**STUDY ON THE IMPACT OF THE COVID-19 PANDEMIC ON HUMAN RIGHTS OF YOUNG PEOPLE**

**-HUMAN RIGHTS COUNCIL RESOLUTION 48/12**

**-The Mauritian Case Study-**

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The Mauritian government passed several new legislations and regulations in order to curb the repercussions of the Covid-19 pandemic on various key sectors of the socio-economic development. Though temporary measures[[1]](#footnote-1), these legislations and regulations had serious impact on the basic rights of all individuals in Mauritius which inherited both French Civil Law (1715-1810) and English Common Law (1810-1968) following two successive colonisations until it became independent on the 12th March 1968, and finally a republic on the 12th March 1992. Despite being a sovereign country[[2]](#footnote-2), the Mauritian judiciary still allows appeals to their Law Lords of the Judicial Committee of the Privy Council, in London (England) and the Mauritian legal system still inspired from English and French legislations, precedents and doctrine. Therefore, the impact of the unexpected[[3]](#footnote-3) pandemic disease Covid-19 in a country like the Republic of Mauritius becomes rather interesting to understand its new legislations, which were passed recently with the temporary measures which are enacted under the *Covid-19 (Miscellaneous Provisions) Act 2020* which amended some 57 legislations on key sectors of the tourism, economic and financial sector of the small island of Mauritius (2100 kilometers square and its 1.3 million inhabitants) to address the challenges posed by the Covid-19 pandemic disease on workers’ rights, people and young persons.The importance of these measures, to curb the propagation of the Covid-19, is not denied but these information explained its impact on the workplace and which infringed, *inter alia*, most human rights, and justice was delayed due to lockdown, restriction to movements and expression.

Like elsewhere, the pandemic disease Covid 19 has a huge impact on, *inter alia*, workers and employees and young person in Mauritius with changes on the workplace, schools and other educational institutions: restrictions to movement and impact of freedom of speech and expression, vaccination became imperative and compulsory for one and all to have access to their workplace even if there are complaints (people suffering from allergies and some students refused to be vaccinated on religious grounds), their parents need a Work Access Permit (WAP), the lockdown provoked redundancy and loss of employment in most sectors, loss of remuneration and lay-offs, gender inequality also was detected (women have to work at home and to look after their children and elderly persons in the absence of any maid) and health officers and other employees are front liners working in very strenuous conditions.

New legislations (Table 2, *infra*) were passed by the Mauritian parliament and came into force but there are still hot debates. Therefore, these information is an ideal platform for discussion and to debate on the impact of some legislations and regulations which came into force in 2020 and 2021 in Mauritius recently when the population was not prepared to such laws, students were confused on their exams and some of them had lost a parent. *The* *Covid-19 (Miscellaneous Provisions) Act 2020*, passed on 15 May 2020, amended a very broad array of 57 existing primary legislations, and the new *Quarantine Act 2020* replaced the *Quarantine Act 1954*. The problem statement of this information paper relates to new legislations which came into force recently in Mauritius when the pandemic disease Covid-19 caused lockdown in Mauritius. Very unexpectedly, the Covid-19 pandemic disease appeared suddenly causing havocs and disorder in the socio-economic development of Mauritius. As usual, the Mauritian legislator reacted promptly in providing flexible measures in most sectors to curb the impact of the Covid-19 on the Mauritian economy. However, the reverse of the medal was that there were very strict measures imposed to all individuals who were not prepared at all to face all these news restrictions which have a direct bearing on their fundamental rights. And to what extent, especially when the Mauritian government and all stakeholders on the island want to achieve the 17 Sustainable Development Goals and have established the basic minimum labour standards in most of its municipal law, new legislations which were passed to curb the pandemic disease had on workers’ rights must be studied because of public emergency. Save to some exceptions[[4]](#footnote-4), Article 4(1) of the *International Covenant on Civil and Political Rights* (ICCPR) allows the possibility of derogations from international human rights obligations in time of public emergency[[5]](#footnote-5).

