**REPUBLIC OF MAURITIUS**

**Human Rights Council Resolution 42/17 on “Human Rights and Transitional Justice”**

Mauritius is a secular country. It has ratified most of the Human Rights instruments.

1. The Constitution and human rights

The Constitution of Mauritius provides an unequivocal right for every citizen to be treated equally and to live a life free from discrimination. In this vein, from a human rights perspective, the State of Mauritius does not discriminate between citizens, including vulnerable and disenfranchised segments of the populations and migrants.

Under Section 3 of the Constitution, recognition is given to the right of an individual to life, liberty, security of the person and protection of the law.

Furthermore, Section 17 of the Constitution provides that a citizen, who alleges that his right under, *inter alia*, Section 16 of the Constitution is being or is likely to be contravened may apply to the Supreme Court for redress. Any victim and/or affected community may enter a case in damages against any alleged perpetrator of a racial discrimination based on this Section.

1. In addition, there are various legislations that deal with the human rights aspects namely:
2. The Workers’ Rights Act

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

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

On 15 December 2020, three (3) legislations for Children were passed at the National Assembly:

* 1. the Children’s Act 2020;
  2. the Children’s Court Act 2020; and
  3. the Child Sex Offender Register Act 2020

1. The Children’s Act 2020;

The main object of the Children’s Act is to repeal the Child Protection Act and replace it with a more comprehensive and modern legislative framework with a view to addressing the shortcomings of the Child Protection Act and giving better effect to the United Nations Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child.

The Act accordingly makes provisions:

1. for the better care, protection and assistance to children;
2. for the respect and promotion of the rights of children and for the protection of the best interests of children;
3. for the setting up of structures, services and means for promoting and monitoring the sound, physical, psychological, intellectual, emotional and social development of children;
4. for the setting up of a Child Services Coordinating Panel which shall be responsible for the coordination of all activities relating to the implementation of the present legislation, the UNCRC and the African Charter on the Rights and Welfare of the Child;
5. to prohibit marriage of children under the age of 18;
6. for a child under the age of 14 not to be held criminally responsible for any act or omission; and
7. for child witnesses and child victims under the age of 14 to be, subject to certain conditions, competent as witnesses without the need for them to take the oath or making a solemn affirmation.
8. The Children’s Court Act 2020

The Children’s Court Act 2020 provides for the establishment of the Children’s Court, which will have jurisdiction to hear and determine cases involving children. The establishment of this dedicated and specialised Court has been rendered necessary with a view to ensuring, in a child-friendly environment, the bests interests of children during Court proceedings.

The Children’s Court consists of:

* a Protection Division which shall have jurisdiction to hear and determine, inter alia, any application in respect of child protection matters under the Children’s Act 2020 relating to Assessment Order, Contact Order, Long Term Care Orders, amongst others.
* a Criminal Division which shall have jurisdiction to hear and determine, inter alia, sexual offences against children and offences where children are witnesses thereto. The Criminal Division will also hear and determine criminal offences in regard to child victim, child witness, juvenile offender and any other prescribed matter.

Technical assistance of the European Union has been sought for the setting up of the Children’s Court.

The Children’s Act 2020 safeguards the privacy of the child through the provision of strict guidelines concerning publication in the media of photographs, pictures, video or audio recordings of children as witnesses, victims or offenders.

1. The Child Sex Offender Register Act (not yet in operation)

Under this Act, there shall be for the purpose of reducing and preventing the risk of sexual offences against children, a Child Sex Offender Register, to be known as the CSO Register. The CSO Register shall assist in monitoring and tracking persons in the community who have been found guilty of committing sexual offences against children as well as detecting and investigating sexual offences against children (section 3).

1. The Employment Relations Act

The Employment Relations Act (ERA)2008 as at 01 March 2021 provides for the protection of the fundamental rights of workers to freedom of association and protects their right to organise and engage in collective bargaining. Every worker shall according to Section 29, have the right, subject to certain conditions, “*to establish or join, as a member, a trade union of his own choice, without previous authorisation and without distinction whatsoever or discrimination of any kind including discrimination as to occupation, age, marital status, sex, sexual orientation, colour, race, religion, HIV status, national extraction, social origin, political opinion or affiliation*.”

