May 2020

His Excellency
Mr. Prithvirajsing ROOPUN G.C.S.K.
President
Republic of Mauritius
State House
REDUIT

Your Excellency,

In compliance with Section 11 of the Protection of Human Rights Act I have the honour to submit to you the Annual Report of the National Human Rights Commission of Mauritius for the period 1 January 2019 to 31 December 2019, to be transmitted to the National Assembly.

The delay in submission due to the lockdown following the outbreak of the pandemic Covid 19 is regretted.

Yours faithfully,

Dheerulall B. Seetulsingh, S.C.
Chairman
FOREWORD

The Annual Report of the National Human Rights Commission for the calendar year 2019 is published in early 2020. This year 2020 is the occasion to celebrate the 75th Anniversary of the United Nations, the 23rd year since the Beijing Conference on Women’s Rights and the 30th Anniversary of the Convention on the Rights of the child. Unfortunately the whole world has been caught up by the COVID 19 Virus. The protection of human rights has been at the foremost, especially for those who are in a vulnerable position. The right to life has involved the right to health and the right to earn a living. The latter has been at risk due to prolonged confinement and the need for social distancing.

To quote Patrick Gaspard, the President, Open Society Foundations of George Soros

*It’s time to think long and hard about the kind of world we want to live in.*

*For many of us, the pandemic has underlined the challenges to our globalized world, and to the old ways of running our economies, posed by the existential threat of climate change. The current catastrophe also presents an opportunity – an opportunity to push for fundamental changes needed to build societies that are stronger and more resilient in addressing the challenges to come.* (March 2020)
THE NATIONAL HUMAN RIGHTS COMMISSION

COMPOSITION AS AT 31 DECEMBER 2019

Chairperson
Mr. Dheerujlall Baramlall SEETULSINGH, S. C.

Human Rights Division
Deputy Chairperson
Mrs Marie Lourdes Lee Yin LAM HUNG

Members
Mr. Samioullah LAUTHAN
Mr. Jacques Jonathan RAVAT

National Preventive Mechanism Division
Deputy Chairperson
Mr. Mohamed Idbal TORABALLY

Members
Mrs. Namrata GAYA-TEELUCKDHARRY
Mr. Joseph Gabriel Michel VIEILLESSE
<table>
<thead>
<tr>
<th>TITLE</th>
<th>NAME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy Permanent Secretary</td>
<td>Ms. Gyaneswaree CALLYCHURN</td>
</tr>
<tr>
<td>Office Management Executive</td>
<td>Mrs Gaitry HASOWA</td>
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<tr>
<td>Human Resource Executive</td>
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</tr>
<tr>
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<td>Mrs Anbah Devi NYNAN</td>
</tr>
<tr>
<td>Procurement &amp; Supply Officer</td>
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</tr>
<tr>
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<tr>
<td>(Registry)</td>
<td></td>
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<td>Mrs Jeenee SEEVATHEAN</td>
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<td>Mrs Youn Lung LAI CHEK</td>
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<td>Mrs Gayetree JHURRY</td>
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<td>Mr. Nivish Varma CHUMMUN</td>
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<td>Ms Yohinivaani CHETALEE PARRYANEN</td>
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<tr>
<td>EU PROJECT</td>
<td></td>
</tr>
<tr>
<td>Office Management Executive</td>
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</tr>
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<td>Resource Person</td>
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</tr>
<tr>
<td>Resource Person</td>
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<tr>
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<td>Mrs Moi Lin LEUNG FOR SANG (Registry)</td>
</tr>
<tr>
<td>Rights Officer</td>
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<td>Mrs Ridhimah HURLOLL</td>
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<td>Mrs Pareezad BANNOO-RUSMAULLY</td>
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<td>Mr. Prithvi SUJEEUN</td>
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<tr>
<td>Word Processing Operator</td>
<td>Mrs Joëlle Marie Christine ANDRE</td>
</tr>
<tr>
<td>Office Auxiliary</td>
<td>Mrs Manju GROODOYAL</td>
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<td>Mr. Mohamed Reza MOHOMADALLY</td>
</tr>
<tr>
<td>Driver</td>
<td>Mr. Ramesh BHAGOBAN</td>
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<tr>
<td></td>
<td>Mr. Soondress IYUMPERMAL - NPMD</td>
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<tr>
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<td>Mr. Sridev RUNGLOLL - NPMD</td>
</tr>
<tr>
<td></td>
<td>Mr. Mevin CHOWDHORY</td>
</tr>
<tr>
<td>Interns</td>
<td>Ms. Mokshadha TOOLSEE</td>
</tr>
<tr>
<td></td>
<td>Ms. Medha JEEWOOTH</td>
</tr>
<tr>
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<td>Ms. Lakshita KANHIYA</td>
</tr>
<tr>
<td></td>
<td>Mr. James Dyvven PIERRE LOUIS</td>
</tr>
</tbody>
</table>
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>CHAPTER</th>
<th>TITLE</th>
<th>PAGES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FOREWORD</td>
<td>i</td>
</tr>
<tr>
<td></td>
<td>STAFF</td>
<td>ii-iii</td>
</tr>
<tr>
<td></td>
<td>TABLE OF CONTENTS</td>
<td>iv-viii</td>
</tr>
<tr>
<td></td>
<td>LIST OF ANNEXES</td>
<td>ix</td>
</tr>
<tr>
<td>CHAPTER I</td>
<td>INTRODUCTION</td>
<td>1-4</td>
</tr>
<tr>
<td>CHAPTER II</td>
<td>HUMAN RIGHTS ISSUES</td>
<td>5-44</td>
</tr>
<tr>
<td>CHAPTER III</td>
<td>HUMAN RIGHTS DIVISION</td>
<td>45-57</td>
</tr>
<tr>
<td>CHAPTER IV</td>
<td>NATIONAL PREVENTIVE MECHANISM DIVISION</td>
<td>58-99</td>
</tr>
<tr>
<td>CHAPTER V</td>
<td>NHRC PROJECT WITH EUROPEAN UNION</td>
<td>100-113</td>
</tr>
<tr>
<td>CHAPTER VI</td>
<td>RODRIGUES</td>
<td>114-130</td>
</tr>
<tr>
<td>CHAPTER VII</td>
<td>REVIEW OF CRIMINAL CONVICTIONS</td>
<td>131</td>
</tr>
<tr>
<td>CHAPTER VIII</td>
<td>HUMAN RIGHTS EDUCATION AND PROMOTION</td>
<td>132-133</td>
</tr>
<tr>
<td>CONTENTS</td>
<td>PAGES</td>
<td></td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>--------</td>
<td></td>
</tr>
<tr>
<td><strong>CHAPTER I – INTRODUCTION</strong></td>
<td>1-4</td>
<td></td>
</tr>
<tr>
<td>A. OVERVIEW</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>B. THE WELFARE STATE</td>
<td>2-3</td>
<td></td>
</tr>
<tr>
<td>C. OTHER INSTITUTIONS</td>
<td>3-4</td>
<td></td>
</tr>
<tr>
<td><strong>CHAPTER II – HUMAN RIGHTS ISSUES</strong></td>
<td>5-44</td>
<td></td>
</tr>
<tr>
<td>A. THE RIGHT TO LIFE - ROAD TRAFFIC ACCIDENTS</td>
<td>5-12</td>
<td></td>
</tr>
<tr>
<td>B. SENTENCING</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>C. HOMICIDE CASES</td>
<td>12-15</td>
<td></td>
</tr>
<tr>
<td>D. SEXUAL OFFENCES (ON APPEAL)</td>
<td>15-16</td>
<td></td>
</tr>
<tr>
<td>E. IMPRISONMENT FOR NON-PAYMENT OF FINES</td>
<td>16-17</td>
<td></td>
</tr>
<tr>
<td>F. DELAYS IN CRIMINAL CASES</td>
<td>18</td>
<td></td>
</tr>
<tr>
<td>G. SUBSTANCE ABUSE</td>
<td>19-24</td>
<td></td>
</tr>
<tr>
<td>H. SENTENCING IN DRUG CASES – SUPREME COURT</td>
<td>24-27</td>
<td></td>
</tr>
<tr>
<td>I. PROTECTION OF WOMEN AGAINST DOMESTIC VIOLENCE</td>
<td>28-34</td>
<td></td>
</tr>
<tr>
<td>J. ALLEVIATION OF POVERTY IN MAURITIUS</td>
<td>34-39</td>
<td></td>
</tr>
<tr>
<td>K. ELDERLY PERSONS</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>CONTENTS</td>
<td>PAGES</td>
<td></td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>-------</td>
<td></td>
</tr>
<tr>
<td><strong>L.</strong> LGBT RIGHTS</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td><strong>M.</strong> NEW AND EMERGING TECHNOLOGIES</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td><strong>N.</strong> THE ENVIRONMENT</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td><strong>O.</strong> LAND DISTRIBUTION</td>
<td>41</td>
<td></td>
</tr>
<tr>
<td><strong>P.</strong> THE PRIVATE SECTOR</td>
<td>41</td>
<td></td>
</tr>
<tr>
<td><strong>Q.</strong> ELECTORAL REFORM</td>
<td>41-44</td>
<td></td>
</tr>
<tr>
<td><strong>R.</strong> LEGISLATION ENACTED IN 2019 PROMOTING HUMAN RIGHTS</td>
<td>44</td>
<td></td>
</tr>
</tbody>
</table>

**CHAPTER III - HUMAN RIGHTS DIVISION**

<table>
<thead>
<tr>
<th>CONTENTS</th>
<th>PAGES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A.</strong> OUR WORK</td>
<td>45-47</td>
</tr>
<tr>
<td><strong>B.</strong> STATISTICS</td>
<td>47-52</td>
</tr>
<tr>
<td><strong>C.</strong> EXAMPLES OF CASES</td>
<td>52-54</td>
</tr>
<tr>
<td><strong>D.</strong> FURTHER HIGHLIGHTS FOR 2019</td>
<td>54-55</td>
</tr>
<tr>
<td><strong>E.</strong> GENERAL RECOMMENDATIONS</td>
<td>55-56</td>
</tr>
<tr>
<td><strong>F.</strong> EDUCATION AND AWARENESS OF HUMAN RIGHTS</td>
<td>56-57</td>
</tr>
<tr>
<td>CONTENTS</td>
<td>PAGES</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td><strong>CHAPTER IV – NATIONAL PREVENTIVE MECHANISM DIVISION</strong></td>
<td>58-99</td>
</tr>
<tr>
<td>1. INTRODUCTION</td>
<td>58-59</td>
</tr>
<tr>
<td>2. PURPOSE AND RELEVANCE OF PREVENTIVE VISITS</td>
<td>59-61</td>
</tr>
<tr>
<td>3. VISITS BY NPMD TO ASsess CONDITIONS OF DETENTION IN PRISONS</td>
<td>61-69</td>
</tr>
<tr>
<td>4. DEATH IN PRISONS</td>
<td>69-71</td>
</tr>
<tr>
<td>5. MEETING WITH COMMISSIONER OF PRISONS AND WELFARE OFFICERS</td>
<td>71-72</td>
</tr>
<tr>
<td>6. REHABILITATION</td>
<td>72-75</td>
</tr>
<tr>
<td>7. THE TREATMENT OF REMAND AND CONVICTED DETAINees IN MAURITIUS THE MANDELA RULES</td>
<td>75-78</td>
</tr>
<tr>
<td>8. POLICE DETENTION CENTRES</td>
<td>78-79</td>
</tr>
<tr>
<td>9. EXAMINATION OF THE TREATMENT OF DETAINees IN PRISONS</td>
<td>80-88</td>
</tr>
<tr>
<td>10. REHABILITATION YOUTH CENTRES (RYC) AND CORRECTIONAL YOUTH CENTRE (CYC)</td>
<td>89-96</td>
</tr>
<tr>
<td>11. PROHIBITION OF USE OF TOBACCO IN PRISONS</td>
<td>96</td>
</tr>
<tr>
<td>12. STUDY VISIT OF TOGOLESE NATIONAL HUMAN RIGHTS COMMISSION DELEGATION</td>
<td>96-97</td>
</tr>
<tr>
<td>13. STATISTICS NATIONAL PREVENTIVE MECHANISM DIVISION</td>
<td>97</td>
</tr>
<tr>
<td>14. EXAMPLES OF COMPLAINTS</td>
<td>97-99</td>
</tr>
<tr>
<td>CONTENTS</td>
<td>PAGES</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td><strong>CHAPTER V – NHRC PROJECT WITH EUROPEAN UNION</strong></td>
<td>100-113</td>
</tr>
<tr>
<td>1. TALKS IN MAURITIUS</td>
<td>101-105</td>
</tr>
<tr>
<td>2. TALKS IN RODRIGUES</td>
<td>106</td>
</tr>
<tr>
<td>3. EXTERNAL RESOURCE PERSON</td>
<td>107-109</td>
</tr>
<tr>
<td>4. THEMATIC ISSUES</td>
<td>109-113</td>
</tr>
<tr>
<td><strong>CHAPTER VI – RODRIGUES</strong></td>
<td>114-130</td>
</tr>
<tr>
<td>A. HUMAN RIGHTS DIVISION</td>
<td>114-117</td>
</tr>
<tr>
<td>B. NATIONAL PREVENTIVE MECHANISM DIVISION</td>
<td>117-126</td>
</tr>
<tr>
<td>C. EUROPEAN UNION FUNDED PROJECT</td>
<td>127-129</td>
</tr>
<tr>
<td>D. SENSITISATION ACTIVITIES IN COLLABORATION WITH THE COMMISSION FOR ELDERLY PERSONS</td>
<td>129-130</td>
</tr>
<tr>
<td><strong>CHAPTER VII – REVIEW OF CRIMINAL CONVICTIONS</strong></td>
<td>131</td>
</tr>
<tr>
<td><strong>CHAPTER VIII – HUMAN RIGHTS EDUCATION AND PROMOTION</strong></td>
<td>132-133</td>
</tr>
<tr>
<td>ANNEX</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>---------------------------------------------------------------------------</td>
</tr>
<tr>
<td>I</td>
<td>HUMAN RIGHTS DIVISION STATISTICS 2019</td>
</tr>
<tr>
<td>II</td>
<td>NATIONAL PREVENTIVE MECHANISM DIVISION STATISTICS 2019</td>
</tr>
<tr>
<td>III</td>
<td>STAKEHOLDERS GROUP ON AGEING (AFRICA)</td>
</tr>
<tr>
<td>IV</td>
<td>SADC – PROTOCOL ON THE INTER-STATE TRANSFER OF SENTENCED OFFENDERS</td>
</tr>
<tr>
<td>V</td>
<td>RECOMMENDATIONS (EU EXPERT)</td>
</tr>
</tbody>
</table>
CHAPTER I
INTRODUCTION

A. OVERVIEW


It now consists of two Divisions –

(1) the Human Rights Division and

(2) the National Preventive Mechanism Division set up according to the Optional Protocol to the Convention against Torture to ensure that conditions of detention in prisons, police and other places of detention cells comply with human rights norms.

The National Human Rights Commission has a quasi-jurisdictional competence to receive complaints regarding violations of human rights, to summon witnesses, to call for the production of documents and to hold hearings. Thereafter it can make recommendations to the proper authorities to take action.

The term “Human Rights” under the Protection of Human Right Act as subsequently amended, is defined as the rights protected under Chapter II of the Constitution of Mauritius. These rights are mainly civil and political rights. There is no mention of second generation rights, which are the rights to education, health, housing, social security, right to work, not to speak of third generation rights (right to clean water, right to development, right to a clean environment). The right to life may in certain situations encompass economic, social and cultural rights. A denial of the right to health or the right to a shelter or the right to social aid may, for example, put at risk the life of a person in certain situations. The National Human Rights Commission is coming more and more to widen its mandate by giving a generous interpretation to the right to life.

The Committee on Economic, Social and Cultural Rights set up under the International Covenant on Economic, Social and Cultural Rights after examining the latest Periodic Report of Mauritius in April 2019 has recommended that the NHRC should be provided with an explicit mandate to protect and promote economic, social and cultural rights.
B. THE WELFARE STATE

To a large extent, the provisions of the Welfare State in Mauritius already afford second and third generation rights to Mauritian Citizens. Any maladministration in the provision of such rights falls within the jurisdiction of the Ombudsman under Section 96 of the Constitution. Furthermore the different Ministries which administer economic and social rights have their own complaint mechanism. The Ministry of Health has a mechanism to deal with allegations of medical negligence. The Ministry of Social Security deals with old age pensions, social aid and compensation for incapacities. It has set up a Medical Tribunal to grant a hearing to dissatisfied claimants. The Ministry for Gender Equality includes a Family Protection Unit to look into cases of domestic violence and a Child Development Unit to enforce laws protecting children. The Ministry of Labour has a Labour Inspectorate to enforce the Employment Rights Act and the Employment Relations Act. Labour Inspectors are also empowered to take cases before the Industrial Court in cases where employers are alleged to have violated the rights of workers. A special unit caters for the rights of migrant workers ensuring that their labour contracts and conditions of accommodation are respected.

The Employment Relations Tribunal and the Mediation and Conciliation Commission hear disputes between employers and employees. The State legislates every year to fix the quantum of additional remuneration to workers after giving a hearing to employers and to trade unions. A National Remuneration Board fixes the wages of various categories of employees. The minimum wage is fixed in Mauritius.

The Ministry of Social Integration, and Economic Empowerment has the task of combatting absolute poverty, with the aim of attaining one of the major Sustainable Development Goals before 2030. The State has also set up a Citizens Support Unit (CSU) under the aegis of the Prime Minister’s Office to attend to all kinds of complaints regarding the supply of services to citizens and which range from the bad state of roads or an inadequate water supply to the non-payment of pensions. The Unit operates efficiently in conjunction with Citizens Advice Bureaus and conducts campaigns to inform the public about its services. The Ministry of Housing and the institutions operating under its aegis are responsible for providing soft loans for the construction of houses, contributions for casting slabs and for providing houses to more disadvantaged groups. Public Education is free in Mauritius from preprimary to tertiary level with free transport for students, subsidies for examination fees. An Open
University affording free courses has become immensely popular, enabling people to acquire or improve qualifications and skills.

The Ministry of Human Rights is now a Division of the Ministry for Foreign Affairs. It is responsible for the preparation and submission of Periodic Reports to Treaty Bodies and to the African Commission on Human and People’s Rights after receiving inputs from relevant Ministries. In 2019 Mauritius submitted its Periodic Report under the African Charter and is now due to submit its initial Report on Women’s Rights under the Maputo Protocol to the Charter on Women’s rights. Human rights reporting to Treaty Bodies is now up to date. The Ministry manages the National Mechanism for Reporting and Follow up (NMRF) to ensure that different Ministries contribute in a timely manner to the drawing up of Reports and to coordinate the necessary follow up to the Concluding Observations of Treaty Bodies and the Recommendations following the Universal Periodic Review.

Transport facilities have considerably increased with the introduction of the Metro Express on which students and older persons travel free.

Corporate Social Responsibility is now a reality in Mauritius with funds being channelled through the authorities to help NGOs such as those which shelter women in distress, orphans and children who have been abandoned by their parents.

C. OTHER INSTITUTIONS

a. The Independent Police Complaints Commission entertains complaints against police officers acting in the course of their duties. It also has the power to investigate into death in police custody.

b. The Ombudsperson for Children ensures that Children’s rights are protected and is responsible for the implementation of the Convention on the Rights of the Child in Mauritius. A Children’s Bill is now in preparation to deal with the difficult issue of child marriage in a multicultural society, that is, whether to set down the mandatory minimum age of 18 for a person to get married. The Bill will also deal with the age of criminal responsibility, school bullying and will create a Special Court to cater for Children and related family issues.
c. The Equal Opportunities Commission deals with discrimination on the grounds of status (age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation) and with complaints of sexual harassment. The Inspectors of the Ministry of Labour also deal with sexual harassment at work. The ILO Violence and Harassment Convention 2019 (No. 190) and the Violence and Harassment Recommendation 2019 (No. 206) are in the process of being adopted.
CHAPTER II
HUMAN RIGHTS ISSUES

A. THE RIGHT TO LIFE AND ROAD TRAFFIC ACCIDENTS

The protection of the individual’s right to life is enshrined in section 4 of Chapter II of the Constitution of Mauritius. As such, each individual’s life is protected by law since without the right to life, one cannot enjoy other rights. The law requires such positive measures to be put in place in order to protect the life of everyone in Mauritius including inter alia the enforcement of adequate legislative provisions and the taking of pertinent steps to preclude accidental deaths through a legal and administrative framework.

Since road traffic injury is one of the primary causes of death worldwide, it is an evident challenge for all relevant stakeholders to scale down the number of road accidents. According to Statistics Mauritius, during the first semester of 2019, some 69 persons lost their lives as a consequence of road accidents, while some 88 people died as a result of road accidents during the same period in 2018. Furthermore, the number of vehicles registered in Mauritius is increasing annually. According to Statistics Mauritius, at the end of June 2019, some 568,879 vehicles were registered at the National Transport Authority, compared to 556,001 at the end of December 2018, with an increase of 12,878 or 2.3%. The vehicles registered comprised mainly cars, double cab pickups, dual-purpose vehicles and auto/motor cycles.

Some of the key causes of road accidents in Mauritius include speeding, reckless driving and drink driving and are fundamentally related to the drivers’ demeanour and mindset on the road. To this effect, more stringent laws have been enacted to punish breaches of the road traffic rules and regulations. In addition, information and sensitisation campaigns are regularly conducted to urge road users to abide by the laws and encourage them to exercise greater care and shoulder more responsibility as regards their behaviour and attitude on the roads.

The increase in drink-driving offences led to an amendment in the Road Traffic Act in 2016, to increase the penalties for such offences. Section 123F of the Road Traffic Act was amended to increase the minimum fine which can be imposed from Rs 10,000 to Rs 20,000 and the maximum term of imprisonment increased from one year to five years.
The approach of the Courts in relation to drink-driving offences

The Courts have taken a more rigorous approach at the sentencing stage for drink driving offences and have considered that such offences should be dealt with utmost severity, depending on the surrounding circumstances of each case. In the case of The Director of Public Prosecutions v Takooree [2019 SCJ 303], the Supreme Court stated that road users should realise that driving under the influence of alcohol above the permissible limit is a very serious offence which amounts to deliberately endangering the lives and safety of other innocent road users and thus such offences will not be treated with undue leniency by the courts. The Court in Takooree (Supra), quoted the following passage from the case of Sobnath v The State [2012 SCJ 274]:

“...We are alive to the fact that in the absence of aggravating factors like e.g. an accident, offenders have not very often in the past received a custodial sentence for a first offence. The situation, however, has dramatically changed with the recent alarming increase in accidents involving drunk driving. With the heavy increase in traffic on our roads, offenders like the appellant represent a high security risk, seriously putting at stake not only the personal life of passengers travelling in their vehicles and other vehicles but also that of the more vulnerable users of our roads such as cyclists, motorcyclists and pedestrians. Past sentencing policy consisting of substantial fines and disqualification and cancellation orders, has utterly failed to prove effective as a deterrent. In view of the number of such offences which is constantly on the increase and the serious threat which the commission of such offences represents to the lives of other innocent and law-abiding road users, nothing short of a custodial sentence is likely to act as a deterrent to potential offenders. There must be a clear signal to potential offenders of that sort that they would not be dealt with leniently by the Courts. The public interest in curbing such offences and in protecting human life therefore eloquently require a custodial sentence even for a first offender unless there exists any special mitigating reason which would justify a non-custodial sentence.”
The Courts have thus been of view that in cases of drink-driving, where substantial fines and disqualification and cancellation orders have been ineffectual as a deterrent, a custodial sentence would prove to be more effective. The Courts have not been hesitant in imposing a custodial sentence for such offences even for first time offenders where there have been aggravating factors or no special mitigating reasons (*vide* Vikash Dassani *v* The State [2017 SCJ 228], Sailesh Chuckhoory *v* The State [2018 SCJ 367] and Jugappah K. *v* The State [2019 SCJ 11]+).

**Supreme Court Appeals 2019 – Road Traffic Accidents**

(1) **JUGGAPAH K. *v* THE STATE 2019 SCJ 11**

Appellant, a car driver, was charged under two counts:

(i) The driving without due care and attention, in breach of sections 123C(1)(a), 52 and the Second Schedule to the Road Traffic Act (Count I) and

(ii) driving motor vehicle with alcohol concentration above the prescribed limit, in breach of sections 123F(1)(a),(3),(5),123H(1)(b) and 52 of the Act (Count II).

The learned Magistrate found the appellant guilty as charged under both counts and sentenced him as follows:

a. under count I, to pay a fine of Rs 3,000 and his driving licence was endorsed; and

b. under count II, to pay a fine of Rs 20,000 and to undergo a term of 6 months’ imprisonment. Furthermore, his driving licence was cancelled and he was disqualified from holding and obtaining a driving licence for a period of 8 months and his licence was endorsed.

On appeal: Both fines were maintained by the Supreme Court and the term of imprisonment was reduced to a term of imprisonment of 3 months.

(2) **HURKOO M. *v* THE STATE 2019 SCJ 14**

A road accident occurred on 23 June 2010 at Royal Road, Union Park involving two large vehicles, a lorry driven by appellant and a van, which led to the demise of one pedestrian, and to injuries sustained by another pedestrian.

The appellant was found guilty by the Intermediate Court under two counts:
(1) Involuntary homicide by imprudence;

(2) Involuntary wounds and blows by imprudence, both under section 239 of the Criminal Code coupled with sections 52, second schedule and section 133 of the Road Traffic Act.

He was sentenced to five months imprisonment, a fine of Rs 60,000 and a disqualification from driving for nine months under Count I. Under Count 2, he was given fine of Rs 30,000 and a similar disqualification from driving as in Count I. The appellant’s driving licence was also cancelled and endorsed. The sentence of imprisonment under Count I was suspended and was converted to a community service order. The appeal, on other grounds was dismissed by the Supreme Court.

(3) COOPAMAH B. v THE STATE 2019 SCJ 162

The appellant, a car driver, was prosecuted before the Intermediate Court on two counts of an information for the offences of “involuntary homicide by imprudence”, under section 239(1) of the Criminal Code coupled with sections 133 and 52 of the Road Traffic Act (count 1) and “driving a motor vehicle when under the influence of intoxicating drink”, under sections 123E(1)(a),(2),(3) and 52 of the Road Traffic Act(count 2).

The learned Magistrate found the appellant guilty as charged and sentenced him to

The Supreme Court agreed that in the circumstances of the case, a custodial sentence is warranted and justifiable and took into account the following factors:

(i) The punishment of offenders;
(ii) the reduction of crime (including its reduction by deterrence);
(iii) the reform and rehabilitation of offenders; and
(iv) the protection of the public.

The appeal was dismissed.

(4) NICOLAS J P v THE STATE 2019 SCJ 167

The appellant, a car driver, was convicted by the District Court of Riviere Du Rempart for the following offences:

(1) under count 1, driving a motor vehicle under the influence of intoxicating drink in breach of sections 123 E (1) (a) Part VIII A of Act 09/03 & 52 of Road Traffic Act.
(2) under count 2, refusing to give a specimen of blood or two specimens of urine in breach of section 123 H (1) (b), (2), (4) as amended by section 8 of Act 17/12 and section 163 of Road Traffic Act.

The appellant was sentenced under count 1 to undergo 6 months’ imprisonment and to pay a fine of Rs 20,000 and under count 2 to pay a fine of Rs 5,000 and Rs 100 costs. His driving licence was cancelled and he was further disqualified from holding or obtaining a driving licence for all types of vehicles for a period of 8 months under count 1.

The appeal was dismissed.

(5) GOOMANY V v THE STATE 2019 SCJ 190
The appellant, a bus driver was charged before the Intermediate Court under two counts:

(i) involuntary homicide, and

(ii) being the unwilling cause of homicide, through imprudence and whilst driving a motor bus, in breach of section 239(1) of the Criminal Code and sections 52 and 133 of the Road Traffic Act.