As a result, many countries (France, Italy, England, US, China, Germany, Reunion Island or India just to name a few) have imposed restrictions on movement, expression or right to strike and assembly though it would definitely be detrimental to human rights and other form of abuses. However, some fundamental rights are not absolute rights, and as an illustration section 15(3)(a) of the Mauritian Constitution 1968 impose restrictions within Mauritius provided they are in the interest of defence, public safety, public order, public morality or public health or of securing compliance with any international obligation which shall not be inconsistent with or in contravention of this section.

And important legislations such as *The Workers’ Rights Act 2019 (Act 20/2019)[[6]](#footnote-6), The Employment Relations Act 2008 (Act 32/2008)[[7]](#footnote-7), The Occupational Safety and Health Act 2005[[8]](#footnote-8) (OSHA 2005),* and *The Equal Opportunities Act 2008[[9]](#footnote-9)* were passed to cater for workers’ rights and safety on the workplace*.* The Mauritian legislator passed a large number of legislations and regulations: The *Quarantine Act 2020* and the *Quarantine (Covid-19)Amendment Regulations 2021*), *The* *Covid-19 (Miscellaneous Provisions) Act 2020*, the *Prevention and Mitigation of Infectious Disease Coronavirus Regulations 2020*, the existing *Public Health Act 1925* and the *Occupational Health and Safety Act 2005*, or the *Work from Home Regulations 2020* to cater for health and safety on the workplace but we will certainly debate on these legislations for its *pros* and *cons* on the population in Mauritius with a ‘‘domino effect’’: restrictions on the movement of citizens, vaccination became compulsory to all individual in Mauritius except those who were under 18 but some citizens who were administered vaccines during the vaccination campaign suffered and died in hospitals, professionals like private medical practitioners, dentists, lawyers, architects or job contractors had no access to their workplace; there were restrictions of freedom of speech, expression and even freedom of conscience and religion just to name a few with the fear of being redundant[[10]](#footnote-10) .

The new legislations[[11]](#footnote-11) (Table 2, marked \* *infra*) impacted on most fundamental rights on al individuals as the health and security was a priority and as emergency measures to circumvent the spread of the Covid-19 pandemic disease. In Mauritius, the Constitution 1968[[12]](#footnote-12) in its Chapter II (Table 1, *infra*) provides for the most basic important fundamental rights, which are directly inspired from, *inter alia*, the *Universal Declaration on Human Rights 1948* and the *European Convention on Human Rights 1950.* The Republic of Mauritius has signed and ratified international covenants (*International Convention on civil and Political rights, International Convention on Economic Social and Cultural Rights, International Labour Convention* or *The Universal Declaration of Human Rights*) and international organisations to which it is a Member State (World Health Organisation). Young people who are poor, living in remote areas of the country and who have lost a parent because of the Covid-19 or parents who are unemployed had no laptop to go online an dthey feel discriminated and set aside.

