NATIONAL HUMAN RIGHTS COMMISSION
REPUBLIC OF MAURITIUS

POSITION PAPER ON
LANGUAGE RIGHTS IN THE NATIONAL ASSEMBLY

The terms of reference of the Select Committee on the use of Kreol Morisien in the National Assembly, and the place of the ancestral languages of Mauritius

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22 September 2026

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Executive summary

1. On 31 August 2026, the Commission received a complaint dated 19 August 2026 from Dr Sarita Boodhoo concerning the terms of reference of the Select Committee of the National Assembly appointed to consider the introduction of Kreol Morisien in the proceedings of the Assembly. The complainant does not oppose the recognition of Kreol Morisien and does not ask that it be delayed or reopened. Her complaint is that the ancestral languages of Mauritius have been left out of the mandate of the only body presently constituted to examine linguistic recognition in Parliament, and that no reason has been given for that omission. She believed that the terms of reference of the Select Committee was potentially in breach of section 16 of the Constitution.

2. The motion appointing the Select Committee was moved by the Prime Minister on 04 August 2026 and is set out verbatim at Part II. Its material words are that the committee is "*appointed to consider the introduction of Kreol Morisien in the proceedings of the National Assembly, and matters ancillary thereto*". Whether those words are merely **narrow** or genuinely **exclusive** of the other Mauritian languages is, the Commission considers, a question of construction for the Select Committee itself.

3. Two decisions of the European Court of Human Rights frame the analysis at Part V. *Birk-Levy v France* holds that the working language of a legislature is a matter of exclusive State competence. *Mestan v Bulgaria*, decided in a different context, establishes that a linguistic rule of an **absolute character**, one admitting no assessment of necessity in the particular case, can deprive domestic institutions of the power to conduct an adequate examination of a question properly before them. Read together, the two decisions confirm that Mauritius remains free to decide which language or languages its Parliament will use; the question is whether the present terms of reference foreclose the Select Committee from turning its mind to that decision regarding languages other than Kreol Morisien.

4. The 2022 Population Census records that Kreol Morisien is spoken at home, alone or in combination, by 89.9% of the population; Bhojpuri by 8.6%; French by 5.6%; and English – the official language of the Assembly – by only 1.3%, fewer than those who speak Bhojpuri (Part IV). Those figures confirm that Kreol Morisien has an accessibility rationale which is peculiar to it; they equally confirm that the speakers of the ancestral languages are linguistic minorities within the meaning of Article 2(1) of the 1992 UN Minorities Declaration.

5. **Principal recommendations.** The Commission recommends a graduated response. It would be for the Select Committee to **clarify** whether the words "*and matters ancillary thereto*" already permit evidence and submissions on the introduction of other Mauritian languages in Parliament and the implications of introducing solely Kreol Morisien on the ancestral languages. **Alternatively**, only if the existing mandate is legally insufficient should it be **amended**. None of these should delay, suspend or reopen the Select Committee's consideration of Kreol Morisien.

6. **Framing**. The Commission recommends, that the question of linguistic policy in Parliament be framed in terms of national heritage and equal access to public deliberation, and not in terms of community entitlement. Language in Mauritius is not the property of any community, and the Commission has deliberately avoided

treating this complaint as a contest between Kreol Morisien and the ancestral languages, because it is not one.

7. **Law reform**. Separately, and independently of how the terms of reference are resolved, the Commission recommends that the State to consider adding language to the grounds enumerated in section 16(3) of the Constitution, and to review whether sections 33(d) and 49 – which presently confine parliamentary business to English, with a French exception – are compatible with section 1 of the Constitution.

The Commission's position in short

First – language in Mauritius is not the property of any one community. The Commission recommends that the question of linguistic policy in Parliament be framed in terms of national heritage and equal access to public deliberation, and not in terms of community entitlement.

Second – the complaint is not made out under **section 16 of the Constitution**. Language is not among the descriptions enumerated in **section 16(3) of the Constitution**, and the "race" and "place of origin" routes would require an association between community and language which the census evidence does not support and which the Commission considers it wrong to encourage.

Third – the failure of the **section 16 of the Constitution** claim exposes a gap in domestic law rather than a defect in the complaint. Article 2(1) and Article 26 of the ICCPR, by which Mauritius is bound, list language as an express prohibited ground of discrimination**. Section 16(3) of the Constitution** does not do so and it was a gap the CERD Committee itself flagged, recommending in its 2018 Concluding Observations on Mauritius [CERD/C/MUS/CO/20-23, 19 September 2018] that language be added as a prohibited ground under the Equal Opportunities Act. The Commission recommends that the constitutional gap be addressed by law reform.

Fourth – the Select Committee is a State-created mechanism for considering the institutional recognition of language in Parliament. *Birk-Levy* holds that the underlying choice of a legislature's working language falls outside the scope of Article 10 of the ECHR. It does not follow, however, that the process by which the State organises its own consideration of that choice is equally beyond scrutiny.

Fifth – a serious question arises under **section 12 of the Constitution**, which provides that a person has the freedom to receive and impart ideas and information without interference but engagement of section 12(1) of the Constitution is conditional on a narrow construction of "*and matters ancillary thereto*" being adopted – a question of construction that remains for the Select Committee itself.

Sixth – section 12(1) of the Constitution is capable of being engaged, for three reasons: the Select Committee is presently the sole mechanism through which citizens may put views on parliamentary language use to Government, with no alternative institutional route to do so; a restriction on the submissions it may receive is capable of limiting the information which may be imparted to it, even where that information concerns a matter only ancillary to the committee's main subject-matter; and submissions to a parliamentary committee are a public exchange of ideas about the linguistic future of the Assembly, with a bearing on the candidates who stand for election under section 33(d) of the Constitution.

Seventh – the accessibility argument for Kreol Morisien is peculiar to Kreol Morisien. At almost 90%, inclusive of the census data where Kreol Morisien is spoken together with French and Bhojpuri, Kreol Morisien, French and Bhojpuri are the languages in which the overwhelming majority of Mauritians conduct their domestic lives.

Eighth – the issue is one of **process, not outcome**. Whether any ancestral language is ever admitted to the proceedings of the Assembly is for Parliament alone to decide. What is in issue is whether the committee charged with examining linguistic recognition may address its mind to the question and widening that inquiry carries no additional constitutional risk, since any recognition would in any event require amendment of section 49, which Government has itself already indicated it intends to examine.

Part I – Mandate, scope and approach

1.1 The Commission's mandate

1. The Commission is established under the Protection of Human Rights Act 1998 and exercises the functions there conferred on it, including the promotion and protection of human rights, the investigation of complaints of potential breaches of human rights, the review of laws and administrative practices, the preparation and submission of reports to Government on any matter concerning the promotion and protection of human rights, and the making of recommendations on ways to end situations of violation of human rights.

2. The complaint was received under **section 4(1)(a) of the Protection of Human Rights Act**. The Commission was satisfied that it disclosed a *prima facie* potential infringement of **sections 12 and/or 16 of the Constitution**, and that a full hearing was warranted.

1.2 Parliamentary privilege

3. The appointment of a Select Committee and the settling of its terms of reference are acts of the National Assembly. The Commission claims no power to direct the Assembly, to review the proceedings of a committee, or to interfere with the internal regulation of parliamentary business. Its function is confined to expressing a considered opinion on the human rights dimension of a decision which has been taken.

1.3 Scope of this paper

4. The Commission does not address whether Kreol Morisien or the ancestral languages should be recognised as parliamentary languages. That is a question for the Select Committee to deliberate upon and, ultimately, for Parliament. Nor does the Commission express any view on the mechanism, cost or sequencing of any scheme of recognition.

5. The question before the Commission is:

   Whether the terms of reference of the Select Committee, presently confined to the use of Kreol Morisien in the National Assembly, are potentially discriminatory in breach of section 16 of the Constitution, having regard to the other ancestral languages of Mauritius and/or whether section 12 of the Constitution could be engaged.

6. Put shortly: the question is not whether all the ancestral languages will be introduced in Parliament. It is whether the Select Committee may address its mind to them. The distinction between the outcome of a deliberation and the boundaries placed upon it runs through the whole of this paper.