**Measures and policies adopted**

1. The Government of Mauritius ensures that there is a balanced approach to development such that economic priorities are aligned to protecting the fundamental rights of its citizens. For development to contribute to promoting human rights, it should be inclusive and people oriented, be based on the principles of equity and take into account all the three dimensions of Sustainable Development that is social, economic and environmental aspects and adopt a human rights-based approach.
2. Freedom of Information

Since 2015, the Government of Mauritius has taken a number of important initiatives to enhance transparency and accountability in the management of the affairs of the State, which is precisely the aim of a freedom of information legislation. Some of these initiatives are as follows:

1. introduction of the Citizen Support Portal;
2. implementation of the National Open Data Portal;
3. implementation of the Public Sector Transformation Strategy;
4. the mandatory use of the Electronic Procurement System in the Public Sector; and
5. the live broadcast of the proceedings of the National Assembly.

Section 48 of the Prevention of Corruption Act provides for the protection of informers, including whistle-blowers.

Moreover, in the State of Mauritius, there is unrestricted access to the internet, which is widely used.

The Government of Mauritius is not envisaging to proceed with the Freedom of Information Bill for the time being.

1. Promoting Gender Equality

The Local Government Act was amended in 2011, to provide for, inter alia, ensuring meaningful participation of women as candidates in local government elections. It provides that any group presenting more than two candidates at an election of a Municipal City Council, Municipal Town Council or Village Council shall ensure that not more than two thirds of the group’s candidates are of the same sex.

In addition, the State of Mauritius is also working on the preparation of a Gender Equality Bill which will:

1. promote, protect and regulate gender equality in public and private spheres;
2. eliminate gender-based discrimination, ensure that human rights of men and women are guaranteed and acknowledged in existing as well as the proposed legislation in order to achieve gender equality;
3. provide for gender equality principles that aim at reducing socio-economic inequalities so as to achieve substantive equality in all spheres, that is socially, economically and politically;
4. provide for equal opportunities for both men and women and create responsibilities of all entities, public and private, to eliminate barriers that lead to gender discrimination; and
5. promote equality and gender balance between family roles, unpaid care work and employment for men and women.

A Joint Monitoring Framework Agreement was signed on 08 May 2018 between the European Union and the Ministry of Gender Equality and Family Welfare to track progress on the implementation of the EU-Mauritius Gender Action Plan. This agreement serves as a tool to monitor a number of Key Performance Indicators related to the promotion of gender equality, addressing gender-based violence, and the economic empowerment of women and girls, among others. It comprises a number of set objectives and accompanying indicators attached to them that are closely linked to the SDGs and the EU Result Frameworks (EURF). The three thematic objectives of the of the EU Gender Action Plan 2016-2020 are as follows:

1. Economic, Social and Cultural Rights;
2. Physical and Psychological Integrity; and
3. Strengthening girls’ and women’s voice and participation.

Furthermore, Mauritius became the first country in the Indian Ocean, the third in Africa and the seventh country in the world to ratify the ILO’s Violence and Harassment Convention, 2019 (No. 190).

The ILO Convention No.190 is the first international treaty to address violence and harassment in the world of work adopted by the International Labour Conference in June 2019. The Convention and its Recommendation (No 206) provide for a common framework of action and a unique opportunity to shape the future of work based on dignity and respect. It is the first international labour instrument which defines violence and harassment in the world of work, including gender based violence.

Mauritius, having ratified the Convention, has the obligation to adopt in consultation with representatives of employers’ and workers’ organisations, an inclusive, integrated and gender responsive approach with a view to preventing and eliminating violence and harassment, through prevention, protection and enforcement measures and remedies, as well as guidance, training and awareness-raising.