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| CONSTITUTION: CHAPTER II ON FUNDAMENTAL RIGHTS (SECTIONS 3-16) | | |
|  | Sections | HUMAN RIGHTS |
| 3 | Section 3 | Right to life and Right to personal liberty |
| 4 | Section 4 | Right to life |
| 5 | Section 5 | Right to personal liberty, right to be informed of the reasons for one’s arrest or detention (5(2); right, after arrest or upon being detained, to be afforded reasonable time facilities to consult a legal representative of one’s own choice (section 5(3)); right, after being arrested or detained, to be brought without undue delay before a Court of law (section 5(3)) |
| 6 | Section 6 | [Protection from slavery and forced labour](#S6) |
| 7 | Section 7 | [Protection from inhuman treatment](#S7) |
| 8 | Section 8 | [Protection from deprivation of property](#S8) |
| 9 | Section 9 | Right to privacy of home and other property |
| 10 | Section 10 | Right to a fair hearing (section 10(1)), right to be tried by an independent and impartial court (section 10(1)), right to be tried by a court established by law (section 10(1)), right to be considered innocent until proved guilty (section 10(2)(a)), right to be informed, as soon as reasonably practicable, in a language which he understands and in detail, of the nature of the offence(section 10(2)(b)), right to be given adequate time and facilities for the preparation of his defense (section 10(2)(c)), right of the person charged to defend himself in person (section 10(2)(d)), right to defend himself at his own expense, by a legal representative of his own choice (section 10(2)(d)), right to defend himself, where so prescribed, by a legal representative provided at the public expense (section 10(2)(d)); right to be afforded facilities to examine, in person or by his legal representative, the witnesses called by the prosecution before nay court (section 10(2)(e)); right to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution (section 10(2)€; right to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the offence (section 10(2)(f)); right to be present at his trial (section 10(2)); right to obtain within a reasonable time after judgment, upon payment of any reasonable fee prescribed by legislation, a copy of the court record (section 10(3)), right to be judged only in accordance with the substantive criminal law in force at the time of the offence (section 10(4)), right after a conviction or acquittal not to be tried a second time for the same offence except where a re-trial is ordered by a court of appeal or review; right not to be tried for a criminal offence where a pardon has been granted, by the competent authority, for that offence (section 10(6)); right not to be compelled to give evidence at the trial (section 10(7)) |
| 11 | Section 11 | [Protection of freedom of conscience](#S11) |
| 12 | Section 12 | Freedom of expression |
| 13 | Section 13 | Freedom of association and assembly |
| 14 | Section 14 | [Protection of freedom to establish schools](#S14) |
| 15 | Section 15 | [Protection of freedom of movement](#S15) |
| 16 | Section 16 | Right not to be discriminated against a person on account of race, caste, place of origin, political opinion, colour, creed or sex |

Table 1

They pave the way for human rights in addition to a written *Constitution 1968*, the supreme law of Mauritius, which provides for the judiciary and its Chapter II for fundamental rights to all individuals in Mauritius coupled with relevant legislations (*Protection of Human Rights Act, The Workers’ Rights Act 2019*, *The Equal Opportunities Act, The Public Health Act, The Occupational Health and Safety Act,* that have been passed to enhance human rights for all individuals on the small island of Mauritius. However, *The Quarantine Act 2020*[[13]](#footnote-13), various regulations (*The Public Health Regulations* and *The Prevention and Mitigation of Infectious Disease Coronavirus Regulations* and *The Additional Remuneration and Other Allowances Regulations 2019*), and various schemes (*Government Wage Assistance Scheme, Self-Employed Assistance Scheme, and the Work From Home Scheme*) came also into force that impacted on one and all so that the prevention and spread of communicable diseases in Mauritius was a priority for the government and its legislator.