Part II – The complaint, the hearing, the terms of reference and the public debate

2.1 The complaint

7. On 31 August 2026 the Commission received a complaint dated 19 August 2026 from Dr Sarita Boodhoo. Dr Boodhoo founded the Mauritius Bhojpuri Institute in 1982 and was appointed in 2012 as the first Chairperson of the Bhojpuri Speaking Union, established under an Act of Parliament, in which office she served for twelve years. She alleges that, by confining the mandate of the Select Committee to Kreol Morisien and making no provision for the other Mauritian languages, such as Tamil, Bhojpuri, Hindi, Marathi, Telugu, Urdu and Mandarin, the terms of reference are potentially in breach of section 16 of the Constitution.

   a) First, she submits that the Terms of Reference omit consideration of Mauritius's plural linguistic society. She characterises Mauritius as, by the Constitution's own design and by lived reality, a plural society whose communities arrived through indenture and trade and carried with them Tamil, Bhojpuri, Hindi, Marathi, Telugu, Urdu and Mandarin – languages already recognised by Government through the Speaking Unions, each established with equal statutory weight by Act of Parliament under the Ministry of Arts and Culture, and taught as optional subjects within the national school curriculum. She adds that Bhojpuri specifically is recognised by UNESCO as the vehicle of the Geet-Gawai element inscribed on the Representative List of the Intangible Cultural Heritage of Humanity in December 2016, which she submits obliges Mauritius, as the State Party, to ensure that Bhojpuri is taught at formal and non-formal levels. On this basis, she submits that Government has, through its own conduct over decades, already accepted these languages as Mauritian languages deserving institutional support, and that the Terms of Reference's silence on them, while the Select Committee examines Kreol Morisien in the same forum, is not a neutral omission but one that operates to exclude.

   b) Second, she submits that the exclusion disregards a long and settled history of struggle for recognition, tracing this back at least to 1944, when the Select Committee on the Ward Report on Indian languages considered their place in Mauritian education, with Dr Seewoosagur Ramgoolam and G. M. D. Atchia advocating for the teaching of Indian languages, an advocacy the colonial government of the day accepted. She notes that Select Committees of the Legislative Assembly returned to the question in 1986 and again in 1991, specifically as to the place of Hindi, Urdu, Tamil, Telugu, Marathi and Mandarin in the National Certificate of Primary Education syllabus, with Government adopting the resulting recommendations by extending these languages recognition for certification purposes in 1988 and subsequently for ranking purposes. She submits that Government has, on at least three occasions across eight decades, convened a body to consider the standing of these languages and has each time extended them a measure of institutional recognition, so that the present claim continues an eighty-year record rather than representing an opportunistic attachment to the Kreol Morisien debate.

   c) Third, she submits that the effect of the exclusion is to marginalise the languages of the communities who built this country, given that Tamil, Bhojpuri, Hindi, Marathi, Telugu, Urdu and Mandarin are not recent or foreign imports but were carried to Mauritius by the people who built its economy and civic life

through indenture and trade. She submits that excluding these languages from the Terms of Reference while Government proceeds to recognise Kreol Morisien in the same forum sends an institutional signal that the mother tongues of these communities do not warrant the same consideration, and that this signal, repeated across generations, is precisely the mechanism by which the everyday use of these languages has already receded.

d) Fourth, as to the constitutional basis of the complaint, she submits that the exclusion engages section 16 of the Constitution, which prohibits discrimination on grounds including race and place of origin. She submits that mother tongue in Mauritius is not an incidental or freely chosen attribute but is, for the communities concerned, inseparable from race and place of origin, since Tamil, Bhojpuri, Hindi, Marathi, Telugu, Urdu and Mandarin are the languages of specific communities whose place of origin and race are historically and socially marked by those very languages. On this basis, she submits that a Terms of Reference which extends consideration to the language of one community while remaining silent on the languages of others, where language operates as a marker of race and place of origin, is capable of amounting to discrimination within section 16, notwithstanding that the Terms of Reference do not refer to race or place of origin on their face. She states that she is not aware of any reason placed on the public record for the differential treatment between Kreol Morisien and the other languages named in the complaint, and invites the Commission, in its consideration of the complaint, to request Government's justification, if any, for that differential treatment.

e) As to relief, she asks that the Commission examine the complaint and recommend that Government amend the Terms of Reference of the Select Committee to include express consideration of Tamil, Bhojpuri, Hindi, Marathi, Telugu, Urdu and Mandarin as Mauritian languages meriting institutional recognition in the National Assembly, on terms and through a mechanism to be determined by the Select Committee itself. She is careful to state that she does not ask that the recognition already extended to Kreol Morisien be delayed or reconsidered, but only that the same door not be closed to the other communities who built the Republic.

2.2 The hearing

8. On 08 September 2026 a hearing was held at the seat of the Commission chaired by the Chairperson. Dr Boodhoo deponed under solemn affirmation. Her evidence may be summarised as follows.

(a) Her request was for the terms of reference of the Select Committee to be enlarged to permit consideration of all the ancestral languages, and not to be confined to Kreol Morisien. She was explicit that she was not opposed to the recognition of Kreol Morisien, which she accepted as Mauritius's "link language", and was not asking that its recognition be delayed or reconsidered.

(b) She drew a historical parallel with the introduction of French into the Assembly, which she said was admitted not because it was a link language but because it was demanded by a Franco-Mauritian elite; and she argued that the same demand-based logic which secured recognition for French should now extend to the ancestral languages.

(c) She gave examples of Bhojpuri- and Tamil-derived words in everyday use in Kreol Morisien such as *ayo*, *dhouk*, *bazaar*, *tamasha*, *katora*, *bechwa* and *chatwa*, to illustrate that these languages already form part of the shared linguistic fabric of Mauritius rather than being confined to particular communities.

(d) She produced Mauritian rupee notes bearing Tamil, Hindi and Gujarati script and numerals, as evidence that these languages are embedded in national institutions rather than confined to private or community life.

(e) She referred to comparative parliamentary practice in Singapore (English, Mandarin, Malay and Tamil), India (22 scheduled languages, with AI-assisted simultaneous interpretation), South Africa (12 official languages), Fiji (Fijian and Hindi) and Nepal (which recognises Bhojpuri), as evidence that multilingual parliamentary practice is workable elsewhere.

(f) She submitted that the practical objection that Parliament cannot function in several languages is answered by advances in machine translation, and noted that the Prime Minister had designated artificial intelligence a national priority, so that Mauritius could draw on India's experience of AI-assisted interpretation.

(g) She argued that languages are living heritage capable of irretrievable loss, citing an Andaman Islands language that died with its last speaker, and drawing an analogy with State expenditure on the preservation of the Dodo and other endemic species; she referred also to UNESCO and to Bolivia's advocacy on language loss.

(h) She invoked the statement of the Kenyan writer Ngũgĩ wa Thiong'o that to know every language but one's own mother tongue is a form of enslavement, framing her claim as one of dignity and identity and not solely of utility.

(i) She emphasised that she was not asking for parliamentary business to be conducted wholly in every ancestral language, but that even partial or occasional use, assisted by translation, should be permitted; she noted that the Standing Orders make no provision for this at all.

(j) When questioned on proportionality, on the availability of empirical data as to the vitality of the several oriental languages, and on the possibility of a phased approach beginning with Kreol Morisien as a trans-communal language, Dr Boodhoo declined to engage on the merits, stating that she had come to give her own position and not to receive the Commission's. She cited the Bangladesh language movement, the resistance of East Pakistan to the imposition of Urdu by West Pakistan, notwithstanding a shared religion, as illustrating the depth of grievance caused by the suppression of a mother tongue, and maintained that a language survives through partial use even where fluency has declined.

(k) She stated that she grounded her argument in race and country of origin.

(l) She indicated that, should the terms of reference not be enlarged, a separate Select Committee might have to be sought in order to secure parity with Kreol Morisien, and referred to an ongoing national petition on the issue.

(m) She filed her written statement, exhibited as Doc A.

Written statement of Dr Boodhoo (Doc A)

9. In her written statement Dr Boodhoo traces the present asymmetry to the Constitution as drafted in 1965, when French was admitted to the Assembly not as a link language but at the demand of the Franco-Mauritian elite, no equivalent accommodation being made for any other language at the time. She welcomes the proposed recognition of Kreol Morisien but submits that continued silence on the other ancestral languages perpetuates that asymmetry into the present.

10. She characterises the claim as one for institutional recognition rather than for permission to speak: no one is presently prevented from speaking the ancestral languages, but the Assembly does not recognise them as it now proposes to recognise Kreol Morisien. She frames this as a question of democratic equality, going to the equal standing of every community within the Assembly.

11. She grounds the claim in section 16 (race and place of origin), submitting that those grounds must be construed generously and in keeping with the times rather than narrowly or literally, and that, so construed, "*place of origin*" should be understood to capture a people's ancestral origin rather than merely an individual's own place of birth.

12. She submits that Mauritius is an inherently multi-ethnic, multi-religious and multi-linguistic society, and that the diminished status of the Indian-origin languages today is the direct consequence of two centuries of colonial policies of suppression rather than of organic decline. She frames present recognition as restorative rather than as a new privilege, invoking the image that one cannot break a person's leg and then blame him for losing the race.

