselves in groups and to representation in order to advance their interests”;

CONSIDERING recommendation (1) (a) contained in paragraph 4.1 of the same Policy Framework and Plan of Action which calls for the elaboration and adoption of "an additional Protocol to the African Charter on Human and Peoples' Rights relating to the rights of Older Persons”;

CONSIDERING FURTHER paragraph 20 of the Kigali Declaration on Human Rights (2003), which "calls upon States Parties to develop a Protocol on the protection of the rights of the elderly and persons with disabilities”;

RECALLING section 2.2.11 of the African Union Social Policy Framework (2009) which calls for the implementation of all the tenets of the AU Policy Framework and Plan of Action on Ageing (2002), other international instruments that deal with the issues of ageing and Older Persons, the 1991 United Nations Principles for Older Persons, the 1992 United Nations Proclamation on Ageing, and the 2002 Madrid International Plan of Action on Ageing and which promotes the rights of Older Persons;


TAKING into consideration the virtues of African traditions, values and practices which should inspire and characterize the provision of mutual social and communal care and support; respect for older members of society and the passing of knowledge to younger population groups;

NOTING that the increase in the number and needs of Older Persons in Africa calls for African Governments to institute urgent measures aimed at addressing these needs such as access to regular incomes, equitable distribution of resources, employment opportunities; access to appropriate health services; access to basic social services such as food, water, clothing and shelter; access to good care and support from the family, the state, civil society and private organizations; recognition of their contribution towards the care of persons with AIDS and orphans; respect and recognition of the role and contribution that Older Persons make to society; and a recognition of their special needs in emergency situations.

HAVE AGREED AS FOLLOWS:
Article 1
Definitions

For purposes of this Protocol:

"African Charter" means the African Charter on Human and Peoples' Rights;

"African Commission" means the African Commission on Human and Peoples' Rights;

"Ageing" means the process of getting old from birth to death and in this Protocol, it shall also refer to issues concerned with Older Persons;

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"AU" means the African Union;

"Commission" means the African Union Commission;

"Constitutive Act" means the Constitutive Act of the African Union;

"Harmful traditional practices" means traditional beliefs, attitudes and practices which violate the fundamental rights of Older persons such as their right to life, dignity and physical integrity;

"ICT" means Information Communication and Technology;

"Member States" means the Member States of the African Union;

"Older Persons" means those persons aged sixty (60) years and above, as defined by the United Nations (1982) and the AU Policy Framework and Plan of Action on Ageing (2002);

"Residential care" Residential care means long-term care, including geriatric care, given to Older Persons in a residential setting rather than their home.

"States Parties" means Member States of the African Union that have ratified or acceded to this Protocol and deposited the instruments of ratification or accession with the Chairperson of the African Union Commission;

"The Advisory Council on Ageing" means a Council established in accordance with the AU Policy Framework and Plan of Action on Ageing (2002);

The words "the aged", "Older Persons", "Seniors", "Senior Citizens" and "the elderly" shall be construed to have the same meaning as "Older Persons".
Article 2
Obligations of States Parties

1. States Parties shall recognize the rights and freedoms enshrined in this Protocol and shall undertake to adopt legislative or other measures to give effect to them.

2. States Parties shall ensure that the 1991 United Nations Principles of Independence, Dignity, Self-fulfilment, Participation and Care of Older Persons are included in their national laws and are legally binding as the basis for ensuring their rights.

Article 3
Elimination of Discrimination against Older Persons

States Parties shall:

1. prohibit all forms of discrimination against Older persons and encourage the elimination of social and cultural stereotypes which marginalise Older Persons;

2. take corrective measures in those areas where discrimination and all forms of stigmatisation against Older Persons continue to exist in law and in fact; and

3. support and enforce local, national, regional, continental and international customs, traditions and initiatives directed at eradicating all forms of discrimination against Older Persons.