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| The Mauritian Legislations and Its Adaptability on Some Human rights Issues | | | |
| 1 | The Covid-19 (Miscellaneous Provisions) Act 2020\* | 16 | The Government Wage Assistance Scheme\* |
| 2 | The Prevention and Mitigation of Infectious Disease Coronavirus Regulations 2020 (PMIDCR 2020)\* | 17 | The Self-Employed Assistance Scheme\*. |
| 3 | The Public Health (Covid-19 Vaccines for Emergency Use) Regulations 2021\* | 18 | The Additional Remuneration and Other Allowances (2019) Regulations 2019\* |
| 4 | The Quarantine Act 2020\* | 19 | Constitution of Mauritius 1968 |
| 5 | The Quarantine (Covid-19) Amendment Regulations 2021\* | 20 | The Employment Relations Act 2008 (Act 32/2008) |
| 6 | The Work from Home Regulations 2020\* | 21 | The Employment Relations (Amendment) Act 2013, and The Employment Relations (Amendment) Act 2019 |
| 7 | The Worker’s Rights (Additional Remuneration) 2021 Regulations 2021\* | 22 | The Equal Opportunities Act 2008 |
| 8 | The Workers’ Rights (Extension of Time During Covid-19 Period) Regulations 2020 | 23 | The Industrial Relations Act 1973 (repealed) |
| 9 | The Industrial Court Act 1973 | 24 | The Workers’ Rights 2019 (Act 20/2019) |
| 10 | The Occupational Safety Health and Welfare Act 1988 (repealed) | 25 | The Occupational Heal and Safety Act 2005 |
| 11 | The End of Year Gratuity Act 2001. | 26 | Public Bodies Appeal Tribunal Act 2010 |
| 12 | Public Service Commission (PSC) Act | 27 | The Protection of Human Rights Act |
| 13 | The Registration of Association Act 1979 | 28 | The Workers’ Rights (Payment of Special Allowance 2021) Regulations 2020\* |
| 14 | The Public Health Act 1925 | 29 | The Workers’ Rights (Extension of Time during Covid-19 Period) Regulations 2020\* |
| 15 | The Code Civil Mauricien (CCM)[[14]](#footnote-14), The Code de Commerce Mauricien and the Code Pénal | 30 | The Public Gathering Act |

Table 2

And various legislations (*Industrial Court Act, Public Bodies Appeal Tribunal Act, Employment Relations Act 2008*) also empowered courts to have relevant jurisdictions (Industrial Court, Reviewing Authority, Public Bodies Appeal Tribunal, Employment Relations Tribunal) for workers (*The Workers’ Rights Act 2019*) to matters an disputes courts have to hear, employees and public officers (as *per The* *Public Service Commission Act*, and *The Public Service Commission Regulation*) in a country which has inherited both French Civil Law, English Common Law and legislations, precedents and doctrine which our legislator and courts still inspire from these two countries because of its two successive colonial inheritance, and where there is a strong separation of powers.