13. She notes that Government has over the years acknowledged that colonial bias through religious subsidies, Speaking Unions and cultural centres, which she says have stabilised Mauritian society and given every community a stake in nation-building; and she cautions that disturbing that equilibrium by recognising only one language now risks generating social tension.

14. She submits that collective identity, religious, cultural or linguistic, has always coexisted with Mauritian citizenship and is not incompatible with it, and that any policy tending towards linguistic homogenisation would be subversive of a citizenship that is inherently plural. She invokes international human rights instruments, including the Universal Declaration of Human Rights, as protecting freedom of expression, and submits that the State is under an obligation to protect language rights and to ensure that the extension of rights to one community is not achieved at the expense of another.

2.3 Submissions from Tamil Duty, Dignity, Discipline (T3D)

15. On 14 September 2026, the Commission received the submissions from Tamil Duty, Dignity, Discipline (T3D), a collective comprising of the Anna Foundation, Tamil Chambers Women Empowerment Network (TCWEN) and members of the civil society, identifying as "Tamil".

16. In a nutshell, T3D argued that:

    a) Tamil, Bhojpuri, Marathi, Telegu, Urdu and Mandarin, whilst being described as "ancestral languages" continue to be taught, spoken and recognised in Mauritius. The low speaking numbers should not be a reason for their non-institutionalisation but should be the reverse. Welsh is used as an example to

show how state recognition and institutionalisation can revive the language. In New Zealand, Māori was made the official language in 1987 when very few speakers understood it.

b) Singapore and India are quoted as examples of countries where the Parliament accepts different languages. In Singapore, English, Mandarin, Malay and Tamil are official languages when Tamil speakers only amount to roughly 3-4% of the population. While members have the right to address Parliament in Tamil, the right is rarely exercised as ordinary business is mostly conducted in English. In India, 22 languages are recognised with AI-assisted simultaneous interpretations provided.

c) The French exception in section 49 of the Constitution is seen as the success of a community in securing French as a language as it was constitutive of their own identity. It was also highlighted that laws are not drafted in French.

d) Colonialism shaped all of Mauritius' languages. While Kreol Morisien emerged as a language of survival, other forces attempted to suppress and erode the languages of indenture and trade. True decolonisation would mean recognising all ancestral languages and not just Kreol Morisien.

e) The strongest argument advanced is that recognising Kreol Morisien alone risks creating the perception of institutionalising one language to the detriment of others, which is not compatible with the democratic values of this country, especially considering its diverse history. It is argued that there is a risk that the non-recognition of a language would send a signal that communities speaking that language are less worthy than those whose languages are recognised and spoken in Parliament. A fear was expressed about creating an institutional hierarchy of languages which would then send the message that those who speak the non-recognised languages are secondary.

17. T3D invited the Commission to consider whether the current parliamentary language policy and section 49 may infringe section 16 of the Constitution (in particular "place of origin").

18. T3D also invited the Commission to consider the issue under section 12 of the Constitution stating that "*rules governing sovereign democratic speech accommodate the Republic's own constitutive, historically documented linguistic traditions, ensuring that institutional procedure enhances authentic democratic expression rather than enforcing cultural silence."*

19. T3D made the following submissions to the Commission:

a) The terms of reference of the Select Committee should be amended and expanded to include all ancestral languages;

b) There should be meaningful participation of all stakeholders in shaping the parliamentary linguistic policy;

c) There should be an independent socio-linguistic assessment of the long-term impact of selective parliamentary recognition on ancestral languages;

d) There should be comparative parliamentary models on inclusive and multi-lingual best practices;

e) Any amendment to section 49 of the Constitution should not permanently foreclose recognition of other ancestral languages.

20. No hearing was conducted with T3D, in the interest of time, given that the closing date for any submission before the Select Committee was 22 September 2026. T3D was informed accordingly and had no objection.

2.4 Submissions from one independent complainant

21. On 16 September 2026, the Commission received submissions, dated 10 September 2026 from one complainant, whose name will be kept confidential. He argued that ancestral or oriental languages, such as Bhojpuri, Hindi, Urdu and Tamil were not taught in schools by colonisers. Ancestors of Indian indentured labourers brought their language, culture, traditions and religious practices with them. He believed that Bhojpuri has played an important role in the history and cultural development of Mauritius.

22. He argued that ancestral languages should be given the same institutional status as English and French in Parliament on the basis of the principles of equality, cultural identity and non-discrimination. He emphasised that he was not asking that the value of English, French and Kreol Morisien be diminished but he was making a request for greater balance and equality.

23. The complainant was concerned that the institutionalisation of one language over others risked creating a hierarchy of languages and he submitted that no language should be treated as inferior.

2.5 The terms of reference and their legal effect

24. The Commission has obtained the motion by which the Select Committee was appointed. It was moved by the Honourable Prime Minister and appeared on the Order Paper of the sitting of **04 August 2026**. It is in these terms:

> *"This Assembly resolves that a Select Committee of the Assembly, comprising such Members as may be appointed by Madam Speaker, be appointed to consider the introduction of Kreol Morisien in the proceedings of the National Assembly,* ***and matters ancillary thereto****, with the power, for that purpose, to send for persons, papers and records, including the Report of the Steering Committee, chaired by Madam Speaker, on the proposed Introduction of Kreol Morisien in the National Assembly, dated 12 March 2026, and to appoint such number of specialist advisers thereto and to make such recommendations, as it deems fit."*

25. The Commission highlights that the report of the Steering Committee was not publicly available for consultation and the present position paper has proceeded on this basis.

26. The terms of reference make mention of *"matters ancillary thereto*". On the **narrower reading**, matters ancillary to the introduction of Kreol Morisien are the consequential and procedural questions which the introduction would generate.

27. On a wider reading, matters ancillary to introducing a new language into the proceedings of the Assembly could include the effect of doing so upon the other languages of Mauritius, including the risk, that institutionalising one language will be perceived as the sidelining of others.

28. The Commission considered the Hansard debates dated 04 Aug 2026, pages 61 – 112. Out of all the members who expressed themselves in the debate, six members

mentioned Bhojpuri and other ancestral languages specifically in their speeches but they did not move to amend the motion to include languages other than Kreol Morisien.

a) Honourable Mr P Berenger (First Member for Stanley & Rose Hill) made mention of the fact that the introduction of Kreol Morisien should not be introduced to the detriment of other languages, including Bhojpuri. He added that should a request be made for Hindi, Bhojpuri, Arabic or Chinese to be used in Parliament, it should be considered with a calm mind and in the unity of our rainbow nation. [pages 66 – 68]

b) Honourable Mr S Mohamed (Minister of Housing and Lands) referred to a speech made by Sir Abdool Razack Mohamed who, in 1960, stated that he did not have the "privilege" of expressing himself in French and that if he could express himself in his mother tongue (Hindustani), he would be able to express himself better. The Honourable Minister highlighted that Hindustani had nothing to do with one community and languages have "*everything to do with great cultures and bridging cultures*." [pages 68 – 73]

c) Honourable Mr R Etwareea (Third Member for Grand Baie and Poudre D'or) rereferred to Bhojpuri in his speech and the fact that India and South Africa recognised several languages. India has a sophisticated system of translation which allow for any member to express himself in his maternal language. He did not make any request for the motion to be amended to include the use of ancestral languages in Parliament. [pages 76 – 79]

d) Honourable Mr C Baboolall (First member for Montagne Blanche and GRSE) mentioned ancestral languages in his speech and stated that the question will be asked as to whether Bhojpuri, Hindi or other languages will be introduced in Parliament. He was of the view that Kreol Morisien was the language that every Mauritian shared but that the process "*must be one of addition*." A multicultural society honours diversity by making room for more than one heritage. He ended by highlighting that when debates are conducted in a language a citizen cannot fully understand, parliament remains out of reach for the lay person. It is time to widen its doors. [pages 79 – 82]

e) Honourable Mr F Quirin (Third Member for Beau Bassin and Petite Riviere) stated that ancestral languages form part of our heritage and contribute to the cultural richness of our country. He stated that our strength lies not in choosing one language against the other but in living the diversity in a spirit of unity. He stated that the Select Committee would have to consider the concerned voices. Linguistic reform cannot be imposed from above but should be built by the whole society. [pages 90 – 93]

f) Honourable Mr D Nagalingum (Minister of Youth and Sports) recognised that Kreol Morisien has borrowed from French, English, Bhojpuri, African languages and Malagasy. [pages 93 – 94]

g) At the end of the debates, the Honourable Prime Miniter stated that he believed the "*terms of reference of the Select Committee are broad enough ... to encompass all aspects of the proposal*." [page 109]

29. On the basis of the above and in light of the Honourable Prime Minister's words, the Commission is of the view that the *matters ancillary thereto*" could include evidence and submissions on the introduction of other Mauritian languages in Parliament and

the implications of introducing solely Kreol Morisien on the ancestral languages. On that reading, the Select Committee is already at liberty to receive evidence and submissions on the point, and no amendment of the mandate is required.