Article 4
Access to Justice and Equal protection before the law

States Parties shall:

1. develop and review existing legislation to ensure that Older Persons receive equal treatment and protection;

2. ensure the provision of legal assistance to Older Persons in order to protect their rights; and

3. ensure that law enforcement organs at all levels are trained to effectively interpret and enforce policies and legislation to protect the rights of Older Persons.
Article 5
Right to Make Decisions

States Parties shall:

1. ensure that appropriate legislation exists that recognises the rights of Older Persons to make decisions regarding their own well-being without undue interference from any person or entity, and that Older Persons have the right to appoint a party of their choice to carry out their wishes and instructions;

2. ensure that, in the event of incapacity, Older Persons shall be provided with legal and social assistance in order to make decisions that are in their best interests and wellbeing; and

3. enact legislation and take other measures that protect the right of Older Persons to express opinions and participate in social and political life.

Article 6
Protection Against Discrimination in Employment

States Parties shall:

1. take measures to eliminate workplace discrimination against Older Persons with regard to access to employment taking into consideration occupational requirements; and

2. ensure appropriate work opportunities for Older persons taking into account to their medical and physical abilities, skills and experience.

Article 7
Social Protection

States Parties shall:

1. develop policies and legislation that ensure that Older persons who retire from their employment are provided with adequate pensions and other forms of social security;

2. ensure that universal social protection mechanisms exist to provide income security for those Older persons who did not have the opportunity to contribute to any social security provisions;

3. ensure that the processes and procedures of accessing pensions are decentralised, simple and dignified;
4. take legislative and other measures to enable individuals to prepare for income security in old age; and

5. take legislative and other measures that facilitate the rights of Older Persons to access services from state service providers.

Article 8
Protection from Abuse and Harmful Traditional Practices

States Parties shall:

1. prohibit and criminalise harmful traditional practices targeted at Older Persons; and

2. take all necessary measures to eliminate harmful traditional practices including witchcraft accusations, which affect the welfare, health, life and dignity of Older Persons, particularly Older women.

Article 9
Protection of Older Women

States Parties shall:

1. ensure the protection of the rights of Older Women from violence, sexual abuse and discrimination based on gender;

2. put in place legislation and other measures that guarantee protection of Older Women against abuses related to property and land rights; and

3. adopt appropriate legislation to protect the right of inheritance of Older Women.

Article 10
Care and Support

States Parties shall:

1. adopt policies and legislation that provide incentives to family members who provide home care for Older Persons;

2. identify, promote and strengthen traditional support systems to enhance the ability of families and communities to care for Older family members; and

3. ensure the provision of preferential treatment in service delivery for Older Persons.
Article 11
Residential Care

States Parties shall:

1. enact or review existing legislation to ensure that residential care is optional and affordable for Older Persons;

2. ensure that Older Persons in residential care facilities are provided with care that meets the National Minimum Standards provided that such standards comply with regional and international Standards; and

3. ensure that Older Persons in palliative care receive adequate care and pain management medication.

Article 12
Support for Older Persons Taking Care of Vulnerable Children

States Parties shall:

1. adopt measures to ensure that indigent Older Persons who take care of orphans and vulnerable children are provided with financial, material and other support; and

2. ensure that when children are left in the care of Older Persons, any social or other benefits designed for the children, are remitted to the Older Persons.

Article 13
Protection of Older Persons with Disabilities

States Parties shall:

1. adopt legislation and other measures to protect the rights of Older Persons with disabilities;

2. ensure that such legislation and measures comply with regional and international standards; and

3. ensure that Older Persons with disabilities have access to assistive devices and specialised care, which respond to their needs within their communities.

Article 14
Protection of Older Persons in Conflict and Disaster Situations

States Parties shall:

1. ensure that, in situations of risk, including natural calamities, conflict situations, during civil strife or wars, Older Persons shall be among those
to enjoy access, on a priority basis, to assistance during rescue efforts, settlement, repatriation and other interventions; and

2. ensure that Older Persons receive humane treatment, protection and respect at all times and are not left without needed medical assistance and care.

Article 15
Access to Health Services

States Parties shall:

1. guarantee the rights of Older Persons to access health services that meet their specific needs;

2. take reasonable measures to facilitate access to health services and medical insurance cover for Older Persons within available resources; and

3. ensure the inclusion of geriatrics and gerontology in the training of health care personnel.