1. Fair Gender Representation in Boards and Committees

With regards to gender diversity on the right to participate in public affairs, the State of Mauritius implemented the National Code of Corporate Governance (2016) which lays down the main principles of governance and encompasses the concept of gender balance and equality under Principle 3: ‘Director Appointment Procedures’, Board structure and Board Diversity. The Principle calls for all organisations to ensure appointment of Directors from both genders (at least one female Director) as members of the Board.

As a budget measure in Financial Year 2019/2020, the Companies Act and the Statutory Bodies (Accounts and Audit) Act have been amended to cater for Public Companies and Statutory Bodies to have at least one woman on their Board of Directors to have a fair gender representation on the boards.

Stakeholders are sentisised with a view to increasing the representation of women on Board of Directors. Women should therefore be provided with relevant training, necessary skills and expertise to become representatives on Boards. In this respect, the Ministry of Financial Services and Good Governance, in collaboration with the Financial Services Institute (FSI) has already set up a Training for Board Readiness programme to train current and prepare potential persons for board readiness. The training programme addresses the issue of Gender Diversity on Boards and provide training and upskill women for Board readiness, which is in line with measure 174 of the Government Programme 2020 – 2024 to ‘strengthen governance of parastatal institutions by ensuring, among others, adequate and appropriate gender representation on their Board of Directors’.

Moreover, it is to be noted that the Equal Opportunities Act was enacted with the aim of promoting equal opportunities for both men and women. The Equal Opportunities Commission (EOC) and the Equal Opportunities Tribunal have been set up to address cases of discrimination made on the basis of race, religion, status, sexual orientation and sex amongst others so as to ensure greater equality in term of access to opportunities and life chances to all citizens. This Act coupled with the setting up of the Commission and the Tribunal contributes to address the issues of Gender Equality and discrimination against women and ensure enhanced participation of women.

1. Youth Participation

Youth participation in public affairs is rendered very accessible throughout the State of Mauritius and is effected in a very non-discriminatory approach. All categories of youth including those with disabilities can exercise this right as no discrimination based on age, gender, race or ethnicity is made.

Various advocacy groups have been set up to enhance youth participation in public affairs, for instance, the National Youth Council whose objectives are to:

1. establish and maintain effective communication between government and youth organisations;
2. assist in the implementation and evaluation of government policies relating to youth needs; and
3. initiate youth development projects/activities with the aim of encouraging the active participation of the youth.

Moreover, several platforms namely the National Youth Environment Council, the Volunteer Mauritius, Youth NGO networks, etc. have been created for the youth to voice out their concerns. There are also institutions such as the National Empowerment Foundation which are working towards promoting youth participation in public affairs. Public affairs are rendered more accessible to them through online youth-friendly services such as communications through the website and social media of the Ministry of Youth Empowerment, Sports and Recreation (MYESR) and activities/trainings organized online.

However, one of the challenges faced by the State of Mauritius is that youths from some of the outer islands of the Republic of Mauritius, namely in Agalega and St Brandon, have difficulties in participating fully in public affairs due to lack of necessary technological facilities and infrastructures.

1. Alleviating Poverty

In view of eradicating extreme and chronic poverty and creating an equitable and inclusive society, a full-fledged Ministry of Social Integration and Economic Empowerment (MSIEE) was created in 2010. The mission of the Ministry is to empower and support the vulnerable groups registered and eligible under the Social Register of Mauritius (SRM). The aim is to mainstream the vulnerable groups in society and to enhance their quality of life by providing an effective and efficient service delivery based on the principles of equity, fairness and impartiality. The MSIEE operates since November 2019 as a Division under the aegis of the Ministry of Social Integration, Social Security and National Solidarity (MSISSNS).

In 2016, the Social Integration and Empowerment Act was enacted, making provision for the implementation of Empowerment Schemes to empower vulnerable families eligible under the SRM. The Act makes provision for the establishment of Empowerment Programmes and Schemes to combat absolute poverty, provide support and other services to persons living in absolute poverty and to support persons living in absolute poverty in integrating the mainstream society.