2.6 The public debate

30. The complaint arises against a debate which has been running publicly since early 2025 and which is now well documented. Three contributions frame the field.

The complainant's own case: link language and common language

31. In an interview published in *l'express* on 1 September 2026, Dr Boodhoo set out the argument which underlies her complaint. She does not dispute that Kreol Morisien occupies a distinct place in national life. She distinguishes between a **link language**, which connects speakers who do not share a mother tongue, and a **common language**, which claims to define them. On her account Kreol Morisien performs the first function, and performs it well; the ancestral languages perform a different one, that of transmitting the histories through which communities became Mauritian. Her demand is not that recognition of Kreol Morisien be delayed or reconsidered, but that the same institutional door remain open to Tamil, Bhojpuri, Hindi, Marathi, Telugu, Urdu and Mandarin.

The constitutional difficulty

32. In "*Kreol Morisien in the National Assembly: A Constitutional Perspective*" (*Capital*, 28 March 2025), and in a subsequent interview in the *Mauritius Times* (4 April 2025), barrister Vimalen Reddi advances the following constitutional argument:

    a) Section 49 designates English as the official language of the Assembly, and section 33(d) requires proficiency in English of every member. English is designated because the creation, interpretation and application of the law depend upon a technical legal register with settled traditions, principles and rules; ambiguities in legislation are resolved through them, and the doctrine of precedent depends on precise linguistic formulation.

    b) Sections 14, 131 and 175 of the Courts Act 1945 make materially the same provision for the judiciary, and in almost identical terms. Evidence given in another language is translated into English and so recorded.

    c) The French exception under section 49 has been wrongly normalised. It has come to be treated as a matter of the member's preference rather than as an accommodation for a member unable to express himself in the official language, creating a misleading impression of linguistic parity.

    d) An amendment of Standing Order 5 admitting Kreol Morisien, without first revisiting section 49, would be *ultra vires* and open to challenge before the Supreme Court. If the matter truly engages section 1 of the Constitution, any revision may have to meet the threshold in section 47(3) for altering entrenched provisions.

    e) Institutionalising one language risks being perceived as the institutional sidelining of others, the same point, from the other direction, that the present complainant makes and admitting further exceptions risks a cascade of parity claims.

33. Mr Reddi adds a point of constitutional principle which the Commission adopts: the construction of section 49 is a matter for the Supreme Court, and not for the Assembly, the Speaker or an individual member.

34. Mr Reddi anticipated precisely the grievance now before the Commission. Writing in March 2025 he observed that there were already public expressions that Bhojpuri should be given equal consideration, and that Bhojpuri is as natural and meaningful a medium for many in rural Mauritius as Kreol Morisien is for others. The present complaint is not an opportunistic reaction to the appointment of the Select Committee. It is the materialisation of a difficulty identified, from the opposing side of the argument, some seventeen months earlier.

Part III – The applicable legal framework

3.1 The Constitution of Mauritius

35. The relevant provisions are reproduced below.

Section 12 – Protection of freedom of expression

"12. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision –

(a) *in the interests of defence, public safety, public order, public morality or public health;*

(b) *for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the Courts, or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainments; or*

(c) *for the imposition of restrictions upon public officers,*

except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society."

Section 16 – Protection from discrimination

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

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

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

Section 33(d) - Qualifications for membership

"33. Qualifications for membership

Subject to section 34, a person shall be qualified to be elected as a member of the Assembly if, and shall not be so qualified unless, he –

(…)

(d) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Assembly."

Section 49 - Official language

"The official language of the Assembly shall be English but any member may address the Chair in French."

36. The use of any language other than English or French is therefore not permitted in the Assembly. In practice, however, expressions in Kreol Morisien, Bhojpuri and Hindi are used and tolerated.

3.2 International standards

3.2.1 The International Covenant on Civil and Political Rights

37. Four provisions of the Covenant bear on this complaint, and they operate differently. They are set out in the order of their relevance rather than of their numbering.

38. **Article 19** protects freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds. The Human Rights Committee has held that the choice of the language in which a person expresses himself falls within the protection of Article 19.

39. **Article 25** guarantees to every citizen the right to take part in the conduct of public affairs, to vote and be elected, and to have access to public service. In **General Comment No. 25, at paragraph 12,** the Committee had this to say:

"*Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected. Positive measures should be taken to overcome specific difficulties, such as illiteracy**, language barriers**, poverty, or impediments to freedom of movement which prevent persons entitled to vote from exercising their rights effectively. **Information and materials about voting should be available in minority languages**. Specific methods, such as photographs and symbols, should be adopted to ensure that illiterate voters have adequate information on which to base their choice. States parties should indicate in their reports the manner in which the difficulties highlighted in this paragraph are dealt with*."

40. **Article 26** provides:

*"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, **language**, religion, political or other opinion, national or social origin, property, birth or other status."*

41. Article 2(1) of the Covenant is to the same effect in listing **language** among the prohibited grounds. The significance of this for the present complaint is developed at Part V: the international standard by which Mauritius is bound expressly names language, and the domestic guarantee in section 16(3) does not.

42. The Commission would highlight that in the Concluding Observations on the combined twentieth to twenty-third periodic reports of Mauritius by the Committee on the Elimination of Racial Discrimination [CERD/C/MUS/CO/20-23], dated 19 September 2018, the Committee expressed concern that the Equal Opportunities Act did not prohibit discrimination on the ground of language and recommended that language be included as one of the prohibited grounds of discrimination under the Equal Opportunities Act.

43. While the above comment was made in the context of the Equal Opportunities Act, it would apply equally to the protected grounds under section 16 of the Constitution and the need to include language as a prohibited ground.

3.2.2 Other international instruments

44. **Article 2(1) of the United Nations Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992)** provides:

"Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination."

45. **Article 5 of the UNESCO Universal Declaration on Cultural Diversity (2001)** provides:

"Article 5 - Cultural rights as an enabling environment for cultural diversity

Cultural rights are an integral part of human rights, which are universal, indivisible and interdependent. The flourishing of creative diversity requires the full implementation of cultural rights as defined in Article 27 of the Universal Declaration of Human Rights and in Articles 13 and 15 of the International Covenant on Economic, Social and Cultural Rights. All persons have therefore the right to express themselves and to create and disseminate their work in the language of their choice, and particularly in their mother tongue; all persons are entitled to quality education and training that fully respect their cultural identity; and all persons have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms."

3.3 The domestic status of these obligations

46. Mauritius follows a dualist approach. A treaty which has been ratified but not incorporated by statute does not of itself create rights enforceable in the domestic courts. It does not follow that the international material is decorative. Unincorporated obligations are used as an aid to the construction of Chapter II of the Constitution, they inform the Commission's advisory and law-reform mandate, and they identify the standard against which the adequacy of domestic law may be measured.

47. In **Matadeen v Pointu [1997] PRV 14,** the Judicial Committee of the Privy Council recognised that, Mauritius being a signatory to the International Covenant on Economic, Social and Cultural Rights, domestic legislation should so far as possible be interpreted consistently with the State's international obligations.

Part IV – Historical, cultural and sociolinguistic context of Mauritius

48. The complaint cannot be assessed in the abstract. The linguistic map of Mauritius, and the asymmetry of which the complainant complains, are the products of a specific colonial history. This Part sets out that history so far as it bears on language, records what the census shows about language use today, and identifies what the Mauritian State has already done to recognise the languages in question.

4.1 Historical context

4.1.1 Three colonisations

49. Three periods of colonial rule may be traced in Mauritius. In the sixteenth and seventeenth centuries (1598 to 1710) the island was held by the Dutch, who used it mainly as a port of call on account of its position on the route to Asia.[1] The Dutch introduced sugar cane and slavery, and left in 1710 to concentrate on the Cape of Good Hope.[2] The island takes its name from the Dutch prince Maurice van Nassau.[3]

50. In 1715, the French took possession. They developed the island substantially, bringing slaves and also contractual workers (*engagés*) from Madagascar, Mozambique, India and South East Asia.[4] Sugar was the principal activity.[5] Slaves were treated as property under the *Code Noir*,[6] which was particularly oppressive and excluded non-whites from economic, social and political life.[7] A rigid class system and racial hierarchy was established, with land ownership in the hands of the French settlers.