He was convicted of both offences and consequently sentenced to undergo 6 months’ imprisonment under each count. He was further disqualified from holding and/or obtaining a licence for a period of 12 months for all types of vehicles and his driving licence was accordingly endorsed.

The appeal against sentence was dismissed.

(6) LUXIMUN L. v THE STATE 2019 SCJ 260
The appellant, a car driver, was convicted by the District Court under three counts namely:

(i) under count 1, of driving without due care and attention in breach of sections 123C (1) (a), 52 and the Third Schedule of the Road Traffic Act;

(ii) under count 2, of driving a motor vehicle with alcohol concentration in blood above prescribed limit in breach of sections 123 F (1) (a), (3), (5), section 123H (1) (b), section 52 and the Second Schedule of the Road Traffic Act; and

(iii) under count 3, of taking motor vehicle without owner’s consent in breach of section 151 (3) coupled with section 52 of the Road Traffic Act.
The appellant was sentenced under count 1 to pay a fine of Rs 3,000; under count 2, to undergo imprisonment for a term of 6 months and to pay a fine of Rs 20,000; and under count 3, to pay a fine of Rs 2,000 and Rs 100 costs. Under count 2, he was further disqualified from holding and obtaining a driving licence for all classes and types of vehicles for a period of 8 months and particulars of same were to be endorsed on his driving licence. His driving licence was also cancelled.

The appeal against sentence was dismissed.

(7) MATABADUL H. v THE STATE 2019 SCJ 277

Appellant, a car driver, was convicted for the offence of driving motor vehicle with alcohol concentration above the prescribed limit in breach of sections 123F(1)(a), (3),(5),123H(1)(b) and 52 of the Road Traffic Act.

He was sentenced by the District Court to pay a fine of Rs 10,000 and to undergo six months imprisonment. The appellant was disqualified from holding/obtaining a driving licence for a period of one year for all types of vehicles. His licence was cancelled and endorsed. He was ordered to pay Rs 100 costs.

On appeal, the Court stated that as a general rule, it will not impose a custodial sentence on a first time offender unless it is justifiable under the circumstances of the case and quoted the case of Ramkalawon v The State [2014 SCJ 9], in which it was noted that:

“….that imprisonment is not, under section 123F(3) of the Act, mandatory such that it should be resorted to, in our view, only in the more serious cases falling under that subsection, bearing in mind the stigma and other drastic consequences of imprisonment when imposed for the first time on an offender.”

In the circumstances of the case, where the appellant was considered to be a first time offender, the Court called for a Social Enquiry Report pertaining to the appellant with a view to assess whether a non-custodial sentence is warranted.

(8) SOOKUN G. v THE STATE 2019 SCJ 292

The appellant, a van driver, was convicted by the District Court of Lower Plaines Wilhems for the offence of driving a motor vehicle with alcohol concentration above the prescribed limit, in breach of sections 123F(1)(a)&(3) and 52 of the Road Traffic Act. He was sentenced to undergo six months’ imprisonment and to pay a fine of Rs 20,000.
The learned Magistrate also ordered that his driving licence be endorsed and cancelled and that he be disqualified from holding or obtaining a licence for all types of vehicles for a period of 12 months.

The appeal against sentence was dismissed.

(9) **THE DIRECTOR OF PUBLIC PROSECUTIONS v TAKOOREE D 2019 SCJ 303**

The respondent, a car driver, was charged and found guilty under five counts namely:

(i) involuntary homicide by imprudence in breach of section 239(1) of the Criminal Code, coupled with sections 52 (second schedule) and 133 of the Road Traffic Act under count 1;

(ii) wounds and blows by imprudence in breach of section 239(1)(2) of the Criminal Code, coupled with sections 52 (second schedule) and 133 of the Road Traffic Act under counts 2 and 3;

(iii) failing to report an accident in breach of section 140(1)(d), (5) and (7) of the Road Traffic Act under count 4; and

(iv) driving under the influence of intoxicating drink in breach of sections 123E(1)(a), (4) and 52 of the Road Traffic Act under count 5.

The respondent was sentenced by the Intermediate Court under count 1 to one month’s imprisonment, with endorsement, cancellation and disqualification of his driving licence for all types of vehicles, under each of counts 2 and 3, to a fine of Rs 50,000, and, finally, under counts 4 and 5 to fines of Rs 10,000 each.

The learned Director of Public Prosecutions appealed against the sentences under counts 1, 3 and 5.

The DPP questioned the undue leniency of the learned Magistrate’s sentence under these three counts and argued that, when taking into account the overall circumstances of the case, the sentences are manifestly inadequate and disproportionate to the gravity of the offences.

The appeal was allowed and the sentence under counts 1, 3 and 5 was quashed. The respondent was sentenced to a twelve months’ imprisonment under count 1; a two months’
imprisonment under count 3 and a six months’ imprisonment under count 5, to which an order of disqualification of 12 months for all types of vehicles as well as the endorsement of his driving licence, were further imposed by the Supreme Court.

B. SENTENCING

There is still a need for formal Sentencing Guidelines. Long sentences do not act as a deterrent in all cases and sometimes do not affect the crime rate. Severe sentences may still be necessary for Drugs trafficking, Murder, Gang Rape, Rape upon Children, Domestic Violence.

However offenders serving long sentences often have health problems and die in prison. There is pressure on the doctors and nurses working in prison who have to provide the necessary medical care. In view of the increasing number of old age detainees a Geriatric Ward had to be opened in the Eastern High Security Prison. Otherwise there is a special ward in public hospitals where detainees with serious problems are sent.

The Parole Board should consider the release of detainees who are too old to stay in prison on a case to case basis and who satisfy the conditions set out in Section 51 of the Reform Institutions Act.

There are more than fifty foreign drug traffickers in detention. It may be necessary to issue warnings about the severity of punishment for drugs trafficking to passengers on all flights to Mauritius. Transfer of detainees to their country of origin can only be effected if they have served half of their sentence where there is an agreement with that country. Recently Mauritius has signed to the SADC agreement for the transfer of prisoners.

C. HOMICIDE CASES (ON APPEAL)

State v Prayagsing (2019 SCJ 74)

Accused pleaded guilty to the charge of manslaughter.
He strangled to death his girlfriend, and put up a sham to make believe that the deceased was kidnapped by someone else, and even participated in searching for the deceased.
Sentence = 26 years penal servitude and Rs 1 000 as costs.

State v Doobraz (2019 SCJ 172)

Accused pleaded guilty to the charge of manslaughter, for pouring motor spirit on his
wife and setting her on fire. He initially lied that she tried to commit suicide.

Sentence = 25 years penal servitude and Rs 1,000 as costs.

State v Molla (2019 SCJ 208)

Bangladeshi national charged with offence of manslaughter of another Bangladeshi national, to which he pleaded guilty.

Sentence = 20 years penal servitude.

Luchmun v State (2019 SCJ 242)

This was an appeal against the judgment of Supreme Court sentencing the appellant to 35 years penal servitude for the offence of manslaughter. The appellant had physically assaulted a 3-year-old girl, as a result of which she died.

All grounds of appeal were devoid of merit and therefore failed.

Appeal was dismissed.

State v Bizoire (2019 SCJ 251)

Accused pleaded guilty to charge of manslaughter. Court noted the cooperation of the accused with the police, his timely guilty plea, his young age (17 years old) and the fact the deceased was a 37-year-old adult, using the accused for his personal sexual gratification.

Sentence = 28 years penal servitude.

State v Quirin and Anor (2019 SCJ 268)

Both accused pleaded guilty to the charge of inflicting wounds and blows with premeditation, on a person, causing incapacity for personal labour for more than 20 days.

Accused hit victim’s motorcycle with a private car and accused No 1 then hit the victim with a sabre and accused No 2 kicked him. The accused No 2 was on the run and even resisted arrest. Accused No 1 was a minor at the time of the offence.

Accused No 1 = 11 years penal servitude

Accused No 2 = 13 years penal servitude.

Petite v State (2019 SCJ 271)

Appellant had pleaded guilty to charge of inflicting wounds and blows on his father, causing death without intention kill. He appealed against the sentence of 10 years penal servitude, on the ground that it was wrong in law and in principle, and manifestly harsh and excessive.
Appeal dismissed as learned Magistrate duly considered all mitigating circumstances and carried out proper balancing exercise with aggravating factors.

**State v Bissoo (2019 SCJ 286)**

Accused pleaded guilty to charge of manslaughter of his wife. He fatally stabbed his wife several times in the neck and abdomen. Mitigating factors which the court considered were his surrender to the police, his early confession and remorse, and hardship to his 5-year-old son.

Sentence = 22 years penal servitude.

**State v Seblin and Anor (2019 SCJ 291)**

Both accused charged with offence of manslaughter and pleaded guilty. They called at the place of the victim for the purpose of stealing, during which the latter was brutally killed.

Mitigating factors which the court considered were their cooperation with the police and their guilty plea.

Sentence: = 22 years penal servitude.

**State v Mansing and Anor (2019 SCJ 296)**

Accused No1 pleaded guilty to charge of manslaughter. Accused No2 pleaded guilty to charge of aiding and abetting the author of manslaughter.

Both accused and a third person, Fakhoo (*vide State v Fakhoo 2019 SCJ 335*) went to victim’s place to steal, and there they decided to kill her, as she could identify one of them, who was not masked.

Accused No1: 33 years penal servitude,
Accused No2: 23 years penal servitude.

**State v Fakhoo (2019 SCJ 335)**

Accused pleaded guilty to charge of inflicting wounds and blows causing death without intention to kill.

He belatedly pleaded guilty, at first denying his participation in the killing itself. (*Vide State v Mansing 2019 SCJ 296*)

Sentence: 18 years penal servitude.

**State v Jogannah (2019 SCJ 314)**

Accused pleaded guilty to charge of murder of his live-in partner.
He used to inflict physical violence on the deceased. The latter obtained a protection order against him. Following the protection order, the accused made up his mind to kill his partner.

**Sentence:** 38 years penal servitude.

**Garburrun v State (2019 SCJ 255)**

This was an application for leave to appeal to Judicial Committee of Privy Council (JCPC) against judgment of Court of Criminal Appeal.

The applicant pleaded guilty to a reduced charge of manslaughter and was sentenced to undergo 27 years penal servitude. He then appealed against the sentence only. The Court of Criminal Appeal, found that there was a lapse of 11 years, which occurred between the date of the commission of the offence and the decision on appeal. Hence in view of the inordinate delay, the sentence was reduced to 25 years penal servitude.

Appeal to JCPC is only available under section 81 of the Constitution, where there is a question involving the interpretation of the Constitution, or a question which ought to be submitted, by reason of its great general public importance or otherwise, to the JCPC. The Court found no such ground in the application in the present matter. Leave refused and application set aside.

**D. SEXUAL OFFENCES (ON APPEAL)**

**Cheetamun v State (2019 SCJ 49)**

Appellant pleaded guilty to a reduced charge of rape followed by wounds and blows causing death without intention to kill. The victim was an old lady aged 80. He was sentenced to undergo 22 years’ penal servitude. He then appealed against his sentence.

Grounds of appeal were held to be devoid of merit.

**DPP v Hossenny (2019 SCJ 169)**

Accused pleaded guilty to offence of attempt upon chastity.

Given the accused’s advanced age, his clean record, his frail state of health and “the circumstances of the case”, the learned Magistrate sentenced him to pay a fine of Rs 3,000.

DPP appealed against judgment on the ground that the learned Magistrate was wrong in law and in principle to have imposed a fine in breach of section 249(2) of the Criminal Code as the penalty provided for by the said section is penal servitude for a term not exceeding
10 years.

The appeal was allowed and the case remitted to be heard by a differently constituted court.

**DPP v Bholah (2019 SCJ 248)**

Accused was convicted, upon plea of guilty, for offence of attempt upon chastity upon a girl, aged 6 at the time.

He was sentenced to 4 months’ imprisonment, which was suspended and converted to 100 hours’ of community service.

DPP appealed on grounds that the sentence is unduly lenient and wrong in principle.

The Court held that a custodial sentence was warranted and Community Service Order (CSO) was inappropriate in order to meet the ends of justice.

The appeal was allowed, quashing the CSO made against the respondent. The Court ordered that the respondent serve the sentence of 4 months’ imprisonment.

**Budloo and Anor v State (2019 SCJ 256)**

Appellant No1 was convicted for the offence of Rape and was sentenced to 18 years penal servitude.

Appellant No2 was convicted for the offence of “aiding and abetting the author of the crime” and was sentenced to 18 years penal servitude.

Court on appeal held that the judgment of the trial court was flawed and could not stand. There were two irreconcilable versions presented by prosecution with respect to a crucial element of the offence, which was incumbent upon the prosecution to prove beyond reasonable doubt. Learned Counsel for State was agreeable to same.

Conviction and sentence of both appellants were quashed.

### E. IMPRISONMENT FOR NON PAYMENT OF FINES

Imprisonment is used to enforce the rule of law and to protect society from criminals. It is also meant to be a deterrent to prevent the same criminals from reoffending and to forewarn other persons about the punishment which may be meted out to them if they commit offences. The confinement affords detainees the opportunity for benefitting from rehabilitation, but this may not always work as the rate of reoffending is quite substantial.
The trend globally is to reduce imprisonment as it has not been found to be totally effective. In many countries, even developed ones, overcrowding in prisons has become a major concern, sometimes leading to riots and breakouts. It is common knowledge that gangs exist in all prisons and that prison guards are not always in full control of the situation. In Mauritius until recently a few prisons officers were among the conveyors of drugs and mobile phones in prisons. Prisons Officers are not that well paid in spite of the difficult job they are entrusted with and may sometimes be tempted to engage in illicit transactions. Nowadays all prisons officers attending duty have to be thoroughly searched before entering prison.

In Mauritius the problem of overcrowding comes to the fore from time to time. A community service order as an alternative to imprisonment to decrease overcrowding and to provide a change of rehabilitation has not always served its purpose, probably because of the difficulty of putting into place a proper system of supervision of offenders. When fines for road traffic offences were considerably increased due to the large number of fatal road accidents, convicted offenders could not pay the heavy fines in many cases and had to be sent to prison instead.

Imprisonment for non-payment of fines is not so desirable as it results in sending to prison individuals who are not basically criminals. They end up in being incarcerated for weeks or months with criminals and hardened criminals who may have a bad influence on them. Furthermore, as it has been estimated that on the average cost of keeping a detainee in Prison is about Rs 700 per day, the State is spending more money by keeping an offender in prison than would have been recovered by the fine. Some offenders still find a temporary deprivation of liberty more bearable than the burden of finding money to pay the fine.

It would be more logical to punish a small offender by setting up a proper structure to manage an effective community system service. The supervision should not be left to probation officers who may be overburdened with work. A credible agency should be created manned by full time community service officers. The agency can operate the system together with Local Government (District Councils and Municipal Councils). Offenders would carry out such duties as rubbish collection, cleaning beaches and roadsides since Mauritius has a problem of environmental cleanliness in some areas. Offenders could be compelled to do four hours of work everyday, leaving them free to undertake other work to earn a living. Incarceration is not the proper solution to punish small offenders. Community service may be a better way to make the offender realise his mistake and pay his debt to society.
F. DELAYS IN CRIMINAL CASES

Delays in hearing Court Cases have become a systemic problem. District Courts are overburdened with cases which have to be postponed when Counsel, accused parties and witnesses are absent. The NHRC has received complaints about delays in enquiries, delays in lodging criminal cases and frequent postponements when parties have to attend court several times before their cases are taken. The NHRC urges the Police to complete enquiries at the earliest. The Forensic Scientific Laboratory needs more equipment to carry out tests speedily and to enable enquiring officers to proceed faster with enquiries.

The NHRC reiterates the Recommendations made in its Annual Report of 2017 –

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 a Superintendent of Police assisted by an Assistant Superintendent of Police, and an Inspector 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 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.
G. SUBSTANCE ABUSE

A VARIETY of persons, having
a VARIETY of problems, living in
a VARIETY of social conditions, using
a VARIETY of psycho-active substances with
a VARIETY of motives, to achieve
a VARIETY of effects, resulting in
a VARIETY of consequences.

The Drugs problem is a very complex, multi-dimensional and multi-factorial phenomenon which requires a multi-sectorial response. It has to be tackled from the following angles: political, economic, sociological, physiological, psychological, religious and cultural.

With experience the Anti-Drug and Smuggling Unit and customs officers are now better equipped and seize large quantities of Heroin (137 kg, 20 kg and even 95 kg of high purity cocaine). There have been several cases of overdose among drug users during the last few years because “local traffickers” have managed to produce ‘fake’ synthetic drugs, using a large variety of very dangerous chemicals. Any one of those chemicals used on its own can be lethal at a certain dose.

New synthetic drugs first appeared in Europe in 2008 and reached the shores of Mauritius in 2013. The drug barons who always think out of the box find new strategies to escape the vigilance of police and customs officers at ports and airports and have managed, with the complicity of unscrupulous ‘scientists’ to produce these synthetic drugs locally. They have been designed in sophisticated clandestine laboratories with a variety of chemical products to mimic the illicit drugs, but whose chemical structure has been manipulated and modified to escape the legal restrictions on the traditional illicit drugs.

They have been put on sale in large quantities. All sorts of tricks are used on their labelling e.g. (1) This product is not for human consumption (2) This product has been “lab” tested and is in compliance with the law (3) Both the manufacturer and the retailers of this product take no responsibility whatsoever for the incorrect or ‘misuse’ of this product (4) Keep out of the reach of children. They have managed to diversify the presentation and packaging of
The drugs and produced same in powder form, crystals, liquid and have introduced the chemicals as bath salts, tablets of various colours, fertilizers, incense, jewellery cleaner, perfumes, lipsticks, candles and candies of attractive colours. They have even managed to present these drugs as ‘fake’ medicines.

The National Human Rights Commission through its Human Rights Division, has the opportunity to sensitize the general public and students, through the Citizens Advice Bureaus (CAB) on how drug addiction impedes on the right to life, to safety and security, to health among other rights, this in order to help adolescents and their parents identify the risk factors as well as the protective factors.

UNDERSTANDING RISK FACTORS AND PROTECTIVE FACTORS IN THE PREVENTION OF SUBSTANCE USE AND ABUSE

Prevention programme planners and field workers must absolutely be aware of both the risk factors and the protective factors so that they can aim at minimizing the risk factors while trying to consolidate the protective factors. Risk factors are more numerous than protective factors.

The factors of risk are defined as individual characteristics, situational conditions or environmental contexts which increase the probability of the individual to experiment with drugs.

Protective factors are conditions or attributes (skills, strengths, resources, supports or coping strategies) in individuals, families, communities or the larger society that help people deal more effectively with stressful events and mitigate or eliminate the risk factors.

<table>
<thead>
<tr>
<th>EARLY CHILDHOOD</th>
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<tr>
<td><strong>RISK FACTORS</strong></td>
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<tr>
<td>Genetic</td>
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<td>Early aggressive behavior</td>
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<td>Lack of parental supervision &amp; attachment</td>
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<td>Academic problems &amp; failure</td>
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<td>Undiagnosed mental health problems</td>
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<td>Peer substance use</td>
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<td>Drug availability</td>
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<td>Poverty</td>
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<td>Child abuse</td>
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It is of utmost importance for adolescents, young adults, the parents, NGO's, teachers, health care providers, even the police to understand clearly what are the risk factors that can lead our youngsters to experiment with drugs as well as the protective factors. They can therefore warn potential users and their parents about the risk factors while reinforcing the protective factors.

### ADOLESCENCE

<table>
<thead>
<tr>
<th>RISK FACTORS</th>
<th>PROTECTIVE FACTORS</th>
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<tbody>
<tr>
<td><strong>GENETICS:</strong></td>
<td></td>
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<tr>
<td>- Alcoholism among first or second degree relatives</td>
<td>- Strong family bonds</td>
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<td><strong>INDIVIDUAL:</strong></td>
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<tr>
<td>- Antisocial behavior</td>
<td>- Parental engagement in child’s life</td>
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<td>- Parental rejection</td>
<td>- Clear parental expectations and consequences</td>
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<tr>
<td>- Aggressive temperament</td>
<td>- Academic success</td>
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<td>- Lack of self-control</td>
<td>- Strong bonds with pro-social institutions (school, community, church)</td>
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<td>- Early sexual activity</td>
<td>- Conventional norms about drugs and alcohol</td>
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<td>- Depression</td>
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<td>- Low self-esteem</td>
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<td>- Attention-deficit disorders</td>
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<td>- Poor self-image</td>
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<td>- Body scarification and mutilation</td>
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<td>- Learning disorders</td>
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<td>- Chaotic home environment</td>
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<td>- Ineffective parenting</td>
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<td>- Little mutual attachment and nurturing</td>
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<td>- Inappropriate, shy or aggressive classroom behavior</td>
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<td>- Low academic aspirations</td>
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<td>- Dropping out of school</td>
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<td>- Poor social coping skills</td>
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<td>- Affiliations with deviant peers</td>
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<tr>
<td>- Perceived external approval of drug use (peer, family, community)</td>
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<td>- Parental substance abuse</td>
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<td>- Parental mental illness</td>
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<td>- Constant Bullying by negative peers</td>
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<td>- The wrong belief that everyone is doing it</td>
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<td>- Type of neighborhood where drugs are easily available</td>
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</table>
RISK FACTORS | PROTECTIVE FACTORS
--- | ---
- Partying and night life |  
- Antisocial behavior |  
- Low level of religiosity |  
- Rejection of parental authority |  
- Rebelliousness |  
- Lack of sound and safe leisure activities |  

**OTHER RISK INDICATORS**

- Most high-risk individuals do not resort to drug consumption as an escape but possess or develop positive coping skills
- A risk factor for one person may not be for another
- Prevention programs focus on intervening early in a child’s development to strengthen protective factors before problem behaviors develop
- The more risks a child is exposed to, the more likely the child will abuse drugs
- Prevention interventions can provide skills and support to high-risk youth to enhance levels of protective factors and prevent escalation to drug abuse
- Research has shown that consuming cigarette, alcohol and drugs in early adolescence increase by 10 the risks of becoming alcoholic or drug addict on reaching adulthood

**Signs and Symptoms**

- Severe headache
- Irritability
- Tremors
- Fits seizures
- High blood pressure
- Increased heart rate
- Hyperthermia
- Excessive sweating
- Blanks/blackouts
- Impaired decision making
- Confusion
- Insomnia
- Drowsiness
- High level of energy
- Rage
- Vomiting
- Automutilation
- Hallucination
- Excessive fear of death
- Withdrawn/dissociative
- Loss of control
- Loss of inhibitions
- Depression
- Psychosis – paranoia
- Suicidal tendency
- Can become a threat to self, siblings, parents, nurses & doctors
- Involvement in workplace or road traffic accidents
- Long-term use may lead to kidney failure
- Negative effects on the CNS May become irreversible
- More unpredicted effects and consequences have been noted lately among consumers of a mixture of amphetamines & hallucinogens

The NHRC has recommended that:
- Parents, in the first place, through the PTA’s should be sensitised about dangers of substance use and abuse, by providing them with the signs and symptoms of substance abuse and coping skills.
- Specific modules to be added to the Teachers Training Manual.
- Representatives of religious and socio-cultural organisations, temples, mosques, churches, pagodas to be roped in and to avoid a purely judgemental and moralistic approach, thus rejecting and marginalising the user/abuser.
- Train grassroots community workers to get them involved in primary prevention programmes.
• Sensitize the private sector by laying emphasis on how addicted employees resort to theft, pilferage, lateness, absenteeism and even violence.
• Amend the law so that first time offenders, particularly youngsters are referred for treatment, instead of sending them to RYC or CYC.
• Insert a few modules on preventing substance use and abuse in the school curriculum gradually according to the different grades.

H. SENTENCING IN DRUGS CASES - SUPREME COURT

Drug Offences

In deciding the sentence to inflict in a criminal case before the court, the Judge has to carry out a balancing exercise between the seriousness of the offence committed and mitigating circumstances such as the age of the accused, his family ties, his cooperation (if any) with the police during the enquiry stage and a timely plea of guilty amongst others. The Court ensures that the sentence is proportionate to the offence committed, as provided by section 7 of the Constitution, which is also in line with international conventions such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Furthermore, the time spent on remand by a convict is now fully deducted from his sentence, following the enactment of the Judicial and Legal Provisions Act 2018.

Nonetheless, it can be observed from the trend in sentencing by the judiciary, that the Court will not be unduly lenient in matters of drug offences.

Drug trafficking, a scourge seriously affecting the Mauritian society, is strictly dealt with by the Court. The average sentence meted out in drug offences is approximately 20 years of penal servitude.

In this respect, the Court has highlighted that “the sentence passed must reflect the gravity of the offence having international ramifications for which the accused parties have been convicted and must act as a clear and unequivocal signal that such offences would not be dealt with leniently. There is an absolute need for the sentence to act as an effective deterrent to curb the commission of such offences which are alarmingly on the increase.”

Despite the severe mode of sentencing by the Court for the last few years, there is an upsetting increase in drug offences. This has previously been pointed out by the NHRC, regarding drug offences:
Heavy sentences have not proved to be an adequate deterrent to discourage the proliferation of drugs. The Courts tend to impose very heavy sentences on convicted persons, thus compounding a difficult situation in prison. For example, the number of drug couriers (mules) in prison is quite high. Many of them are foreigners who do not or cannot receive visits from relatives in Africa, Madagascar and other places.

Six out of 9 drug-related cases before the Supreme Court in 2019, involved foreign nationals.

**DRUGS CASES 2019**

**State v Niemand (2019 SCJ 42)**

South African woman pleaded guilty to the charge of importation of 503.6g of heroin (street value worth over Rs 7.5m).

Mitigating factors were considered by Court in determining sentence of convicted. She came from a poor background, pleaded guilty, cooperated fully with the police and even participated in a controlled delivery exercise, leading to arrest of two locals.

Sentence = 13 years penal servitude and Rs 1 000 costs.

**State v Orinda (2019 SCJ 57)**

Kenyan national pleaded guilty to charges of drug importation of 793.9g (street value worth Rs 11m) and drug trafficking.

Court highlighted the fact that despite guilty plea of the convicted, the Court will take a serious view of the offence due to the devastating effects of the proliferation of drugs in the Mauritian society.

Sentence = 20 years penal servitude.

**Veeren v State (2019 SCJ 53)**

Appellant sentenced to 2 years’ imprisonment for possession of drugs in penal institution.

The gist of the grounds of appeal was that the enquiry conducted was unfair and hence the appellant was denied a fair trial.

Court, after analysis of the judgment of the Learned Magistrate, found that there was nothing to support such a claim. Appeal was dismissed.
**Chinnaiyan v State (2019 SCJ 198)**

Appellant pleaded guilty to charge of possession of drugs of 0.53g of cannabis, and was given custodial sentence of 1 week. He appealed against the sentence on the ground that it was manifestly harsh and excessive.

**Case remitted** back to Magistrate to consider sentence anew, as she had failed to consider the propriety of offering to the appellant an alternative treatment, education, aftercare, rehabilitation or social reintegration, pursuant to section 34(2) of the Dangerous Drugs Act 2000 (DDA).

**Pooloo v State and Anor (2019 SCJ 215)**

Applicant was found in possession of 0.976g of heroin, in 16 packets. He was given a mandatory sentence of 30 years penal servitude, as per section 38 of DDA, since it was his second conviction as trafficker in drugs.

Applicant applied for a review of the mandatory sentence of 30 years penal servitude imposed on him by Intermediate Court, in view of landmark case of *Aubeeluck v State* (2010) UKPC 13. It was held in *Aubeeluck* (supra) that section 38 is to be read as entitling the Court to impose a maximum of 30 years penal servitude or less.

**Sentence** = 18 years penal servitude was imposed in lieu of the previous sentence.

**State v Chudasama and Anor (2019 SCJ 284):**

Accused No1 was charged for drug trafficking of 1829.2 g of heroin (street value more than Rs 27m).

