**MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND INTERNATIONAL TRADE**

**(HUMAN RIGHTS DIVISION)**

**Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

**1.0 Introduction**

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

The State of Mauritius has indicated at various human rights fora that it has a fragile social fabric and amendments will be brought to relevant legislations for LGBTQI rights only once a consensus is reached in the population.

**2.0 Legal Framework**

2.1 Constitution

Protection of Fundamental Rights and Freedoms of the Individual is enshrined in Chapter II, Section 3 of the Constitution. All individuals are equally protected, be it if they are lesbians, gays, bisexuals, transgender, Queer and Intersex.

The Constitution is the supreme law of the Republic of Mauritius. Section 3 of the Constitution provides for the fundamental rights and freedoms of all individuals without discrimination. Section 16 (3) of the Constitution defines “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”. Therefore, both Sections 3 and 16 of the Constitution guarantee protection from discrimination.

2.2 Criminal Code

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 persons are not specified in domestic law but the legislations afford the same protection to all individual irrespective of their gender identity of sexual orientation.

2.3 Equal Opportunities Act

The Equal Opportunities Act which was passed in the year 2008, aims at protecting likely victims of discrimination and sexual harassment. Discrimination on the basis of “status” is also forbidden (section 5 of the Equal Opportunities Act). “Status”, under section 2 of the Equal Opportunities Act, includes sexual orientation of a person (whether he/she is gay, lesbian, bisexual, transgender, Queer or Intersex).

"Status"- means age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation.

2.4 Worker’s Rights Act

According to section 64 of the Workers’ Rights Act an agreement shall not be terminated *inter alia* by an employer by reason of 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*.*

2.5 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.

2.6 Protection from Domestic Violence Act

In 1997, the Government of Mauritius passed the Protection from Domestic Violence Act (PDVA) to protect spouses from domestic violence.

The Act provides for the issue of:

1. Protection Order which restrains the abuser from further acts of violence and ordering the latter to be of good conduct. The Order can last for a period not exceeding 2 years.
2. Occupation Order which grants exclusive rights to the victim to live in the residence which may belong to the victim, the abuser or both.
3. Tenancy Order which gives the victim exclusive right to occupy a rented house and the spouse who rented the house would continue to pay the rent.

Gender Based Violence (GBV) is a human rights violation that disproportionately affects women. Encompassing a range of behaviour including sexual, physical, mental and economic harm inflicted in public or in private, GBV also includes threats of violence, coercion and manipulation, and can take many forms, such as ‘*inter alia’*, intimate partner violence, sexual violence, and sexual assault.

The Ministry of Gender Equality and Family Welfare is in the process of amending the Protection from Domestic Act in order to reinforce the protective legal framework and make perpetrators accountable of their acts through the Perpetrator`s Rehabilitation Programme.

**3.0 Ensuring that LGTBI and gender non-conforming (GNC) people have access to health care**

Mauritius is a welfare state and health services are provided free of charge at the public health institutions. Moreover, it aims at Universal Health Coverage – UHC which is a mechanism for improving the health and welfare of all the citizens and lay the foundation for economic growth grounded on the principles of equity and sustainability.

Government spending on health has increased from Rs 7.56 billion in 2010 to reach Rs 14.5 billion in the financial year 2021/2022, representing an increase of 91.8 %. This allocation to the Ministry of Health and Wellness (MOHW) also includes financial coverage for provision of services to those affected by gender based violence. No specific budget has been allocated for gender based violence but services are being provided to those affected under the overall budget of the MOHW.

There is no barrier to access health services. All citizens including victims of violence have access to health services including management of both short and long-term post-trauma health complications i.e physical injuries, psychological and mental health trauma, sexual assault as well as its direct and indirect consequences. First aid for survivors, admission in health settings, access to support services including socioeconomic and legal aid are available and accessible according to protocols.

3.1 Human Immunodeficiency Virus (HIV)

In the National Action Plan (NAP) 2017-2021, the country's vision is to achieve "Zero new HIV infections. Zero AIDS-related deaths. Zero discrimination" while the mission is to provide high-quality HIV prevention, treatment and care services available and accessible to all Mauritians including the Key Populations - sex workers, transgender, men having sex with men, people who inject drugs who are most at risk of HIV infection.

The NAP 2017-2021 promotes the following: a comprehensive sexuality and gender transformative intervention to prevent new HIV infections through risky sexual behaviour, support services utilization, enhanced retention in care and adherence to antiretroviral therapy. The NAP makes provision for tailored interventions in hard to reach areas/hot spots for Key Affected Populations through community mobilisation, and collaboration of NGOs.

Pre-Exposure Prophylaxis (PrEP) was introduced in 2018 and as at date, 73 persons, of which 70 are gay and bisexual men and other men having sex with men and 3 trans people, were enrolled on the service.

Since 2019, Hormonal Therapy is available to trans people in all regional hospital and are followed by an endocrinologist. The service is available at each hospital once weekly.

5,514 gay and bisexual men and other men having sex with men were reached through 349 awareness sessions related to HIV and 2,786 trans people were reached through 257 such sessions.