Article 16
Access to Education

States Parties shall provide opportunities for Older Persons to have access to education and to acquire ICT skills.

Article 17
Participation in Programmes and Recreational Activities

States Parties shall develop policies that ensure the rights of Older Persons to enjoy all aspects of life, including active participation in socio-economic development, cultural programmes, leisure and sports.

Article 18
Accessibility

States Parties shall take measures to ensure that Older Persons have access to infrastructure, including buildings, public transport and are accorded seating priority.
Article 19
Awareness on Ageing and Preparation for Old Age

States Parties shall:

1. adopt measures to encourage the development of awareness raising programmes to educate the younger population groups on ageing and Older Persons to combat negative attitudes against Older Persons; and

2. adopt measures to develop training programmes that prepare Older Persons for the challenges faced in old age, including retirement.

Article 20
Duties of Older Persons

Older Persons have responsibilities towards their families, communities, the wider society, the state and the international community. In this regard they shall:

1. mentor and pass on knowledge and experience to the younger generations;

2. foster and facilitate inter-generational dialogue and solidarity within their families and communities; and

3. play a role in mediation and conflict resolution.

Article 21
Coordination and Data Collection

States Parties shall:

1. ensure the systematic collection and analysis of national data on Older Persons;

2. develop a national mechanism on ageing with responsibility to assess, monitor, evaluate and coordinate the integration and implementation of Older Persons' rights in national policies, strategies and legislation; and

3. support the Advisory Council on Ageing, as a continental mechanism of the African Union to facilitate the implementation and follow up of the continental policies and plans on ageing.
Article 22
Implementation

1. States Parties shall ensure the implementation of this Protocol, and shall indicate in their periodic reports submitted to the African Commission in accordance with Article 62 of the African Charter, the legislative and other measures undertaken for the full realisation of the rights recognized in this Protocol.

2. In the implementation of this Protocol, the African Commission shall have the mandate to interpret the provisions of the Protocol in accordance with the African Charter.

3. The African Commission may refer matters of interpretation and enforcement or any dispute arising from the application or implementation of this Protocol to the African Court on Human and Peoples' Rights.

4. Where applicable, the African Court on Human and Peoples' Rights shall have the mandate to hear disputes arising from the application or implementation of this Protocol.

Article 23
Popularization of the Protocol

States Parties shall take all appropriate measures to ensure the widest possible dissemination of this Protocol in accordance with the relevant provisions and procedures of their respective constitutions.

Article 24
Safeguard Clause

1. No provision in this Protocol shall be interpreted as derogating from the principles and values contained in other relevant instruments for the realisation of the rights of Older Persons in Africa.

2. In the event of a contradiction between two or more provisions of this Protocol, the interpretation which favours the rights of Older Persons and protects their legitimate interests shall prevail.

Article 25
Signature, Ratification and Accession

1. This Protocol shall be open to Member States of the Union for signature, ratification or accession.

2. The instrument of ratification or accession to the present Protocol shall be deposited with the Chairperson of the Commission who shall notify all Member States of the dates of the deposit of the instruments of ratification or accession.
Article 26
Entry into force

1. This Protocol shall enter into force thirty (30) days after the deposit of the fifteenth (15th) instrument of ratification by a Member State.

2. The Chairperson of the Commission shall notify all Members States of the African Union of the entry into force of the present Protocol.

3. For any Member State of the African Union acceding to the present Protocol, the Protocol shall come into force in respect of that State on the date of the deposit of its instrument of accession.

Article 27
Reservations

1. A State Party may, when, ratifying or acceding to this Protocol, submit in writing a reservation with respect to any of the provisions of this Protocol. Reservation shall not be incompatible with the object and purpose of this Protocol.

2. Unless otherwise provided, a reservation may be withdrawn at any time.

3. The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

Article 28
Depository

This Protocol shall be deposited with the Chairperson of the African Union Commission, who shall transmit a certified true copy of the Protocol to the Government of each signatory State.