Accused No2 was charged for drug trafficking of a total of approximately 1972.28g of heroin (worth Rs 29m) and for preparatory act in importation of 1829.2g of heroin.

They both pleaded guilty and fully cooperated with the police leading to quick completion of inquiry.

Both accused are foreign nationals, had clean record, and families to cater for in Tanzania.

Both their fathers were ill and required urgent costly treatment.

**Sentence:**

Accused No1 = 23 years penal servitude with Rs 100 000 fine.

Accused No2 = 25 years penal servitude with Rs 100 000 fine.

**State v Amoza (2019 SCJ 304)**

Malagasy national was charged under 3 counts under the DDA for importing drugs as trafficker
of 1.037kg of heroin, 3.848kg of heroin and 15.7g of cannabis and cannabis seeds respectively. The street value of the heroin was estimated at approximately Rs15m.

She pleaded guilty, and cooperated fully with the police.

The Court noted that she is a university graduate, separated from her husband and was earning a living by trading in handmade baskets and bed sheets between Mauritius and Madagascar.

Under Counts I and II, she was sentenced to 23 years penal servitude and a fine of Rs 50 000 each.

Under Count III, she was sentenced to 3 years penal servitude and a fine of Rs 10 000.

All three sentences passed are to run concurrently.

**State v St Pierre (2019 SCJ 340)**

Accused was convicted under the charge of attempting to transport heroin as a drug trafficker. (His accomplice was a Malagasy national, who was convicted in 2013 in a separate trial). He pleaded not guilty to the charge. The drug involved was 360.1g of heroin.

Among factors which the Court considered were the non-guilty plea of accused, his cooperation with the police leading to arrest of other persons involved, and a delay of 7 years in starting the trial.

Sentence = 18 years penal servitude and Rs 50 000 as fine.

**State v Wenden (2019 SCJ 342)**

British national (married to Mauritian), was charged under DDA for importing 352.62g of hashish (worth estimated at approximately Rs 1m). He pleaded guilty.

Court noted that the accused was not poor to be lured by monetary reward, but an educated man engaged in gainful occupation.

Sentence = 20 years penal servitude and fine of Rs 50 000.

**Bhutto v State (2019 SCJ 281)**

Application for leave to appeal to Judicial Committee of Privy Council (JCPC) refused, as it did not involve any question of great general public importance such as to warrant that the matter be submitted to the JCPC.
I. PROTECTION OF WOMEN AGAINST DOMESTIC VIOLENCE

Domestic violence affects mostly women and it cuts across all demographic factors (namely age, educational level, marital status, occupation or religion). It has become more alarming in the recent years. Out of 11 persons who died as a result of domestic violence in 2019, 7 were women. Factors which make women victim of domestic violence are gender norms and inequalities, accepting or approving men’s violent behaviour against women, controlling decision-making, limiting women’s independence in public and private spheres, behaviour of men who are aggressive or disrespectful towards women, alcohol or substance abuse and lack of family support. Men who have been exposed to violence during their childhood and youth may also become perpetrators.

It has been observed that often victims experience the Cycle of Abuse (coined by Dr Lenore Walker, in 1979) which prevent them from walking out of abusive relationships. In those instances, usually the tension builds up and the victim feels like walking on eggshells until the abuser threatens, humiliates or verbally, physically or sexually abuses the victim. At this point, the victim might report the violent incident or move out to a relative's or an acquaintance's place. The Honeymoon phase frequently follows the incident whereby the abuser eventually apologizes, buys gifts, or behaves affectionately to amend for the abuse. He may promise to change and that he will never repeat his acts of violence. In most cases, the victim is convinced of his good faith and stays in the relationship. But studies have shown that once the honeymoon phase ends tension builds up again and the domestic violence resurfaces.

Legal Framework

The Protection from Domestic Violence Act 1997 (the Act) protects victims of domestic violence. It was last amended in 2016 so as to extend the definition of victims and impose more severe sanctions for breach of court orders. It now defines a "victim" as a "spouse, a child of his spouse or another person living under the same roof" and who is subject to physical, psychological or sexual violence in the form of wounds or blows, threats, intimidation, harassment, ill-treatment, insults, stalking, isolating, confinement or causing damage to the other person's property.
**Mechanisms for the protection of women victims of domestic violence**

**i. Police Family Protection Unit**

The Police Family Protection Unit (PFPU) is a branch of the Mauritius Police Force operating since 1994 (formerly known as the Children and Women Protection Unit). There are currently 12 PFPU's with one Headquarters, 10 sub units across Mauritius and 1 in Rodrigues, as listed below. They are usually located in the premises of police stations and run from Monday to Friday from 09:00 hrs. to 16:00 hrs. and from 09:00 hrs. to noon on Saturdays. A case of domestic violence can also be reported at any given time to the police stations outside the above mentioned hours.

Headquarters Sterling House, Port Louis

Fanfaron Police Station (2nd Floor)

Piton District Headquarters

Goodlands Police Station

Triollet Police Station (1st Floor)

Vacoas Police Station

Rose Hill District Headquarters

Moka Sub District Headquarters

Flacq District Headquarters

Belle Mare Police Station

Rose Belle District Headquarters

Port Mathurin District Headquarters, Rodrigues

In 2019, the PFPU registered 4,243 cases of domestic violence, out of which 81% were committed against women. Their main aim is to listen and provide support to victims of domestic violence calling at the above PFPU by providing the following services:

- Support to victims through mediation and active listening;
- Provide victims' support by accompanying victims to a place of safety or to court, hospital or home visits;
- Assistance in applying for court orders under the Act;
- Campaigning against domestic violence, child abuse and elderly abuse;
- Capacity building of police officers;
Follow up of victims (for instance through active listening) following provision of a Court Order;

'Love Project', an awareness programme for new couples;

Referrals to other institutions.

ii. Family Support Bureaus

Since 2003, the Ministry of Gender Equality and Family Welfare has established the Family Welfare and Protection Unit which regroups 6 Family Support Bureaux (FSB) located in Bambous, Goodlands, Flacq, Phoenix, Port Louis and Souillac respectively. There is also a Domestic Violence Hotline service (“139”) on a 24/7 basis to report cases of domestic violence and provide emergency response. The FSB offers the following services to victims and perpetrators of Domestic Violence:

- First hand counselling or psychological counselling;
- Legal advice and legal assistance in District Courts;
- Assistance to victims of domestic violence to initiate court procedures for a court order. Officers from the Ministry will help the victim by taking a statement, in swearing an affidavit and provide assistance in court;
- Psycho-social support as a follow-up mechanism following provision of Court Orders;
- Assistance to victims to seek for temporary accommodation in shelters pending their application for appropriate Court Orders;
- Counselling and rehabilitation services to adult perpetrators.

Existing protection under the Act

A victim can apply for one of the following Court Orders in the District Court to seek additional protection against domestic violence. The Magistrate may, relying on evidence being adduced, issue one of the following court orders for a maximum of 2 years. A copy of the order is issued to both the victim and the perpetrator.

i Protection Order

A protection order is a restraint order preventing the abuser from engaging in further violent behaviour. The court can also order the perpetrator to stop harassing, contacting, intimidating and threatening the victim at his/her place of residence, place
of work or any other venue. Any person living under the same roof and subject of domestic violence can apply for a protection order as compared to the other court orders. In 2019, 652 protection orders were issued, out of which 576 beneficiaries were women.

ii. **Occupation Order**

An occupation order provides the aggrieved spouse with an exclusive right of residence in the house which may belong to the victim or the perpetrator or to both parties. The aggrieved spouse can only obtain such an order if the aggressor poses a serious risk of harm to the latter or his/her children. Besides, an occupation order cannot be sought against a party who does not reside under the same roof.

iii. **Tenancy Order**

A tenancy order is issued to an aggrieved spouse who is seriously at risk of being abused and when the place of residence is rented and is also the site where the violence occurs. The court may order that the rented accommodation be conferred solely to the aggrieved spouse and his/her children. This order may be issued if the perpetrator resides under the same roof and enjoys rights as tenant.

In the event that the Court is satisfied that the abusive partner represents a serious threat to the aggrieved spouse before the application is heard in Court, the Magistrate may issue an **Interim Protection Order** restraining the respondent spouse from engaging in any conduct which may constitute an act of domestic violence (Section 3(8)(a), The Act). In 2019, 1,291 Interim Protection Orders were issued, out of which 1,132 applicants were women. The Magistrate may also provide an **Interim Occupation or Tenancy Order** for such time as he deems fit, "where it is satisfied that such an order, although not applied for, is essential for the effective protection of the aggrieved spouse" (Section 4(6), The Act). The District Clerk must issue a copy of the interim order to the respondent spouse requiring him to appear before the Magistrate on a given date. The interim protection order will thus remain in force until the Court makes a final pronouncement on the application of the court order.
Shelters for women victims of domestic violence

Referral agencies inter alia PFPU, FSB, Child Development Unit and the Ombudsperson for Children sometimes refer victims of domestic violence to Shelters. There are several types of temporary accommodation for women, homeless men and children who are abused, orphaned or rejected by their family. They are managed by non-governmental organisations (NGOs) which depend on funding from the National CSR fund, private donors and international donations in certain instances. Shelters ensuring the safety of battered women and their children are as follows:

i. **SOS Femmes** is the first halfway home, operating since 1989, designated for women and their children victims of domestic violence, incest or rape. The shelter can accommodate up to 60 residents and welcome women together with their children. The maximum age of the boy-child must be 14 years. There are currently 10 women and 14 children staying at SOS Femmes. The residents benefit from professional and social reinsertion and psychological follow up through counselling services along with legal advice as and when required. The NGO also assists residents in securing employment, finding alternative accommodation and monitoring the children of former residents through its nursery and After-school care programme.

ii. **Passerelle Women Centre** was conceptualised in 2015 for women and their children who are victims of domestic violence as well as homeless women. The shelter located at Rose Hill can accommodate up to 30 residents including women and their children. The women can be accompanied by children of either sexes however the maximum age of the boy-child must be 12 years. The NGO is currently constructing a second residential facility at Henrietta which should be operational as from April 2020. Passerelle Women Centre offers temporary accommodation to residents until they are self-sufficient and it also provides legal, medical and psychosocial support.

iii. **Safe Haven Halfway Home** is a temporary shelter for teenage girls set up by Gender Links in 2017. The shelter welcomes mainly young girls as well as women who are homeless due to abuse or rejection from family members.

iv. **Shelter for Women and Children in Distress**, operating since 1991, provides support to battered women and needy children. The NGO can accommodate up to 30 residents. The shelter fulfils the emotional and psychological needs of its
residents and ensures that the young ones are educated while the women have access to employment opportunities. From December 1993 till up to date 7,200 women and children have benefited from the services of the NGO.

**Recommendations**

In light of the above, the following proposals are put forward:

i. The setting up of an Independent Commission for the Protection of Women against domestic violence as a statutory body. This institution may function as a one-stop shop so as to properly channel victims of domestic violence, prevent secondary victimisation and provide a fast track system. A policy decision may have to be taken as to whether the Police Family Protection Unit should operate under the Commission.

ii. There is a lack of knowledge on the existence and purpose of Occupation, Tenancy, and Ancillary Orders. As such, victims of conjugal violence must be informed about the above orders at the enquiry stage as well as during court proceedings.

iii. There is a limited availability of quality assistance and protection services in cases of continuing and aggravating threats against women under Protection Orders. While, the judiciary must be adequately trained to ensure that laws are properly enforced, police officers should also be trained on dealing with cases of domestic violence so as to provide immediate response within a short span of time.

iv. Section 2 (d) of the Protection from Domestic Violence Act briefly mentions sexual violence. However marital rape is still not considered as a punishable offence under the Criminal Code. The Code should clearly define sexual abuse as any situation in which one is forced to participate in unwanted, unsafe, or degrading sexual activity.

v. There is also a pressing need to fully recognize economic abuse as a form of domestic violence in order to prevent abusers from using and/or controlling access to money or forcing their partner to enter into debts.

vi. The Ministry of Gender Equality and Family Welfare has benefited from the support of the United Nations Development Programme to adopt the Perpetrators Rehabilitation Programme for perpetrators of domestic violence. This measure must be
imposed on the perpetrator by the Court to prevent re-offending, to ensure rehabilitation and encourage family re-integration.

vii. Shelters must receive the full support of the Government and additional shelters of a satisfactory standard should be provided to accommodate victims and their children.

J. ALLEVIATION OF POVERTY IN MAURITIUS

Human Rights encompassing altogether fundamental civil and political, and economic, social and cultural rights, poverty is subsequently an essential societal challenge that does fall within the scope of Human Rights.

From a dictionary point of view, poverty, deriving etymologically from the Latin word “pauper”, i.e., “lack”, “deprivation”, is a phenomenon whereby men, women and children find themselves in a state where they do not have enough resources (both material and non-material) to satisfy their basic human needs – and, even sometimes, more generally their human wants – in such a way that this hinders their integral human development and capacity to take their individual and collective destiny in their own hands; this is emphasized by the way people find themselves, by the society in which they live (with their respective, internal cultural aspirations and value systems) and by the differences brought about through time within this same society and as compared to other societies throughout the world. It is therefore closely linked to inequalities amongst people and peoples.

The following diagram, extract from report (2000) by World Bank Team, demonstrates the multidimensional nature of poverty, thereby highlighting the powerlessness-voicelessness axis:
International Movement ATD Fourth World, together with Oxford University, in an international research project (2019) in Bangladesh, Bolivia, France, Tanzania, the United Kingdom and the United States, with a “Croisement des savoirs et des pratiques” method, tries to capture three core dimensions of poverty and six “previously hidden or rarely considered in policy discussions” as follows:
These dimensions are closely interdependent and are typically (in degrees that vary according to time, space, age, culture, identity, environment) experienced together, cumulatively, rather than each alone and separately. In addition, research suggests that children experience two other dimensions, i.e., absence of care and protection, and sacrifice for the family accompanied by social maltreatment and suffering. To mark the World Poverty Day 2019 and 30th Anniversary of Convention on the Rights of the Child, ATD Fourth World Mauritius and the National Human Rights Commission organised a forum in Labourdonnais Hotel, Caudan Waterfront, on Saturday 19th October, on “Éliminer la pauvreté des enfants: un engagement de la société, un défi des droits de l’homme.”

The nature of poverty is such, and now considered as a flagrant and scandalous violation of Human Rights, that the United Nations has always given a long attention to it.
Therefore, after having been listed at the top of the 8 Millennium Development Goals (MGDs), extreme poverty – and poverty altogether – has been considered by the UN as the first of the 17 Sustainable Development Goals (SDGs) to transform the world by 2030. SDG no.1, “End poverty in all its forms everywhere”, implies therefore 7 targets, aiming, amongst others, “[to] eradicate extreme poverty for all people everywhere, currently measured as people living on less than $1.25 a day” and “[to] reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions.” The UN Secretary-General, Mr. António Guterres, in his special edition report dated May 2019 to the Economic and Social Council, states that “[t]he share of the world population living in extreme poverty declined to 10% in 2015, down from 16% in 2010 and 36% in 1990. However, the pace of poverty reduction is decelerating, with a “nowcast” of 8.6% in 2018.” The official UN SDGs web site also states that “[o]nly 22% of unemployed persons receive unemployment cash benefits, only 28% of persons with severe disabilities receive disability cash benefits, only 35% of children worldwide enjoy effective access to social protection and only 41% of women giving birth receive maternity cash benefits.”

In conformity with Government Vision 2030, and aiming to enter the League of High-income countries with a Sustainable and Inclusive Economic Model, Mauritius has set up a series of measures to stop poverty and extreme poverty as violation of Human Rights. Summarily, these are as follows:

1. The Marshall Plan against Poverty:

   (a) The Social Integration and Empowerment Act 2016 to combat absolute poverty, with a Social Contract;

   (b) The Empowerment Support Scheme, whereby every household among the some 11,000 on the Social Register of Mauritius (SRM) is entitled to a monthly subsistence allowance based on a minimum threshold of Rs 2,720 with a maximum threshold of Rs 9,520 for a family of two adults and three children;

   (c) The Educational Support Scheme, through School materials, School Premium Scheme, Free Examination Fees Scheme, Crèche Scheme, Allowance for up to 3 children aged between 3 and 23 years old of eligible SRM Households,
(d) The Social Housing Support and Roof Slab Scheme, for families earning up to Rs 10,000, from Rs 10,001 to Rs 15,000, and Rs 15,001 to Rs 20,000 monthly;

2. The National Empowerment Foundation (NEF) involved in Case Management of all families under the SRM;

3. The National Social Inclusion Foundation, with a new CSR framework based on 10 priorities (Socio-economic development as a means for poverty alleviation; Educational support and training; Social housing; Supporting people with disabilities; Dealing with health problems; Family protection including gender-based violence; Leisure and sports; Environment and sustainable development; Peace and nation-building; and Road safety and security.), for individuals and families eligible under the SRM, those recognized as vulnerable groups. New lines of partnerships through new funding programmes are being developed with NGOs;

4. Minimum Wage and Measures under the Mauritius Revenue Authority:
   (a) The Minimum Wage for all employees working on a full-time basis;
   (b) The Negative Income Tax where, instead of paying taxes, employees deriving basic salary not exceeding Rs 9,900 per month, receive financial support from Government paid monthly;
   (c) The 10% Tax Band, where individuals having annual net income of up to Rs 650,000 will be taxed at the rate of 10% instead of the usual 15% per fiscal year;

5. Measures under the Ministry of Social Security, Social Integration and National Solidarity:
   (a) The Basic Pensions (Basic Retirement; Basic Widows; Basic Invalidity; Basic Orphans; Child’s Allowance; Other Basic Pensions);
   (b) The Social Aid which, income-tested, is payable to the head of a family who is incapable of earning his living adequately and who has insufficient means to support himself/herself and his/her dependents. The main assistance provided are as follows: Social Aid in Cash; Allowance to discharges prisoners; Allowance to flood victims; Cyclones and fire victims; Allowance to centenarians for the purchase of medicine; Funeral Grant; Rent allowance to
needy beneficiaries of Basic Retirement Pension, living alone and paying rent; Assistance in kind such as spectacles, wheelchairs, hearing aid; Income support scheme (Food Aid/Rice and Flour Allowance); Bad weather allowance to fishermen;

(c) The National Solidarity Fund, providing financial assistance to Mauritian citizens residing in Mauritius who require surgical operations that can only be performed abroad and those undergoing severe personal hardships such as tragic accidents, needy students, victims of natural calamities, multiple births, medical cases, etc.

6. Other measures, i.e., subsidized public education (at primary, secondary and undergraduate level), public health services and land transport (bus and railway), without which, poverty would have been doubled in Mauritius;

7. In addition, the Non-State actors, namely faith-based organisations (FBOs), Community-based organisations (CBOs) and other Non-Governmental Organisations (NGOs), together with Business Mauritius and the Corporate sector through the 0.5% CSR Budget play a substantial role in this fight. Though several challenges do remain, this sustainable, holistic and multisector approach is fundamentally indispensable in view of establishing a more pro-poor, equitable and plural Mauritian society.

K. ELDERLY PERSONS

The Open Ended Working Group on Ageing set up by the United Nations General Assembly is still working actively to produce a draft Convention on the Rights of Older Persons. In Mauritius old age pensions have been increased to enable older people to lead a decent life. However there are still issues about older persons living alone or being neglected or duped by close relatives in matters of succession. Older persons also tend to be victims of theft of their pension. Although there is a unit within the Ministry of Social Security to cater for the rights of Older Persons, the NHRC endorses the view that there is a need for an Ombudsperson for Elderly persons to protect their rights, to deal with complaints and to provide a Mediation and Conciliation Service. When complaints are received from Elderly persons the NHRC convenes the complainant and officers from the Ministry of Social Security who attend to the complaints and help to resolve the issue.
L. LGBT RIGHTS

In an article entitled “Decolonizing Criminal Law” published in the Commonwealth Law Bulletin in 2018 (Volume 44 No. 4) Shaila Alan Asha from Bangladesh describes how colonialism also meant controlling the legal system in a colony and imposing standards of behavior “to reform the colonized and to protect the colonizers against moral lapses. Now former colonizers have come to accept and promote LGBT rights and attempt to persuade former colonies to depenalise “anti-sodomy laws”.

The LGBT Community has come to be accepted in Mauritius though the provision in the Criminal Code criminalizing sexual relations among consenting adults of the same sex has to be repealed.

M. NEW AND EMERGING TECHNOLOGIES

New and emerging digital technologies, while creating almost limitless opportunities, impact of human rights such as the right to privacy, freedom of expression, the fight against hate speech. There is now a global move to develop human rights due diligence processes for new technologies and to sensitize scientists and engineers who design them. The benefits of innovation will have to be balanced with the risks which it carries for human rights.

N. THE ENVIRONMENT

The respect for human rights leads to a life of dignity, freedom and equality. A healthy environment enables people to enjoy human rights. Article 24 of the African Charter on Human and Peoples’ Rights provides that “All peoples shall have the right to a general satisfactory environment favourable to their development.”

The Ministry for the Environment is doing its utmost to educate the public about the need for a clean environment, not only to attract tourists but to preserve our country for future generations. The NHRC, in its educational campaign, sensitizes citizens to the same effect. The NHRC reiterates its recommendation that the Police de l'Environnement must have more power to enforce the law. Too often the onus in shifted to a multiplicity of authorities - sanitary inspectors, environment officers, local authorities, animal welfare officers in the case of stray dogs, so that problems stay unresolved.
O. LAND DISTRIBUTION

Many large corporations own large plots of land part of which is under sugar cane cultivation. Where the land is not cultivated these corporations may consider granting small plots to those people who live in absolute poverty. The State and NGOs can help the recipients to build a house on the land.

The Truth and Justice Commission had in its Report received complaints from people who claimed that they had been dispossessed of their land. It may prove difficult to find enough evidence to support these claims as old title deeds have to be traced. Otherwise the lands, if abandoned, may have been the subject of ownership by prescription.

P. THE PRIVATE SECTOR

SMETA (SEDEX Members Ethical Trade Audit) is a widely used ethical audit format to help auditors conduct quality audit to ensure responsible business practice. The four pillars of the practice are Labour, Health and Safety, Environment and Business Ethics. In that context exporters of textiles and other goods in Mauritius need to familiarise themselves and comply with human rights to satisfy the norms on which their clients insist. The NHRC has delivered a series of Talks on site to create awareness of human rights among management and workers regarding labour standards, Health and Safety requirements, the need to respect the Environment and connected topics.

Q. ELECTORAL REFORM

An NGO and political party, Resistans ek Alternativ had filed a communication with the Human Rights Committee set up under the International Covenant on Civil and Political Rights, complaining that a person who wishes to stand as a candidate for general elections was compelled to mention to which community (Hindu, Muslim, Sino-Mauritian and General Population) he belongs on his nomination paper. Otherwise he would not be able to stand as candidate. The Human Rights Committee was of the view that this obligation contravened article 25 of the Covenant.

The obligation set out above appears in the First Schedule to the Constitution of Mauritius. In 2014 a provision was added to the Constitution to allow candidates to file their nomination paper without making any declaration as to community only for the general
elections of 2014. This was approved by three quarters of the members of the National Assembly.

Such a declaration is used to designate Best Losers after general elections in terms of the community of the candidate, the number of votes in his favour and the party to which he belongs. It was destined at the time of the independence of Mauritius to ensure a better representation of all communities in the membership of the Legislature.

The obligation for candidates to declare their community was in force again for the general elections of 2019, following the failure to adopt proposals for electoral reform. Resistans pursued the matter with the Human Rights Committee, insisting that the State of Mauritius had not complied with the decision of the Committee.

The question which arises is how far a decision of a United Nations human rights treaty body is binding on a State which has ratified the treaty. The Human Rights Committee is a body of 18 experts mainly with a mix of eminent professors of law and jurists. It is not a tribunal, but it is empowered to receive complaints (communications) from citizens of States which have ratified the First Protocol to the Covenant. The complainant must first exhaust all local remedies. Its decisions are Views, not judgments. (Article 5(4) of the First Optional Protocol to the ICCPR). According to many eminent authorities on the subject. “This terminology was chosen to indicate that the decisions are ‘advisory rather than obligatory in character’.” In the Chapter entitled “The legal status of decisions by human rights treaty bodies in national law” written by Susanne Van Allebeck and Andre Nollkaemper (of the University of Amsterdam) in the book edited by Helen Keller and Geir Ulfstein “UN Human Rights Treaty Bodies – Law and Legitimacy”, the authors of the Chapter refer to the opinion expressed by researchers that the impact of the individual complaints procedure under the ICCPR is revolutionary in principle, but that in practice “it has had only limited, nearly negligible effect.” Compliance in general has been fairly low.

The Committee itself has a mechanism to follow up on compliance with its views. The Committee insists that, by becoming a party to the Optional Protocol, the State Party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognised in the Covenant.
Where the Committee overturns a decision of a national Court, the latter is reluctant to review its own decision on the ground that the views of the Committee may conflict with binding national law and binding national judicial precedents. Compliance with Views may also prove difficult because of the doctrine of separation of powers. The decisions of treaty bodies are generally addressed to the State which in turn cannot compel the Courts to revise a decision.

Where the Committee urges a State to amend its law to make it compliant with the ICCPR, the rate of success is variable. Few States agree that their acceptance of the individual communication procedure means that they have an obligation to review their laws. Most State parties have refused to domesticate the Covenant, that is, to make it part of the national laws. As a result, national laws have precedence over the Covenant.

The problem is compounded where the Committee urges a State to amend its Constitution, which is the Supreme Law of the land and which in most cases cannot be amended by a simple majority in its Legislative Assembly. Such is the situation in Mauritius. An amendment to the electoral system set up under Constitution requires a three-quarters majority in the National Assembly. This majority is not easily attained. Consequently, it has not proved possible to implement the decision of the Committee.

To quote from de Zayas in “Petitioning the United Nations”

“*The main obstacle to implementation is not the unwillingness of State parties to cooperate but the lack of a mechanism in domestic law to receive and implement decisions emanating from a foreign entity.*”

Indeed, very few States are prepared to relinquish their sovereignty to a foreign instance. At best, they give the Views serious consideration and provide good reasons for not being able to follow them while attempting to give effect to them ultimately. This is what Mauritius has done in the present case.

Finally, while many Mauritians may wish to abolish the |Best Loser System for a very laudable cause, that is to build a Mauritian nation which is not divided into communities, there is a very strong trend in the international human rights system to protect minorities. In fact, other treaty bodies like the Committee on Racial Discrimination, the Committee set up under CEDAW or the Committee under ICESCR insist on having disaggregated data to examine whether certain sections of a population are not being disadvantaged or discriminated against.
This would also be applicable to adequate political representation of minorities. Many entertain the view that this may better strengthen the feeling of belonging to “one people one nation”.

**R. LEGISLATION ENACTED IN 2019 WHICH PROMOTE HUMAN RIGHTS**

**(a)** The Mental Health Care (Amendment) Act 2019 (Act no.2 of 2019), has broadened the functions of the Mental Health Commission (the “Commission”). Section 6 of the Act now provides that the Commission is required to carry out investigations in relation to any potential breach or violation of the human rights of patients suffering from a mental disorder and notify the Mental Health Board, after an enquiry, of any breach or violation of human rights. The Commission has also been given the prerogative under the Act, to refer any matter pertaining to the infringement of human rights of mental health patients to the Ministry of Health and Wellness.

**(b)** The Road Traffic (Amendment) 2019 (Act no.6 of 2019), makes provisions for the imposition of more rigid penalties on drivers and cyclists, convicted of drink-driving offences in view of the increasing number of road accidents in the country and in order to promote road safety and preserve the individual’s right to life.

