

GENERAL ASSEMBLY RESOLUTION 72/175 ON

“THE SAFETY OF JOURNALISTS AND THE ISSUE OF IMPUNITY”

**INPUTS OF THE GOVERNMENT OF MAURITIUS –**

1. Chapter II of the Mauritius Constitution guarantees the enjoyment of fundamental rights and freedoms which include the right to life, the right to personal liberty, protection from slavery and forced labour, protection from inhuman treatment, protection from deprivation of property, protection for privacy of home and other property, protection of the law, freedom of conscience, freedom of expression, freedom of assembly and association, freedom of movement and prevention from discrimination.

Any person whose rights under Chapter II of the Constitution have been, are being or are likely to be contravened may apply to the Supreme Court for redress. Any law which is inconsistent with the Constitution shall, to the extent of the inconsistency, be void.

2. Further, section 16 of the Constitution, *inter alia*, provides that no law shall make any provision that is discriminatory either of itself or in its effect. The section defines the term "*discriminatory*" as 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 to or are accorded privileges or advantages that are not accorded to persons of another such description.
3. Section 12 of the Constitution provides for the protection of freedom of expression and the right includes the freedom to hold opinions and to receive and impart ideas and information without interference and freedom from interference with correspondence. It is important to highlight that section 12(2) of the Constitution provides for the permissible legal derogations to the protection of freedom of expression enshrined in section 12(1) of the Constitution.
4. The Courts of Mauritius as well as the Judicial Committee of the Privy Council have also balanced the freedom of the press with other freedoms provided in the Constitution. Of particular relevance are the cases of **SornackNandanev v Le Mauricien Ltd** and Ors (2013) SCJ 5 and **Gilbert Ahnee & Ors v The Director of Public Prosecutions** (Privy Council) (1999) MR 208.
5. Mauritius being a party to the Optional Protocol to the International Covenant on Civil and Political Rights, citizens of Mauritius may submit individual petitions to the Human Rights Committee.
6. In Mauritius, journalists and the local media at large enjoy a long tradition of freedom and pluralism. Freedom of the press is guaranteed by the Mauritian Constitution and is an essential component of the right to freedom of expression.
7. The local media comprise a number of dailies, weeklies, fortnightlies and monthlies, whilst the audio visual landscape consists of the national radio and television, the Mauritius Broadcasting Corporation, and equally private radio stations.

8. The Independent Broadcasting Authority Act establishes the Independent Broadcasting Authority which, *inter alia*, promotes the provision of a diverse range of radio and television broadcasting services throughout Mauritius. It also deals with the licensing of new radio and TV channels and the devising of parameters and criteria for the authorization of new channels, including guidelines for programmes, safeguards against indecency and sanctioning non-conformity with established standards.
9. The Second Schedule to the Independent Broadcasting Authority Act establishes a Code of Conduct for Broadcasting Services, with its preamble to the following effect –

*"The fundamental principle to be upheld is that the freedom of all broadcasting licensees is indivisible from, and subject to, the same restraints as those relevant to the individual person, and is founded on the individual's right to be informed and to freely receive and disseminate opinions".*

The general restrictions, as per the new Code, are that broadcasting licensees shall –

- a) *not broadcast any material which is indecent, obscene or offensive to public morals or offensive to the religious convictions or feelings of any section of the population or likely to prejudice the safety of the State or the public order or relations between section of the population;*
  - b) *not, without due care and sensitivity, present material which depicts or relates to brutality, violence, atrocities, drug abuse and obscenity; and*
  - c) *exercise due care and responsibility in the presentation of programmes where a large number of children are likely to be part of the audience.*
10. The Newspapers and Periodicals Act of 1837 lays down conditions relating to the printing and publishing of a newspaper or periodical - namely notifying the Accountant-General. The law also applies to the title of the publication, the location of the printing house, full details of identity of the printer, publisher, editor and proprietor.
  11. The Mauritius Broadcasting Corporation Act provides the legal operational framework for the Mauritius Broadcasting Corporation, so that it strikes a fair balance in its programmes from the cultural, political, educational and religious standpoint and operates in an independent and impartial manner.
  12. The Media Trust has been set up under the Media Trust Act and amongst its objects, the Trust is, *inter alia*, called upon to run a media and documentation centre, organize seminars and conferences, workshops and training courses, as well as foster relations with international media.
  13. Government is presently reviewing the media landscape with the objective of reforming the media law, the aim being that an appropriate media framework be put in place by reviewing, updating and incorporating the latest developments and trends in media for the benefit of both Government and the public. A working draft of the Freedom of Information Bill has been prepared in line with paragraph 258 of the Government Programme 2015-2019 and is currently being examined.
  14. In addition to upholding human rights at national level, Mauritius is committed to their promotion and protection at international level and regional level. Mauritius fully cooperates with the human rights mechanisms including treaty bodies and periodically reports to these bodies on measures taken by Government on the promotion and protection of human rights including freedom of expression.

15. There are national human rights institutions which play a key role in the protection and promotion of human rights amongst which are the National Human Rights Commission, the Equal Opportunities Commission and the Office of the Ombudsperson for Children.
16. The Press in Mauritius generally operates in a conducive environment free of violence or coercion, with journalists free to exercise their profession. However, as the rule of law prevails, the press is subject to the general laws on publications (notification, reproduction of printers' imprint, sedition, defamation, right of reply etc).
17. The Government Programme 2015-2019 which is being implemented pledges that journalists and media reporters in the exercise of their functions will no longer be arrested or jailed unless there is strong prima facie evidence of a conspiracy against them.
18. There is no official or unofficial censorship of the press.
19. According to the Reporters without Borders Report 2019, which covers 180 countries, Mauritius ranked 58<sup>th</sup> in the World Press Freedom Index with a score of 28.46 in a scale where a score of 0 is considered as the best and 100 is the worst. Countries scoring between 0 to 30 are regarded as having a "free" media, countries which scored between 31 and 60 are said to be "partly free" media, while country with a score of 61 to 100 is classified as a "not free" media. It is noted that Mauritius has lost 2 places in the Index compared to last year. However, in 2010 Mauritius ranked 65<sup>th</sup> and in 2019 Mauritius ranked 58<sup>th</sup>, ahead of countries like Poland, Greece and Seychelles.
20. The Government has recently strengthened legislations to offer more protection to the citizens, from the dangers of new means of communications through the internet, electronic devices and on social media. Such strengthening of legislations is not happening in Mauritius only, but also the legislative reforms are ongoing in countries like Germany, France and Singapore etc.
21. The Computer Misuse and Cybercrime Act proscribes unauthorized access to computer data, unauthorized access to and interception of computer service etc.