It is in further consolidation of the social institutional framework to drive a national agenda for inclusive human and social development as a means to tackling the deep rooted causes of poverty and vulnerability that the National Corporate Social Responsibility (CSR) Foundation has been transformed into a National Social Inclusion Foundation (NSIF). This is expected to give a new orientation to the Foundation in terms of National Programmes aligned to Government strategies and actions and ensure better social actions. The NSIF is called upon to play a key role in the promotion of social inclusion, equity and sustainable development, specifically, by leveraging strategic and sustainable partnerships with NGOs, public institutions and the private sector.

As a result, based on the principles of equity and social justice, the MSISSNS has remained fully committed to channelling resources into processes that create a society that values women, men, girls and boys equally, and to finally ensure that everyone has equal opportunity and equality. Therefore, integrating gender perspective in policies and strategies and accelerating the transition of women from informal to formal employment through training and empowerment, and girls from schools to employment, have always been a driving force of the Marshall Plan to tackle the root cause of poverty.

Within the context of the Marshall Plan against Poverty, decent dwelling is a prerequisite condition for a household to win the battle against poverty and to restore his/her dignity. Homelessness, overcrowding and insecure housing can be an insurmountable obstacle for families who are making efforts to escape poverty. They need at the very outset to be given with the necessary facilities to live in conducive housing conditions.

  To that respect, eligible SRM households, who have signed a Marshall Plan Social Contract, are eligible to have access to affordable social housing units in a sustainable living environment provided through the following schemes:

1. The construction of fully Concrete Housing units of at least 50 m2 to families, who have been found to be living in absolute poverty and are owners of a plot of land but do not have the means to build a housing unit;
2. The provision of 10% of all new housing units constructed by the National Housing Development Corporation earmarked for landless beneficiaries of the SRM to facilitate their integration in the mainstream society; and
3. An Upgrading Housing Scheme to cater for minor renovation works, provision of toilet and bathroom amenities, and replacement of roof, partitioning, extension and repairs to Corrugated Iron Sheet housing units, and plastering and flooring.

  These schemes allow beneficiaries to benefit from a subsidized cost of 80% from Government and to repay only 20% of the total cost of a housing unit over a repayment period of 15 to 35 years.

  The purpose is not only to provide a decent dwelling but also to provide access to clean water and sanitation, affordable electricity, a decent and safe living environment and a healthy neighbourhood concept in line with community development values.

1. Security Measures

The State of Mauritius has established the National Cybersecurity Strategy 2014-2019, the National Cybercrime Strategy 2017 and the Digital Mauritius 2030 Strategy. These are examples of transparency measures, as they clearly explain our goals, vision and planned actions in line with the UN GGE report 2015. Risk reduction mechanisms build confidence in countries’ capacity to collaborate to respond to instances of malicious cyber activity without escalation to conflict.

The State of Mauritius, furthermore, recognizes that activities conducted in cyberspace raise new challenges for the application of international law, including issues of sovereignty, attribution and jurisdiction, given its cross-border nature. In this perspective, the State of Mauritius has signed the Commonwealth Heads of Government Cyber Declaration in April 2018.

Moreover, the National Computer Board has been implementing the Universal ICT Education Programme (UIEP) since September 2006. One of the priorities of the UIEP programme being the introduction of the internationally acknowledged Internet and Computing Core Certification (IC3) course with a view of making it the benchmark for digital literacy/proficiency in Mauritius. The UIEP programme aims at training a maximum number of persons comprising students, employees (including Public Officers), housewives, senior citizens and public at large on the IC3 course in line with Government’s vision to transform Mauritius into a Cyber Island and ICT Hub.

It is important to note that the police duties such as law enforcement actions are not based on criteria such as religion or discrimination of any kind. The Police Force in Mauritius fosters religious freedom and pluralism by promoting the ability of members of all religious communities to manifest their religion and to contribute openly and on an equal footing to society.

The Police Force prevents acts of vandalism or theft, regulate traffic and maintain good relationship with the community near temples, mosques, churches, kovils and other places of worship, especially during religious festivals. Policing is also maintained during the annual pilgrimage to the parish church of Saint Croix, or during other religious processions such as Maha Shivratree and Cavadee festivals.