**(c)** The Workers’ Rights Act 2019 (Act No. 20 of 2019), which has repealed and replaced the Employment Rights Act 2008, *inter alia*, protects workers against discrimination by widening the definition of “discrimination” to include impairment and different treatment where a worker performing the same or similar work is employed by a subsidiary company or a parent company. The Act also broadens the scope of protection to workers against violence by making an employer vicariously responsible, in certain circumstances, for the act committed by a co-worker or any other person on a worker, including sexual harassment.
CHAPTER III

HUMAN RIGHTS DIVISION

The Human Rights Division (the “HRD”) is part of the National Human Rights Commission (the “NHRC”). It is headed by one Deputy Chairperson who works with a team comprising two part-time members and two investigators.

A OUR WORK

Our commitment is to serve. We treat others with respect and dignity, recognizing the inherent humanity of the people we deal with, and listening actively and with empathy to the people we serve.

We offer tailored services, remain sensitive, using common sense when responding to and accommodating the individual’s needs, and adapting processes so that they are less bureaucratic. We offer a free complaints service to deal with potential violations of Human Rights.

A.1 How we work?

Under the Protection of Human Rights Act 1998, the HRD has the following primary functions to fulfill:

(a) To enquire into written complaints from any person alleging that his human rights are being or are likely to be violated by an act or an omission of a public officer or a public body within 2 years from the date of the occurrence of the act or omission;

(b) To attempt to resolve any complaint through conciliation;

(c) To refer the complaint to the relevant authority for instance, the Director of Public Prosecutions, the appropriate Service Commission or the chief executive officer of the appropriate public body;

(d) To recommend the grant of such relief to the complainant or to such other person as deemed fit;

(e) To inform the complainant of any action taken in his case; and

(f) Upon completion of the enquiry, the HRD has the mandate to send its conclusions and recommendations to the Minister responsible for Human Rights.
(i) Complaints

We receive complaints on alleged violations of the right to safe environment, rights of the disabled and elderly persons, right to a pension, right to an act of birth and right to safe transport.

The complaint should say what happened, when and where it happened and who was involved.

Pursuant to Section 4 of the Protection of Human Rights Act 1998, the HRD can only investigate into the complaint if it contains these 3 elements:

(i) An allegation of unfair treatment by a Public body;
(ii) Grounds: Breach of rights under Chapter II of the Constitution which are as follows:

(a) Protection of the right to life
(b) Protection of the right to personal liberty
(c) Protection from slavery and forced labour
(d) Protection from inhuman treatment
(e) Protection from deprivation of property
(f) Protection of privacy of home and other property
(g) Provisions to secure protection of law
(h) Protection of freedom of conscience
(i) Protection of freedom of expression
(j) Protection of freedom of assembly and association
(k) Protection of freedom to establish schools
(l) Protection of freedom of movement
(m) Protection from discrimination in the public sector on the grounds of race, caste, place of origin, political opinions, colour, creed or sex

(iii) By a public body as defined by S 2 of the Protection of Human Rights Act: which can be a Ministry or Government Department, a local authority, a statutory corporation and any other company, partnership or other entity of which the Government or an agency of the Government is, by the holding of shares or some other financial input or in any other manner, in a position to influence the policy or decisions, for instance, Air Mauritius, State Bank of Mauritius and Mauritius Telecom.
(ii) Enquiries

When a complaint is received, an assessment is duly carried out in order to find the most efficient and effective way to resolve the matter. Our complaint process is flexible, free and confidential. If the parties agree to attend a mediation meeting, we aim to schedule the mediation within one month. This can vary depending on the urgency of the complaint and the availability of parties involved. We also conduct hearings to be able to assess the seriousness of the complaint and aim to resolve the matter by proposing feasible solutions. The parties may be represented by a lawyer to appear at the hearing.

(iii) Follow up

Then the HRD can either close the complaint, refer it to the appropriate institution or make recommendations accordingly.

B STATISTICS

The HRD received two hundred and eighty-seven (287) complaints in 2019, compared to two hundred and sixteen (216) complaints in 2018.

B.1 Who contacted us?

Very few complainants reported breaches of human rights under Chapter II of the Constitution. In 2019 we received more complaints linked to the economic, social, and cultural rights which include the human right to work, the right to an adequate standard of living, including food, clothing, and housing, the right to physical and mental health, the right to social security, the right to a healthy environment, and the right to education.

We acknowledge receipt of the complaint by sending a letter to the complainant.
Categories of complainants

<table>
<thead>
<tr>
<th>SN</th>
<th>Categories of Complainants</th>
<th>No of complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Individuals</td>
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</tr>
<tr>
<td>2.</td>
<td>NGOs &amp; Institutions</td>
<td>29</td>
</tr>
<tr>
<td>3.</td>
<td>Group</td>
<td>9</td>
</tr>
</tbody>
</table>

N.B. The complaint is confidential

The time limit to report a complaint must be within 2 years as from the date of the act or omission.

B.2 How did the complainants contact us?

The HRD takes a no-wrong door approach and tries to help each and every person who asks for help. We have taken considerable steps to respond to this increase in the number of complaints and to respond with efficiency to each complaint. Each person is treated individually, frequently requiring follow-ups and one-to-one conversations with a Human Rights officer. In cases when someone is in a vulnerable situation, the HRD takes measures to ensure they are helped as quickly as possible.

We made our services more accessible by introducing in 2019 a number of initiatives including the French version of the complaint form and made all standardised complaint forms in English and French available at the 36 Citizen’s Advice Bureaus situated all over Mauritius and in Rodrigues.

Complaint forms are also available via our online platform, making our services even more accessible to citizens. Furthermore, through this platform, many people find help, answers and solutions to the issues raised. We received 30 emails for 2019. Complaints can also be filed at the seat of the NHRC. Complainants may be assisted by an investigator in registering their complaints.

As a result of more accessibility to our services, the HRD saw an increase (216 to 287) in the number of people looking for help and filing complaints.
B.3 Language of complaint filed

The complaint can be filed in both French, English and Kreol.

<table>
<thead>
<tr>
<th>SN</th>
<th>Language</th>
<th>No of Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>English</td>
<td>204</td>
</tr>
<tr>
<td>2</td>
<td>French</td>
<td>19</td>
</tr>
<tr>
<td>3</td>
<td>Kreol Morisyen</td>
<td>64</td>
</tr>
<tr>
<td></td>
<td><strong>Total Number of Complaints</strong></td>
<td><strong>287</strong></td>
</tr>
</tbody>
</table>
B.4 Nature of complaint

In many instances, where warranted, the HRD refers the complaints to the relevant institutions such as Office of the Director of Public Prosecutions, amongst others.

B.5 Anonymous complaints: 5

B.6 Complaints withdrawn: 5

B.7 Referral complaints: 37

We provide services to best meet the needs of those seeking help. Whenever possible, the HRD encourages people to resolve their disputes at the earliest opportunity through mediation. Mediation is one of the most efficient and expeditious ways to resolve a complaint.

Mediation is voluntary, impartial and confidential. Mediation gives parties the opportunity to
craft their own solution to resolve the issue that led to the complaint and provides a good opportunity to address the underlying cause of the complaint.

Over the year 2019, 26 cases were solved by mediation.

Examples of mediated systemic outcomes include procedures to stop the noise emanating from a workshop, the offer of a safer alternate place of residence to a complainant, the reduction of interest to be paid to a bank, reviews of processes that directly or indirectly have a negative impact on people with disabilities, awareness of the lack of resources and SAMU vehicles. In one instance, the complainant was informed of the policy decision of the Beach Authority for the reduction of the number of deckchairs on the beach. In another case complainant was advised to submit application to the appropriate body for employment of people with disabilities.

B.9 148 hearings held for the year 2019 as compared to 68 for the period from May to December 2018

When a complaint cannot be settled, the HRD may decide if further examination is warranted.
As a rule, the HRD carries out an investigation pertaining to the complaint and may hear the parties before reaching a conclusion. During the year 2019 a proper hearing was conducted as a result of each valid complaint received. The HRD assesses evidence and uses internationally accepted rules and principles on Human Rights issues as our baseline at all times.

**B.10 Closure of complaints**

For the year 2019, 201 cases were closed, for various reasons: after mediation, dismissed (mainly due to lack of evidence or being filed out of time), withdrawn, anonymous, abandoned, discontinued, found to be outside the HRD’s jurisdiction or other reasons.

**C EXAMPLES OF CASES:**

**Rights of the elderly**

Some 15 elderly persons who were staying in an unlicensed residential home in the north of the island were ill-treated as they were given sleeping tablets and were always kept under lock and key. To assist our intervention, a Police Officer visited the locus and succeeded in having this residential home closed down. Consequently, the 15 residents were placed in different licensed homes.

**Right to housing**

The HRD received a complaint whereby the complainant, Mr. X, averred that the former Central Housing Authority officers did not regularise his grandfather’s title to property which was eventually seized since 1974. Through the intervention of the HRD, the complainant could successfully purchase the house, have it registered and transferred in his name.

**Harmonious relations**

Inhabitants of Flic-en-Flac informed us that, owing to our intervention, they were no longer subject to any noise pollution caused by the neighbours.

**Noise Pollution**

In a case before the HRD, Mr. Z complained that he was disturbed by excessive noise emanating from a workshop, some thirteen metres away from his residence, involving mounting and dismounting of tires on cars on a daily basis. The HRD effected site visits on two occasions at the locus. Through the HRD, a mediation session was held. The company
installed sound proofing acoustic panels and an acoustic door to reduce noise emanating from the workshop. Consequently, the noise was abated and no longer affects the complainant.

**Right to clean environment**

The HRD received a complaint whereby a building, situated at Pointe-aux-Sables and consisting of 32 apartments, was not connected to the waste water system of the region. Following intervention of the HRD, the Wastewater Management Authority effected a preliminary survey and concluded that the following works need to be effected:

(i) Laying of about 150m of gravity sewer pipe  
(ii) Construction of a pumping station  
(iii) Laying of about 330m of pressure pipe  

The implementation of the project is subject to the acquisition of a private plot of land for the construction of the pumping station. We were informed that the project will be implemented as soon as Wastewater Management Authority approves the funding for the acquisition of the land.

**Right to a pension**

As a senior citizen was complaining that his grandson was taking undue advantage of his basic pension, the HRD intervened and with the help of the Ministry of Social Security, National Solidarity and Social Integration, a new proxy was appointed so that the grandson could not misappropriate his pension any more.

**Ill-treatment**

An elderly couple was ill-treated by the driver and conductor of a bus. Later, they were happy to learn through the HRD’s intervention that both the conductor and driver appeared before a disciplinary committee and were suspended and warned accordingly.

**Noise caused by the barking of neighbours’ dogs**

Mrs. X and her daughter were affected by the nuisance caused by the 5 dogs their neighbours owned so much so that they were mentally disturbed and developed suicidal tendencies. The HRD conducted several hearings with different stakeholders and also conducted a mediation between the complainant and the neighbours. Following the intervention of the HRD, the Animal Welfare Unit served a notice on the respondents
compelling them to separate the dogs and to place them in different areas of the yard. The respondents did comply with the notice and therefore the noise was abated.

**D  FURTHER HIGHLIGHTS FOR 2019**

The HRD conducted powerful advocacy for an improvement of the bus transport facilities for people with disabilities and the elderly.

Following complaints from the latter concerning public bus transport, several meetings were held with the relevant stakeholders, including a site visit at Victoria Terminal to find out the conditions of the old and semi-low floor buses. We had a positive meeting with the bus operators to discuss the issue. In the context of the Human Rights Day 2019, we held a Half-day Open Interactive Session at la Cannelle Rouge, Domaine des Pailles in the presence of the Minister of Social Security. Some 25 bus operators, 30 members of associations working for the welfare of elderly people and 30 representatives organisations for people with disabilities attended the session. The HRD made several recommendations to the Minister of Social Security, National Solidarity and Social Integration who promised to do the needful.

**Issues raised**

- The duty free facilities offered to the people with disabilities should be extended to those who are above 60 years old.

- The NTA Board responsible for reviewing complaints made by members of the public should include two delegates from NGOs working in the Disability Sector and from the Senior Citizens’ Council to ensure a better multi-sectorial and participative approach in its decision making process.

- Low-floor buses with ramps should be introduced to enable people with disabilities to have easy access while boarding the bus.

- There should be more signage on buses to indicate the route number as well as the destination.

- Elderly persons should be allowed to travel free in air conditioned buses.

- More awareness campaigns should be effected in order to sensitise the general public to be more respectful towards persons with disabilities.
• All students with disabilities attending specialised schools should obtain a free bus pass. Special consideration should also be given to students with disabilities who are over 18.

• A logo specific to the person’s disability must be printed at the back of the bus pass so that the bus conductor is aware of the nature of the sometimes inconspicuous disability.

• A sign for reserved seats as affixed in the Metro Express must be introduced.

E GENERAL RECOMMENDATIONS FOR THE YEAR 2019

The HRD made a number of recommendations to the Attorney General, Minister of Justice and Human Rights including:

• A bus pass to be given to persons who already benefit from a provisional Basic Pension

• Section 261 of the Criminal Code must be amended to make it a criminal offence if a person does not pay alimony every month in spite of a Court Order.

A complaint was received concerning failure to pay alimony by a father to his child in spite of a Court Order. Through its investigation, the HRD found out that persons who were ordered to pay alimony only do so every alternate 2 months in order not to commit a criminal offence as per Section 261 of the Criminal Code.

• Right to apply for an interim order by the officers of the Municipal and District Councils

(i) Following the receipt of a complaint concerning the illegal use of electric appliances contrary to Section 40(1) of the Building Act, the HRD carried out an investigation and became aware that officers of Municipal and District Councils were unable to stop the illegal use of electric appliances such as an extractor. In case they want to have recourse to an injunction, they need the approval of the Committee of Councillors, thereby causing unnecessary delay and cost to provide relief to the complainant.

The HRD therefore recommended that the chief executive officer should be given more powers to apply for interim relief from the Supreme Court pending final decision of the Court. The provisions of the Building Act need to be reviewed accordingly.
The HRD therefore recommended that:

(i) new regulations be put in place concerning the rearing of animals to ensure proper compliance with health and safety precaution measures in order not to cause a nuisance; and

(ii) the officers of the Sanitary Department of the Ministry of Health and Quality of Life (now Ministry of Health and Wellness) and officers of Municipal and District Councils be given more powers to abate the nuisance by issuing a stop order or/and to apply for an interim injunction at the Supreme Court.

F EDUCATION AND AWARENESS OF HUMAN RIGHTS

The HRD promotes equality and inclusion by raising awareness, encouraging dialogue, engaging with civil society, providing advice on pressing and emerging issues.

Engaging the public

Throughout 2019, the HRD engaged with the media through broad-reaching communication efforts, raised awareness and sparked dialogue. Talks were also aired on Kool FM of the MBC radio - “Ou Demars Nou Priorite” and “Ansam Ansam” programmes to enlighten the public in general about the services provided and the role of the NHRC.

Presentations and workshops

As part of its education mandate, the HRD regularly delivers presentations and informative sessions to police officers, tertiary students, District and Municipal Councillors,
NTA officers, multicultural groups and other associations and civil society, persons with disabilities and women associations.

Five of the awareness presentations were delivered to students, police officers and NGOs in Rodrigues.

The presentations focused on general introduction to the work of the HRD and on how to lodge a complaint.

The following is a sample of the topics covered by the members of the HRD:

- Role of the HRD;
- How to make a complaint?
- What types of complaints the HRD can entertain; and
- Recommendations the HRD made.

**Conclusion**

The HRD aims to deal with complaints expeditiously and provide effective and feasible solutions to complainants where applicable. Another primary objective is to educate and raise awareness amongst different sections of the Mauritian population on their Human Rights and on respect for the Human Rights of others. The HRD plays a key role as a Human Rights institution by making recommendations to the Minister of Human Rights in order to improve the lives of people in our Republic.
CHAPTER IV

THE NATIONAL PREVENTIVE MECHANISM DIVISION

1. INTRODUCTION

Nature, Role and Scope of the NPMD

The U.N. Convention against Torture is an International Treaty which requires State Parties to take steps to prevent torture and inhuman and degrading treatment. The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) which was adopted by the United Nations on 18 December 2002 but came into effect in 2006, is an instrument that supplements the U.N. Convention against Torture and requires State Parties to create specific mechanisms which would assist them in meeting their obligations under O.P.C.A.T. Essentially, it provides for two specialist mechanisms to be set in place:

(i) The Subcommittee for the Prevention against Torture (SPT), which is an International Body that carries out inspections in places of detention from an International Perspective;

(ii) The establishment of what is called National Preventive Mechanisms (NPM) in order to carry out inspections in places of detention at the national level so as to ensure that persons who are deprived of their liberty “by virtue of an order given by a public authority or at its instigation or with its acquiescence” are not subject to torture and other cruel, inhuman or degrading treatment or punishment.

Under OPCAT, NPMs are required to:

(i) Regularly examine the treatment of detainees;

(ii) Make recommendations to improve treatment of detainees and to prevent torture and other ill-treatment;

(iii) Submit proposals and observations concerning existing or draft legislation.

On 21 June 2005 Mauritius acceded to the OPCAT. The National Human Rights Commission (NHRC) was designated as the NPM for Mauritius. In 2012 Parliament enacted the National Preventive Mechanism Act (NPMA 2012) which provided for the establishment of the National Preventive Mechanism Division (NPMD) of the National Human Rights Commission (N.H.R.C). The NPMD was set up in 2014.
Since its establishment in 2014, the NPMD (Mauritius) has been entrusted with the statutory duty to act as a watchdog and ensure that detainees in prisons, police cells, detention centres, Correctional Youth Centre(s) (C.Y.C), Rehabilitation Youth Centre(s) (R.Y.C) and Mental Health Institutions are treated with humanity and with respect for the inherent dignity of the human person.

In pursuance of the above objectives, the NPMD regularly visits places of detention on its own initiative or following complaints made by detainees directly or through third parties. After thorough investigation, the NPMD makes appropriate recommendations to the Commissioner of Police and the Commissioner of Prisons and the Ministry of Defence and Rodrigues (Responsible for Reforms Institutions).

The relevance of the NPMD’s recommendations is that the OPCAT places an obligation on the competent authorities of State Parties (Article 22 of OPCAT) to “examine the recommendations of the NPMD and enter into a dialogue with it on possible implementation measures.”

2. THE PURPOSE AND RELEVANCE OF PREVENTIVE VISITS

The NPMD’s essential role is to ensure that places of detention in general are visited regularly with a view to make an effective contribution to the prevention of torture and other cruel, inhuman or degrading treatment or punishment against persons deprived of their liberty. The OPCAT clarifies that these visits shall be undertaken “with a view to strengthen, if necessary, the protection of persons “deprived of their liberty” against torture and other cruel, inhuman or degrading treatment or punishment” (Art.19.a) and “with the aim of improving the treatment and the conditions of the persons deprived of their liberty” (Art.19.b). The ultimate objective is to identify the root causes of ill-treatment and other human rights problems and other systemic issues and find ways to address them. Preventive visits do not seek to react to specific incidents or allegations, but rather to ensure the creation of such conditions that the environment itself in places of detention is less likely to give rise to incidents of torture and inhuman treatment. They are therefore proactive and can take place at any time, even in the absence of any specific complaint.

The ultimate goal is to improve the protection of all individuals against torture and other ill-treatment and, more generally, to ensure that their rights and dignity are respected. Preventive visits are part of an ongoing and constructive dialogue with relevant authorities, to
improve the detention system over the long term. The long term ambition of the NPMD is not only to push for a fundamental change in the infrastructural and overall physical conditions of all detention settings but also to put in place such procedures, rules and regulations governing the various aspects of detention/prison life that the possibility/risk of detainees being subjected to torture and inhuman treatment are minimized and ultimately eliminated.

The NPMD categorises its visits as follows:

(i) **In-depth visits**;
(ii) **Thematic visits**;
(iii) **Follow-up visits**;
(iv) **Ad Hoc visits**; and
(v) **Reactive visits**.

(i) **In-depth visits** are by nature preventive. The aim is to have a comprehensive understanding of the place(s) visited (prisons, police stations, Mental Health institutions). Issues that are analysed, range from procedural safeguards concerning food and healthcare to the working conditions of the persons responsible for running the places of detention.

(ii) **Thematic visits** are conducted in order to investigate specific issues and make recommendations accordingly. One such example is when during such visits the NPMD found that detainees in police custody were generally not informed about their legal/constitutional rights. Recommendations were made so that boards displaying the rights of detainees must be placed in a prominent place in the cell-block of all police stations.

It ought to be noted that the recent reactivation of the Board of Visitors has made it easier to monitor the use of isolation/segregation as a punishment when detainees commit a major prison default. The NPMD regularly carries out inspections at Brown Sequard Mental Healthcare, a Mental Health institution in order to determine how solitary confinement is applied across different types of detention settings. Specific themes are often chosen following recurring allegations over certain issues, whether identified by the NPMD itself or by others, such as NGOs or the media. Thematic visits
are often followed by thematic reports that highlight key systemic issues of concern, thereby providing an opportunity for remedial action to be taken.

(iii) Follow-up visits are made in order to ascertain whether the NPMD’s recommendations have been implemented. Follow-up visits are therefore based on previous reports and recommendations, made by the NPMD or by bodies such as the Sub Committee on the Prevention of Torture.

(iv) Ad hoc visits are not planned in advance. They are exceptional in nature and are carried out following a major event, for example, when there are allegations or reports that recurrent patterns of abuse are taking place in a specific place of detention.

(v) Reactive visits usually take place following a complaint made either by a detainee or on his behalf, by a relative or an NGO.

3. VISITS BY NPMD TO ASSESS CONDITIONS OF DETENTION IN PRISONS

3.1 Central Prisons

There are 11 penal institutions in the Republic of Mauritius. They are namely Central Prison (Beau Bassin), New Wing Prison (Beau Bassin), Eastern High Security Prison (Melrose), La Bastille Prison (Phoenix), Petit Verger Prison, Richelieu Open Prison, Grand River North West Remand Prison, Women Prison (Beau Bassin), Open Prison for Women in Barkly, Barkly Special Prison for Women and Rodrigues Prison.

In year 2019, the NPMD conducted 60 visits which include all the above types. It must be noted however that each visit requires a specific methodology, which includes the preparation, the conduct itself as well as the follow-up to the visit. Some considerations are specific for each type of place (for example police stations, detention facilities or women prisons), although there is a common basis for all. Generally, a visit by the NPMD starts with an initial talk with the Officer in Charge of the place of detention, a tour of the place, private interviews with both detainees and police/prison officers, examination of registers and other relevant documents. The NPMD then makes an initial objective assessment and all information gathered so as to ensure that its findings of facts, conclusions and recommendations are tenable.
3.2 **Central Prison (Beau-Bassin) (Male)**

The Central Prison was built more than a century back and the infrastructural upgrading is on-going.

(i) In 2019, the NPMD received complaints from K.L, W.C and S.T in relation to an incident in Block F of Central Prisons. The complaints were essentially to the effect that during search operations, the rights of detainees had not been respected. The NPMD interviewed all the detainees and recorded their individual complaints. A statement from the Officer in Charge of the strip and search operations was also recorded. Moreover, the NPMD viewed the CCTV camera footage containing the recordings of the operations. Nothing abnormal was found on the footage. However, the NPMD recommended that the computer system used for the viewing session be upgraded so that the screening of the CCTV footage is uninterrupted. Additionally, the NPMD recommended that corrective measures ought to be taken so that the time displayed on all cameras is synchronised so as to show the actual time.

(ii) Several unannounced visits at the kitchen of Central Prison Beau Bassin were conducted by the NPMD. More recently the kitchen had been temporarily closed down for renovation and the New Wing Prison (Beau-Bassin) was supplying food to Central Prison. The renovation works have nearly been completed and the flooring remains to be redone. New kitchen equipment has already been installed and the overall infrastructure has been modernised. There are designated sections for food handling and preparation that respects the basic Health and Safety norms.

3.3 **Women Prison (Beau-Bassin)**

The Women Prison is located at Beau Bassin. It has all the basic amenities, and facilities for both remand and convicted detainees.

The Women Prison has an in-house mother care unit that provides opportunities for the detainees who wish to work during the post-natal phase. The Prison rules allow children to stay with their mothers till the age of five. During their stay, the children receive all the facilities needed for their normal development such as a special diet, access to school and parental visits.

(i) In 2019, detainee D.N complained that she was assaulted in prison. The NPMD investigated the matter and recorded the statements of several persons involved in this
incident. The scene of the incident was also examined. The NPMD concluded that the complaint was unfounded. However, several ad-hoc visits were conducted to make sure that the detainee D.N. was not victim of retributive action since the incident. Moreover, psychological assistance and support was provided to detainee D.N.

(ii) On the positive side, NPMD has recently been informed that a South African national who has already served her sentence in Mauritius and who attended a training course on drug abuse during her period of detention at the Women Prison is now teaching in a secondary school in South Africa, where she has been enlisted as an instructor in sensitisation against the use of drugs.

3.4 New Wing Prison (Beau-Bassin)

New Wing Prison is reserved mostly for newly admitted detainees. It has four yards; A, B, C and D respectively. Yard D is reserved for convicted detainees who have been sentenced to terms of imprisonment varying between 6 months to 1 year; whereas Yards A, B and C are reserved for freshly admitted detainees.

Admission/ Transfer

As a general rule, a detainee who is admitted to New Wing Prison, is kept there for 48 hours pending his transfer to another prison. However, among other things the prison doctor takes into consideration the fitness of the detainee. If the doctor finds that the detainee is undergoing the methadone treatment or is otherwise inapt, his transfer will be delayed for an additional 24 hours while the prison doctor and Officer in Charge make a decision on a case by case basis.

The medical unit

The medical officer is available every day of the week from 7.30 a.m. to 15.30 hrs. If there is any emergency, the doctor from Central Prison is called as the latter is always on call. Under prison rules medicines are given to detainees only when prescribed by the prison doctor.

International Organization for Standardization (ISO) Certified

In 2019, the prison was awarded the ISO Certificate for its induction programme. It is the third time that the ISO Certificate has been awarded to the New Wing Prison. The Prison Officers of New Wing Prison are involved in an E-Prison Project.
Block B

Block B has 69 cells. Individual cells can accommodate two detainees. The infrastructure of the block is completely different from other prisons, namely the flooring and the staircase. Block B and all its cells are very clean. Each cell has a toilet and a small basin with a water tap.

Bakery

In the prison bakery work starts at 5 a.m. There are about 7 to 8 detainees and 4 prison officers who work in the bakery. They prepare 8500-9000 loaves of bread per day for all detainees and for prison officers who work on night shifts. Each one wears a kitchen head cap and appropriate clothing.

Laundry

The laundry has 3 washing machines, 1 normal dryer, 1 industrial dryer and 1 sewing machine. Three to five detainees work in the laundry per day based on a rotation system in order to provide work opportunities to a maximum number of detainees. All the uniforms and bed mats from the other prisons are brought to the laundry for washing and ironing.

Kitchen

The kitchen is in good condition. It is clean; the utensils are well washed and properly stored.

Transport for detainees

A parking lot separates the laundry, bakery and kitchen. The NPMD inspected the back of a vehicle (Black Maria) which is used to transport detainees to other prisons. The general condition of the vehicle was good but the left seat upholstery was damaged as the seat cover and padding was torn showing rough wood underneath. The NPMD recommended that remedial action be taken.

3.5 Eastern High Security Prison (Melrose)

Eastern High Security Prison (EHSP) is a recently constructed prison and has ‘state of the art’ amenities that include a modern kitchen, a medical unit, a bakery, designated work areas and places of worship.

Melrose Prison has a special unit, namely the Geriatric Unit whereby elderly and/or disabled detainees are kept. The Geriatric Unit has the facilities that cater for the welfare of
this particular group of detainees such as: wheelchair access, an exercise room, a library, an association yard and a barbershop. On a subsequent occasion the NPMD revisited the Geriatric Unit accompanied by the Togolese National Human Rights Commission delegation. The NPMD noted that the facilities were clean and relatively well equipped to cater for the special needs of elderly detainees. The in-house medical facility is next to the Geriatric Unit so that detainees of this category could be attended to more expeditiously, should circumstances so require. During an unannounced visit at the prison bakery (ad-hoc visit) the NPMD found that the place was clean and the hygienic standard was reasonably good.