Article 29
Registration

The Chairperson of the Commission upon the entry into force of this Protocol shall register this Protocol with the United Nations Secretary General in conformity with Article 102 of the Protocol of the United Nations.

Article 30
Withdrawal

1. At any time after three years from the date of entry into force of this Protocol, a State Party may withdraw by giving written notification to the Depository.
2. Withdrawal shall be effective one year after receipt of notification by the Depository, or on such later date as may be specified in the notification.

3. Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.

Article 31
Amendment and Revision

1. Any State Party may submit proposal(s) for the amendment or revision of this Protocol. Such proposal(s) shall be adopted by the Assembly.

2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit such proposals to the Assembly at least six months before the meeting at which it shall be considered for adoption.

3. Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority.

4. The amendment or revision shall enter into force in accordance the procedures outlined in Article 26 of this Protocol.

Article 32
Authentic Texts

This Protocol is drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, has signed this Protocol.

ADOPTED BY THE TWENTY SIXTH ORDINARY SESSION OF THE ASSEMBLY, HELD IN ADDIS ABABA, ETHIOPIA

31 JANUARY 2016

**************
## HUMAN RIGHTS DIVISION

### STATISTICS 2017

<table>
<thead>
<tr>
<th></th>
<th>No. of Complaints</th>
<th>Disposed of</th>
<th>Pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry/Department</td>
<td>66</td>
<td>58</td>
<td>8</td>
</tr>
<tr>
<td>Parastatal Bodies</td>
<td>14</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Judiciary</td>
<td>12</td>
<td>11</td>
<td>1</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>84</td>
<td>70</td>
<td>14</td>
</tr>
<tr>
<td>Pre-trial detention</td>
<td>4</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>180</strong></td>
<td><strong>150</strong></td>
<td><strong>30</strong></td>
</tr>
<tr>
<td>SN</td>
<td>Categories</td>
<td>Number of complaints</td>
<td>Disposed</td>
</tr>
<tr>
<td>----</td>
<td>--------------------</td>
<td>----------------------</td>
<td>----------</td>
</tr>
<tr>
<td>1</td>
<td>Verbal abuse</td>
<td>42</td>
<td>32</td>
</tr>
<tr>
<td>2</td>
<td>Assault</td>
<td>175</td>
<td>103</td>
</tr>
<tr>
<td>3</td>
<td>Service Delivery</td>
<td>375</td>
<td>234</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>592</strong></td>
<td><strong>369</strong></td>
</tr>
<tr>
<td></td>
<td>No of Visits</td>
<td>Details</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>------------------------------</td>
<td>----------------------------------------------</td>
<td>---</td>
</tr>
<tr>
<td>1</td>
<td>No of Visits</td>
<td>Prisons (Mauritius including Rodrigues)</td>
<td>64</td>
</tr>
<tr>
<td>2</td>
<td>No of Visits</td>
<td>Police Cells (Mauritius including Rodrigues)</td>
<td>59</td>
</tr>
<tr>
<td>3</td>
<td>No of Visits</td>
<td>RYC/CYC</td>
<td>5</td>
</tr>
<tr>
<td>4</td>
<td>No of Visits</td>
<td>Police Detention Centres</td>
<td>11</td>
</tr>
<tr>
<td>5</td>
<td>No of Visits</td>
<td>Hospitals</td>
<td>11</td>
</tr>
<tr>
<td>6</td>
<td>Prisoners Interviewed</td>
<td>(522 Males &amp; 152 Females)</td>
<td>674</td>
</tr>
<tr>
<td>7</td>
<td>No of Complaints</td>
<td>(193 Disposed of &amp; 42 Pending)</td>
<td>235</td>
</tr>
</tbody>
</table>
## Sensitization Campaign 2017