51. The British took the island in 1810 and slavery was abolished in 1835.[8] From the mid-1830s indentured labourers were brought to the island as a replacement for the unfree labour of slaves,[9] a decision which drove the emancipated slaves away from the plantation economy. Although indentured labourers were paid wages and could own land, their conditions were not materially better than those of slaves;[10] they were exploited and suffered comparable trauma. They arrived in large numbers and soon formed a majority on the island.[11]

52. In the 1870s land was divided into parcels (*morcellement*) as a means of restructuring the sugar industry,[12] which produced a class of small Indian planters who became landowners; by the end of the nineteenth century social stratification among the Indian immigrants was pronounced.[13] Indians have made up more than half the population since the 1870s.[14] Mauritius became independent in 1968.

1 Truth and Justice Commission report, 59
2 Truth and Justice Commission report, 59-60
3 "Explore Mauritius: History", Republic of Mauritius, http://www.govmu.org/English/ExploreMauritius/Pages/History.aspx, accessed 26 March 2022
4 Vijayalakshmi Teelock and Abdul Sheriff, "Slavery and the slave trade in the Indian Ocean" in *Transition from slavery in Zanzibar and Mauritius*, eds Abdul Sheriff, Vijayalakshmi Teelock, Saada Omar Wahad and Satyendra Peerthum (Senegal: CODESRIA, 2016) 30-32
5 Truth and Justice Commission report, 61
6 Truth and Justice Commission report, 61
7 Truth and Justice Commission report, 64
8 Truth and Justice Commission report, 70
9 Truth and Justice Commission report, 66
10 Truth and Justice Commission report, 72
11 Thomas Hylland Eriksen, "Indians in New Worlds: Mauritius and Trinidad", *Social and Economic Studies*, issue 41 volume 1 (1992), 164
12 Truth and Justice Commission report, 73
13 Eriksen, "Indians in New Worlds", 167
14 Eriksen, "Indians in New Worlds", 164

4.1.2 Communities and social stratification

53. Two centuries of colonial rule sowed the seeds of multi-racialism and multi-culturalism; the same history entrenched a social stratification organised around racial categorisation.[15]

54. The Indian immigrants came principally from Bihar and Uttar Pradesh and were predominantly Hindu, though there were also Muslims and a smaller number of Christians.[16] Other Muslims were brought from Bengal and were sailors.[17] The Indian contractual workers who came during the French period were mostly Christians.[18] Chinese immigrants first came as indentured labourers and were not satisfied with their conditions;[19] some returned. From the early nineteenth century Chinese immigrants came to trade, and by the twentieth century were spread across the island,[20] most villages having a Chinese shop. Most were Christianised, though some retained their ancestral culture.[21]

4.1.3 How Mauritius came to have the language map it has

55. The relevance of that history to this complaint is linguistic. Each layer of settlement left a language, and the status of each language today reflects the power of those who brought it rather than the number who speak it.

56. French survived the British conquest as the language of the plantation economy, of the civil law and of the propertied class, and was in due course the only language admitted alongside English by section 49. English arrived as the language of administration and of the courts and was progressively imposed as the official language of legal proceedings, a position now reflected in the Courts Act 1945. Kreol Morisien emerged from the conditions of slavery as the vernacular of the whole population and became, in time, the language most widely spoken in the island, without at any stage acquiring official status. The Indian-origin languages, namely Bhojpuri, Hindi, Tamil, Telugu, Marathi, Urdu and Gujarati, arrived with indenture and were sustained privately, through the family, religious observance and community teaching, rather than through the institutions of the colonial State. The Chinese languages arrived with trade and were sustained in the same way.

57. The asymmetry of which the complainant complains is therefore not an accident of drafting in 1965. It is the constitutional settlement of a linguistic hierarchy which colonial rule had already established: the two languages of the colonial powers were entrenched, and **the languages of the locals were not**. That observation does not decide the complaint, but it explains why the question is felt as one of dignity rather than of convenience.

4.1.4 *Language in the institutions of the Mauritian State*

58. Against that background, the State has repeatedly returned to the question of the ancestral languages. The complainant relies on a sequence of parliamentary and administrative decisions beginning in 1944, and on the constitutional reform of 1947 by which the franchise was extended to those able to write their name in English, French or an oriental language.

15 Truth and Justice Commission report, 283
16 Eriksen, “Indians in New Worlds”, 163
17 Truth and Justice Commission report, 135
18 Truth and Justice Commission report, 273
19 Truth and Justice Commission report, 266
20 Truth and Justice Commission report, 268
21 Truth and Justice Commission report, 270

4.2 The linguistic situation today: the census evidence

59. Based on the figures published by Statistics Mauritius (2022 Population census, 18 November 2022), the following chart has been prepared:

Language spoken at home	Alone	Alone (%)	Any combination	Any combination (%)
Creole	968,952	78.58%	1,108,659	89.91%
Bhojpuri	29,827	2.42%	106,583	8.64%
French	29,840	2.42%	69,165	5.61%
Hindi	16,684	1.35%	28,237	2.29%
English	7,029	0.57%	15,759	1.28%
Tamil	1,035	0.08%	2,932	0.24%
Urdu	413	0.03%	1,647	0.13%
Marathi	364	0.03%	1,320	0.11%
Telugu	362	0.03%	1,123	0.09%
Mixed Chinese*	997	0.08%	1984	0.16%*

Total resident population (Republic of Mauritius): 1,233,097.

*Mixed Chinese consists of Cantonese, Chinese, Hakka, Mandarin and Other Chinese. We chose to group this data as an unquantifiable share sits inside the undifferentiated "Creole & Chinese" line, which doesn't break down by Cantonese/Hakka/Mandarin/Other Chinese.

Source: 2022 Housing and Population Census, Table D8 (Republic of Mauritius).

60. Statistics Mauritius breaks down the figures in terms of who speaks only a language at home and who speaks a mix of languages.

61. It is interesting to look at the statistics of the people who declared their forefather's language.

Language of forefathers	Alone	Alone (%)	Any combination	Any combination (%)
Creole	569,874	46.21%	655,175	53.13%
Bhojpuri	329,674	26.74%	421,958	34.22%
Hindi	53,073	4.30%	98,172	7.96%
Tamil	32,867	2.67%	40,268	3.27%
Urdu	27,366	2.22%	36,414	2.95%
Marathi	11,924	0.97%	14,650	1.19%
Telugu	11,413	0.93%	14,102	1.14%
Mixed Chinese*	9,393	0.76%	12,418	1.01%*

French	17,129	1.39%	32,077	2.60%
English	2,641	0.21%	6,276	0.51%

Total resident population (Republic of Mauritius): 1,233,097.

*Mixed Chinese consists of Cantonese, Chinese, Hakka, Mandarin and Other Chinese. We chose to group this data as an unquantifiable share sits inside the undifferentiated "Creole & Chinese" line, which doesn't break down by Cantonese/Hakka/Mandarin/Other Chinese.

Source: 2022 Housing and Population Census, Table D7 (Republic of Mauritius) - "language of forefathers."

62. A comparative table has been drawn to help us gain a better understanding of the language situation in Mauritius:

Language	D8: usually spoken at home	D7: language of forefathers
Creole	89.91%	53.13%
Bhojpuri	8.64%	34.22%
Hindi	2.29%	7.96%
Tamil	0.24%	3.27%
Urdu	0.13%	2.95%
Marathi	0.13%	1.19%
Telugu	0.09%	1.14%
Mixed Chinese	0.16%	1.01%
French	5.61%	2.60%
English	1.28%	0.51%

63. Based on the figures above, it is therefore clear that:

a) **The accessibility argument for Kreol Morisien is peculiar to Kreol Morisien.** At almost 90%, it is the language in which the overwhelming majority of Mauritians conduct their domestic lives. It is to be highlighted that this figure includes the data where Kreol Morisien as well as any combination of the other languages in the census is spoken by Mauritians at home, including Creole and French and Creole and Bhojpuri.

b) **The speakers of the ancestral languages are linguistic minorities.** Bhojpuri language combined with others at 8.64%, and the remaining ancestral languages at lower figures still, show that they have become a minority language in the country. However, slightly over one third of the population identified Bhojpuri as the language of their forefathers.

c) **There is, at the least, a proper case for the Select Committee to consider these languages.** Whatever view is ultimately taken on the mechanism or extent of recognition, Kreol Morisien together with a mix of the other languages

amount to nearly 90% of the languages most spoken by Mauritians and the scale shown by Table D7 – a third of the population tracing its forefathers' language to Bhojpuri alone, are a basis on which the Select Committee should reasonably consider the question of the use of other ancestral languages in Parliament. The population figures alone are sufficient to show that the question is a live and substantial one, not a peripheral one that can be left unexamined.

