

**Ministry of Foreign Affairs, Regional Integration and International Trade  
(Human Rights Division)**

**Questionnaire in relation to the Human Rights Council Resolution 46/4 on  
“Strengthening democracies to build back better: challenges and opportunities”**

**1. Introduction**

Mauritius is a democratic state, and the rights of its citizens are guaranteed by the Constitution of the Republic of Mauritius. It clearly provides for an unequivocal right for every citizen to be treated equally. It also provides that 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.

Since its independence in 1968, Mauritius has been relentlessly committed to the universal values of democracy, good governance, the rule of law, and the promotion and protection of human rights and fundamental freedoms.

**2. Legislative framework**

**I. The Constitution of the Republic of Mauritius**

Chapter II of the Constitution guarantees the enjoyment of fundamental rights and freedom which include the right to life, the right to personal liberty, protection from slavery and forced labour, protection from inhumane treatment, protection from deprivation of property, protection for privacy of home and other property, freedom of conscience, freedom of expression, freedom of assembly and association, freedom of movement and protection from discrimination. It also guarantees to all citizens the right to equal protection and benefit of the law without discrimination, thus upholding and strengthening an environment conducive to equal opportunities and equality for all Mauritians.

**II. Equal Opportunities Act (EOA)**

The EOA came into force in 2012 and further reinforces the protection from discrimination and the right to equal opportunities in various areas of life such as employment, access to certain facilities and services (including education), by prohibiting discrimination against a person on the ground of his status. “Status” is defined as including age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation.

**III. Criminal Code**

Section 86 of the Criminal Code makes it an offence for a public officer to use any form of violence against any person and shall, according to the nature and extent of the violence used, be liable to double the punishment which would have been incurred by any other person guilty of the like crime or misdemeanor.

#### IV. Children’s Act 2020

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 good development, well-being and protection of children. These Acts came into effect on 24 January 2022 and can be accessed on <https://gender.govmu.org/Pages/Legislations.aspx>.

The Children’s Court Act provides for a child-friendly set-up; to adjudicate cases of children who are victims of abuse, need to deal with their perpetrators and for who are considered as juvenile offenders. The Children’s Court consists of a Protection Division and a Criminal Division.

#### V. Workers’ Rights Act (WRA)

The WRA was enacted to reiterate the principle that all citizens of Mauritius are entitled with the same rights in respect to access to income generating opportunities and terms and conditions of employment. The WRA provides that no worker shall be treated in a discriminatory manner by his employer in his employment or occupation and no person shall be treated in a discriminatory manner by a prospective employer in respect of access to employment or occupation.

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.

### **4. Accountability and Justice during the COVID-19 period**

#### 4.1 Legal assistance

The Legal Aid Act, which was amended in 2012, is now known as the Legal Aid and Legal Assistance Act. It extends the provision of legal assistance and now provides, for legal assistance and legal aid to be available to a wide range of persons in need. Legal assistance in the form of free legal advice and counselling at the police enquiry stage and free legal representation at bail application is now available in prescribed circumstances.

#### 4.2 Access to justice amidst the Covid-19 pandemic

The **Courts Act** was amended in March 2020 to regulate the operation of Courts in Mauritius such that Courts may provide such judicial services as may be deemed essential, during, as well as after the COVID-19 period. Furthermore, appropriate rules may be made, to regulate the practice and procedure before any Court during the COVID-19 period and such further period. The Court may additionally limit the number of persons who may be present in chambers or in a courtroom or call or hear a matter remotely by means of a telephonic, an electronic or any other communication facility as the Chief Justice may approve.

It must be noted that our courts normally require the attendance of litigants and/or their legal advisers during court proceedings. However, during the COVID-19 period all District Courts were closed and only urgent applications (such as bail applications, protection orders for children and victims of domestic violence) were entertained via technological communication. Similarly, Intermediate and Industrial Courts could only be seized for urgent matters only through technological communication. As for the Supreme Court, only urgent matters and motions were entertained.

### 3. The National Human Rights Institutions (NHRIs)

Mauritius has established 7 National Human Rights Institutions (NHRIs) to ensure the protection of the rights of its people, namely;

- (i) the Office of the Ombudsman, under the Ombudsman Act 1969;
- (ii) the National Human Rights Commission under the Human Rights Act 1998;
- (iii) the Ombudsperson for Children's Office, under the Ombudsperson for Children's Act 2003;
- (iv) the Equal Opportunities Commission, under the Equal Opportunities Act 2008;
- (v) the Independent Police Complaints Commission, under the Independent Police Complaints Commission Act 2016;
- (vi) the Ombudsperson for Financial Services, under the Ombudsperson for Financial Services Act 2018; and
- (vii) the Ombudspersons for Sports.

Complaints of human rights abuses may be reported to above mentioned institutions. NHRIs regularly carry out appropriate sensitisation activities in collaboration with State bodies and civil society organisations. The volume of the activities depends on resources provided to the NHRIs. Additionally, with the recent outbreak of Pandemic COVID - 19, NHRIs would be required to be involved at all stages of the pandemic to ensure the protection of the vulnerable and marginalised groups as well as their development during the various phases including recovery.