3.6 Phoenix High Security Prison (La Bastille)

On 11 November 2019, the National Human Rights Commission received a correspondence from the Commissioner of Prisons (Circular No.24 of 2019 - Wearing of eye mask at Phoenix Prison). According to the Circular the Commissioner of Prisons has decided that, henceforth, for security reasons, “all detainees at Phoenix Prison shall wear an eye mask: (a) from the Residential Block till inside any vehicle when leaving for court, public hospital or any other institution or place; (b) from any vehicle (outside) at the prison gate till inside the Residential Block.”

After taking cognizance of the Circular, the National Preventive Mechanism Division (NPMD) effected an unannounced visit at Phoenix High Security Prison in order to ensure that such a measure does not undermine the human rights of the detainees concerned. As part of its investigation the NPMD viewed the CCTV recordings of Phoenix Prison in order to better understand this new practice. It was observed that Detainee G.D. was eye masked and handcuffed, while leaving for Court. He was escorted by three prison officers from the Residential Block to the Police Special Supporting Unit (S.S.U) vehicle. Inside the search room, the eye mask was removed and after a full body search, a prison officer blindfolded him anew until he got into the SSU vehicle. In the presence of the SSU officer in the vehicle, his eye mask was removed by a prison officer.

The NPMD was informed that as a precautionary measure, detainees are handcuffed with their hands behind their back when they are escorted outside of the prison in order to minimise the possibility of the Prison Officers being assaulted by detainees. However, when a detainee shows signs of mental disturbance and/or is of unpredictable behaviour or is violent, or is a high-profile detainee, the prison authorities may decide to foot cuff the latter.
In early January 2019, detainee P.R.’s father made a complaint on his behalf to the effect that:

- P.R has been assaulted by prison officers
- there was no mattress in P. R’s cell and;
- P.R had not received food for four consecutive days.

The NPMD interviewed the detainee in private, examined the detainee’s cell and interviewed the relevant prison officers.

After the investigation, the NPMD concluded that:

(i) There was insufficient evidence to substantiate the allegation of assault made by P.R. P.R failed to give a clear and coherent version with respect to the alleged assault. Moreover, no visible marks of injuries were observed on P. R’s body.

(ii) In his complaint, P. R’s father had alleged that P. R had not received food for four consecutive days. However, during the interview, P. R stated that he was on ‘hunger strike’ from 25 October to 28 October 2018. The CCTV footage confirmed that food was indeed provided to the detainee but the latter refused to have his meal.

(iii) The NPMD however, observed that there was no bed sheet on P. R’s mattress in the cell. The NPMD recommended that the Prison Administration remedy this situation immediately. The prison authorities took immediate remedial action. During a follow-up visit, the NPMD met the detainee P.R. who expressed his satisfaction with the action taken by NPMD on his behalf. A positive change has been noted in P. R’s behavior since the NPMD’s intervention.

3.6 Petit Verger Prison

Petit Verger which is a pre-release institution is a medium security prison. It has four association yards with well-maintained basic facilities and amenities that include a recently built kitchen, administrative block and a medical unit.

At Petit Verger Prison the rehabilitation process of the detainees is closely monitored. They are provided with opportunities to work in areas such as; gardening, poultry farming, pastry making and cultivation of endemic flowers and fruits; a project involving the Non-Governmental Organisation ‘FOREIGNA’.
Detainees have the opportunity to follow courses offered by the Mauritius Institute of Training and Development (MITD) and on successful completion, certificates are awarded to them. Various courses are on offer such as: woodwork, metalwork or pastry making, among others.

**New Project:** A new bakery is under construction at Petit Verger Prison. The idea behind this project is to make the prison self-sufficient in bread.

**Medical Unit:** A nurse is available on Mondays, Wednesdays and Fridays. In cases of emergency, the resident doctor from the Central Prison attends immediately. The doctor remains on call 24/7.

**Kitchen Unit:** Detainees work in the kitchen under the supervision of a prison officer. A satisfactory standard of hygiene and cleanliness is maintained at all times.

**The Special Protection Unit (SPU):** Detainees who are guilty of committing prison defaults are kept in this unit before being released into the regular association yards. This area has a European style toilet and a shower unit. They are in clean condition. Each cell in SPU has a bed, a mattress and a small basin.

**Course in pastry making:** A course in pastry making is provided to detainees by a registered trainer from the Mauritius Institute for Training and Development (M.I.T.D). In 2019, one detainee from Petit Verger ranked first at the national level in the pastry making examination. The detainees follow the pastry making course from 08.00 to 10.30 hrs. and from 12.15 hrs. to 15.00 hrs. It is primarily the first-time offenders who are encouraged to follow this course.

### 3.7 Richelieu Open Prison

Richelieu Open Prison is a low security prison. Rehabilitation programmes for detainees include the “Biogas” and “Watercress” projects. Additionally, there is an in-house poultry farm and a garden where detainees can work. Detainees are relatively free to walk around the premises and contact visits are granted to their relatives. Richelieu Open Prison, just like most other prisons, has places of worship that are maintained by the detainees themselves. During a follow up visit, the NPMD noted that renovation works of the dormitories have been completed and works were underway in order to ring fence the prison area given the proximity of the Metro Express track.
3.8  Grand River North West Remand Prison

During the course of a thematic visit, the NPMD conducted a survey on the ratio of the number of detainees in the association yard to the number of bathrooms and toilets. The NPMD noted that its previous recommendations to increase the number of sanitary facilities have been implemented so that now each yard has 8 toilets and 10 bathrooms respectively. Additionally, there are 2 toilets in the medical unit that can be used by sick detainees awaiting medical check-up. The NPMD also had to intervene with regard to a defective tube light in the corridor of Block A. Remedial action was taken immediately.

The NPMD noted that the sanitary facilities in the different blocks are maintained by five detainees at a time on a rotation basis so as to ensure that all remand detainees have the opportunity to work if they choose to do so.

Kitchen

The NPMD noted that detainees designated for the purpose prepare the food and clean the kitchen. The kitchen was clean and overall hygienic conditions were satisfactory. The NPMD also noted that detainees were served a healthy and balanced diet which is periodically reviewed by the Ministry of Health. The quality of food served to each detainee was reasonable and the quantity sufficient.

3.9  Open Prison for Women in Barkly

In 2018, the average percentage of recidivism for male and female detainees as a whole was 70%. However, in the Open Prison for Women the percentage of recidivism since its opening in December 2015 has been a mere 2%.

The NPMD was impressed by the innovative approach adopted by the Prison Authorities whereby the emphasis is on the empowerment of the female detainees so much so that they leave prison with a high sense of self-esteem. Some elements of this “Best Practice” approach are the followings:

(i)  Detainees receive an ‘in-house training’ on how to create and manage a business enterprise. In 2018, a majority of female detainees after their release have successfully created their own small businesses such as; garment making, hair dressing and beauty care, catering and in the field of music and entertainment.
After their release, detainees are encouraged to keep in touch with the prison authorities, should they need help or advice.

The NPMD received no complaint from detainees at Open Prison for Women in 2019. There were some minor queries that were attended to promptly.

3.10 Barkly Special Prison for Women

In 2019, the NPMD has not received any complaint from Barkly Special Prison for Women.

4. DEATH IN PRISONS

In 2019, ten detainees in prison died of natural death and one detainee committed suicide by hanging.

Death of detainee L.D.T at Phoenix High Security Prison (La Bastille)

On 01 April 2019, the NPMD visited Phoenix High Security prison (La Bastille) following the death in custody of one detainee L.D.T. The latter had been convicted for the offence of possession of dangerous drugs for the purpose of delivery, larceny and breach of conditions of bail. He was admitted to prison on 27 October 2016 and was due for release on 18 May 2026.

In the course of its investigation, the NPMD visited the locus, that is the cell of the detainee L.D.T, examined the following documents; forensic science laboratory reports, the medico-legal reports, reports from the Scene Of Crime Officer (SOCO) and L.D.Ts medical report from Brown Sequard Mental Health Care Centre, viewed images of the CCTV camera from Friday 29 March 2019 to Sunday 31 March 2019 and recorded statements from several prison officers who were on duty at the material time and the co-detainees of the deceased.

According to the NPMD’s findings, there was no indication of foul play and it concluded that detainee L.D.T did in fact commit suicide by hanging, while conceding that some factors may have undoubtedly contributed in making the said detainee feel so utterly distressed and dejected that he took away his own life. A list of recommendations, in line with international standards, as advocated by the United Nations was sent to the Commissioner of Prisons, for implementation. They are as follows -
(i) **Elimination of ligature points**

The investigation showed that the said detainee committed suicide by hanging himself and he did so by tying torn pieces of his bed sheet to the metal grill covering the only window of his cell. Therefore, it was recommended that such metal grills must be replaced by another device which can secure the place while at the same time provide adequate ventilation and lighting.

(ii) **Screening to detect suicidal tendencies**

Procedures must be put in place for the proper and systematic screening of detainees, not only upon their admission, but also each time a detainee is transferred to another prison. This may help in identifying any behavioural change, indicative of suicidal tendencies and thus help to nip the problem in the bud.

(iii) **Social support among inmates**

Social support can be provided through the use of specially trained inmate “buddies” or “listeners” who can have a positive impact on the well-being of detainees because they often trust their co-detainees more than the prison officers. In the case of the detainee L.D.T, he was transferred to Phoenix High Security prison and was placed in a block with high profile detainees who may have had a negative or destructive influence on him. Therefore, the placement of detainees is a crucial factor in determining the quality of social support that they may get. Had detainee L.D.T. been placed in a different block, it is probable that he may not have suffered the fate that he did.

It ought to be noted that a detainee admitted to prison for the first time undergoes a lot of stress and anxiety and if not handled properly, he may develop suicidal tendencies. The first-time offender is often faced with a drastic change in his daily routine and has to adapt to his new environment. Since the creation of the induction unit in New Wing Prison in 2003, the detainees can better cope with the ‘short shock’ of incarceration.

The combined efforts of the Welfare Officers, Medical Officers and the uniformed Prison Officers is aimed at ensuring that a holistic approach is adopted as regards the handling of the detainees during the induction process. Moreover, personal information such as, marital status (request for social aid), next of kin and date(s) of visits are recorded.
Additionally, a pre-test and/or post medical test are also performed on detainees to check their health. Welfare Officers often take primary preventive measures by talking to the detainees’ families and explaining that it would be unwise to inform the detainees of major family events that may lead to suicidal tendencies. Since the creation of the induction unit at New Wing Prison, the rate of suicides in prisons has decreased drastically. It is recommended that the capacity of the induction unit at New Wing be increased so that it can handle an average of 40-50 new admissions per day. The current ratio of one welfare officer to 40-50 daily admissions of detainees ought to be reviewed so that the burden on the welfare officers is reduced.

5. MEETING WITH COMMISSIONER OF PRISONS AND WELFARE OFFICERS

On the 21st June 2019, the NPMD had a meeting with the Commissioner of Prisons, Mr. Appadoo together with five other members of the prison administration to introduce the new NPMD team and discuss certain pertinent issues. The NPMD expressed the view that the role of psychologists is essential in the rehabilitation of detainees and there were not enough of them in the prison. The Commissioner of Prisons stated that for the time being only one psychologist was available. However, the Chief Hospital Officer who has some knowledge of psychiatry did help whenever the need arose.

Another issue that was raised by the NPMD was the treatment of remand detainees as compared to convicted ones. The Commissioner of Prisons explained that the two categories of detainees are kept separately both at GRNW remand prison and Beau-Bassin Central prison where blocks 3 and 4 are reserved exclusively for remand detainees. The NPMD also raised the issue concerning the new measures proscribing cash allowances from relatives of detainees; given that convicted detainees were allowed to work and generally remand detainees could not. The Commissioner of Prisons explained that work was now provided to all detainees including those on remand even though the latter had to work on a rotational basis of fifteen days so that every remand detainee had an opportunity to work. In GRNW remand prison, there are a few convicted detainees to do the cooking with the help of remand detainees.

Another item that was discussed was the new green T-shirt which remand detainees had to wear. The NPMD referred to Rule 115 of the Nelson Mandela Rules which stipulates the following: “An untried prisoner shall be allowed to wear his or her own clothing if it is clean.
and suitable. If he or she wears prison dress, it shall be different from that supplied to convicted prisoners”. The Commissioner of Prisons explained that such a measure had helped to curb drug trafficking inside prison, since the green T-shirt worn by remand detainees enabled them to be distinguished from non-detainees.

Another subject of concern for the NPMD was the high percentage of remand detainees in prison, averaging about 55% in June 2019. The Commissioner of Prisons expressed his deep concern because at this rate, it will not take long for our prisons to be overpopulated. He stated that he had even sent a report to the Attorney General recommending that Courts must consider giving more non-custodial sentences.

The absence of aftercare service for ex-detainees and the possibility for the use of electronic bracelets were also discussed. Regularity of visits by relatives of detainees was also raised during this meeting.

6. REHABILITATION

The United Nations Standard Minimum Rules for Treatment of Prisoners (The Nelson Mandela Rules) lay stress upon the importance of the rehabilitation of detainees. In Mauritius, this is done by providing education, vocational training and work inside prisons as well as psychological, moral or religious assistance. Subject to their state of health and/or physical fitness, the NPMD insists with the prison authorities that detainees must have the opportunity to work during their detention not only for the income that they may derive but also because it gives them an occupation which may facilitate their rehabilitation.

The NPMD regularly visits the different prisons in order to make a firsthand assessment as to whether the rehabilitation process is carried out properly and effectively. As far as possible the NPMD tries to ensure that:

(i) Work is fairly distributed among detainees;
(ii) Detainees are encouraged to participate in national vocational programs;
(iii) Remand detainees at New Wing Prison Beau Bassin enjoy a differentiated treatment as compared to convicted detainees;
(iv) Detainees who have been segregated at Melrose Prison are also provided with work opportunities.
The NPMD also noted with great concern that between the years 2015 to 2018 the prison population aged 18-25 years has been on the rise whereas those over 30 years old is decreasing. The following chart gives an indication of the above.

![Percentage of convicts admission by age group, Republic of Mauritius](image)

**Fig. 1 Admission in prison by age bracket from 2015 to 2018**  
(Source Statistics Mauritius)

The above situation has both short term and long-term consequences. Most detainees face enormous difficulties upon release, such as stigmatisation and ostracism from mainstream society. In jobs which require them to produce their character certificates, most employers are reluctant to employ ex-detainees. For lack of an effective policy that provides help and support to enable ex-detainees to re-integrate mainstream society they end up in the infamous and vicious circle of crime that leads them back to prison.

The Equal Opportunities Act was amended in 2017 in order to facilitate the employment of persons with criminal records by providing in Section 3 of the Act that where a person has a criminal record which is irrelevant to the nature of the employment for which that person is being considered, the burden of establishing the relevance of the criminal record to the nature of employment shall rest with the employer or prospective employer. However, in spite of the law expressly providing that the burden is on the recruiter to prove that the offence is directly related to the job offered, ex-detainees still face huge difficulties in finding a job even when they have the necessary competence and training for the job.
In Mauritian prisons, vocational courses are dispensed in the following fields at Petit Verger, Open Prison for Women, New Wing and Eastern High Security Prison:

- Carpentry and Joinery
- Welding and Metal Fabrication
- Bakery and Pastry
- Tailoring and Garment Making

**UN recommendations**

The Nelson Mandela Rules stresses on the importance of rehabilitation in the criminal justice system as a means to reduce recidivism and protect society.

Rule 4 -

1. The purposes of a sentence of imprisonment or similar measures deprivative of a person’s liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.

2. To this end, prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners.

In Mauritius there is little or no research on the impact of rehabilitation. Government and/or Non-governmental agencies may help in facilitating trained detainees to integrate the workplace, thus providing them with the opportunity of becoming productive members of society. As a matter of fact, the remarkable results obtained by the Women Open Prison (only 2 detainees relapsing out of nearly a hundred) could be a source of inspiration for those who are serving custodial sentences. There is reason to hope that through
an effective rehabilitation programme after their release, detainees can successfully reintegrate mainstream society and become productive members.

7. THE TREATMENT OF REMAND AND CONVICTED DETAINES IN MAURITIUS WITH DUE REGARD TO THE “MANDELA RULES”

“It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.”

Nelson Mandela

The United Nations Standard Minimum Rules for the treatment of prisoners were adopted by the United Nations General Assembly on 17 December 2015. Although Mauritius has not yet incorporated the said rules into its domestic law by amending the Reform Institutions Act and the Prison Regulations, the National Preventive Mechanism Division uses the Mandela Rules as a benchmark when assessing conditions of detention in all places of detention throughout Mauritius.

The NPMD insists that the prison authorities should make a distinction between prisoners who are on remand i.e. those who are provisionally charged and have not been released on bail or who have been charged but are still awaiting trial and those detainees who are serving jail sentence(s) after having been convicted by a competent Court. The remand detainee is presumed to be innocent until proven guilty by a Court of law. A person may be remanded to jail for the following reasons (among others):

- He/ She has not applied for bail;
- Has been refused bail;
- Cannot fulfil bail conditions or provide a surety; or
- Has breached the conditions of bail and his bail has been entreated.

Therefore, remanding an offender into custody simply ensures that the alleged offender does not abscond. It does not in any way, at this stage, displace the presumption of innocence as laid down by law. According to statistics a substantial number of detainees in prisons in Mauritius are remand detainees. This situation is alarming and should raise concern. According to information communicated by the Commissioner of Prison’s Office:
(i) Total number of persons convicted and remanded in the year 2019 (male and female)

<table>
<thead>
<tr>
<th></th>
<th>Convicted</th>
<th>Remanded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>3,700</td>
<td>4,448</td>
</tr>
<tr>
<td>Female</td>
<td>128</td>
<td>272</td>
</tr>
<tr>
<td>Total</td>
<td>3,828</td>
<td>4,720</td>
</tr>
</tbody>
</table>

(ii) Number of persons detained in prison on 31.12.2019 (male and female)

<table>
<thead>
<tr>
<th>On 31.12.2019</th>
<th>Convicted</th>
<th>Remanded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>1,338</td>
<td>1,250</td>
</tr>
<tr>
<td>Female</td>
<td>45</td>
<td>107</td>
</tr>
<tr>
<td>Total</td>
<td>1,383</td>
<td>1,357</td>
</tr>
</tbody>
</table>

(iii) Total number of young persons convicted and remanded to CYC in the year 2019

<table>
<thead>
<tr>
<th>On 31.12.2019</th>
<th>Convicted</th>
<th>Remanded</th>
</tr>
</thead>
<tbody>
<tr>
<td>CYC Boys</td>
<td>15</td>
<td>144</td>
</tr>
</tbody>
</table>

The NPMD insists that remand detainees cannot be treated in the same manner as convicted ones because they still benefit from the presumption of innocence guaranteed under the constitution. Untried prisoners should be subjected to less stringent conditions of detention than convicted ones.

On that aspect, Rule 111 of the Mandela Rules provides that, “...2. Unconvicted prisoners are presumed to be innocent and shall be treated as such. 3. Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners shall benefit from a special regime...”

Detainees on remand should be allowed to wear their own clothes as appropriate with their security rating and they should not be compelled to work in order to earn money. Long periods of remand may be avoided if investigative agencies could complete their enquiry within a stipulated time so that cases are determined swiftly by competent Courts. When the NPMD receives a complaint from a remand detainee that there is undue delay in the police enquiry process, the NPMD sends a letter to the Commissioner of Police to enquire about the “status of case” and then communicates the information received to the detainee.
Mauritius being a State party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Committee against torture made some concluding observations on the fourth periodic report on Mauritius dated 22 December 2017 (CAT/C/MUS/CO/4), where amongst other issues, the Committee expressed its concern about the increasing rate of pre-trial detention and observed that some detainees have been unpre-trial detention for as long as three years.

The United Nations Committee also expressed its concern regarding the slowness of the judicial procedures in Mauritius. The United Nations Committee recommended, inter alia, that Mauritius should make determined efforts to promote the use of alternative and non-custodial measures, in order to reduce the number and length of pre-trial detention. Pre-trial 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) and furthermore, Mauritius should make the necessary reforms to its criminal justice system so as to reduce the delays in criminal proceedings.

On that issue, Rule 116 of the Mandela Rules provide that, “An untried prisoner shall always be offered the opportunity to work, but shall not be required to work. If he or she chooses to work, he or she shall be paid for it.”

Some very basic needs and hygiene products can only be bought from the prison canteen -for instance, toothpaste, common/toilet soap, hygienic pads for women, roll on deodorant, comb, articles for babies and underwear. Some detainees do not have the support of their families and may have lost all contacts with them. The NPMD recommends that work opportunities must be provided to all detainees without distinction as to whether they are remand detainees or convicted prisoners.

Detainees who have not been able to obtain work at the prison and who have no support from their relatives cannot purchase slippers/sandals, training shoes and socks. They cannot even afford to have writing materials and phone cards and thereby are unable to communicate with their lawyers if they so wish.

In fact Rule 117 of the Mandela Rules provide that “An untried prisoner shall be allowed to procure at his or her own expense or at the expense of a third party such books, newspapers, writing material and other means of occupation as are compatible with the
interests of the administration of justice and the security and good order of the institution.”;

and

Rule 120 (2) provides that “An untried prisoner shall, upon request, be provided with writing material for the preparation of documents related to his or her defence, including confidential instructions for his or her legal adviser or legal aid provider.”

8. POLICE DETENTION CENTRES

The National Preventive Mechanism Division (NPMD) of the National Human Rights Commission conducted inspections of detention centers on various occasions.

8.1 Metropolitan Detention Centre

In 2019 the NPMD visited the Metropolitan Detention center on three different occasions. Several recommendations made in the year 2018 were successfully implemented, namely the masking exercise for the cameras in the ablution room and the major renovations that had been carried out within the building. Fans had been fixed on the ground floor and first floor, and debugging exercise (s) were being carried out regularly by the Pest Control Unit of the Ministry of Health. Although the NPMD found that this detention centre was now compliant with the minimum Human Rights Standards, it further recommended that the blankets and mattresses in the cells be changed periodically to avoid the proliferation of bugs.

8.2 Vacoas Detention Centre

Whilst inspecting the male section of Vacoas detention center on 07 June 2019, the NPMD observed that the conditions of the male cells had improved. For example, the walls had been freshly painted; the mattresses were changed periodically (last been changed in May 2019). Moreover, the shower taps had been brought down to a lower height so as to minimize the risk of them being used as ligature points.

The female section of Vacoas Detention Centre has two ‘VIP’ cells, consisting of European style toilets, concrete wash basins, dustbins for hygienic pads. The washroom was also well equipped and had lightings affixed to the wall.

The NPMD noted that the masking exercise in the ablution rooms of the female section is now fully operational and is effective. Furthermore, the NPMD recommended that fire
detectors and alarm systems be installed and that generators and fire hoses be provided on spot for the security and safety not only of detainees but also of the staff members.

8.3 Moka Detention Centre

On 18 September 2019, the NPMD visited the Moka Detention Centre and noted that some of our previous recommendations had been implemented. For example, the exercise bay now has sufficient lighting and ventilation, the washrooms have been freshly painted and the masking exercise was working effectively. However, the fans in the male and female sections are not in working order and should be repaired or replaced. It is important to point out that the building structure of Moka Detention Centre is such that natural ventilation and lighting is poor, so much so that in summer the atmosphere inside the cells may become hot, stuffy and unbearable, hence the urgent need to repair or replace the fans.

8.4 Le Chaland Retention Centre

In December 2019, the NPMD visited Le Chaland Retention Centre. This centre is used for the detention of illegal migrants before their deportation. Presently, the retention centre is located on the first floor of a two-storeyed building. The NPMD had earlier recommended that the ground floor which is under the control of the National Coast Guard be used for retention. This will enable the illegal migrant to be detained in more human rights compliant conditions.

The NPMD noted that several of its previous recommendations had been implemented. For example: the retention centre has undergone some major renovations. For instance, the wooden doors have been replaced by aluminium ones, all the sanitary equipment(s) have been renewed, the floor tiles have been replaced, the painting inside and outside the building has been redone, the wooden windows have now been replaced by aluminium ones, and provision has been made for the disposal of the outdoor waste.

The NPMD further recommended that a signboard that reads “Le Chaland Retention Centre” be placed outside the building given that it is situated in a remote area. It also recommended that the ceiling fan be removed as it represented a potential ligature point.
9. **EXAMINATION OF THE TREATMENT OF DETAINEES IN POLICE CELLS**

The NPMD regularly examines the treatment of people deprived of their liberty in police cells. Generally, these persons are suspects arrested by the police and remanded to police custody by the Court. The NPMD then makes recommendations to the Commissioner of Police with the aim of improving the treatment and conditions of the detainees.

In the exercise of its mandate the NPMD has visited all police cells, which are operational. Some cells that were previously closed down for renovation have also been visited to ascertain whether they were human rights compliant. After the visits, the NPMD communicates its preliminary observations and the recommendations to the Commissioner of Police.

In December 2019, the NPMD organised a brainstorming session with the relevant stakeholders that included a representative of every police divisional commander, a representative of the Commissioner of Police (PHQ) and a representative of the police technical team (SSU). During this interactive session, recommendations made by the NPMD in relation to police cells were re-examined. The following recommendations were discussed.