4.3 UNESCO and Geet-Gawai

64. On **22 December 2016** the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage inscribed **Bhojpuri folk songs in Mauritius, Geet-Gawai** on the Representative List of the Intangible Cultural Heritage of Humanity (Decision 11.COM 10.b.21). At criterion R.1 the Committee found:

"The practice of Geet-Gawai, through its participatory performance, is shown to contribute to social cohesion, breaking free of class and caste barriers, and to have become an expression of collective, cultural memory, whilst strengthening a common identity. … The file offers a clear description of the element's bearers and practitioners, ***whose knowledge and skills are transmitted to new generations through informal and formal means****."*

65. At criterion R.2 the Committee recorded that Geet-Gawai originates in immigrant experiences against the background of a history of indentured labour, and that inscription would foster cohesive multicultural communities while promoting respect for cultural diversity. At criterion R.3 it recorded that the submitting State, Mauritius, intends to contribute to safeguarding through funding, documentation and inventorying. At criterion R.5 it recorded that the element has been carried on the National Inventory of Intangible Cultural Heritage since 2011, maintained by the National Heritage Fund and the Ministry of Arts and Culture.

66. Mauritius is the State Party which nominated the element, which described its transmission as occurring by formal as well as informal means, and which undertook to contribute to safeguarding it. The State has therefore already recognised, at the highest international level, the cultural value of a Bhojpuri-language practice. A State which has done that should be able to give a reason before treating Bhojpuri as a matter unfit even for consideration by a committee examining linguistic recognition in Parliament.

4.4 The State's existing domestic recognition of the ancestral languages

67. The Mauritian State has already recognised the ancestral languages in three distinct domestic ways: by statute, through the Speaking Unions; in education, through the national curriculum, with recognition for certification and ranking purposes; and in broadcasting, through the programming of the national broadcaster.

68. The State currently recognises the following languages through the establishment of dedicated Speaking Unions.

	Date of Proclamation	**Act No.**	**Name of Speaking Union**
1.	14 June 1993	17/1993	English Speaking Union
2.	01 April 2013	13/2011	Arabic-Speaking Union

3.	01 April 2013	14/2011	Bhojpuri-Speaking Union
4.	01 April 2013	15/2011	Chinese Speaking Union
5.	01 April 2013	16/2011	Creole-Speaking Union
6.	01 April 2013	17/2011	Sanskrit-Speaking Union
7.	17 December 2015	21/2015	Hindi-Speaking Union
8.	17 December 2015	22/2015	Marathi-Speaking Union
9.	17 December 2015	23/2015	Tamil-Speaking Union
10.	17 December 2015	24/2015	Telegu-Speaking Union
11.	17 December 2015	25/2015	Urdu-Speaking Union

69. Given that the State has given institutional recognition to the above languages, it follows that any inquiry about linguistic recognition in Parliament should not be restricted to one language alone, even if that language is the most widely spoken language in the country.

Part V – Analysis

5.1 Section 16 of the Constitution

70. The Commission has considerable difficulty in finding any breach of section 16, for the reason that **language is not among the grounds enumerated in section 16(3) of the Constitution**. The listed descriptions are race, caste, place of origin, political opinions, colour, creed and sex. Unlike Article 14 of the European Convention, or Articles 2 and 26 of the ICCPR, section 16(3) contains no residual category such as "or other status" into which language might be read, and no express reference to language.

71. The complainant argues that the differential treatment nonetheless falls within **race** or **place of origin**. The Commission considers both arguments too stretched.

The race argument

72. The use of a language is not a matter of race alone. In a country such as Mauritius with its diverse origins, people may speak a given language as a matter of household practice and of educational opportunity. The ancestral languages are no longer as widely spoken as they once were (see part 4.2 above); they are used in particular contexts; and they may be learned and used by any member of any community. A Mauritian of any descent may speak Bhojpuri, Tamil or Mandarin, and many do. The Commission has been provided with no evidential basis for the assertion that a particular language is associated with one race alone, and it notes that Mauritius has not asked a question on ethnicity in its census since 1972, so that no official correlation of the kind asserted exists.

The place of origin argument

73. Nor is the use of a language directly linked to a person's place of origin. To associate a community's ancestral place of origin with a given language is to invite communal categorisation of a kind which may not correspond to reality and which the Commission considers it inappropriate to encourage. A person may speak a language although his ancestors came from elsewhere. Kreol Morisien is itself the example: it was created in Mauritius by all the people living here and cannot be attributed to one community. Dr Boodhoo's own evidence, that Bhojpuri- and Tamil-derived words are far more prevalent in common parlance than is generally realised, tends the same way – it shows that languages in Mauritius cut across communities rather than mapping onto them.

Consistency with the Commission's published position

74. The Commission has already published, in its Annual Report 2025 (pages 154 – 162), a paper on the right to learn in one's mother tongue and the place of Kreol Morisien in education and public administration. Two positions taken there govern this paper, and the Commission sets them out so that its consistency may be tested.

75. The first is that **language policy is never neutral**. Choices about the language of instruction, or of deliberation, shape who participates and who is left out, and must therefore be assessed as rights-sensitive choices rather than as questions of administrative convenience. That reasoning applies to the language of the legislature as much as to the language of the classroom.

76. The second is that the discourse on language must remain **child-centred and non-communal**, and that Kreol Morisien is not the language of any particular group but

the shared linguistic reality of the Mauritian population. The Commission therefore rejects an analysis which would require the very communal association it has warned against, and declines to treat this complaint as a contest between Kreol Morisien and the ancestral languages. The complaint is about recognising the linguistic diversity of the island and treating fairly the languages spoken within it.

77. The Commission accordingly does not consider that a contravention of section 16 is made out.

What the failure of the section 16 claim discloses

78. That conclusion is not, however, a vindication of the present state of the law. It is a demonstration of a gap in it.

79. Articles 2(1) and 26 of the Covenant, by which Mauritius is bound, prohibit discrimination on the ground of **language** in terms. Article 14 of the European Convention does the same. Section 16(3) of the Constitution does not, and contains no residual category into which language could be brought. The consequence is that a Mauritian who is treated less favourably because of the language he speaks has, on the face of Chapter II, no domestic constitutional remedy at all, although the international standard which binds the State plainly protects him.

80. The Commission regards that as a matter of substance and not of drafting elegance. In a State whose population speaks Creole, Bhojpuri, French, Hindi, Tamil, Urdu, Telugu, Marathi, Mandarin and English, the omission of language from the list of prohibited grounds is a conspicuous one. The Commission accordingly recommends at Part VII that consideration be given to adding language to section 16(3), or to providing an equivalent statutory protection, so as to bring domestic law into line with Articles 2 and 26 of the Covenant. The present complaint is a demonstration of why that matters.

81. A claim may in any event fail under one head of Chapter II and raise a serious question under another. The Commission is not confined to the provision invoked by a complainant, and turns to section 12 of the Constitution.

5.2 Section 12 of the Constitution

82. **Section 12(1) of the Constitution** protects not only the freedom to hold opinions but the freedom **to receive and impart ideas and information without interference**.

83. It follows that the freedom to receive and impart ideas and information must be through a medium, whether verbal or non-verbal means. Language is a vehicle through which human beings communicate.

84. The question to be addressed by the Commission is whether the freedom to receive and impart ideas extends to the terms of reference of a Select Committee mandated to assess linguistic recognition of one language in Parliament and whether this Select Committee should also address their mind to other ancestral languages used in Mauritius.

85. The Commission has relied on two decisions of the European Court of Human Rights to guide the discussion on section 12 of the Constitution.

Birk-Levy v France (No. 39426/06, 21 September 2010)

86. *Birk-Levy* is directly analogous to the Mauritian situation. The applicant was a member of the Assembly of French Polynesia. Its internal rules of procedure had permitted members to speak in French, Tahitian or another Polynesian language. The High Commissioner of French Polynesia brought proceedings for abuse of power before the Conseil d'État, which annulled that provision as contrary to Article 57 of the organic law relating to the autonomy of French Polynesia. Since the organic law of 27 February 2004 provided that French was the official language of the territory, the provision permitting the use of French, Tahitian or another Polynesian language in the Assembly was annulled.