The Crime Records Office collects data in respect to cases involving offences of a religious nature in a systematic way irrespective of age, sex, geographic location, nature of offence.

The Independent Police Complaints Commission was set up on 9 April 2018 upon proclamation of the IPCC Act 2016 and is mandated to investigate into any complaint made by any person or on his behalf against any act, conduct or omission of a police officer in the discharge of his functions, other than a complaint of an act of corruption or a money laundering offence.

1. Countering Corruption

The State of Mauritius has adopted a comprehensive and strategic approach in the fight against corruption and money laundering since the year 2002. The Prevention of Corruption Act (PoCA) 2002, as amended, and the Financial Intelligence and Anti-Money Laundering Act (FIAMLA) 2002, as amended, are the two main legislations in this respect. These legislations promote, amongst others, the principles of rule of law, proper management of public affairs, transparency, accountability and integrity.

Mauritius is also party to the United Nations Convention Against Corruption (UNCAC), the SADC Protocol Against Corruption and African Union Convention in Preventing and Combating Corruption.

The Independent Commission Against Corruption (ICAC) Mauritius, set up under the PoCA 2002, has as core functions to lead, implement and administer the prevention, education and enforcement elements of the national strategy to fight corruption. It is also mandated to, amongst others, detect and investigate any matter that may involve the laundering of money as per the FIAMLA 2002. The strategies (preventive and investigative) adopted over the years have evolved over time in view of the changing nature and pattern of these crimes so as to better respond to emerging global challenges.

The Declaration of Assets Act 2018 is, in parallel, another component of a multidisciplinary approach to combating financial crime, including corruption and money laundering. Asset declarations of elected members and public officials are a powerful tool to prevent financial crimes and therefore serve to enhance public sector integrity and transparency.

1. Protection of Elderly Persons and Persons with Disabilities

The State of Mauritius is fully committed to, and is continuously progressing towards, an inclusive society where the rights of persons with disabilities are respected and protected. It also undertakes to review its legislations gradually so that they reflect the human rights model of disability.

The Government has taken a series of measures to implement the recommendations contained in the Convention on the Rights of Persons with Disabilities (CRPD) Committee’s previous concluding observations. New legislations that have been recently proclaimed reflect the human rights model of disability and are in line with the CRPD. One such example is the Special Education Needs Authority Act (2018), which defines disability as “a long-term physical, intellectual or sensory impairment of a person which substantially hinders the person’s ability to carry out normal day to day activities”.

Furthermore, the Welfare and Elderly Persons’ Protection Unit (WEPPU) has been set up in September 2006 after the promulgation of the Protection of Elderly Persons Act 2005. The Act was amended in 2016 to enhance the level of protection and assistance to elderly persons including elderly persons with disabilities. The Act also empowers Officers of the MSISSNS to summon perpetrators of elder abuse and in case of non-attendance, the perpetrator is liable to be Rs 5000 or imprisoned for a period not exceeding 6 months.

There are no specific laws that seek to punish criminal acts that specifically target persons with disabilities. A draft “Disability Bill” is currently under preparation and this may cater for the abuse against persons with disabilities.

The fundamental rights of persons with disabilities are protected in the same manner as those of other citizens of Mauritius.

In Mauritius, the following measures are being taken to ensure a barrier free environment to Persons with Disabilities:

1. The Building Control (Accessibility and Gender Compliance in Buildings) Regulation 2017 which is applicable since November 2017, provides for new buildings and buildings undergoing major alterations, additions, repairs or reconstruction. Government buildings are therefore catering for ramps, handrails, special toilets for persons with disabilities and reserved parking facilities to make all the government buildings accessible to persons with disability.
2. Following the amendments to the Training and Employment of Disabled Persons (TEDP) Act in 2012, employers who have a workforce of 35 or above are required to employ 3% of persons with disabilities. Moreover, under Section 13 of the TEDP Act, the Board has to set up a Hearing Committee to determine whether an employer cannot reasonably be expected, having regard to the nature of the business, to provide suitable employment to or to create suitable employment opportunities for the employment of persons with disabilities.