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| ILO Conventions | Ratification date | Status |
| C2 Unemployment Convention 1919 | 02.12.1969 | ratified |
| C5 Minimum Age (Industry) Convention 1919 | 02.12.1969 | denounced on  30.07.1990 |
| C7 Minimum Age (Sea) Convention 1920 | 02.12.1969 | denounced on 30.07.1990 |
| C8 Unemployment Indemnity (Shipwreck)  Convention 1920 | 02.12.1969 | ratified |
| C11 Right of Association (Agriculture) Convention 1921 | 02.12.1969 | ratified |
| C12 Workmen’s Compensation (Agriculture) Convention, 1921 | 02.21.1969 | ratified |
| C14 Weekly Rest (Industry) Convention, 1921 | 02.12.1969 | ratified |
| C15 Minimum Age (Trimmers and Stockers)  Convention, 1921 | 02.12.1969 | denounced on 30.07.1990 |
| C16 Medical Examination of Young Persons (Sea)  Convention 1921 | 02.12.1969 | ratified |
| C17 Workmen’s Compensation (Accidents)  Convention, 1925 | 02.12.1969 | ratified |
| C19 Equality of Treatment (Accident Compensation) Convention, 1925 | 02.12.1969 | ratified |
| C26 Minimum Wage-Fixing Machinery Convention (Revised), 1934 | 02.12.1969 | ratified |
| C42 Workmen’s Compensation (Occupational Diseases) Convention (Revised), 1934 | 020.12.1969 | ratified |
| C50 Recruiting of Indigenous Workers  Convention, 1976 | 02.12.1969 | denounced on 02.03.2000 |
| C58 Minimum Age (Sea) Convention (Revised) 1936 | 02.12.1969 | denounced on 30.07.1990 |
| C 59 Minimum Age (Industry) Convention (Revised), 1937 |  | Denounced on 30.07.1990 |
| C63 Convention concerning Statistics of wages and Hours of Work, 1939 | 02.12.1969 | denounced on 14.06.1994 |
| C64 Contracts of Employment (Indigenous Workers) Convention, 1939 | 02.12.1969 | denounced on 08.07.1999 |
| C65 Penal Sanctions (Indigenous Workers)  Convention, 1939 | 02.12.1969 | denounced on 08.07.1999 |
| C74 Certification of Able SeamenConvention,1946 | 02.12.1969 | ratified |
| C81 Freedom of Association and Protection of the Right to Organise Convention, 1948 | 01.02.2005 | ratified |
| C81 Labour Inspection Convention, 1947 | 02.12.1969 | ratified |
| C86 Contracts of Employment (Indigenous Workers) Convention, 1947 | 02.12.1969 | ratified |
| C87 Freedom of Association and Protection of the Right to Organise Convention, 1948 | 01.04.2005 | ratified |
| C88 Employment Service Convention, 1948 | 03.09.2004 | ratified |
| C94 Labour Clauses (Public Contracts) Convention, 1949 | 02.12.1969 | ratified |
| C95 Protection of Wages Convention, 1949 | 02.12.1969 | ratified |
| C97 Migration for Employment Convention (Revised), 1949 | 02.12.1969 | ratified |
| C98 Right to Organise and Collective Bargaining Convention, 1949 | 02.12.1969 | ratified |
| C99 Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 | 02.12.1969 | ratified |
| C100 Equal Remuneration Convention, 1951 | 18.12.2002 | ratified |
| C105 Abolition of Forced Labour Convention, 1957 | 02.12.1969 | ratified |
| C108 Scafarers’ Identity Documents Convention, 1958 | 02.12.1969 | ratified |
| C111 Discrimination (Employment and Occupation) Convention, 1958 | 18.03.2003 | ratified |
| C137 Dock Work Convention, 1973 | 30.07.1990 | ratified |
| C144 Tripartite Consultation (International Labour Standards) Convention, 1976 | 14.06.1994 | ratified |
| C150 Labour Administration Convention, 1978 | 05.04.2004 | ratified |
| C156 Workers with Family Responsibilities Convention, 1981 | 05.04.2004 | ratified |
| C159 Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 | 09.06.2004 | ratified |
| C160 Labour Statistics Convention, 1985 | 14.06.1994 | ratified |
| C175 Part-Time Work Convention, 1994 | 14.06.1994 | ratified |
| C182 Worst Forms of Child Labour Convention, 1999 | 08.06.2000 | ratified |

TABLE 4

However, the island and its inhabitants had to endure the Covid-19 pandemic disease which has taken a toll of human life in unprecedented magnitudes across the world with an increase of unemployment rate following closure of business, companies and firms during the lockdown and various pillars (tourism and the finance sector, trade across border, production and supply chains were disrupted). The Mauritian socio-economic developmentsuffered considerably just like many countries. The Mauritian government reacted fast by passing new legislations (marked \*, Table 2) urgently with a view to control the pandemic disease Covid-19 by amending a number of enactments to cater for the impact of the infectious disease, and for matters connected, consequential or related thereto. New legislations (Table 2, *infra*) were passed to impose restriction of movement of citizens, closure of borders, restriction to freedom of speech and expression, restrictions to freedom of association and assembly[[15]](#footnote-15), people were placed into quarantine, the government and the police imposed red zones leading to inactivity and loss of jobs and people became redundant[[16]](#footnote-16).

True that the Mauritian government passed important new legislations and regulations as important and essential measures were necessary to control the pandemic disease to spread and to cause death, turmoil, disorder, frictions and havoc among the population but they had a very detrimental effect as well on the enjoyment of a number of fundamental rights including right to health and safety and workers’ rights (restriction to movement and liberty of individuals with heavy fine (Rs 500,000) and a term of imprisonment (5 years) in case of breach of the law, inequality, exclusion, discrimination or unemployment in all sectors without any exception and among the young and other fresh graduates) in the absence of any proper monitoring of policies and legislations.