87. The applicant complained under Articles 10, 11 and 14 of the European Convention. The Court declared the application inadmissible *ratione materiae*:

> *"La Cour rappelle qu'aucun article de la Convention ne consacre expressément la « liberté linguistique » en tant que telle. La Commission a notamment considéré que la Convention ne garantissait pas le droit de se servir de la langue de son choix dans les rapports avec l'administration (Un groupe d'habitants de Leeuw-Saint-Pierre, précité ; Fryske nationale partij, précité ; Samo Pahor, précité).* ***Plus encore, la Convention ne garantit pas le droit, pour un élu, de se servir de la langue de son choix pour faire des déclarations et exprimer son vote au sein d'une assemblée*** *(Georges Clerfayt et autres c. Belgique, no 10650/83, décision de la Commission du 17 mai 1985).*
>
> *La Cour rappelle également que l'intérêt, pour chaque Etat, d'assurer un fonctionnement normal de son propre système institutionnel revêt incontestablement un caractère légitime.* ***Eu égard au principe de respect des particularités nationales, la Cour n'a pas à prendre position sur la langue de travail d'un parlement national. En effet, ce choix, dicté par des considérations d'ordre historique et politique qui lui sont propres, relève en principe du domaine de compétence exclusive de l'Etat*** *(Podkolzina c. Lettonie, no 46726/99, § 34, CEDH 2002-II ; voir également, mutatis mutandis, Baylac-Ferrer et Suarez c. France (déc.), no 27977/04, 25 septembre 2008)."*

88. The Court then addressed the specific position of Tahitian. Although Tahitian is recognised by the organic law as a fundamental element of cultural identity, that law entrenched French as the official language, to be used by public law entities and in matters relating to the public service. The Court held that it could not intervene:

> *"… la question du statut des langues régionales et de la langue tahitienne comme symbole de cette autonomie revendiquée s'est posée. La Cour observe que l'article 57 de la loi organique no 2004-192 du 27 février 2004 portant statut d'autonomie de la Polynésie française dispose que le français est la langue officielle et que son usage s'impose aux personnes morales de droit public …* ***Même si la loi organique reconnaît la langue tahitienne comme « élément fondamental de l'identité culturelle », la Cour considère, eu égard au principe de respect des particularités nationales des Etats quant à leur propre système institutionnel (Podkolzina, précité), que la revendication de la requérante du droit de pouvoir se servir de la langue tahitienne au sein de l'Assemblée de la Polynésie française sort du cadre de la Convention et en particulier de l'article 10.*** *Partant, l'examen du grief échappe à sa compétence ratione materiae, et doit être rejeté conformément à l'article 35 §§ 3 et 4 de la Convention."*

89. *Birk-Levy* is instructive for the Mauritian context in four respects:

a) the working language of a legislature is a matter of exclusive State competence, dictated by considerations of history and institutional design, and no individual right to address a chamber in a language of choice can be asserted;

b) French Polynesia is a dependency of France, and any decision as to the language used in its assembly would ultimately be taken by France;

c) Mauritius, by contrast, has been an independent State since 1968 and is sovereign in the choice of the language or languages used in the National Assembly. The decision is ours to take, and there is no external authority to which it can be deferred;

d) the question which therefore arises is not whether Mauritius may choose, but whether it is now timely that the Select Committee should address its mind to the use of other languages in the National Assembly, or whether it should confine itself to Kreol Morisien.

90. *Birk-Levy* holds that the choice belongs to the State. It says nothing about how the State is to go about making it. A doctrine which reserves a decision to the national legislature does not excuse the legislature from deliberating on the issue.

Mestan v Bulgaria (No. 24108/15, 2 May 2023)

91. *Mestan* concerned the leader of a political party traditionally supported by the Turkish minority in Bulgaria, fined for speaking Turkish for seven minutes at an open-air election meeting. Article 133(2) of the Electoral Code required that election campaigns be conducted in Bulgarian; Article 299 made breach punishable by an administrative fine. The Court began by recalling the interdependence of free expression and free elections, and the values of a democratic society:

"54. Cela étant dit, la Cour estime opportun de rappeler le rapport d'interdépendance qu'entretiennent dans une société démocratique la liberté d'expression et le droit à des élections libres. … ***La liberté d'expression est une condition essentielle de « la libre expression de l'opinion du peuple sur le choix du corps législatif ». C'est pourquoi il est particulièrement important en période préélectorale que les opinions et informations de toutes sortes puissent circuler librement*** *(Magyar Kétfarkú Kutya Párt c. Hongrie [GC], no 201/17, § 100, 20 janvier 2020). Dans le cadre du discours politique et des élections, la marge d'appréciation des États est étroite …*

55. Par ailleurs, la Cour est soucieuse du respect des valeurs d'une « société démocratique » telle que promue par la Convention, ***au premier rang desquelles figurent le pluralisme, la tolérance et l'esprit d'ouverture*** *…"*

92. The Court then set out the limits of the guarantee, in terms which mirror *Birk-Levy* and which the Commission takes as the starting point of its own analysis:

> *"56. La Cour rappelle d'emblée qu'en dehors des droits spécifiques énoncés aux articles 5 § 2 … et 6 § 3 a) et e) …,* ***la Convention ne garantit per se ni le droit pour un individu d'employer une langue déterminée dans ses communications avec les autorités publiques, ni celui de recevoir des informations dans une langue de son choix*** *…* ***De plus, la Cour rappelle que des questions telles que le choix de la langue de travail d'une assemblée parlementaire ne relèvent pas de l'article 10*** *(voir, par exemple, Birk-Levy c. France (déc.), no 39426/06, 21 septembre 2010, et Şükran Aydın et autres, précité, § 50)."*
>
> *57. Pour en revenir aux circonstances de l'espèce, la Cour observe que* ***l'affaire ne concerne pas l'emploi d'une langue non officielle dans le cadre de communications avec les autorités publiques ou de rapports avec des institutions officielles, mais porte plutôt … sur une restriction linguistique imposée à des individus dans leurs relations avec d'autres****, même si les relations en question ont eu pour cadre une réunion publique organisée lors d'une campagne électorale. …* ***dans de tels contextes, la langue en tant que moyen***

> ***d'expression mérite indéniablement la protection de l'article 10*** *(Şükran Aydın et autres, précité, § 52 in fine)."*

93. The vice which the Court identified was not the existence of a linguistic rule but its **absolute character**, and specifically the effect that absoluteness had on the capacity of the domestic institutions to examine the question at all:

> *"59. La Cour observe que, contrairement à ce qu'a affirmé le Gouvernement … **le caractère absolu de l'interdiction litigieuse a privé les juridictions nationales de leur pouvoir d'exercer un contrôle juridictionnel adéquat.** … lorsque les tribunaux doivent trancher la question de savoir si les décisions prises par les gouverneurs régionaux dans des situations similaires sont légales, ils vérifient si le sujet de l'infraction alléguée est une personne physique, si les propos litigieux ont été tenus dans une langue autre que le bulgare, et s'ils consistaient en une « propagande électorale » …*
>
> ***La Cour admet qu'en principe les États ont le droit de réglementer l'emploi des langues** … et, le cas échéant, d'imposer certaines restrictions ou conditions qui correspondent à un « besoin social impérieux ». **Toutefois, un cadre réglementaire consistant en une interdiction absolue d'employer une langue non officielle sous peine de sanctions administratives ne saurait passer pour compatible avec les valeurs essentielles d'une société démocratique**, lesquelles comprennent la liberté d'expression garantie par l'article 10 de la Convention."*

94. The Court supported that conclusion by reference to comparative practice (of thirty-seven Contracting States surveyed, only Ukraine imposed a comparable requirement) and to the repeated recommendations of the Advisory Committee on the Framework Convention for the Protection of National Minorities, the Venice Commission and OSCE/ODIHR. It concluded:

> *"… La Cour renvoie en outre aux recommandations et avis exprimés par les organes internationaux compétents, lesquels **soulignent l'importance que revêt le fait de garantir aux candidats de groupes minoritaires le droit d'employer leur langue maternelle dans les campagnes électorales, condition nécessaire pour assurer aux personnes appartenant à de tels groupes un accès aux élections égal à celui dont bénéficient les autres citoyens** (paragraphes 18-32 ci-dessus).*
>
> *62. … il convient de souligner l'importance du pluralisme, de la tolérance et de la protection des minorités dans une société démocratique, et **d'affirmer que le respect des minorités, loin d'affaiblir les démocraties, ne peut que les renforcer**.*
>
> *63. À la lumière de ce qui précède, et en dépit de la marge d'appréciation laissée aux autorités nationales, la Cour considère que l'interdiction en cause ne répondait pas à un besoin social impérieux et n'était pas proportionnée aux buts légitimes visés dans l'article 10 § 2 … 64. Partant, il y a eu violation de l'article 10 de la Convention."*

95. In a nutshell, the following principles emerge from the European Court of Human Rights cases:

a) **One.** *Birk-Levy*, expressly reaffirmed in *Mestan* at § 56, establishes that the working language of a legislature is a matter for the State. No individual right to speak an ancestral language in the National Assembly can be asserted.

b) **Two.** *Mestan* establishes that outside that parliament, in the wider public, in political and cultural exchange, language is a mode of expression which attracts protection, and that an absolute ban on the use of some languages is incompatible with democratic values.