The country is aiming towards elimination of mother to child transmission of HIV. Consistent aid correct condom use as primary and secondary prevention is being promoted among the Mauritian population in addition to targeted preventive measures, namely: HIV testing and counselling, universal access to antiretroviral treatment (Prevention of mother-to-child transmission. Post Exposure Prophylaxis, Pre-Exposure Prophylaxis), harm reduction measures, distribution of Information, Education and Communication materials for adoption of safe behaviours. Moreover, male, female condoms and gels are available/accessible to all at the Family Planning Clinics.

Furthermore, during awareness sessions targeting Key Populations (People who inject drugs, female sex workers, gay and bisexual men and other men who have sex with men and trans persons) and the population in general, condoms are distributed.

With regard to gay and bisexual men and other men who have sex with men, during 2017-2020, 101,900 male condoms, 6,879 female condoms and 33,244 condom-compatible lubricants were provided. Not all bisexual men disclose their status.

With regard to trans people, during 2017-2020, 65,034 male condoms, 2,157 female condoms and 17,641 condom-compatible lubricants were provided.

HIV services have been decentralized to facilitate accessibility to all those in need. Transport costs are refunded to people living with HIV attending appointments to ensure that there is no financial barrier.

3.2 Needle Exchange Programme

The Needle Exchange Programme is a Government-led outreach programme, which involves distribution of syringes and needles to people who inject drugs in exchange of used ones. The aim of the programme is to prevent spread of blood borne diseases. These services are provided in mobile caravans and as at date 46 sites are operational throughout the island out of which 35 are covered by caravans of the MOHW and 11 by the NGO Collectif Urgence Toxida.

Comprehensive package of services includes needles, syringes, alcohol swab, condoms, voluntary testing and referral, counselling and HIV /Hepatitis C (HCV) testing.

For the year 2020, the total distribution of materials for the MOHW and the NGO were as follows:

1. Syringes: 687,402; and
2. Needles: 707,041

3.3 Drugs

Since September 2016, a Drug Addiction Unit has been set up in each regional hospital and is operational under the direct supervision of psychiatrists of the regions for treatment counselling and referral services.

In order to facilitate rehabilitation and reintegration of methadone beneficiaries in the mainstream society, a project with regard to methadone dispensing at primary health care settings has started since June 2018.

Since April 2016, the MOHW is conducting extensive national sensitization campaigns on substance abuse. The objective is to create awareness among the population at large, and in particular, the youth, with a view to empower them with the right knowledge about ill effects of drugs.

3.4 Methadone Programme

Over 6,000 people who inject drugs were induced on methadone between 2006-2015 and the programme was reviewed and put on hold in July 2015. As at July 2015, some 8,400 injecting drug users were induced on methadone and around 5000 beneficiaries are on the maintenance programme and accessing their daily doses at 42 dispensing points throughout the country including in the Prisons.

In 2015, the number of Methadone dispensing sites was increased from 17 sites to 42 sites, bringing this service closer to users and last year, government has embarked on a pilot project to integrate Methadone dispensing within primary Health care settings. A dedicated centre set up in 2018 has greatly facilitated the induction of female injecting drug users onto Methadone.

3.5 Alcohol

An Action Plan for the period of 2020-2024 aims, inter alia, at reducing the harmful use of alcohol by at least 10 percent by year 2025 and to address alcohol related harmful effects through awareness campaigns. One of the recommendations of the National Action Plan is to strengthen and enforce the Public Health (Prohibition on Advertisement, Sponsorship and Restriction on Sale and Consumption in Public Places of Alcoholic Drinks) Regulations 2008.

**4.0 Training and Education: Health care professionals and educational institutions**

4.1 Healthcare professionals

One of the priorities of the Government is to enhance the quality of patient-centred services and upgrade the public health infrastructure. Government is investing massively to expand and modernise public hospitals with the construction of new hospitals. In addition, Government is investing heavily in high-tech medical equipment as well as recruiting and training health personnel.

4.2 Educational institutions

The Mauritius Institute of Education reviewed the National Curriculum Framework for the primary and secondary sectors. New subjects were introduced at secondary level like Drug Education and Sexual and Reproductive Health.

Furthermore, the following programmes were implemented in collaboration of Youth clubs, Colleges and Non-Governmental Organisations in 2018-2019: Youth leadership training courses, life skills education programme, adolescent reproductive health programme, and sensitisation programme on substance abuse, suicide, human rights, gender-based violence, HIV& AIDS and other youth-related issues. The actions targeted 20,000 youth from all walks of life-including students and out of school youth.

**5.0 Health Statistics**

The implementation of the National e-Health Project, which was announced in the Government Programme 2019 – 2024 and is budgeted under the vote of the Ministry of Health and Wellness is expected to provide for more disaggregated data to improve health services.

The Ministry of Health and Wellness publishes the Health Statistics Report on an Annual basis. The report provides for health statistics disaggregated by sex. Copies of the different Health Statistics Reports, the Health Sector Strategic Plan 2020-2024 and the National Health Accounts are accessible on the website of the Ministry of Health and Wellness: <https://health.govmu.org/Pages/default.aspx>

Integrated Biological and Behavioral Surveillance Survey (IBBS) 2017 among transgender persons indicated that 55% of the participants reported having a very supportive community regarding their transgender identity. 3% reported having been denied HIV-related services. 30% of transgender persons perceived themselves to have been physically abused and 21% perceived themselves to have been sexually abused because of the transgender identity.

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