*Citizens Advice Bureaux, Social Welfare Centres*

<table>
<thead>
<tr>
<th>Location</th>
<th>Date</th>
<th>Number of Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>St Pierre</td>
<td>14 February 2017</td>
<td>286</td>
</tr>
<tr>
<td>Floreal</td>
<td>28 February 2017</td>
<td>65</td>
</tr>
<tr>
<td>Grand Bay</td>
<td>7 March 2017</td>
<td>42</td>
</tr>
<tr>
<td>Lallmatie</td>
<td>14 March 2017</td>
<td>127</td>
</tr>
<tr>
<td>Midlands</td>
<td>21 March 2017</td>
<td>37</td>
</tr>
<tr>
<td>Quartier Milinaire</td>
<td>28 March 2017</td>
<td>90</td>
</tr>
<tr>
<td>Residence Vallijee</td>
<td>4 April 2017</td>
<td>23</td>
</tr>
<tr>
<td>Mahebourg</td>
<td>11 April 2017</td>
<td>62</td>
</tr>
<tr>
<td>Colline Monneron</td>
<td>18 April 2017</td>
<td>33</td>
</tr>
<tr>
<td>Riviere des Anguilles</td>
<td>26 April 2017</td>
<td>36</td>
</tr>
<tr>
<td>Montagne Longue</td>
<td>09 May 2017</td>
<td>64</td>
</tr>
<tr>
<td>Rose Belle</td>
<td>16 May 2017</td>
<td>34</td>
</tr>
<tr>
<td>Montagne Blanche</td>
<td>23 May 2017</td>
<td>95</td>
</tr>
<tr>
<td>Ste Croix</td>
<td>30 May 2017</td>
<td>79</td>
</tr>
<tr>
<td>Bel Air</td>
<td>6 June 2017</td>
<td>114</td>
</tr>
<tr>
<td>Pointe aux Sables</td>
<td>13 June 2017</td>
<td>31</td>
</tr>
<tr>
<td>Petite Riviere</td>
<td>20 June 2017</td>
<td>43</td>
</tr>
<tr>
<td>Grand Bois</td>
<td>04 July 2017</td>
<td>52</td>
</tr>
<tr>
<td>Piton</td>
<td>11 July 2017</td>
<td>33</td>
</tr>
<tr>
<td>Plaines Magnien</td>
<td>18 July 2017</td>
<td>150</td>
</tr>
<tr>
<td>Quatre Bornes</td>
<td>25 July 2017</td>
<td>29</td>
</tr>
<tr>
<td>Goodlands</td>
<td>01 August 2017</td>
<td>52</td>
</tr>
<tr>
<td>Black River</td>
<td>08 August 2017</td>
<td>20</td>
</tr>
<tr>
<td>Pamplemousses</td>
<td>15 August 2017</td>
<td>31</td>
</tr>
<tr>
<td>Rose Hill</td>
<td>22 August 2017</td>
<td>37</td>
</tr>
<tr>
<td>Riviere du Rempart</td>
<td>29 August 2017</td>
<td>27</td>
</tr>
<tr>
<td>Central Flacq</td>
<td>5 September 2017</td>
<td>67</td>
</tr>
<tr>
<td>Rte Nicolay</td>
<td>12 September 2017</td>
<td>42</td>
</tr>
<tr>
<td>Curepipe</td>
<td>19 September 2017</td>
<td>40</td>
</tr>
<tr>
<td>Beau Bassin</td>
<td>26 September 2017</td>
<td>49</td>
</tr>
<tr>
<td>Bois des Amourettes</td>
<td>3 October 2017</td>
<td>36</td>
</tr>
<tr>
<td>Location</td>
<td>Date</td>
<td>Number of Persons</td>
</tr>
<tr>
<td>---------------------------</td>
<td>--------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>Federation des Travailleurs Unis</td>
<td>11 August 2017</td>
<td>50</td>
</tr>
</tbody>
</table>
| Loreto Convent Curepipe    | 7 September 2017   | 90 students (Lower VI)  
10 Teaching and Non teaching staff |
| Esquel group Beau Bassin   | 14 September 2017  | 35 (Management and Supervisory level) |
| Rose Belle Village Hall    | 4 December 2017    | 70 (Women council) |
| Esquel group Beau Bassin   | 5 December 2017    | 30 (Management and Supervisory level) |