On the other side, *The Covid-19 (Miscellaneous Provisions) Act 2020* came to give relief in some economic and financial sectors but it also brought important amendments in *The Workers’ Rights Act 2019 (Act 20/2019)* which was not at the satisfaction of most NGOs and other civil societies (IV)*.*

The Mauritian government’s priority was public health, to avoid another risk of resurgence of the disease and therefore with a view to circumvent the spread of the pandemic disease Covid-19, the Mauritian government passed *The Covid-19 (Miscellaneous Provisions) Act 2020* and *The Prevention and Mitigation of Infectious Disease Coronavirus Regulations 2020 (PMIDCR 2020)[[17]](#footnote-17)*, which restricted movement unless workers and employees have a Work Access Permit[[18]](#footnote-18) (WAP) to have access to their workplace and restricted areas, with control and barriers on the highway. It came into force amending both Acts (*The Workers’ Rights 2019[[19]](#footnote-19)* (*Act 20/ 2019*) and *The Employment Relations Act 2008 (Act 32/2008*)respectively which are related directed to labour and industrial relations law in Mauritius, together with some 57 Acts in the overall, as emergency measures to implement new conditions and hours of work (Work from Home[[20]](#footnote-20)) and vaccination became mandatory for all despite complaints due to disruption of working conditions and hours in all public and private sectors, and several forms of abuses of workers’ rights by their employer have also been reported.

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| International Labour Organistion (ILO) Declarations on Fundamental Principles and Rights at Work | | | |
| 1 | Forced Labour Convention, 1930 (No. 29) and its 2014 Protocol | 5 | Abolition of Forced Labour Convention, 1957 (No.105) |
| 2 | Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) | 6 | Discrimination (Employment and Occupation) Convention, 1958 (No.111) |
| 3 | Right to Organise and Collective Bargaining Convention, 1949 (No.98) | 7 | Minimum Age Convention, 1973 (No.138) |
| 4 | Equal Remuneration Convention, 1951 (No.100) | 8 | Worst Forms of Child Labour Convention, 1999 (No.182) |

Table 5

As soon as the new legislations came into force (Table 2, *supra*) to protect various sectors of the socio-economic development, immediately, there were various concerns on fundamental issues such, *inter alia*, workers’ general welfare and security, discrimination, right to health and security, right to work and access to workplace and information, right to privacy as vaccination became mandatory except for juveniles who are under 18, right to personal security and right to live as people were also allergic to the vaccination and on their general welfare and mental well-being and other general working conditions, and a general fear of being redundant as most businesses were getting closed especially among migrant workers who lived and worked in poor sanitary conditions and they are still very far from the *United Nations General Assembly 1948* which proclaimed clearly that: ‘‘All human beings are born free and equal in dignity and rights’’.

Consequently, the Covid-19 pandemic disease distorted all human rights without any exception and infringed legislations and international covenants Mauritius[[21]](#footnote-21)has signed and ratified (Table 5) despite that the ILO’s vision is to “maintain a system of international labour standards and aimed at promoting opportunities for all to obtain a decent and productive work, in condition of freedom, equity, security and dignity and encourage harmonisation worldwide”. According to the Legal Supplement, Government Notice No.119 of  2021, "*The Quarantine Act 2020*" stipulates only the following on part (b) as above: 1. "...an RT-PCR test result slip certifying a negative result dating back to not more than 7 days from the date of the RT-PCR test was undertaken"; and 2. "Any person ......found in possession of a forged vaccination card or RT-PCR test result slip, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years."