<table>
<thead>
<tr>
<th>CELLS VISITED (Police Station)</th>
<th>Recommendation made by the NPMD in 2019</th>
<th>Implementation status (Remarks gathered during a brainstorming session held in early December 2019 involving relevant stakeholders)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>METRO SOUTH</strong></td>
<td></td>
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<tr>
<td>Pope Hennessy</td>
<td>• Water pipes in the shower unit to be repaired</td>
<td>• Implemented</td>
</tr>
<tr>
<td>Pointe aux Sables</td>
<td>• Both cells were not operational and the NPMD requested an explanation for this temporary closure.</td>
<td>• The cellblock has been temporary closed for repairs.</td>
</tr>
</tbody>
</table>
| La Tour Koenig                | • Rewiring of the electrical system is necessary.  
• The cellblock needs to be repainted.  
• The CCTV cameras in the cells need to be displaced from the ceiling to prevent the likelihood that detainees tamper with same. | • Requests have been made.                                                                                                        |
<table>
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<tr>
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</table>
| Pailles                       | • To displace the charge room away from the cells in order to ensure confidentiality when statements are recorded.  
                   • To ensure uninterrupted water supply | • This recommendation involved a major structural change. Provision for a separate enquiry room has been made to ensure confidentiality.  
                   • Implemented |
|                              |                                           | **METRO NORTH**                                                                                                                   |
| Roche Bois                   | • Rewiring of the electrical system is necessary.  
                   • The flush system of the toilet has to be repaired, as during the visit, same was not working.  
                   • The cell block needs a fresh coat of paint of light colour to improve lighting in the detention area. | • To be reviewed by technical unit  
                   • To be reviewed by technical unit  
                   • Implemented |
| Plaine Verte                 | • Cleanliness and ventilation need to improve  
                   • Overcrowding (detainees accommodated in corridor)  
                   • To make sure that the access to cellblock is free from obstruction | • Cleanliness recommendation implemented. Ventilation to be reviewed by Technical Unit  
                   • Update in relation to the construction of a Detention Centre in the Northern Division required.  
                   • Implemented |
| Vallee Pitot                 | • The NPMD requests an update on the proposed construction of a new police station in the Vallee Pitot area. | • Pending |
| Trou aux Biches              | • The provision of effective sanitary facilities to address the issue of plumbing.  
                   • The flooring in the washroom needs a fresh coat of paint.  
                   • A CCTV masking exercise needs to be conducted to protect the privacy of female detainees in the toilets.  
                   • To provide a separate monitoring room for the CCTV cameras, which will allow only female officers to access the recordings of female detainees. | • Request made to Technical Unit  
                   • Implemented  
                   • Implemented  
                   • Request sent to BRINKS |
<table>
<thead>
<tr>
<th>CELLS VISITED (Police Station)</th>
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<th>Implementation status (Remarks gathered during a brainstorming session held in early December 2019 involving relevant stakeholders)</th>
</tr>
</thead>
</table>
| Pointe aux Cannonniers        | • To replace the light bulbs in the cell corridor.  
• To improve the ventilation system for female detention cells.  
• Clean and new mattresses have to be replaced, as there is a common issue of overcrowding in the police cells. | • Implemented  
• Requests made to Technical Unit  
• NPMD would consider recommending the creation of a logbook to monitor the periodic change of mattresses (every three months). |
| Piton                         | • The cells and washroom need a fresh coat of paint.  
• The extractor fan should be replaced/repaired to make it less noisy and improve ventilation  
• To ensure that there is no water leakage in the cellblock.  
• Mattresses should be replaced as there is a high risk of bugs in the detention cells. | • Implemented  
• Request has been made  
• Not implemented yet  
• NPMD would consider recommending the creation of a logbook to monitor the periodic change of mattresses (every three months) |
| Rivière du Rempart            | • To address the issue of bugs in the police cells.  
• The cells need a fresh coat of paint.  
• Overcrowding has to be addressed, on rare occasions detainees are being kept overnight in cell corridor. | • Debugging is being done monthly by a contracted company  
• Request has been made  
• An update in relation to the construction of a new Detention Centre in the Northern Division is still pending |
<p>| Pamplemousses                 | • The detention cells are in good condition as required by international norms. The NPMD recommended the opening of the police cells. | • Implemented |</p>
<table>
<thead>
<tr>
<th>CELLS VISITED (Police Station)</th>
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</table>
| **Terre Rouge Police Station** | • The NPMD visited the station to ascertain whether the detention cells complied with the minimum standard of human rights norms and whether the NPMD could recommend their reopening. The NPMD has made some preliminary short term recommendations:-  
  (i) the removal of a horizontal metal frame from the cell door as it was a potential ligature point;  
  (ii) the removal of beehives located outside the metal grill of the cell’s impost and  
  (iii) the replacement of non-functioning bulbs  

• The NPMD has recommended the installation of two outdoor CCTV cameras one behind the cellblock and one in the backyard to reduce the likelihood of ‘pelting’ and security concerns. | • All preliminary recommendations have been implemented immediately. |
| **WESTERN** | | • Request has been made. |
| **Rose Hill** | • The NPMD recommended that the cellblock of Rose Hill Police Station be repaired urgently. Failure to remedy the situation urgently may result in an imminent recommendation to close down the cells with immediate effect, notwithstanding the major role played by Rose Hill Police Station in the Western Division. | • Waterproofing of the cell block has been carried out but there are still a few leakage.  

• Repainting of the cells has been carried out.  

• NPMD would conduct a visit by the end of February 2020. |
<table>
<thead>
<tr>
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<th>Implementation status (Remarks gathered during a brainstorming session held in early December 2019 involving relevant stakeholders)</th>
</tr>
</thead>
</table>
| Stanley                        | • The NPMD noted that last year’s recommendation to repair Block B and make it operational as soon as possible has been implemented. However, it has been recommended that the electrical system which is encased in the wall be reviewed to avoid safety issues.  
  • The NPMD recommended that the lighting system in the toilet and washroom of Block B be fixed as soon as possible. Failure to do so would be a serious health and safety issue.  
  • The NPMD maintained last year’s recommendation that the electrical system in Block A ought to be reviewed. | • The electrical system has been reviewed and is no more a safety issue  
  • The lighting system in the toilet and wash room in Block B has not been attended to up to now.  
  • The electrical system in block A has been reviewed. |
| Camp le Vieux                  | • The NPMD maintained its previous recommendations (2017 and 2018) i.e. the conditions of the toilets, bathrooms and washbasin ought to be improved urgently.  
  • The NPMD recommended that the wastewater issue in relation to sanitary facilities be addressed urgently.  
  • The NPMD recommended that the cellblock be repainted.  
  • The NPMD recommended that the air extractor ought to be repaired/removed | • Major renovation work has been undertaken in the station and all issues have been addressed.  
  • Implemented  
  • Implemented  
  • The air extractor has been removed and alternative measures have been taken to improve ventilation. |
<table>
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<tbody>
<tr>
<td>Coromandel</td>
<td>● The NPMD recommended that -</td>
<td>● Another toilet is being used as an alternative&lt;br&gt;● Work in progress.● Implemented</td>
</tr>
<tr>
<td></td>
<td>● The toilet be repaired urgently since the ‘flush system’ is not in working order.</td>
<td></td>
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<tr>
<td></td>
<td>● The air extractor be repaired/replaced since it is too noisy.</td>
<td></td>
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<tr>
<td></td>
<td>● The corridor of the cellblock be provided with proper lighting.</td>
<td></td>
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<tr>
<td>Barkly</td>
<td>● The team of police officers of Barkly Police Station should be commended for keeping the cells and toilets very clean, it is recommended however that a fan be placed in the corridor of the cellblock to improve ventilation.</td>
<td>● Fans to be placed outside in the corridor due to security concerns.● Matter to be referred to Technical Unit</td>
</tr>
<tr>
<td></td>
<td>● It is recommended that the horizontal bar extending across the cell door be removed as it is a potential ligature point.</td>
<td></td>
</tr>
<tr>
<td>Flacq</td>
<td>● The cleaning of the cell block at more regular intervals.</td>
<td>● Issues are being addressed</td>
</tr>
<tr>
<td>Bel Air</td>
<td>● The first floor should have a separate flight of stairs, which can be used as a fire exit.</td>
<td>● Recommendation still being reviewed since it is a major project.</td>
</tr>
<tr>
<td>Trou d’eau Douce</td>
<td>● The NPMD recommended that the cells may be used for short periods of detention (for a period of no more than 24/48 hrs.).</td>
<td>● Implemented. Order has been given.</td>
</tr>
<tr>
<td>Belle Mare</td>
<td>● The Cell No.1, which is relatively smaller as compared to other cells, could be used exclusively as a search room.</td>
<td>● Under consideration</td>
</tr>
<tr>
<td>St. Pierre Police Station</td>
<td>● The NPMD recommended that CCTV camera be installed in the cells.● To ensure that there is no water leakage in the toilets of the cells.</td>
<td>● Implemented● Implemented</td>
</tr>
<tr>
<td>CELLS VISITED (Police Station)</td>
<td>Recommendation made by the NPMD in 2019</td>
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<td>--------------------------------</td>
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<tr>
<td>SOUTHERN</td>
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</tbody>
</table>
| Rivière des Anguilles | • Additional tube lights should be installed to improve lighting.  
                         • The flooring of the cells and cell corridor has to be redone | • Initial actions have been initiated to remedy both issues. |
| Chemin Grenier | • A fresh coat of paint is required to allow the detention area to appear more convenient and less stuffy.  
                          • The setting of the CCTV camera should be changed to allow a clearer view by the police officers. Presently, same is blocked by personal belongings of the police officers and a filing cabinet. | Request sent  
 • Personal belongings and filing cabinet have been removed |
| Bel Ombre | • To make provision for LED lights in the bulbs which are already fixed in front of the cells | Needful done |
| Grand Bois Police Station | • To make provision for two tube lights in the cell corridor. | Needful has been done – two tube lights have been placed |
| L’Escalier | • In 2017, the NPMD had recommended the closure of the cells for non-compliance with minimum human rights standard.  
                          • In 2018, the NPMD was informed that five places have been spotted for the construction of a new police station.  
                          • In 2019, no updated information was provided to the NPMD. The present police station is in a state of disrepair. | No detainees are being kept at L’Escalier Police Cell as per recommendations from the NPMD.  
 • Five buildings were spotted in L’Escalier to be used as Police Station among which none was approved for rental by the Police Headquarters.  
 • A plot of land has been earmarked at Royal Road L’Escalier for construction of a new Police Station. |
<table>
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<tr>
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</tr>
</thead>
</table>
| **Camp Diable**               | • The newly constructed police station has a structural problem, i.e. the toilet is next to the cell and the washroom is on the first floor.  
• There should be a proper monitoring room.  
• There should be a proper monitoring system, the more so that the CCTV cannot be viewed by the police officers as the T.V has been switched off. However, the images and videos are being recorded.  
• Correspondences have been sent to Police Headquarters for needful to be done.  
• Request has been made.  
• The NPMD would consider recommending that the cell are not used for prolonged occupation until a structural change is implemented.  
• Removed by SSU Technical Unit for purchase of new sheets; Iron bars reinforced.  
• Request sent for SSU/contract out  
• Implemented  
• Repaired by Radio Workshop  
• All mattress have been changed | |
| **Rose Belle**                | • It is recommended that the fibre glass covering the impost in cell 4 be repaired urgently  
• It is recommended that the cellblock be repainted using moisture/mould proof paint  
• It is recommended that the flush system in the toilet be repaired  
• It is recommended that the tube light in the toilet be repaired.  
• It is recommended that the mattresses in the cellblock be changed periodically (every 3 months) and the corresponding records be kept in a logbook.  
• Request sent for SSU/contract out  
• Implemented  
• Repaired by Radio Workshop  
• All mattress have been changed | |
| CELLS VISITED  
(Police Station) | Recommendation made by the NPMD in 2019 | Implementation status  
(Remarks gathered during a brainstorming session held in early December 2019 involving relevant stakeholders) |
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<tbody>
<tr>
<td><strong>CENTRAL</strong></td>
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<tr>
<td>Midlands Police Station</td>
<td>• The cellblock is under renovation. The NPMD recommended that an air extractor be installed to maintain proper ventilation in the cellblock.</td>
<td>• Extractor undergoing procurement procedures.</td>
</tr>
</tbody>
</table>
| Curepipe Police Station | • The NPMD noted that the recommendation in respect of minor plumbing repair has been implemented.  
• The NPMD recommends that the lighting in the toilet and bathroom be improved as soon as possible | • Implemented.  
• Needful will be done. |
| Vacoas Police Station | • The NPMD noted that the recommendation as regards reparation of the flooring of the cellblock has started and is nearing completion. The NPMD recommended that the pace of repair works be accelerated.  
• The NPMD recommends that the corridors of the cellblock are kept clear at all times, even when there are no detainees in the block. Corridors ought not to be used as storage space as the path for fire evacuation must stay clear at all times | • All implemented  
• Implemented |
10. REHABILITATION YOUTH CENTRES (RYC) AND CORRECTIONAL YOUTH CENTRES (CYC)

The Rehabilitation Youth Centres (RYC) and Correctional Youth Centres (CYC) cater for the detention of minors. The institutions are governed by the Reform Institutions Act, the Juvenile Offenders Act and the Regulations made thereunder.

10.1. Rehabilitation Youth Centres (RYC) (Boys and Girls)

In 2019, the NPMD conducted in-depths visits at the RYC (Girls) on 15 January, 10 May, 11 September and on 09 October respectively.

According to the The United Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)

24.1 “Efforts should be made to provide juveniles, at all stages of the proceedings, with necessary assistance such as lodging, education or vocational training, employment or any other assistance, helpful and practical, in order to facilitate the rehabilitative process”.

Furthermore Section 35 (1) (b) of the Reform Institution Act stipulates that -

“detainees in RYC may attend classes in ordinary education”.

The NPMD noted that since January 2019, several courses have been introduced; mechanics, pastry making, gardening, sewing, IT and handicraft amongst others. Talks on Sexuality and Sexual Reproductive Health, Drugs, Positive Thinking, Respect and Conflict Management and Moral Values are also held occasionally.

At RYC (Boys) the NPMD met with a 13 year old inmate who is due for release in five years’ time. During his detention, he will not have the opportunity to pursue his studies since no secondary school education facilities are provided at the RYC. The NPMD recommended that secondary school education facilities must be provided at the RYC.

During our visit on 09 October 2019, the Officer in Charge at RYC (Girls) informed the NPMD that procedures are underway for the recruitment of two secondary school teachers at RYC Boys and Girls, with the collaboration of Mauritius Educational Development Company Ltd (MEDCO College).
10.2 Correctional Youth Centres (CYC) (Boys and Girls)

On 27 September 2019, the NPMD conducted a visit at the Correctional Youth Centre (CYC) for boys. At the time of the visit, there were 23 inmates of whom 19 were on remand whereas 4 of them had been convicted. Most of them had been charged with /or convicted for larceny, possession of synthetic drugs and/or other drug related offences. The two youngest inmates aged 14 were on remand at the CYC (Boys) since 24 July 2019 and 23 August 2019 respectively.

Whilst acknowledging the fact that the CYC is a place of detention, wherein the minor detainees are subjected to rules of conduct and discipline, with a view to rehabilitate them, thereby facilitating their social integration. They must be properly assisted and receive guidance. They must also have access to appropriate equipment (s) and materials for learning, as part of their rehabilitation programme.

10.3 Rehabilitation at CYC and RYC (Boys and Girls)

Literacy and numeracy classes are held from Monday to Friday starting at 08 30 hrs up to 14 30 hrs. The teacher is provided by the Ministry of Education, Tertiary Education, Science and Technology. However, because of a lack of resource persons, the teacher has a uniform curriculum for all the inmates, regardless of each one’s respective age and education level.

- With the financial assistance of NGO Kinouété, the Mauritius Institute of Training and Development (MITD), provides certain courses to the inmates at CYC depending on the availability of resource persons during school holidays.
- Private Companies are contacted to organise courses within the Institution. Sofap Co Ltd, a company engaged in the production, marketing and distribution of paint, has recently provided a course on Basic Paint Application Techniques to thirteen inmates at CYC.
- A meeting has recently been held with the Mauritius Commercial Bank (MCB) and NGO Kinouété regarding the sponsorship of courses for the two forthcoming years at the CYC.
- Thrice weekly, inmates are given the opportunity to play football or volleyball at the CYC and RYC and to perform physical exercises under the supervision of a professional physical education officer provided by the prison authorities.
The Mauritius Sports Council (MSC) has agreed to implement the Saturday Club at CYC as from January 2020 from 09 00 hours to 11 00 hours during which the following activities will be held:-

- Self-discovery games with staff, coach and kids
- Judo
- Athletics
- Basketball
- Volleyball
- Exercise to the sound of music
- Health and Fitness
- Swimming/ Aqua gym
- The Summer Sport Camp- “Nager C’est Vital”

Vocational training at the RYC, such as beauty care, food processing, floral arrangements, crystallization and marketing are also provided under the supervision of prison officers trained by the MITD. Mechanical workshops are also organized for the benefit of inmates at RYC Boys, under the supervision of prison officers trained by the MITD.

Programmes established by the Prison Administration are ongoing throughout the year, whereas, programmes dispensed by other stakeholders are provided as per their availability. Programmes are designed in such a way that duplication is avoided.

The MITD gives an attendance certificate to every inmate who attends its course(s) and the latter is encouraged to continue his/her studies at MITD upon release. Sofap Co Lt also issues certificates to the inmates who have followed their course(s). They also offer employment to the inmates upon release, if they are interested. Girls at the RYC are granted certificates after they have undergone vocational trainings provided by the MITD. The Beachcomber Academy offers job placements to the RYC inmates after their discharge. Presently, two girls from the RYC are working at Le Paradis Beachcomber Golf Resort & Spa.
10.4 Overview of the Legal Framework concerning RYC and CYC

- Statutory provisions relating to the detention of minors are to be found in various statutes and regulations such as the Reform Institutions Act, the Juvenile Offenders Act, the Rehabilitation Youth Centre Regulations and the Correctional Youth Centre Regulations.

- Certain provisions of the law dealing with the detention of minors need to be improved so as to suit the specific needs of juveniles.

- Our juvenile justice system should at all stages promote the well-being of minors and be in conformity with the United Nations Standard Minimum Rules for the administration of juvenile justice. The authorities propose to introduce a Children’s Bill in Parliament soon which will cure the discrepancies and defects of the present system, especially with the reviewed age of criminal responsibility and the creation of a Juvenile Court.

A. Definitions of Rehabilitation Youth Centre (RYC) & Correctional Youth Centre (CYC):

Under the Reform Institutions Act –

- “Rehabilitation Youth Centre” means an institution for the detention and training of minors who have been convicted of offences punishable by imprisonment as specified in regulations made under this Act.

- “Correctional Youth Centre” means an institution for the detention and training of minors as specified in regulations made under this Act.

According to Section 2 of the Rehabilitation Youth Centre Regulations (amended by Act No. 35 of 1988)

- Rehabilitation Youth Centre is instituted to provide for the detention and the ordinary and industrial education of male persons below the age of eighteen years.

B. Requirements to be committed to RYC or CYC:

Section 2 (Interpretation) of the Juvenile Offenders Act defines a young person as a person who has attained the age of 14 and is under the age of 18 and a juvenile as a person under the age of 18; and
Section 2 (Interpretation) of the Reform Institutions Act defines a *minor* as a person who is under the age of 18 and a *young offender* means a minor who has been convicted of an offence punishable by imprisonment.

Given the above, the law as of now is unclear as to the age for a minor to be committed to the RYC as distinct from the age for a minor to be committed to the CYC. In practice, a minor who is under the age of 14 and has been convicted for a criminal offence or who is on remand is sent to the RYC whereas a minor who has attained the age of 14 and is under the age of 18 is sent to CYC.

Uncontrollable juveniles under the age of 18 as per the definition provided in Section 18 of the Juvenile Offenders Act are also sent to be detained in an industrial school, i.e. RYC. Section 19 of the Juvenile Offenders Act provides a list of situations where a child under the age of 18 may be found to be uncontrollable by a Court of Law and “the Court may where it considers that committal to an institution as provided in this section is not practicable to send the juvenile to the industrial school to be detained there until he attains the age of 18 or for any shorter period; Industrial school being synonym with RYC.

C. **The Board of Visitors CYC, RYC**

The functions of the Board of Visitors at RYC and CYC are found at Sections 53 and 54 of the Reform Institutions Act. A reference is made to a Visiting Committee in the CYC and RYC Regulations. In practice, it is only the Board of Visitors which adjudicates on individual cases. It has the power to look into admissions of inmates, conduct interviews with them and may also make recommendations for release to the Magistrate. It can also act as a mediator between the inmates and their respective families. The Visiting Committee as mentioned in the Regulations is actually not operational.

D. **The Probation Officer and Remission**

The Probation Officer does not have the power to recommend or intervene in cases of remission for the inmates. He can only conduct an enquiry on the social background of the child and send same to the Magistrate. The report is submitted to the Magistrate only before the Court appearance. Once the minor is admitted in CYC or RYC, the probation officer does not conduct any follow-up assessment nor visits the child.
As per the Reform Institutions Act (Part III Section 15) inmates are sent to CYC for the purpose of training for a minimum period of two years. However, since the end of 2017, most of the inmates are being sentenced as adults and are sent for imprisonment. Inmates on remand may be released at any time if their relatives are in a position to pay the surety imposed by the Court.

Since inmates are being sentenced as adults but were not eligible for statutory remission, the welfare officer at CYC has informed the Commissioner of Prisons of this issue. The latter has written to the State Law Office (SLO) and recently they have been advised by the SLO to grant statutory remission to the inmates.

E. Relief and Leave from RYC and CYC

1. There are different ways in which a minor may be granted leave or be discharged from RYC and CYC. The relevant provisions are to be found in different pieces of legislations such as:

   (i) Section 47 of the Reform Institutions Act authorises the Commissioner of Prisons to permit a detainee in C.Y.C or R.Y.C who has served a minimum of 6 months to live under the charge of a suitable and willing person provided that he is guided and advised by a Probation Officer.

   (ii) Under Section 24 of the Juvenile Offenders’ Act the President of the Republic has the power to relieve any juvenile from the whole or any part of the period of detention in Rehabilitation Youth Centre to which the juvenile has been sent.

2. Visiting Committee

   Section 12 of the CYC Regulations and Section 55 of the RYC Regulations provides for the creation of a “Visiting Committee” which in effect has the duty to make recommendations to the Commissioner of Prisons and/or to the President of the Republic as it considers advisable in the interest of the detainees.

3. Discharge by President on licence

   Section 16 of the Juvenile Offenders Act provides in effect that when a juvenile is convicted of certain specified serious offences he/she may be detained in a place as directed by the President (i.e. the CYC) on such conditions as the President may direct.
Any person detained under this section may be discharged by the President on licence, which may be in such form and may contain such conditions as the President may direct.

The state of the law as at now is far from satisfactory. There is an urgent need for Parliament to intervene by way of legislation, so as to bring about more certainty and coherence in the law so as to avoid the subjective interpretation thereof by the Commissioner of Prisons and other relevant authorities.

F. **Recommendations**

(1) All relevant provisions concerning children/juveniles contained in several separate statutes must be consolidated into a single piece of legislation wherein there is a clear and unambiguous legal definition of a child/juvenile.

(2) Amending the definitions of RYC and CYC as provided in the Reform Institutions Act so that the distinctive roles of both institutions are clearly drawn out and reflect the way those institutions are being used and/or managed for the detention of juveniles in practice.

(3) Creation of a Juvenile Court in a separate building or floor from normal Courts in a children-friendly environment managed by staff specifically trained to deal with minors. Psychologists should be present in the Juvenile Court on a permanent basis to provide professional help to the minors and/or their responsible parties when required.

(4) The probation officer should be given a more active role in recommending remission since he is the only link between the juvenile offender and the Magistrate. He should be required to submit periodic reports on the child’s behaviour and progress to the Magistrate.

(5) Amending or repealing Section 15 (3) (a) of the Reform Institutions Act and Section 22 (2) (a) of the Juvenile Offenders Act to remove the minimum period of sentencing of two and three years respectively, to enable the magistrate to determine the duration of the sentence.

(6) Provide for automatic remission after the juvenile has spent a minimum amount of time in custody and has been of good behaviour.
(7) Amending Section 24 of the Juvenile Offenders’ Act so that the President may grant a complete discharge to juveniles in CYC or undergoing imprisonment, where he is satisfied that it is in the interest of justice to do so.

(8) A young person should not be liable to be committed to the RYC in default of payment of a fine, damages or costs as provided in Section 15 (3) of the Juvenile Offenders Act.

(9) There are no secondary school teachers working on a permanent basis at RYC/CYC. As to date only primary school teachers work there on a permanent basis and they are not trained to provide secondary education. The law should be amended so that the definitions of RYC and CYC are not limited to the “training of minors” but should include the “education and training of minors” so that RYC and CYC are endowed with a proper educational structure and syllabus for children of all ages & abilities. Minors detained at RYC and CYC should be given the same opportunities as other children to acquire education.

11. PROHIBITION OF USE OF TOBACCO IN PRISON

The Commissioner of Prisons has banned the use of tobacco in all prisons. The NPMD has interviewed several detainees on this issue. The majority of the detainees are pleased with the new rule since they are in better health. It ought to be noted that this project has been conceptualised jointly by the Prison Authorities, the Ministry of Health and Civil Society Organisations. Counselling is available to smokers who find it difficult to quit smoking.

12. STUDY VISIT OF THE TOGOLESE NATIONAL HUMAN RIGHTS COMMISSION DELEGATION

A delegation from the newly created National Preventive Mechanism Division of Togo comprising Mr. Ohini Kwao Didi Sanvee (President), Mrs. Lidi Kedeka Bessi-Kama (Member) and Mr, Wengbama Kodaga (Member) were in Mauritius from a 4 day study tour (from 09 September to 12 September 2019). The aim/objective of the visit was to have a first-hand experience and exposure about the Mauritius NPMD and learn from the on the field operations conducted by NPMD (Mauritius). The NPMD of the NHRC (Mauritius) provided all possible assistance to the Togolese delegation in order to ensure that the above purpose was achieved.
The delegation visited prisons, police detention cells and the CYC and RYC and had discussions with the Commissioner of Prisons and the Commissioner of Police concerning treatment of detainees.

13. STATISTICS FOR THE NATIONAL PREVENTIVE MECHANISM DIVISION

(I) Reporting Period January to December 2019

<table>
<thead>
<tr>
<th></th>
<th>No. of visits</th>
<th>No. of complaints</th>
<th>Resolved</th>
<th>Ongoing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prisons</td>
<td>60</td>
<td>75</td>
<td>65</td>
<td>10</td>
</tr>
<tr>
<td>Police Cells</td>
<td>52</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Detention Centers</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RYC/CYC</td>
<td>9</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>127</strong></td>
<td><strong>75</strong></td>
<td><strong>65</strong></td>
<td><strong>10</strong></td>
</tr>
</tbody>
</table>

(II) Nature of complaints January to December 2019

<table>
<thead>
<tr>
<th>Nature of complaints</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Conditions of detention</td>
<td>44</td>
</tr>
<tr>
<td>Legal issues</td>
<td>2</td>
</tr>
<tr>
<td>Petition for deduction of sentence</td>
<td>3</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>26</td>
</tr>
</tbody>
</table>

14. EXAMPLES OF COMPLAINTS

(i) **Medical**

- Detainee T.M (detained at Eastern High Security Prison, Melrose) made a complaint that proper medical treatment was not being provided to him at the prison. The NPMD contacted the officer in charge and Senior Hospital Officer of the prison and found that the detainee has a non-healing wound and has been receiving daily dressing. As such, detainee T.M has been receiving medical services as per established standards. The NPMD communicated its findings to the detainee’s father who gave a statement to the effect that he is satisfied with the actions taken by the NPMD.

- Detainee J.D (detained at Central Prison, Beau-Bassin) who is a type 1 diabetic patient complained that insulin injections were being administered to him in inadequate doses. The NPMD intervened and the matter was resolved.
Detainee P. I (detained at Eastern High Security Prison, Melrose) complained that he had not received a pair of glasses that had been prescribed to him by medical officers of Moka Eye Hospital. He added that he has been working in the Basketry section of the Prison and needed glasses to perform his work. The NPMD liaised with the prison authorities and the officers of the National Solidarity Fund, in an attempt to solve his problem. In early June 2019, P.I obtained a pair of glasses and now works in the Basketry section of the prison without any difficulty.

Detainee J.F (detained at Eastern High Security Prison, Melrose) stated that his left knee had been dislocated in an accident before his conviction. He complained that his sedentary lifestyle in prison had worsened his condition. Additionally, he was not satisfied with the diagnosis and treatment given by the prison doctors. After investigation, the NPMD found out that the detainee was allergic to diclofenac and a substitute medicine had to be prescribed to him. The detainee also had a serum-calcium test and the doctors could not detect any injury or dislocation. The NPMD informed detainee J.F of its findings and the latter thanked the NPMD for its intervention.

(ii) Food

Detainee A. K (detained at Eastern High Security Prison, Melrose) complained that he has been having difficulty swallowing the food provided in Prison. Prior to his jail term, his mouth had been severely damaged by acid. After reconstructive surgery, the doctors had prescribed a ‘rice soup’ diet to the detainee because it was easier to swallow. However, A.K complained that he has also been having the same difficulty with his breakfast. The NPMD contacted the medical team at the Eastern High Security Prison to ensure that detainee A.K was indeed being served prescribed rice soup diet for lunch.

(iii) Transfer

On 02 September 2019, the NPMD visited Roche Bois Police Station following a complaint received from Mrs. S.G, on behalf of her husband A.G., concerning the latter’s conditions of detention. A.G. suffered from a medical condition whereby he was unable to use the asian style toilet in his cell. The NPMD intervened and A.G. was transferred to Moka Detention Centre on the same day.
In May 2019, the NPMD received a complaint from Mrs. J.G who complained that she was unable to visit her son who was detained at Eastern High Security Prison, Melrose. Due to her asthmatic condition she was unable to travel to Melrose as it was a long distance from her residence. Furthermore, she had to bring the minor son of the detainee along with her on each visit so that the latter could meet his father. The NPMD requested the Commissioner of Prisons to consider the possibility of transferring the detainee Mr. B.W to a prison closer to the complainant’s place of residence on humanitarian grounds. In August 2019, the NPMD was informed that the Prison Transfer Committee had approved the detainee’s transfer to Petit Verger Prison. Mrs. J.G was informed of NPMD’s intervention and the transfer of her son to a prison, which was closer to her residence.