**Police**

<table>
<thead>
<tr>
<th>Location</th>
<th>Date</th>
<th>Number of Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police Training School</td>
<td>19 September 2017</td>
<td>21 Newly Promoted PS to SI</td>
</tr>
<tr>
<td></td>
<td></td>
<td>70 Newly Promoted PC to Cpl</td>
</tr>
<tr>
<td>Voila Hotel</td>
<td>11 December 2017</td>
<td>75 (Officers of all Grades)</td>
</tr>
</tbody>
</table>
PREVIOUS RECOMMENDATIONS OF NHRC

1. In its Annual Reports the National Human Rights Commission has made the following recommendations, among others, pertaining to investigation and prosecution –

(1) The Police should have enough evidence, circumstantial or otherwise, before interrogating suspects. There seems to be a tendency to rely heavily on informers, on unreliable information or on mere suspicion.

(2) A declaration recorded in an Occurrence Book is not sufficient to start an investigation. A proper detailed statement should be taken from the declarant before proceeding with the arrest of suspects.

(3) Search warrant or warrants of arrest should always be exhibited to members of the public before the police proceed with the search or arrest. They should be given enough time to read and understand them.

(4) Should a suspect have to be bodily examined after he is arrested, an entry to that effect and the result of the examination should both be inserted in the Diary Book.

(5) The authorities may wish to consider whether the law should not be amended to allow joint civil and criminal actions to be entered in Court, where the victims “se constituent partie civile” and claim civil damages from the perpetrator. This would save costs and time.

(6) Consideration should be given to the fact that where a person has committed an offence listed in the Second Schedule to the “Certificate of Morality Act” (the more serious offences) at any time, the person may be given a document mentioning the type of offence he has committed, the period of the sentence and any rehabilitation programme he may have followed instead of being denied a Certificate.

(7) Police should exercise diligence in completing police enquiries.

(8) There should be a Special Drug Court to try all drug offences.

(9) The DPP could ask for a Social Enquiry Report before lodging cases against suspects in drug cases.

(10) The NHRC reiterates its recommendation that the Supreme Court should issue sentencing guidelines. There could be more uniformity in sentencing for sexual offences.

(11) Since suspects are innocent until proved guilty, they have to be treated fairly, granted rights of visit, right to Counsel, right to receive food from relatives etc. If they are remanded to police cell or to jail while the police are carrying out their enquiry.
Small drug offenders should be released on bail pending their trial. Their release on parole could be considered on a case to case basis.

Although Magistrates should not be appointed as Visiting Magistrates in prison for disciplinary hearings, they should visit prisons periodically to apprise themselves of the conditions under which prisoners are detained.

Aside from the normal appeals procedure, a Panel of Judges should be set up to review convictions where there is a possibly of miscarriage of justice.

Contravention cases should be lodged within a period of six months from the date of the occurrence.

Officers of the Anti-Drugs Smuggling Unit must always and in all circumstances exhibit their warrant cards and the search warrant before searching premises for drugs. Cases of impersonation of officers by thieves have been reported.

Police Prosecutors should not let a provisional charge against an accused party drag on in a protracted fashion, requiring him to call in Court several times. It is their duty to find out why the main case is not lodged within reasonable delays.

Remission of sentence (although not as much as one third) could be granted to prisoners convicted of drug trafficking if their conduct in prison is exemplary.

The Police should use modern techniques in the investigations of crime instead of relying too heavily on confessions.

Since an indiscriminate use of powers of arrest may lead to a violation of the human rights of the citizen, the Commission recommends that an in depth study be carried out by the Police Authorities with a view to providing comprehensive and clear guidelines to Police Officers.

Detention pending trial

A number of detainees are being kept on remand for long periods of time pending trial because they cannot afford the expenses involved to be released on bail. Depending on the nature and gravity of the offence, this may well prove to be an unjustifiable restriction on the right to personal liberty. e.g. where the punishment on conviction is likely to be a fine, probation or even a very short sentence.

It is suggested that in the latter case persons arrested for minor offences (even if they are not first offenders) who cannot afford to provide sureties should be released on parole with an undertaking to report to the Police on a regular basis, the frequency of which is to be decided by the Court after hearing the Police Prosecutor.