*The Occupational Safety Health and Welfare Act 1988* came into force to protect workers on their workplace. It was repealed and replaced, actually, by *The Occupational Health and Safety Act 2005 (OSHA 2005)* in order ‘‘To consolidate and widen the scope of legislation on safety, health and the welfare of employee at work[[22]](#footnote-22)’’. Section 5(1) of the *OSHA 2005* enacts that: “Every employer shall, so far as is reasonably practicable, ensure the safety, health and welfare at work of all his employees[[23]](#footnote-23)’’. Most institutions and employers started to impose strict sanitary measures (Vaccination Card was mandatory to have access to their workplace, use of sanitisers, social distancing, or Work Access Permit were also made compulsory to all workers) in strict compliance of the new legislations (Table 2 marked \*) which came into force in 2020 to reduce the risk of an imminent danger to all workers ensuring a safe working environment but front liners (medical practitioners, police officers, nurses and even academics) had to work in strenuous conditions and with additional odd hours. Though these new legislations (marked \*) came into force to protect the population and to enhance additional measures in the interest of public health and safety the population and the workforce in Mauritius suffered, as usual, from the stringent measures such as enforcement into quarantine for suspected individuals, self-isolation, migrant workers coming from abroad suffered mandatory quarantine, shopping was restricted with lengthy queues and alphabetical orders was imposed on all individuals.