(iv) Birth Certificate

On 31 July 2019, the NPMD visited the detainee V.A a Malagasy national (detained at Women’s Prison) whose 3 year old son was living with her in the prison. She wanted to ascertain the proper procedure regarding the civil status of her son, since according to Prison Regulations; a child can remain with her mother until the age of five. The NPMD contacted the Embassy of Madagascar and the information obtained was communicated to the detainee. Officers from the Embassy of Madagascar visited the detainee in prison in order to inform her of the procedure for the obtaining of a birth certificate for her son.

(v) Baby Cream

The NPMD visited detainee V.S (detained at Women’s Prison) on 11 September 2019, who complained that she was unable to obtain the baby cream “Sudo” for her baby. The NPMD raised the issue with the Superintendent of Prison. Finally, the prison doctor issued a medical prescription which enabled the father of the child to obtain the “Sudo” cream for the baby.

Mrs. V.S also complained that her parents had bought a “Johnson” cream for her baby and that same was withheld by the prison authorities being given that articles from outside are not allowed inside the prison. Following the intervention of the NPMD Mrs. V.S was able to obtain a substitute moisturising cream for her baby.
CHAPTER V

European Union Funded Project

‘Promotion of Respect for Human Rights in Mauritius and Rodrigues’

In November 2017, the European Union (EU) granted funds to the NHRC to implement the Project entitled ‘Promotion of Respect for Human Rights in Mauritius and Rodrigues’. The Project, which spans over three years, aims to educate and sensitise different sections of the population on their human rights and the legislative framework in place for their protection or redress when their rights are violated. The Project also promotes the universality and reciprocity of rights: activities held in its context all emphasise that not only should the individual be aware of and vindicate his or her own rights, he or she must also respect the rights of other individuals at all times.

The EU Funded Project enabled the NHRC to sensitise 5001 persons through various activities in 2019, of which there were 1774 men and 3227 women. A total of 118 awareness activities, including talks, thematic workshops and training sessions by foreign experts, were organised in line with the key objective of the Project.

These activities, ranging widely in form and substance and addressing pertinent human rights issues relevant to different groups of the population, have reinforced the NHRC’s mandate to promote human rights under the Protection of Human Rights Act 1998. They have also increased the visibility both of the NHRC’s key functions and powers and of the EU’s external actions to promote democracy and human rights in developing countries. Through the implementation of the EU Funded Project, the NHRC has further strengthened its collaboration with key partners, be it the EU itself, relevant Ministries, national and international human rights institutions, civil society and NGOs.

It is worth highlighting the Human Rights Bracelet Campaign jointly launched by the NHRC and the EU Delegation to the Republic of Mauritius in November 2018 as a symbol of the country’s pledge to uphold the human rights of its citizens and of the NHRC’s key role in this endeavour. The campaign was ongoing throughout 2019. Bracelets containing six different provisions of the Universal Declaration of Human Rights (UDHR), notably ‘Libres et égaux en dignité et en droits’, ‘Droit à la vie’, ‘Protection contre la torture’, ‘Nul ne peut être arbitrairement arrêté, détenu ni exilé’, ‘Protection de la vie privée de toute personne’, ‘Liberté
de pensée, de conscience et de religion’ were distributed to participants at different fora so that they understand and develop ownership of the rights and values of the UDHR, many of which are enshrined in our Constitution.

1. **Talks in Mauritius**

In 2019, the NHRC renewed its collaboration with relevant stakeholders to deliver talks on human rights to women, elderly persons, youth, students, and civil society. The two Resource Persons recruited to this end regularly held sessions in different Women Empowerment Centres, Social Welfare Centres, Community Centres, Secondary Schools, Youth Centres, Elderly Day Care Centres and Citizens Advice Bureaus across the island, as shown in Table 1. These sessions were divided broadly into two parts: in the first part, the Resource Persons provided general information on human rights and relevant legislation and institutions while in the second part, they focused on and encouraged discussion about human rights issues pertinent to the specific audience.

Besides the partners whose collaboration was enlisted in 2018, in 2019 the NHRC developed new collaborations, notably with the Disability Unit of the Ministry of Social Integration, Social Security and National Solidarity and the National Youth Civic Service under the Ministry of Youth Empowerment, Sports and Recreation. Moreover, indicative of the extent and visibility of the EU Funded Project, the EU Project team at the NHRC received independent requests to deliver talks to different women and elderly persons’ associations. The ensuing part describes the talks delivered by the EU Project Team in 2019 in Mauritius, categorised per the relevant institution or group of persons.
Table 1. Talks in Mauritius

<table>
<thead>
<tr>
<th>S/N</th>
<th>Targeted Groups/Institutions</th>
<th>No. of Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Elderly Day Care Centres</td>
<td>314</td>
</tr>
<tr>
<td>2.</td>
<td>Senior Citizens Associations</td>
<td>1093</td>
</tr>
<tr>
<td>3.</td>
<td>Women Empowerment Centres</td>
<td>831</td>
</tr>
<tr>
<td>4.</td>
<td>Secondary Schools</td>
<td>670</td>
</tr>
<tr>
<td>5.</td>
<td>Citizens Advice Bureaus</td>
<td>1049</td>
</tr>
<tr>
<td>6.</td>
<td>Youth Centres</td>
<td>123</td>
</tr>
<tr>
<td>7.</td>
<td>Disability Unit</td>
<td>24</td>
</tr>
<tr>
<td>8.</td>
<td>Private Companies (Esquel Mauritius Ltd)</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL</strong></td>
<td><strong>4119</strong></td>
</tr>
</tbody>
</table>

i. **Elderly persons**

In collaboration with the Elderly Persons Protection Unit of the Ministry of Social Integration, Social Security and National Solidarity, the EU Project team delivered 7 talks to some 314 elderly persons in Elderly Day Care Centres. Seventeen sessions were held in collaboration with the Senior Citizens Council reaching some 1093 persons in senior citizens associations across the island.

The talks with elderly persons laid emphasis on, *inter alia*, the different forms of elderly abuse - including the increasing instances of domestic violence against the elderly; health services; property rights; social security benefits; access to key services as well as the role and functions of relevant institutions such as the Elderly Persons Protection Unit and the Police Family Protection Unit.
Elderly persons repeatedly raised grievances regarding access to public transport, advice on property rights, living conditions in residential care homes, inadequate information on legal aid procedures as well as lengthy and inadequate procedures for social and medical aids other than pensions, for instance carer’s allowance, provision of hearing aids or wheelchairs. Due note was taken of these issues and the elderly persons were advised and directed to relevant institutions according to their needs.

ii. National Women Council

As part of a renewed collaboration with the National Women Council, the EU Project team delivered 28 talks from March to November 2019 in different Women Empowerment Centres across the island, reaching a total of 831 women across all age groups. The sessions focused on gender equality in key spheres such as education, employment or politics as well as in the private sphere of the home where women’s contribution often goes unnoticed or unrecognised.

In light of the upsurge in domestic violence cases in the country – most of which were reported by women and some of which even resulted in death – emphasis was laid on the role of and protective measures provided by the Police Family Protection Unit and the Ministry of Gender Equality and Family Welfare. There was also a marked interest amongst participants in property and/or custodial rights following death of a spouse or divorce.

iii. Students in Secondary Schools

In 2019, the collaboration with the Ministry of Education, Tertiary Education, Science and Technology was re-enlisted. The EU Project team delivered 12 talks in different state and private secondary schools, reaching a total of 670 students.

In these sessions, the Resource Persons emphasised human rights most relevant to children for instance education, freedom of expression, protection from violence, non-discrimination and shed light on related issues such as teenage pregnancy, child marriage, sexual harassment, cyberbullying and substance abuse. Through the distribution of Human Rights Bracelets, they also explained key articles of the Universal Declaration of Human Rights and their significance.
Students were keen to learn about the United Nations system, especially in view of taking part in the annual Model United Nations. Many raised questions as to the age of criminal responsibility and the difference between Rehabilitation and Correctional Youth Centres. Many students were unaware of the psychological support available to them through the National Education Counselling Service, provided by the Ministry of Education, Tertiary Education, Science and Technology.

iv. Citizens Advice Bureaus

The two Resource Persons joined in the NHRC’s weekly sensitisation sessions in Citizens Advice Bureaus and emphasised rights of vulnerable groups, for instance women, children, elderly persons and persons living with disabilities. In 2019, a total of 1049 members of the public in general attended these sessions.

v. Youth Centres

The EU Project team held 4 awareness sessions with a total of 123 young persons aged between 15 to 25 years old in Youth Centres. Three of these sessions ensued further to requests from Youth Officers in charge of Rose Belle, Flacq and Helvetia Youth Centres respectively to sensitise young persons enrolled in the National Youth Civic Service under the aegis of the Ministry of Youth Empowerment, Sports and Recreation on their human rights.

The sessions emphasised human rights of young persons as well as the legal framework and social issues pertinent to and affecting the enjoyment of these rights. In addition to themes discussed with students in secondary schools, the Resource Persons shed light on sexual and reproductive health rights, sexual orientation and the rights of the LGBTI, youth unemployment as well as training and internship opportunities under various programmes such as Service to Mauritius (STM) or Youth Employment Programme (YEP).

Young persons raised questions with regards to the levels of crime in Mauritius, the abolition of the death penalty, the role of the police in enforcing law and order, child marriage as well as the framework in place to assist pregnant teenagers and teenage
mothers. Many also shared their views on the electoral process as well as youth participation and representation in politics.

vi. **Disability Unit**

The EU Project team sought the collaboration of the Disability Unit of the Ministry of Social Integration, Social Security and National Solidarity to regroup officers from the Unit as well as representatives from NGOs for an interactive session on the human rights of persons living with disabilities.

In the first part, the two Resource Persons described the human rights legal framework in Mauritius and shed light on the work of the NHRC and other human rights institutions. They also explained key provisions of the UN Convention on the Rights of Persons with Disabilities, notably on equality and non-discrimination, accessibility and mobility, independence and inclusiveness, access to justice, education, employment as well as participation in cultural life, recreation and sports.

In the interactive session that ensued, representatives of NGOs shed light on issues faced by persons living with disabilities in different spheres, for instance at home, at school, at work, in hospitals or in public transport. They raised questions pertaining to rights of children in specialised schools, the procedures and eligibility for a carer’s allowance, allowance for transport as well as access to recreational activities.

vii. **Interaction with private sector**

In April 2019, the EU Project team held an informative session with a group of employees across all grades and departments at Esquel Mauritius Ltd. After a general introduction on human rights, the Resource Persons explained key International Labour Organisation conventions and the employment legislation in Mauritius. They also highlighted the role and functions of key institutions such as the Ministry of Labour, Human Resource Development and Training and the Equal Opportunities Commission. They shed light on, *inter alia*, discrimination at work, sexual harassment, rights of persons living with disabilities, rights of migrant workers, freedom of association and collective bargaining, and Corporate Social Responsibility.
2. **Talks in Rodrigues**

The EU Project team visited Rodrigues from 14th May to 17th May 2019 and with the collaboration of the Rodrigues Regional Assembly and relevant Commissions, held 6 informative sessions with different groups of the population at Citron Donis Youth Centre, La Ferme Youth Centre, La Ferme Senior Citizens Centre and Marechal College respectively. Through these sessions, 190 persons were sensitised on their human rights and the laws relevant to their protection as shown in Table 2 below.

<table>
<thead>
<tr>
<th>S/N</th>
<th>Targeted Groups/Institutions</th>
<th>No. of Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Senior Citizens Associations</td>
<td>21</td>
</tr>
<tr>
<td>2.</td>
<td>Women Centres</td>
<td>21</td>
</tr>
<tr>
<td>3.</td>
<td>Marechal College (Secondary School)</td>
<td>102</td>
</tr>
<tr>
<td>4.</td>
<td>Youth Centres</td>
<td>46</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL</strong></td>
<td><strong>190</strong></td>
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</table>

*Table 2. Talks in Rodrigues*

The sessions laid emphasis on the work of the NHRC and the means through which complaints may be addressed to the Commission. The Resource Persons also outlined the rights of and legislation pertinent to the relevant audience. The work of other key institutions for instance the Police Family Protection Unit, the Child Development Unit and the Ombudsperson for Children’s Office was also described.

Participants raised several issues, notably the increasing number of cases of domestic violence that go unreported, the high rate of teenage pregnancies in Rodrigues and the lack of knowledge and information on property rights and on protection measures for victims of abuse. The participants were informed about relevant complaints mechanisms or institutions where they could report cases of human rights violations, police brutality and discriminatory practices.
3. **External Resource Person**

**Mr. John Wadham - Chair of the National Preventive Mechanism in UK and Member of the UK Independent Advisory Panel on Deaths in Custody**

As part of the EU-funded Project, the Commission invites foreign experts on human rights to provide training and capacity building where there is a dearth of local expertise. Mr. John Wadham, Chair of the UK's National Preventive Mechanism (NPM) and Member of the UK Independent Advisory Panel on Deaths in Custody visited Mauritius from Monday 11th March to Friday 15th March 2019. He led a series of lectures and seminars on international human rights law, equality principles and treaties with key stakeholders, notably legal practitioners, human rights institutions, law enforcement officers, public officials, civil society and students.

In the course of his visit, Mr. Wadham intervened on seven different occasions as described in Table 3 on, *inter alia*, the work of the UK's NPM and the Independent Office for Police Conduct respectively; the UK's Police and Criminal Justice Act (PACE); serious incidents and deaths in custody; law enforcement and the significance of NGOs in the promotion of human rights and equality.

<table>
<thead>
<tr>
<th>S/N</th>
<th>Targeted Audience</th>
<th>No. of Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Workshop on &quot;Human Rights in Places of Detention&quot;</td>
<td>80</td>
</tr>
<tr>
<td>2.</td>
<td>Working session for NHRC staff</td>
<td>32</td>
</tr>
<tr>
<td>3.</td>
<td>Legal practitioners at the Institute of Judicial and Legal Studies</td>
<td>35</td>
</tr>
<tr>
<td>4.</td>
<td>Law Enforcement Officers</td>
<td>68</td>
</tr>
<tr>
<td>5.</td>
<td>Office of the Director of Public Prosecutions and State Law Office</td>
<td>70</td>
</tr>
<tr>
<td>6.</td>
<td>Mauritius Council of Social Services and Civil Society</td>
<td>60</td>
</tr>
<tr>
<td>7.</td>
<td>University Students</td>
<td>60</td>
</tr>
<tr>
<td></td>
<td>TOTAL</td>
<td>405</td>
</tr>
</tbody>
</table>

*Table 3. Sessions by Mr John Wadham*
i. **Workshop on ‘Human Rights in Places of Detention’**

There is a pressing need to provide training to police officers and prison officers on human rights and humane treatment during detention in order to address the upsurge of complaints on alleged police brutality and ill-treatment in prisons and the cases of deaths in custody. In this regard, on Monday 11th March 2019, the NHRC held a Workshop on “*Human Rights in Places of Detention*” with police officers, prison officers, officers of the Probation and Aftercare Services and the Brown Sequard Health Care Mental Hospital and relevant Ministries. Mr Wadham spoke about serious incidents and deaths in custody in UK as well as the requirement for effective and independent investigations. He also elaborated on the investigative powers of UK’s NPM pertaining to such occurrences.

ii. **Lectures with Law Practitioners**

Following sessions held for legal practitioners at the IJLS and the DPP's office on 13th and 14th March respectively, Mr Wadham recommended the adoption of an equivalent of the UK’s PACE to enhance the treatment of suspects and ensure that all accused have equal access to legal advice following arrest. He proposed that the legal aid system be revamped and replaced by a free, independent state funded service. He also compared the conditions of police detention before and after the adoption of PACE 1984 and the improvements brought since in the UK.

iii. **Seminar for Law Enforcement Officers**

On Thursday 14th March 2019, Mr. Wadham delivered a seminar on police misconduct or brutality and how this could be addressed or avoided through effective and independent investigations. He explained why police officers cannot efficiently investigate into complaints against other police officers, highlighting in particular the lack of public trust, conflict of interests and moral and ethical constraints. Officers of the Mauritius Police Force across different units, Independent Commission against Corruption and the Independent Police Complaints Commission participated in the session.
iv. **Seminar for Members of Civil Society**

During session with NGOs held on Friday 15th March 2019, Mr. Wadham stressed the interaction between equality and human rights and shed light on existing gaps in human rights treaties, especially in relation to discrimination on the basis of age and sexual orientation. He further described the key role of NGOs in working with human rights institutions and Ministries by providing information, lobbying as well as holding them accountable and pressing them to do more.

v. **Lecture for University Students**

Mr. Wadham spoke about the interplay between equality and human rights with university students, laying stress on the UN Convention Against Torture, its periodic review process and the Committee Against Torture’s individual complaints jurisdiction, the Optional Protocol to the Convention Against Torture and the functions of National Preventive Mechanisms, laying particular emphasis on the mandate, powers and limitations of the UK National Preventive Mechanism.

4. **Thematic Workshops**

Under the EU-funded Project, the NHRC also organises thematic workshops on pertinent human rights issues to reach out to a wider public and generate broad discussion. The table below summarises the workshops held in 2019:

<table>
<thead>
<tr>
<th>S/N</th>
<th>Targeted Audience</th>
<th>No. of Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Half-day Workshop on &quot;Promoting a Violence Free Society Amongst Students&quot;</td>
<td>98</td>
</tr>
<tr>
<td>2.</td>
<td>Workshop in the context of the International Day for Older Persons</td>
<td>59</td>
</tr>
<tr>
<td>3.</td>
<td>Workshop for the celebration of the International Day for the Eradication of Poverty</td>
<td>130</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL</strong></td>
<td><strong>287</strong></td>
</tr>
</tbody>
</table>

*Table 4. Thematic Workshops*
i. **Half-day Workshop on "Promoting a Violence Free Society Amongst Students"**

In the context of the Europe Week, the Commission in close collaboration with the Delegation of the European Union to the Republic of Mauritius organised a Half-day Workshop on “Promoting a Violence-free Society amongst Students” on Wednesday 8th May 2019 at the Mahatma Gandhi Institute Secondary School with students of Grades 10 to 12.

Hon. Leela Devi Dookun-Luchoomun, Minister of Education, Tertiary Education, Science and Technology made a keynote address on the impact of violence on students and the significance of eradicating violence in schools.

On his part, Mr. D. B. Seetulsingh, the Chairperson of the NHRC emphasised the right to education as a socio-economic human right to which every child should have access. Similarly, every child should benefit from an education in a violence-free setting. To this end, the teaching staff must be trained on how to effectively cope with violence at school and the important role of counsellors must be stressed.

For her part, H.E. Mrs Marjaana Sall, former EU Ambassador, highlighted the fundamental principle of protection of the child against all forms of violence as laid down in the UN Convention on the Rights of the Child and under the Sustainable Development Goals respectively. She also reiterated the role of the EU in protecting and promoting the rights of children across the EU member states and partner countries.

Mrs. Marie Lourdes L. Y. Lam Hung and Mr. Jonathan J. Ravat, Deputy Chairperson and Member of the Human Rights Division of the NHRC respectively, condemned the acts of violence against children of all walks of life. In her presentation on “Violence amongst Students”, Mrs. Lam spoke about the damaging effects of violence on a child’s well-being both in the short and long term. In some cases, the bullied can suffer from depression, anxiety and even attempt suicide.

Ms. Loveena S. Sungkur and Ms. Heyashi Gunesh, Resource Persons at the NHRC made an exposé on “Violence in schools or involving children” by highlighting the national legal framework for the protection of children. They emphasised both the factors leading to violence amongst children notably exposure to violence, peer pressure, the child-rearing environment as well as the protective factors such as positive mentors, engagement in healthy activities and family support. They also underlined the negative impact of violence on both the victim and the perpetrator and further encouraged students to denounce all acts of violence and
abuse including child labour, corporal punishment, harassment and cyber bullying to relevant authorities.

ii. **Workshop in the context of the International Day for Older Persons**

On the occasion of The International Day for Older Persons which is celebrated on 1st October annually, the Commission and the EU Delegation jointly held a One-day Workshop on Thursday 3rd October 2019. The aim of this event was to discuss human rights issues pertaining to elderly persons. Representatives of Elderly Watch Committees, Elderly Day Care Centres, Senior Citizens Council and the Ministry of Social Integration, Social Security and National Solidarity as well as police and prison officers attended the workshop.

Hon. Maneesh Gobin, Attorney General and the then Minister of Justice, Human Rights and Institutional Reforms, H.E. Vincent Degert, Ambassador of the EU and Mr. D. B. Seetulsingh, the Chairman of the NHRC, addressed the audience for the Opening Ceremony.

Seven speakers intervened during the workshop notably Ms Sylvia Rajiah, Chief Police Inspector of the Police Family Protection Unit (PFPU); Mr. R. Dookhony, Commissioner at the Equal Opportunities Commission; Mr H. Bunoomally, Assistant Commissioner at the Welfare and Elderly Persons Protection Unit; Dr Y. Soopal-Lutchmun, Director of the Medical Unit; Mr Vijay Naraidoo, President of the Commission for the Rights of Older Persons of the NGO, DIS-MOI; Mr. S. Lauthan and Mr G. Michel Vieillesse, Members of the NHRC respectively.

The speakers laid emphasis on the rights of elderly persons, *inter alia* the rights to health and social benefits as well as protection from domestic violence and discrimination. The speakers and participants formulated a list of recommendations which was submitted accordingly to the Attorney General’s Office. These recommendations included the creation of an Office of the Ombudsperson for Elderly Persons to act as an independent statutory body advocating and protecting the rights of elderly persons as well as the dire need to provide training to both formal and informal carers including family members, as well as elderly persons themselves on the proper use of assistive devices and the administration of medication in terms of dosage and expiry dates.

Ms Rajiah described the services offered to victims of domestic violence across the ten PFPU units, notably: in-house counselling, conciliation and mediation at the reporting stage,
the Love Project - an awareness programme for new couples, and the Reconstruction and Recovery Programme as follow-up after a court order is obtained. She further pointed that out of 506 complaints on domestic violence reported from January to August 2019, 17% were reported by elderly persons. She also spoke about the underreporting of cases in the age group of 80-100 years due to decreased mobility, weak health and lack of informal support. Efforts should henceforth be concentrated on this particular age group.

iii. **Workshop for the Celebration of International Day for the Eradication of Poverty**

ATD (All Together in Dignity) Quart Monde is an International network of NGOs which focuses on empowering individuals and families to overcome extreme poverty. As the founder Joseph Wresinski puts it, when men and women live in extreme poverty their human rights are more likely to be violated as they face marginalization, unemployment, inadequate housing, health issues, as well as discrimination. The World Day for Eradication of Poverty is observed on 17 October every year. "*Acting Together to Empower Children, their Families and Communities to End Poverty*" was the theme chosen in 2019 by the UN so as to mark the 30th anniversary of the adoption of the UN Convention on the Rights of the Child on 20 November 1989.

In 2019, ATD Quart Monde sought the collaboration of the NHRC to jointly commemorate the World Day for overcoming Extreme Poverty. Thus on 19 October 2019, the NHRC and ATD Quart Monde organised a Half-day workshop followed by a Commemoration Ceremony at the Caudan Waterfront. The event offered a platform to children and parents afflicted by poverty to voice out their struggles to key stakeholders. The audience was mainly composed of actors of the civil society, public servants, parents, children and young people.

In this context, Mr S. Reedha from ATD Quart Monde talked about the Committee of 17th October on the Eradication of Poverty and the input of 10 different NGOs fighting for this noble cause. He also spoke about the work of ATD Quart Monde International and its founding principles.

The Chairman, Mr. D. B. Seetulsingh, pointed out that family values are fundamental and that they should be included within the Constitution as is the case for the African Charter. He also highlighted the pressing need to introduce a Child Court and provide relevant training to Magistrates to deal with cases involving children. He further stated that the value of manual work must be recognised.
H.E. Vincent Degert, EU Ambassador, underlined the inequalities that people living in poverty face daily and the key role that civil society plays. He insisted that in order to foster social inclusion, the social fabric must be reinforced.

Mr Edley Maurer, Director of the NGO, SAFIRE and Mr Cayum Jahangeer, Psychologist at the Mauritius Institute of Education also intervened on that occasion. They underlined the efforts of civil society to overcome poverty and the rights of children living in these conditions.

The session was then followed by several musical performances, slam and poems written by children of various age groups along with a group of parents. The children firmly stated their hope for efforts to be concentrated on strengthening the family unit by providing emotional support, medical treatment and child care training to parents who are alcoholic or having difficulties in fulfilling their parenting responsibilities instead of separating the children from the parents, as is frequently the case.

5. **Conclusion**

The EU funded Project has enabled the NHRC to reiterate its commitment to promote respect for human rights. The Resource Persons were able to reach out to a spectrum of audiences with appropriate information. In line with UN principles, international days are significant occasions to educate the public on thematic concerns and to advocate for political action. This was achieved effectively with the participation of high profile speakers.
CHAPTER VI

RODRIGUES

In line with its mandate to promote and protect human rights in the Republic of Mauritius, the National Human Rights Commission (NHRC) also entertains complaints on alleged human rights violations from fellow Rodriguans and conducts visits to the island both to monitor the human rights situation and to sensitise the population on their human rights and fundamental freedoms.

A. HUMAN RIGHTS DIVISION

A three-member delegation from the Human Rights Division (HRD), consisting of Mrs M. L. Lam Hung, Deputy Chairman, Mr S. Lauthan, Member and Ms R. Camalapen, Investigator, visited Rodrigues from 11th to 14th June 2019, mainly to sensitise Rodriguans on the NHRC’s mandate.

1. Courtesy Call on Island Chief Executive’s Office

The Island Chief Executive being in Mauritius at the time of the visit, the delegation paid a courtesy call on the Deputy Chief Commissioner, Mr. Nicolson Lisette in the presence of Ms. Jennifer Azie, the NHRC’s liaison officer in Rodrigues.

The HRD team emphasized the aims of the visit and discussed the role of the HRD, highlighting some key recommendations it made. Mr. Lisette pointed out that the barking of dogs and noise pollution are recurrent issues in Rodrigues but that stray animals constitute the main nuisance. He also suggested that a fully-operational branch of the NHRC be set up in Rodrigues to ease the registration and investigation of complaints.

2. Courtesy Call on Divisional Commander Rodrigues

The delegation proceeded to the Police Headquarters in Port Mathurin and met with the Sub-Divisional Commander, SP Russeeawon. Issues discussed include incidences of elderly abuse, noise pollution, the high number of stray animals as well as the impact of climate change on the island. The HRD drew the distinction between its main functions and those of the Independent Police Complaints Commission.
SP Russeeawon welcomed the delegation’s proposal to deliver a talk on human rights to police officers in the island as this would empower them in their daily duties.

3. **Talk at Le Chou College and Mont Lubin College**

   The HRD team delivered two informative sessions to students at Le Chou College and Mont Lubin College respectively. A short film on the History of Human Rights was shown, following which there was an interactive discussion primarily on teenage pregnancy, the abuse of alcohol and cigarettes as well as the use of mobile phones.

   The Rector at Le Chou College highlighted that when cases of teenage pregnancy arise, the pregnant students are recommended to stay at home as from two weeks prior to the delivery date and to resume school as soon as medically advised after delivery. While there were reported cases of alcohol and cigarette abuse by the students, no case of drug abuse had been reported.

4. **Talk with officers from the Police de l’environnement, the National Coast Guard and Plaine Corail Police Station**

   The Deputy Chairperson of the HRD described the complaint procedures and the nature of complaints dealt with at the level of the HRD. Mr Lauthan then addressed the issue of drug trafficking and discussed the potential entry points in Rodrigues, underlining the important role of the National Coast Guard in this regard. Officers from the Police de l’environnement raised the issue of noise pollution in Rodrigues and pointed out the lack of access to noise measure equipment to effectively intervene in these situations.