96. In the present case, the Commission is concerned with a decision-making structure created by the State to consider the institutional recognition of a language in Parliament: which language or languages should be used for parliamentary business and which languages are capable of being considered by the Select Committee?

    a) *Birk-Levy* holds that the underlying choice of a legislature's working language falls outside the scope of Article 10 of the ECHR altogether;

    b) It does not follow, that the process by which the State organises its own consideration of that choice is equally beyond scrutiny. That choice should be made based on an informed decision, taking into account diverse views and positions.

97. The Commission finds that section 12(1) of the Constitution could be engaged if a narrow construction of the terms of reference is adopted for the following reasons:

    a) The Select Committee is the sole mechanism through which citizens may provide input on the use of languages in Parliament to the government, and they have no alternative institutional route to do so;

    b) A restriction on the submissions citizens may make to the Select Committee may limit information which may be imparted to it, especially where that information is not directly related to the main subject-matter of the Select Committee's work; and

    c) Submissions to a parliamentary committee are a public exchange of ideas about the linguistic future of the National Assembly, and the choice of language(s) will impact on the candidates who stand for an election (see section 33(d) of the Constitution).

98. The Commission holds that where the State establishes a mechanism for considering the institutional recognition of language(s) in Parliament, and then confines that mechanism to one language, the process is capable of engaging section 12(1) of the Constitution which protects the freedom to receive and impart ideas and information without interference and which democratic values promote tolerance, pluralism and an open-mindedness to minority languages.

99. The Commission wishes to highlight that, at this stage, it is not making a finding that there has been an interference with the section 12 of the Constitution, to warrant an analysis under section 12(2), inasmuch as such a finding would be premature. The Select Committee has never stated that they refuse to receive any submission on ancestral languages nor is the Commission aware of the stance the Select Committee will take in respect of the ambit of "*and matters ancillary thereto*."

100. However, the Commission has sought to provide an opinion on the scope of applicability of Section 12(1) of the Constitution to prevent any potential breaches of this fundamental right and to enable the Select Committee to reach an informed decision, based on democratic principles, on the scope of its mandate.

Part VI – Findings

101. **Language in Mauritius is not the property of any community**. Many languages have shaped the history of this country and were brought here by the ancestors of a significant number of Mauritians but the census evidence and the diversity of the Mauritian nation warns against making an association between community and language.

102. **The complaint is not made out under section 16.** Language is not an enumerated ground under section 16(3), and the attempt to bring the exclusion within "race" or "place of origin" would require an association between community and language which the census evidence does not support and which it would be undesirable to encourage.

103. **The failure of the section 16 claim discloses a gap in domestic law.** Articles 2(1) and 26 of the ICCPR, which Mauritius ratified, prohibit discrimination on the ground of language in terms. Section 16(3) does not, and admits no residual category. A person disadvantaged in Mauritius by reason of the language he speaks has no domestic constitutional protection corresponding to the international standard which binds the State.

104. **The terms of reference are not an express exclusion.** The motion of 04 August 2026 appoints the Select Committee to consider the introduction of Kreol Morisien *"and matters ancillary thereto*". Whether the position of the other Mauritian languages falls within those words is a question of construction for the Select Committee.

105. **The State has already recognised these languages** – by statute through the Speaking Unions, in the national curriculum, on the national broadcaster and, in the case of Bhojpuri, before UNESCO in 2016, where Mauritius was the nominating State Party. Having recognised them elsewhere, the State should be able to give a reason before treating them as unfit for consideration by the Select Committee.

106. **The question is one of process, not outcome.** It is whether the Select Committee charged with examining linguistic recognition in Parliament may address its mind to the ancestral languages of Mauritius. Widening the field of inquiry carries no constitutional risk: nothing the Select Committee recommends can be implemented without amendment of section 49 and probably of Standing Order 5, and Government has itself indicated that amendment of section 49 is among the matters to be examined.

107. **The limitation of the terms of reference of the Select Committee to one language potentially engages section 12(1) of the Constitution** which provides that a person is free to receive and impart information without interference, if a narrow construction is adopted by the Select Committee.

108. **The use of an ancestral language in the National Assembly is a matter of policy.** On the reasoning in *Birk-Levy*, affirmed in *Mestan* at § 56, the working language of a legislature falls within the exclusive competence of the State.

109. **The complaint is advanced without any request that the recognition of Kreol Morisien be delayed or reconsidered.** The Commission records that its support for the complaint is conditional on that remaining the case, and that its recommendations are framed so as to make delay impossible.

Part VII - Recommendations

7.1 Non-communal framing

110. **Recommendation 1.** The Commission recommends that the question of linguistic policy in Parliament should be framed in terms of national heritage and equal access to public deliberation, and not in terms of community entitlement.

7.2 Clarification of the existing mandate

111. **Recommendation 2.** The Commission recommends that it will be for Select Committee to consider clarifying the purport of the words “and matters ancillary thereto” and whether they should be widely interpreted un a democratic context to permit the committee to receive evidence and submissions on the introduction of other Mauritian languages, into the proceedings of the Assembly and whether solely considering Kreol Morisien risks institutionalising one language to the detriment of all the others.

112. Should the wider interpretation be preferred, an extension of the time for submissions should be granted to allow all citizens to submit accordingly to enable the Select Committee to reach an informed decision.

7.3 Amendment where necessary

113. **Recommendation 3. Alternatively**, the Commission considers that the terms of reference may be amended, where the Select Committee considers that its terms of reference are not wide enough to permit express consideration of Tamil, Bhojpuri, Hindi, Marathi, Telugu, Urdu and Mandarin as Mauritian languages which may merit institutional recognition in the National Assembly.

114. **Recommendation 4.** Any clarification, or amendment should be effected in a manner which does not delay, suspend or reopen the Select Committee's consideration of Kreol Morisien.

7.4 Law reform

115. **Recommendation 5.** The Commission recommends that Government considers the addition of **language** to the grounds enumerated in section 16(3) of the Constitution, or the enactment of equivalent statutory protection, so as to align domestic law with Articles 2(1) and 26 of the ICCPR. The present complaint has demonstrated that a person disadvantaged by reason of language has no domestic constitutional protection corresponding to the international treaties to which Mauritius is a party.

116. **Recommendation 6.** The Commission recommends that Government also considers the whether sections 33(d) and 49 of the Constitution which provide that a member of parliament must be able to speak and read the English Language with a proficiency to be able to take an active part in parliamentary business, would be compatible with section 1 of the Constitution.

Conclusion

117. This paper has considered whether the terms of reference of the Select Committee, presently confined to the introduction of Kreol Morisien in the National Assembly, are lawful having regard to the ancestral languages of Mauritius. The complaint does not succeed under section 16 of the Constitution, for the reasons given at Part V. But its failure under section 16 has exposed a gap in domestic law which Articles 2(1) and 26 of the ICCPR do not tolerate, and its underlying grievance discloses a serious question under section 12(1) of the Constitution, which the Commission has been unable to put aside.

118. The Commission wishes to be clear about what this paper does not do. It does not hold that any ancestral language must be admitted to the proceedings of the National Assembly, still less that Kreol Morisien's recognition should be delayed, reopened or made conditional on any wider inquiry. **It is a question of whether a body already constituted to examine linguistic recognition in Parliament may turn its mind to languages which the Mauritian State has, on its own initiative, already recognised by statute, in education, in broadcasting and, in the case of Bhojpuri, before UNESCO.**

119. The Commission's recommendations on the terms of reference are, for that reason, graduated. It will be for the Select Committee itself to clarify whether "*and matters ancillary thereto*" already extends to the position of the other Mauritian languages; only if that mandate proves legally insufficient should the terms of reference be amended. None of the three affects the timetable for Kreol Morisien, whose consideration should proceed without delay, suspension or reopening. Widening the inquiry carries no additional constitutional risk, since any recognition would in any event require amendment of section 49, which Government has itself already indicated it intends to examine.

120. Two matters, by contrast, are addressed beyond the life of this Select Committee. Whichever course is taken on the terms of reference, the omission of language from the grounds enumerated in section 16(3) of the Constitution, and the compatibility of sections 33(d) and 49 with section 1 of the Constitution, are questions of general application which the Commission has recommended be analysed by the Government. They do not depend on, and should not await, the outcome of the Select Committee's present work.