Significant efforts are made to uplift the rights of persons with disabilities, prevent their discrimination and promote their rights. Children with disabilities are also not neglected. The Special Education Needs Authority endeavour to provide the best facilities adaptable to the need of the disabled children and ensure their integration in the mainstream. Infrastructural works are carried out in various state secondary schools including: ramps and handrails, adapted toilets and alighting bays.

The Ministry of Education, Tertiary Education, Science and Technology has taken several measures for the inclusion and integration of children:

* the provision of textbooks, e.g. Braille displays for learners with disabilities;
* provision of adapted furniture and wheelchairs;
* refund of bus and taxi fares for the conveyance of students with disabilities.

Health services for elderly including persons with disabilities have been strengthened. Bedridden and severe disability persons benefit from free medical domiciliary visits irrespective of their age. Grant of up to Rs 5,000 for the purchase of assistive device such as wheelchairs, hearing aid and Rs 2,000 for the purchase of spectacles are provided.

Other Financial Assistances provided by the MSISSNS include: a) Incontinence Allowance to elderly aged 70 and above and to those who are bedridden; b) Carer’s Allowance c) Rent Allowance to elderly persons living alone; and d) those in receipt of Social Aid, they are also entitled to allowances for dentures, income support, funeral grants in respect of beneficiary or any of his/her dependent, grant for the purchase of medicine to centenarians.

1. Protection of the Child

The ‘Best Interest of the Child’ is of primary importance/concern in all legislative and policy frameworks in Mauritius which are geared towards the protection, survival, development and participation rights of the Mauritian Child.

The Children’s Act 2020, the Children’s Court Act 2020 and the Child Sex Offender Register Act 2020 were passed in the National Assembly in December 2020 with a view to harmonizing all laws relating to children. These Acts, however, are yet to be proclaimed.

The Ministry of Gender Equality and Family Welfare is mandated to cater for the needs of children who are victims of Commercial Sexual Exploitation (CSEC).

The following services are provided:

* Psycho-social counselling to victims of CSEC as well as to their families; and
* Alternative placement and/or reintegration of CSEC victims in the mainstream.

In this connection, a Drop-in-Centre has been set up, since December 2003, to cater for the rehabilitative needs of children victims of CSEC and sexual abuse. The Centre is being run and managed by the Mauritius Family Planning and Welfare Association (MFPWA) and is being monitored by the Child Development Unit.

All reported cases of sale and sexual exploitation of children are evaluated or assessed on an individual/case to case basis, wherein the right approaches, interventions and follow-ups are undertaken to tackle the cases, using a rights based approach. Remedial and recovery services are provided, taking into account the victim’s personalised care plan. Moreover, adequate measures are taken throughout the process to avoid further victimisation and distress of the children.

1. LGBTQI Rights

LGBTQI rights and discrimination based on sexual orientation are emerging human rights concerns that are attracting much attention these days throughout the world. The State of Mauritius is no exception to that. There are a few nongovernmental organizations which are advocating actively for recognition of rights of LGBTQI. However, in view of the particular social fabric in Mauritius, LGBTQI or sexual orientation is still a subject of taboo to some extent.

It has been noted in Mauritius that very often LGBT people hide their sexuality and/or gender identity for fear of ostracism, stigma, or reprisal from their family. Most of the times they do not report cases of abuse as going to the police would reveal their sexual orientation and gender identity. Even if they go to the police, they do not disclose their sexual orientation.

In our Criminal code and specific legislations (Domestic Violence Act, Child Protection Act, the Protection of Elderly Persons Act, The Protection of Human Rights Act 1998, etc.) any act of violence or discrimination, simple and aggravating assaults, sexual offences, sexual harassment, acts of domestic violence, inciting racial hatred etc., is an offence under the different legislations. Specific rights of LGBTQIs are not specified in domestic law but the legislations afford the same protection to all individual irrespective of their gender identity of sexual orientation.

**21.10.2021**