1. The *Covid-19 (Miscellaneous Provisions) Act 2020* defines the Covid-19 period in the *Interpretation and General clauses Act* as the period between 23 March 2020 and 01 June 2020 or ending on such later date as may be prescribed by regulations. [↑](#footnote-ref-1)
2. Section 1 of the Constitution, 1968 [↑](#footnote-ref-2)
3. Thought unexpected, the pandemic disease Covid-19 is not an Act of God/*cas de force majeure (*external, irresistible and unforeseeable)- in *Hosseny v Maico 1970 SCJ 163* [↑](#footnote-ref-3)
4. Such as inherent right to life (Article 6 ICCPR), prohibition of torture and inhuman treatment (Art.7 ICCPR), prohibition of slavery (Article 8 ICCPR), freedom of imprisonment on ground of inability to fulfill a contractual obligation (Art. 11 ICCPR), right not to be subjected to retroactive application of criminal law (Art.15 ICCPR), right to recognition as a person before the law (Art.16 ICCPR) and right to freedom of thought, conscience and religion (Art. 18 ICCPR). [↑](#footnote-ref-4)
5. Section 18 of the Mauritian Constitution 1968 enacts that: “the law authorizes the taking of measures that are reasonably justifiable for dealing with th situation that exists in Mauritius during that period’’, which is in line with Article 4(1) of the *International Covenant on Civil and Political Rights* (ICCPR). [↑](#footnote-ref-5)
6. *The Workers’ Rights Act 2019 (Act 20/2019)* contains relevant and important enactments, inter alia, against discrimination against workers, minimum age for employment, different works agreement, different types of work agreements, general conditions of employment, equal remuneration for work of equal value, remuneration in specific circumstances, protective order against employers, meal allowance, leaves, end of year bonus, death grant, benefits, termination of agreement and reduction of workforce, gratuity on retirement and at death, protection against violence at work and all important administrative issues as to keeping of records and register of employers. [↑](#footnote-ref-6)
7. *The Employment Relations Act 2008 (Act 32/2008)* provides for relevant and important enactments, *inter alia*, on Registration of Trade Unions, Constitution and administration of trade unions, protection of fundamental rights, collective bargaining, labour disputes and dispute settlement procedures, strikes and lock-outs, employment relations institutions, offences and penalties. [↑](#footnote-ref-7)
8. Inspired from English Common Law, The *Occupational Safety and Health Act 2005 (OSHA 2005)* protects all employees and employees on the workplace, and failure for an employer to provide hygiene and security on the workplace is a criminal offence. [↑](#footnote-ref-8)
9. *The Equal Opportunities Act 2008* protects any individual against discrimination so that any individual in Mauritius enjoy the same opportunity. The Human Rights Commission was set up to listen any grievance from any individual whose rights have been infringed as per, *inter alia*, Chapter II of the Constitution, 1968 (Table 1), and the important *Protection of Human rights Act* coupled with other relevant legislations which protect workers’ rights on their workplace*.* [↑](#footnote-ref-9)
10. The *Covid-19 (Miscellaneous Provisions) Act 2020* amended *The Workers’ Rights Act 2019* so that an employer cannot reduced his/her workforce during the prescribed period (1st June 2020 and ending on 31 December 2020)-*Les Frais de l’Artigiano RB/RN/38/2020* [↑](#footnote-ref-10)
11. *The Covid-19 (Miscellaneous Provisions) Act 2020, The Prevention and Mitigation of Infectious Disease Coronavirus Regulations 2020 (PMIDCR 2020)* and *The Quarantine Act 2020* [↑](#footnote-ref-11)
12. Chapter II (sections 3 -16) of the Constitution 1968 provides for fundamental rights (Table 1), which are also human rights inspired from the *Universal Declaration on Human Rights 1948,* *The International Covenant on Civil and Political Rights* or *The International Covenant on Economic, Social and Cultural Rights* [↑](#footnote-ref-12)
13. As *per The Quarantine Act 2020,* section 3 imposes restriction of entry by aircrafts and ships in Mauritius, imposition of confinement at home and closure of business premises; section 7 enacts the confinement of persons in Quarantine facilities and self-isolation. Section 10 provides for a duty to disclose communicable diseases and section 11 provides police powers to enter premises without a warrant and arrest without a warrant. [↑](#footnote-ref-13)
14. The French Civil Law prevails in Mauritius with relevant articles form the French Code Napoléon, 1804 (now CCM) [↑](#footnote-ref-14)
15. Part IV (sections 29-34) of *The Employment Relations Act 2008* provides for protection of fundamental rights, and section 13 of the Constitution, 1968 provides for freedom of association and assembly. [↑](#footnote-ref-15)
16. *H.Nunkoo v Mauritius Biscuit Making company Ltd 2015 IND 54*, where the Industrial Court Presiding Magistrate held that the mere fact that the plaintiff has conceded that the company was facing economic difficulties is not in itself proof that it was facing economic difficulties that the post occupied by the plaintiff should be made redundant’’. [↑](#footnote-ref-16)
17. Section 14 (1) *PMIDCR 2020* imposed several restrictions to contain the spread of the Coronavirus during a curfew order of 21 days and any breach of the regulation was a criminal offence (six months imprisonment and a fine) [↑](#footnote-ref-17)
18. The Work from Home Regulations 2020 [↑](#footnote-ref-18)
19. *The**Covid-19 (Miscellaneous Provisions) Act 2020* amended *The Workers’ Rights Act 2019* for workers to work from home by giving a notice (48 hours to his/her employer) and as per The Worker’s Rights (WFH) Regulations [↑](#footnote-ref-19)
20. Many workers have no access to internet at home, there are regular electricity cut off supply, lack of computer literacy, or have to look after their children and elders during lockdown while working from home (WFH) [↑](#footnote-ref-20)
21. Mauritius has singed 51 ILO Conventions is a very active Member State of the ILO just like in the SADC and COMESA. [↑](#footnote-ref-21)
22. *New Mauritius Dock Co. Ltd v PAS Ministry of Labour on behalf of Perrine 1974 MR 50*, according to the Supreme court of Mauritius a worker who attend wror must also be fit to work. [↑](#footnote-ref-22)
23. Mauritian Labour and Industrial Relations Law makes a distinction between a ‘worker’ and an ‘employee’. As per section 2 of *The Workers’ Rights Act 2019 (Act 20/2019),* a worker earns emoluments of not more than Rs 600,000. Save to some exceptions, most legislations provides for a ‘worker’ as per The *Workers’ Rights Act 2019 (Act 20/2019), The Workmen’s Compensation Act 1931or The Employment Relations Act 2008* whereas The National Pensions Act and The OSHA 2005 provide, this time, for an employee. [↑](#footnote-ref-23)