5. **Talk with NGOs from the Rodrigues Council for Social Service and the “Committee Village Baie aux Huitres” at Oyster Bay Community Centre**

   The Deputy Chairperson described the mandate of the HRD and invited members of the audience to address relevant complaints to the Commission. Mr Lauthan discussed the issue of violence amongst youth and the misuse of mobile phones.
The audience raised several issues, notably the absence of police patrol during football matches where there often is consumption of alcohol. This complaint was referred to ASP Ramsawock at Plaine Corail Police Station who undertook to look into the matter. Other issues raised include the difficulties faced by persons living with disabilities while travelling by bus; noise pollution; and the lack of parental involvement in controlling unruly children.

6. **Working session with representatives of different Commissions of the Rodrigues Administration**

Mrs. Lam Hung shed light on the mandate of the HRD and gave examples of the different types of complaints dealt with at the HRD. One representative of the Commission for Child Development and Others (Women’s Unit) informed the HRD delegation that 75 protection orders had been issued in Rodrigues in 2018. Several participants also raised concern regarding noise pollution and unpleasant smell from cattle rearing across the island.

7. **Queen Elizabeth Hospital (Crève Coeur)**

The HRD delegation held an interactive session with the personnel of the Queen Elizabeth Hospital consisting of: midwives, pharmacy technicians, charge nurses and medical social workers. The social workers attached to the hospital provide counselling to teenagers and refer relevant cases to the Child Development Unit.

The issues addressed included inter alia the registration of births, notification of births by the hospital staff to the civil status office and medical negligence cases. The Commission was apprised of the fact that there is no NGO in Rodrigues dealing specifically with teenage pregnancy. It was also pointed out that Rodriguans have no access to methadone treatment on the island.

8. **Radio Talk Show and MBC Media Coverage**

Mrs Kathy Auguste from Rodrigues MBC interviewed Mrs Lam Hung and Mr Lauthan. The latter described the mandate of the HRD and the complaints registration and investigation procedures and highlighted the types of recommendations made by the division. Mrs Auguste and the HRD team further discussed key human rights issues on the island, notably the high number of teenage pregnancies, the misuse of mobile
phones amongst the youth and access to methadone treatment. Questions from the audience on the relevant issues were also answered.

The MBC crew was also present during the talk at Mont Lubin College for coverage of the event.

B. NATIONAL PREVENTIVE MECHANISM DIVISION

From 29 October 2019 to 01 November 2019, a team from the National Preventive Mechanism Division (NPMD) of the NHRC, comprising of Mr. Torabally, Deputy Chairperson, Mr. Vieillesse, Member and Mrs. Chetalee Parryanen, Investigator visited Rodrigues, with a view to assess the conditions of places of detention and to make such recommendations as would enable them to comply with minimum human rights standards.

VISIT TO POLICE STATIONS

1. Plaine Corail Police Station

On 29 October 2019, the NPMD team visited Plaine Corail police station and met WPC Prudence who accompanied them during inspection. The police station has 6 cells for males and 4 cells for females. However, we were told that the cells were not fit for occupation at the time because they were generally very damp and humid because of defective/leaking water pipes. However, the cells were used in exceptional circumstances as a last resort and for a period not exceeding 24 hours. The last time detainees were kept there was on 15 October 2019.

The male section has sufficient space and lighting. There is one fan fixed to the wall of the cell corridor. However, the NPMD made its own independent assessment and concluded that the cells were not fit for occupation, given the excessive humidity due to defective plumbing which as yet had not been repaired.

The NPMD noted that there are no mattresses in the police station. However, it was informed that upon request, the mattresses could be obtained from the Police Divisional Headquarters at Port Mathurin.
In the female section, there are three L.E.D lights and three tube lights fixed to the wall of the cell corridor. However, only one tube light is in working order. There is also a shower unit and toilet (European style) which however is not operational due to defective plumbing work. The level of humidity in the detention area has created a perfect breeding ground for mosquitoes.

Recommendations for Plaine Corail Police Station

- To repair or replace the defective plumbing system.
- To repair or to replace the two tube lights in the cell corridor of the female detention area.

2. Rivière Coco Police Station

In the male section, there is one cell which has a concrete bed, a mattress and a blanket. The cell is not fit for occupation due to leaking water pipes which have as yet not been repaired or replaced. However, on rare occasions when suspects are detained therein for less than 24 hours, they have to use the toilet reserved for the staff.

In the female section, there is one cell with an attached toilet and bathroom. However, the toilet cannot be used because of defective water supply. The water pipes leak and have not yet been repaired or replaced. Moreover, there is no cleaner/attendant at the police station. We were informed that the police officers have to clean the cell themselves. According to records, the last time a suspect was detained in the cell was on 21 October 2019, for less than 24 hours.

The police officers stated that when they had informed the Officer in Charge of the Central Investigation Division (CID) regarding this issue, the latter provided them with a plastic bucket, asking them to use it until further notice. The police officers have to fill water in the bucket outside the police station.

Recommendations for Rivière Coco Police Station

- To repair or replace the defective plumbing system in both male and female sections of the detention area.
- To repair the toilet for male detainees and to ensure that there is no water leakage.
3. **La Ferme Police Station**

There are four cells and the walls are covered with graffiti. Each cell has a blanket and a mattress. There are three tube lights along the cell corridor, but only two of them are in working order. Five L.E.D lights are also fixed to the wall, but none is in working order.

There is one toilet (European style) and a shower unit in the cell corridor. The NPMD noted that hygienic condition of the toilet was appalling, to say the least. It appeared that it had not been cleaned since a long time. The NPMD was also informed that there is no attendant/cleaner to clean and/or maintain the place. Once in a week, a lady cleaner from Alpha Cleaning Ltd cleans the toilet used by staff members. The officers also complained of irregular supply of water. Every day, they have to wait for the water trucks to refill the tank.

**Recommendations for La Ferme police station**

- The cells need a fresh coat of paint.
- To repair or replace one tube light which is fixed in the cell corridor.
- To ensure that there is regular water supply at the police station.
- The toilets must be cleaned and maintained at regular intervals.

**Visit to the Juvenile Detention Centre (1st Floor, La Ferme Police Station)**

The centre is a single room. There are two windows that have nylon sheets affixed to them. The air conditioner is not in working condition. Inside the centre, there are four metal cots but there are no mattresses. The place is filthy and unaccommodating as a detention centre for minors.

The NPMD made recommendations to the Commissioner of Police and the Police Divisional Commander of Rodrigues emphasising the need for the urgent implementation thereof, i.e. (1) to repair/ to replace the air conditioner or to replace same by a fan. The NPMD has also proposed that a friendlier environment be created for the juveniles.
VISIT TO POINTE LA GUEULE PRISON (MALE AND FEMALE)

Pointe La Gueule Prison has both a male and a female section.

Female Prison

At the time of our visit, there were seven detainees in the female section: four remand detainees and three convicted detainees. The NPMD met with ASP Ramlagun Officer in Charge and LWPO Etienne in Charge of Women’s Prison. We were informed that the construction of a new prison is still underway, which explains why CCTV cameras have not yet been installed. The women’s prison covers a small area with three dormitories and one ablution room (an Asian style toilet, a shower unit and a washing area). The remand and convicted detainees are kept together.

Two of the female detainees had their babies with them. The mothers and their babies occupied separate dormitories and wooden cots were provided for the babies. We were told by the women prison officers that very often they have to buy baby cream or clothes for the babies. Three nappies are provided per day for each baby. However, whenever the mothers need additional nappies, same were provided to them.

The dormitories were clean and tidy. There are no fans inside the dormitories. The women detainees spend the whole day (from 06.00 hrs. till 16.45 hrs.) in the association yard which is a very small area. The detainees complained that in summer the heat is unbearable. They also expressed their overall dissatisfaction. The NPMD visited the washing area and found that the place was reasonably clean although it covered a relatively small area. Nonetheless the detainees would have preferred to have a distinct area for washing plates and cups and another one for washing their clothes. The association yard is quite small and the detainees had no activity other than playing dominoes.

Male Prison

The NPMD was accompanied by Principal Prison Officer Anthony and Prison Officer Ravanne. In the male section there were 39 detainees (24 remand detainees and 15 convicted detainees). One of the detainees is of French nationality. The NPDM interacted with the detainees who were in the association yard. One detainee B. complained that each detainee was provided with a single prison uniform. Other detainees complained that whenever the General
Medical Officer (GMO) examines them, they are provided with the prescribed medicines on the next day by the nursing officer given that the GMO and the nursing officer do not have the same work schedule.

The detainees also complained that there is no water supply in the shower units. They have to use water from buckets. The prison provides only seven buckets of water for 39 detainees. Upon enquiry, the NPMD was informed that Rodrigues as a whole suffers from scarcity of water. However, the NPMD was informed that the new prison, which ought to be operational in 2-3 months’ time, will be equipped with water tanks so that the water supply in prison ought to be regular and uninterrupted.

The kitchen was clean at the time of the visit and the menu for lunch consisted of boiled rice, chicken stew, mixed vegetables and white beans. The prison officers stated that the detainees refuse to eat chicken, mutton and dried fish. Instead they insist on eating fresh fish only.

The prison authorities provide two teachers who teach numeracy and literacy to the detainees. The latter also benefit from the regular visits of nuns and pastors.

The NPMD noted with concern that there was no welfare officer at the prison, and one of the unfortunate consequences was that there was no one to act as a link between some detainees and their relatives. At Rodrigues prison, the detainees are allowed to buy articles from the canteen list with their earnings. Their relatives are allowed to send limited amounts of money to them.

The prison officers explained that very often they have to go out of their way beyond their scheme of official duties and responsibilities in order to help the detainees in situations where need for a welfare officer is acutely felt, until such time as the prison has a full-time Welfare Officer.

The detainees requested for more recreational activities in order to supplement the only activities that are now available, i.e. playing dominoes in the association yard or watching T.V.

The NPMD team also met the detainee J.S.H. who is a French national. He arrived in Rodrigues from Reunion Island on 19 July 2019 and was arrested and provisionally charged on 26 October 2019 with committing larceny (theft) at the hotel where he was staying. He
averred that he came to Rodrigues on a business trip. He stated to the NPMD that all his personal belongings have remained at the hotel and moreover that he has not been able to contact his relatives. He, however wished to retain the services of a lawyer so that he could be released on bail. Principal Prison Officer Anthony was trying his best to help him seek assistance from the French Embassy in Mauritius.

The detainee was advised to send a letter to the National Human Rights Commission which he did, following which the NPMD made a follow-up on his case and the needful was done by the French Consulate so that the detainee was able to retrieve his personal belongings from the hotel. Furthermore the detainee was released on bail on 16 February 2020.

Another detainee S.C. wished to meet the NPMD. He has been provisionally charged with the offence of rape. He is on remand since May 2019. He does not have any counsel and he complained that the police enquiry is taking too long. The NPMD enquired from the Office of the Prosecutor in Rodrigues as to the status of his case and was told that the main case would be lodged soon.

**Rehabilitation: the contribution of welfare officers**

The absence of a Welfare Officer has a negative impact on the rehabilitation process of the detainees. It is in fact the duty of the Welfare Officer to implement rehabilitation programme(s) and conduct welfare activities within the prison. His role is absolutely essential.

The Welfare Officer can help with the legal, social and family problems of the detainee. Thus, the successful rehabilitation will help to reduce recidivism and criminality in the long run and facilitate their reintegration in society.

The Nelson Mandela Rules emphasize the importance of nurturing the feeling of inclusion during detention itself through regular visits of parents and community organisations.

**COURTESY CALL ON THE ASSISTANT COMMISSIONER OF POLICE Mr. MADHOW**

The NPMD met with ACP Madhow to discuss the current law and order situation in Rodrigues and he provided a positive assessment of same to the NPMD. He stated that many cases in Rodrigues involve petty crimes, mostly larceny. Recently a few cases of murder have
been reported. More alarming is the proliferation of the consumption of cannabis in Rodrigues, although no case of synthetic drug has yet been registered.

The NPMD also raised the issues concerning the conditions of Police Cells in Rodrigues. He asked us to send our recommendations to the Commissioner of Police.

**COURTESY CALL ON THE MAGISTRATE D. J. A DANGEOT**

The NPMD briefed him about the deplorable conditions of the police cells in Rodrigues and the measures that could improve the conditions in prison. The case of F.P. (a girl sent to the RYC in Mauritius in 2018) was also discussed with him and he emphasized the importance of opening the RYC (Girls) in Rodrigues. He pointed out that it was of utmost urgency to do so and expressed his disappointment that the minor F. P. has to remain at the Rehabilitation Youth Centre in Mauritius, far away from family and relatives.

The NPMD raised the case of J.S.H. who is on remand in Rodrigues Prison. The Magistrate was informed of the absence of a welfare officer in prison.

**VISIT TO THE REHABILITATION YOUTH CENTER (RYC) (BOYS)**

The NPMD visited the RYC (Boys) which at the time of our visit had nine inmates whereas in 2018 it had only three. Their age ranges between 12 years to 16 years. Most of them are charged with the offence of larceny. Six of the inmates face police objection to their release on bail whereas some of them have been granted bail by the Court but their parents are unwilling to furnish same.

The NPMD met with Mrs. Tolbize, Officer in Charge at RYC (Boys). We first visited the kitchen. Mrs. Tolbize said that previously, there was a cook who was employed by the Rodrigues Commission for Child Development, who on her day off, used to do some cooking with the participation of the children. This was simultaneously a training on nutrition and a rehabilitation session; a joyful group activity with shared responsibilities which contributed to their development. It even allowed the children to enjoy some fruits which she managed to purchase with money provided for the food allowance. However, the procedure has now
changed and the food is now cooked at the prison and sent to the RYC. The children do not have fruits, as compared to the RYC (Boys) and (Girls) in Mauritius.

The institution can accommodate up to 14 inmates although the Child Development Unit (CDU) considered that the maximum had been reached already, (i.e. nine). There are three dormitories. The toilets are of European style. The ablution room has three shower units and 2 wash basins. The dormitories are clean and well maintained. The walls are clean and the environment is friendly and conducive for minors. The boys have a TV room and a football pitch which are both well maintained. They also grow vegetables such as cucumber, luffa and beetroots. In general, the centre is well kept and has a convenient environment for the rehabilitation of minors.

Each inmate obtains three sets of uniforms upon admission and which are provided by the Commission for Child Development. Some of the parents bring underwear for their children. The officers of the RYC contribute from their own pockets to provide underwear to the rest.

There is one psychologist, but she is not available on a full-time basis. Two ladies from the Non-Governmental Organisation (NGO) Literacy and Numeracy deliver Information and Communications Technology (ITC) classes on Wednesdays and Fridays. Otherwise, there is no teacher to help the inmates in their academic studies. The Commission for Child Development provides several books, dictionaries and other stationeries.

The inmates receive visits from relatives twice a week, mostly on Tuesdays and Thursdays for 15 minutes each time. There is a convenient visiting room, specially reserved for the parents and the inmates.

**TALK WITH POLICE AND PRISON OFFICERS AT PORT MATHURIN, ADMINISTRATION OFFICE**

The talk was centred around the work of the NHRC and more specifically that of the NPMD. It was explained to them that now they were required by law to observe international norms as set out in the Optional Protocol of the Convention Against Torture (OPCAT) and the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules).
It was an interactive session between the NPMD and the officers. The NPMD was also informed that there is a Technical Unit within the police force in Rodrigues itself.

**TALK AT THE CITIZENS ADVICE BUREAU (CAB), PORT MATHURIN**

The NPMD held a talk at the Citizens Advice Bureau. The audience consisted of members of the public, NGOS and the Mauritius Broadcasting Corporation of Rodrigues. There were animated discussions wherein opinions were expressed as to how best to create human rights awareness among students, women, detainees and inmates from the RYC.

**MEETING WITH Ms. J. AZIE**

In 2019, Ms. AZIE had undergone a training session in Mauritius at the National Human Rights Commission, following the implementation and operation of an HR antenna in Rodrigues. Ms Azie briefed the NPMD on the work and the complaints received at the HR antenna in Rodrigues.

**MEETING WITH MRS. C. FONG HIM OF THE CHILD DEVELOPMENT UNIT**

Regarding the project for the construction of the R.Y.C in Rodrigues, Mrs. Fong Him explained that discussion has been suspended due to the coming general elections. She also pointed out that the need for a probation officer and welfare officer at the RYC Boys was crucial to facilitate family reintegration. She was disappointed that the Children’s Bill had not been voted as it contained some very positive measures, according to her. Moreover, she added that there is no mechanism to continuously assess whether there is any improvement in the conduct of the inmates before their due date of release. Such a mechanism could include the Magistrate, a General Medical Officer (GMO)/ Health Director, a probation officer and a police officer from the Brigade des Mineurs. The establishment of such a mechanism would be in line with the provisions of the Reform Institutions Act.

The case of F.P. who had been sent to the Rehabilitation Youth Centre for girls in Mauritius was also discussed. The absence of an RYC (Girls) in Rodrigues, raises serious human rights issues as F.P. has been sent to the RYC in Mauritius since August 2018 and is
due for release in 2022. Such a state of affairs exposes the weaknesses in the whole system of rehabilitation of juveniles in detention in the Republic of Mauritius.

F.P., a girl aged 14 years at the time of committal, has been sent to the RYC (Girls) in Mauritius for four years following the charge of “child beyond control”. Her parents/relatives are unable to visit her as they all live in Rodrigues. The small consolation however is that she can talk to her mother on the phone every week. When a team from the NPMD visited her, she explained that, she feels that she has been abandoned by her parents. She felt a sense of rejection. The psychologist working there conceded that such pent up feelings may later manifest itself in violent behaviour.

The law has not provided a proper mechanism, whereby a minor may be allowed to leave the RYC before the term set by the magistrate. Various pieces of legislation may have to be dusted off and overhauled. In the meantime, the minors in the RYC have to suffer the consequences of the lack of clarity and certainty in the law.

**Under the Reform Institutions Act**

*Aftercare order (1) (a) The Commissioner may permit a detainee in a Correctional Youth Centre or a Rehabilitation Youth Centre who has served a minimum of 6 months, to live under the charge of a suitable and willing person.*

In practice the court order is followed scrupulously without any possibility for review as proposed in the legislation above. During the period of detention there is no regular exchange of information between the RYC where the minor is detained and the Probation Office. Therefore there is no proper assessment of the child’s behavior and no proper report that could enable an informed decision as to whether the child could be released before term.

On the other hand, the probation officer has no clue as to how the parent must prepare for the return of the child. Children behaving outside norms very often react to parental authority without any consideration for the parents’ own difficulties. Until these issues are resolved, the early release of a minor from RYC will not achieve its objectives as the rehabilitation process involves both parties.

The NPMD is of the view that the case of minor F.P. ought to be reviewed so that she is kept in a place closer to home. She would have regular visits from parents/relatives.
C. EUROPEAN UNION FUNDED PROJECT

As part of the European Union funded Project on the ‘Promotion of Respect for Human Rights in Mauritius and Rodrigues’, the Project Manager, Mrs. M. Baulacky and the two Resource Persons, Ms. L. S. Sungkur and Ms. H. Gunesh, visited Rodrigues from 14th May to 17th May 2019 to deliver talks to different groups of the population to sensitise them on their human rights and the legal framework in place for their protection. The collaboration of the Rodrigues Regional Assembly and relevant Commissions was sought to this end.

Six informative sessions were held with different target groups in various locations, namely at Citron Donis Youth Centre, La Ferme Youth Centre, La Ferme Senior Citizens Centre and Marechal College. Some 200 people, including women, elderly persons, youth and children were sensitised on their human rights and the laws relevant to their protection. Each session began with an introduction on the mandate of the National Human Rights Commission and the different means through which they can make complaints. The Resource Persons then laid emphasis on the rights and legislation most pertinent to the relevant audience.

- Informative Sessions with Women

During the two sessions on women’s rights on Wednesday 15th and Friday 17th May respectively, where two representatives of the Commission for Child Development and Others were also present, focus was laid on domestic violence which, it was highlighted, is quite common – though highly unreported – in Rodrigues. Participants also pointed to the high rate of teenage pregnancies and occurrences of marital rape in Rodrigues.

The Resource Persons emphasized the protection orders available under the Protection from Domestic Violence Act and explained relevant sections of the Criminal Code. The representatives from the Commission for Child Development and Others in turn shed light on the assistance they bring to victims in collaboration with the Police Family Protection Unit of the island. With regard to sexual harassment, most participants agreed that it was not common in Rodrigues.
• **Talk with Elderly Persons**

The session with elderly persons at La Ferme Senior Citizens Centre on Thursday 16\textsuperscript{th} May 2019 saw the participation of members of various senior citizens associations and the President of the Federation of Senior Citizens Associations in Rodrigues, Mr. Francis Clair. The Resource Persons stressed the legal framework for the protection of the elderly as well as the social security and health facilities in place for their welfare. Many questions were raised in particular with regards to property rights and abuse of the elderly.

• **Informative sessions with students and young persons**

During the sessions with young persons in Youth Centres as well as with students in Marechal College, the Resource Persons emphasized the right to education and the barriers thereto, including teenage pregnancy and child marriage. They raised examples of child bullying, child labour and sexual harassment amongst young people and emphasized relevant legislation. They also clarified the role of the Child Development Unit.

• **Suggestions from Participants and Observations**

The first mission to Rodrigues under the EU-funded Project enabled the team to establish useful and direct contact with relevant departments. The latter promised to gather larger audiences for our next visit to the island. In fact there was a highlighted need to have more regular sensitisation activities in the island and to establish open, structured and accessible complaint mechanisms in Rodrigues. The public must also be informed of the introduction of new measures regarding their rights through awareness sessions, communiques on the radio or distribution of informative pamphlets.

While human rights violations and instances of violence and abuse continue to rise, there remains an urgent need to inform the public across all spheres of life and professions of their human rights and where to seek amends if there is any abuse. Through the various activities described the NHRC was able to contribute to reducing this gap through the EU-funded project. It was recommended that additional sessions be held with other
target groups namely men, youth from different Mauritius Institute of Training and Development (MITD) institutions and with staff of different Commissions.

D. SENSITISATION ACTIVITIES IN COLLABORATION WITH THE COMMISSION FOR ELDERLY PERSONS AND OTHERS

In the context of the International Day for Elderly Persons celebrated on 1st October every year, the Commission for Social Security and Others in Rodrigues enlisted the NHRC’s collaboration to deliver a series of informative sessions on the human rights of elderly persons in the island.

Through this collaboration, Ms. D. L. Beeharry, Barrister-at-law and Ms. E. Potié, Investigator at the NHRC, held four sessions in different Senior Citizens Centres and Community Centres on 2nd October and 3rd October 2019 respectively, reaching some 200 persons. The targeted audience consisted of elderly persons, community leaders as well as the staff of the Commission for Social Security and Others.

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The interactive sessions shed light on the provisions of the Protection of the Elderly Persons Act, the Protection from Domestic Violence Act and policy measures in place to ensure the protection of the rights of the Elderly.
It was highlighted that Rodrigues has an organised neighbourhood elderly watch which works in collaboration with police officers and members of the community to ensure the safety of older persons who live alone or in a family unit.

Several recommendations were made by the participants to the Commissioner for Social Security and Others such as the creation of a recreational centre for the Elderly in Rodrigues and an elderly care centre equipped with trained medical staff to take care of elderly persons whose family can no longer take care of them.

The Commissioner for Social Security and Others attended two sessions and was very pleased with the fruitful interaction between the participants and the resource persons. He felicitated and thanked then NHRC team for the outcome of the talks and expressed his wish to closely collaborate with the NHRC for future sensitisation campaigns.
CHAPTER VII

REVIEW OF CRIMINAL CONVICTIONS

The NHRC received two requests from detainees seeking help to apply for the review of their criminal convictions.

The applications were not made directly under Section 4A of the Protection of Human Rights Act. Instead the two detainees requested to be interviewed to give more details about the circumstances leading to their trial and conviction. They were subsequently interviewed.

The first one pleaded guilty to the charge of rape and murder of a two year old girl in 2009 and even deposed as a witness in the trial of his accomplice. He claimed to have been misled by his counsel concerning his plea of guilt but never raised the issue when he deposed as a witness. An examination of the documents pertaining to the police enquiry, the trial and the judgment of the Court of Criminal Appeal against conviction by the accomplice and the new version of the applicant revealed no fresh and compelling evidence that would justify going forward with the case.

The facts in the second case were that the convicted detainee had murdered his old mother for money. An examination of the Court record and the new version of the detainee revealed no fresh and compelling evidence to take the case further and refer the matter to the Supreme Court.
CHAPTER VIII

HUMAN RIGHTS EDUCATION AND PROMOTION

To promote Human Rights, the National Human Rights Commission conducts awareness raising campaigns in Citizens Advice Bureaux, Social Welfare Centres, Women Empowerment Centres, Youth Centres and schools to inform the public at large about their rights and their obligation to respect the rights of other citizens. Members of the public are often more concerned about immediate problems in their locality like the state of roads, lack of amenities or disputes with their neighbours about encroachment on their land. They are given information about the authorities (Ombudsman, Citizens’ Support Unit or the relevant Ministry) to whom they should address their complaints. Others want to know more about the rights of detainees in prisons and about the rights of victims especially in cases of domestic violence, assault or larceny.

Talks to students are delivered in English and French about the history of Human Rights, the Universal Declaration of Human Rights, Chapter II of the Constitution on Fundamental Rights, and about Children’s rights and responsibilities. Police Officers and Prison Officers already have a module on Human Rights in their Training Course. The NHRC delivers refresher talks to them on Human Rights, including the rights of suspects and victims, the primary duty of being of service to the public and the need to respect our human rights obligations under different international human rights treaties.

The NHRC contributes to inform workers about their rights in workshops held by trade unions. Firms in the private sector are keen to comply with human rights norms to maintain their good reputation with their clients overseas. The NHRC delivered lectures to the top management and middle management to inform them about the rights of workers, especially about the rights of migrant workers who may be a major part of their workforce. The NHRC conducts information campaigns through workshops and meetings for elderly persons. Emphasis is laid on the independence of the NHRC, the Paris Principles and the important role of National Human Rights Institutions acting as intermediaries between citizen and the State to protect Human Rights.

A series of workshops was held for Municipal Councillors, members of District Councils and Village Councils on how Local Government can promote Human Rights. The Local Government Act sets out that the main objectives of a local authority shall be to -
(a) promote the social, economic, environment and cultural well-being of the local community;

(b) improve the overall quality of life of people in the local community;

(c) ensure that services and facilities provided are accessible and equitably distributed (Section 49 of the Local Government Act)

Stress was laid upon the need to respect and ensure to inhabitants the provision of economic, social and cultural rights to improve their well-being.

The NHRC participated actively with ATD Quart Monde and the European Union delegation in Mauritius in the celebration of the United Nations International Day for the Eradication of Poverty on 17 October 2019. The theme was –

“Acting together to empower children, their families and communities to end poverty” to mark the thirtieth anniversary of the adoption on the Convention on the Rights of the Child and to acknowledge the efforts and struggles of people living on poverty.

Members of the NHRC and Staff attended Workshops organised locally by the NHRC jointly with the delegation of the European Union in Mauritius on Women’s rights and the functions of the National Preventive Mechanism in the United Kingdom. Members of the staff attended the following meetings among others – Validation Workshop for Legal Environment Assessment for Women, Children and the LGBT community, Data Protection, a Seminar on a new Convention for the rights of older people, Anti-Gender Violence in Africa, a Workshop for preparing the first report of Mauritius on Women’s Rights under the Maputo Protocol to the African Charter on Human and People’s Rights and a Conference on the Role of the United Nations in promoting human rights and the current international treaty framework.