Reducing delays
It has been noted that one third of the prisons population consists of detainees who are on remand. Obviously, this puts undue pressure on prisons administration with consequent overcrowding etc. To reduce delays in bringing cases to trial, the Mackay Report, at pages 16 and 95, goes to the extent of recommending that an accused party should not be prosecuted if certain time limits are not respected. We would not go that far but we suggest that detainees be released from detention pending their trial after 12 months, except if they are being detained for serious drugs offences or for murder. Otherwise the detainees would be released on bail pending trial.

(23) Right to Freedom of movement

Invariably an objection to departure is lodged against all persons subjecte
d to a police inquiry and/or on bail pending conclusion of inquiry and eventual trial. Such wholesale restriction to the freedom of movement of the citizen is not always justifiable. The objection to departure should be limited only to the few cases in which there is a likelihood that the suspect or accused party will abscond if he is allowed to leave the country. A party subjected to an objection to departure who applies for authorization to leave the country is often required to deposit substantial sums of money in cash as additional security. Such a requirement may be very harsh in the case of citizens of modest means.

2. While many recommendations of the NHRC are implemented by the authorities, unfortunately there is sometimes a return to the original undesirable state of affairs.

3. The Commission, as all national human rights commissions elsewhere, cannot make binding recommendations. It may review the factors or difficulties that inhibit the enjoyment of human rights and review the safeguards provided under any enactment for the protection of human rights. However the total or partial implementation of its recommendations is at the discretion of the various authorities concerned.

4. It is also be further noted that Section 4(2)(b) of the Protection of Human Rights Act 1998 stipulates that the National Human Rights Commission shall not exercise its powers and functions in relation to any of the officers and authorities specified in the proviso to Section 97(2) of the Constitution of Mauritius and these include the Chief Justice and the Director of Public Prosecutions or any person acting in accordance with his instructions. Nevertheless the DPP’s Office has always cooperated with the NHRC when the NHRC has dealt with complaints about delays to initiate prosecution, especially when the complainants have spent long periods on remand in jail.

CONCLUSION

The ideal Human Rights scenario

1. No Criminals
2. No Victims
3. No Police
4. No Court
5. No Prison
6. No Government
7. No Laws
Therefore no prosecutors, no DPP.

There should be equality of arms between the prosecution and the defence. The proposed Police and Criminal Evidence Bill goes a long way towards reinforcing the rights of the citizen.

Human Rights must be observed at all times and the Rule of Law must be respected, not feared. Otherwise, to paraphrase the title of Joseph Stiglitz’s latest book, we shall ultimately pay the price of inequality.
### List of Human Rights Treaties to which Mauritius is a party and reporting status

<table>
<thead>
<tr>
<th></th>
<th>Treaty</th>
<th>Date of Signature</th>
<th>Date of Ratification/accession</th>
<th>Reporting Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>International Covenant on Civil and Political Rights (ICCPR) –</td>
<td>12 December 1973</td>
<td></td>
<td>Report examined in 2017</td>
</tr>
<tr>
<td>3.</td>
<td>International Covenant on Economic, Social and Cultural Rights (ICESCR)</td>
<td>12 December 1973</td>
<td></td>
<td>Report to be examined in 2018</td>
</tr>
<tr>
<td>5.</td>
<td>The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)</td>
<td>9 July 1984</td>
<td></td>
<td>Report to be submitted in 2018</td>
</tr>
<tr>
<td>7.</td>
<td>The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984 (CAT)</td>
<td>9 December 1992</td>
<td></td>
<td>Report examined in 2017</td>
</tr>
<tr>
<td>8.</td>
<td>The Optional Protocol to the Convention against Torture and Other Cruel, inhuman or Degrading Treatment or Punishment (CAT-OP)</td>
<td>21 June 2005</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Treaty</td>
<td>Date of Signature</td>
<td>Date of Ratification/accession</td>
<td>Reporting Status</td>
</tr>
<tr>
<td>---</td>
<td>------------------------------------------------------------------------</td>
<td>---------------------</td>
<td>--------------------------------</td>
<td>-----------------------------------</td>
</tr>
</tbody>
</table>