### 5. Welfare State

Mauritius stands as an example for the world as a democratic Welfare State governed by the rule of law, which guarantees freedom for all citizens, with an independent judiciary, as well as a free press. Mauritius has a comprehensive social welfare system

and Mauritians have universal access to compulsory education up to 16 yrs and health system for all Mauritians. Transport and exams fees are free and children from low income households have access to additional educational facilities/aid from the Ministry of Education and other Ministries.

## **6. Gender equality**

The Constitution of Mauritius makes provision for non-discrimination on the basis of sex. It protects individual rights exclusively. In fact, individual rights remain the basic underlying philosophy of the constitutional protection of fundamental rights in Mauritius.

Moreover, the Government of Mauritius is proposing to come shortly with a Gender Equality Bill to: –

- (a) promote, protect and regulate gender equality in public and private spheres;
- (b) 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;
- (c) provide for gender equality principles that aim at reducing socioeconomic inequalities so as to achieve substantive equality in all spheres, that is socially, economically and politically;
- (d) 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
- (e) promote equality and gender balance between family roles, unpaid care work and employment for men and women.

### **5.1 Women's Participation**

With the introduction of free education in 1976 and equal opportunities for girls to pursue further studies, an increase in women enrolling for tertiary education including legal studies was noted, consequently resulting in a rise in the number of women in the legal profession.

Furthermore, with regard to women's participation in decision-making, a feminization of the civil service can be observed, with an increased number of women in top decision-making positions. There are many women holding senior positions in the public service in Mauritius.

The National Assembly consists of 14 women who are Members of the Parliament, out of whom, 3 are Ministers. It is to be noted that the position of the Government Chief Whip is held by a woman since 2019. Furthermore, the Judiciary of Mauritius is headed by a woman who has ascended to the position of Chief Justice. Consequently, the position of Senior Puisne Judge is also being held by a woman, since 2021. In terms of diplomatic representation, out of 19 Ambassadors from Mauritius, 5 female ambassadors are currently on duty in countries as Berlin, India, Geneva, Madagascar and Gambia.

## 5.2 Women's participation in election

The Local Government Act of 2011 provides that out of the three candidates fielded for elections, at least one of them should be of the opposite sex. The Act was further amended in 2015 to ensure a fair and adequate representation of women for the elections of councilors to the Municipal City Council and Municipal Town Council. Every group presenting more than 2 candidates at an election of a Municipal City Council or Municipal Town Council as well as at Village Council level, shall ensure that not more than two thirds of the group's candidates should be of the same sex. Similarly, the provision applies for election of councilors to village council as prescribed by Section 12(6) of the Local Government Act.

## 5.3 Fair gender representation in boards and committees

Regarding 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.

## 7. The Education sector

The Mauritian Education Sector has integrated the outer-cultural education and multiculturalism in the educational curriculum to empower very young Mauritians with the notions of respect, tolerance, justice and equity.

The State of Mauritius is one amongst the rare countries where English, French, Hindi, Urdu, Mandarin, Marathi, Tamil, Arabic and Telegu are taught in primary, secondary and tertiary levels in all educational institutions. Hinduism, Catechism, Islamic Studies, Science and History are also within the secondary schools' curriculum. Each child attending school is given to study an Asian Language/Arabic and Kreol Morisien as an optional subject and this preserves the cultural inheritance and rights. In addition, the control of additional tuition under Section 37A of the Education Act is not applicable to the teaching of an oriental language and the provision of religious education by a school registered under the Act.

Mauritius caters for learners with special education needs. The Special Education Needs (SEN) sector under the Ministry of Education, Tertiary Education, Science and Technology ensures that no learner be left outside the education system on the basis of his/her disability. The SEN Strategy sets out the framework for children requiring special education needs in Mauritius to enjoy access to relevant and high-quality education.

## **8. Freedom of the press**

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 Constitution and is an essential component of the right to freedom of expression. The local media comprises 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.

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.). People have access to the media to express their views and have unrestricted exposure to different viewpoints. It is important to note that there is no official or unofficial censorship of the press.

## **9. 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:

- (a) introduction of the Citizen Support Portal;
- (b) implementation of the National Open Data Portal;
- (c) implementation of the Public Sector Transformation Strategy;
- (d) the mandatory use of the Electronic Procurement System in the Public Sector; and
- (e) 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.

## **10. Youth Participation**

Youth participation in public affairs is rendered very accessible throughout the Republic 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:

- (a) establish and maintain effective communication between government and youth organisations;

- (b) assist in the implementation and evaluation of government policies relating to youth needs; and
- (c) 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.

## **11. Participation in elections**

The Constitution of Mauritius or the electoral legislation, namely the Representation of the People Act and the National Assembly Elections Regulations make provision for:

- (a) regular holding of transparent, free and fair elections;
- (b) providing citizens with the right and the opportunity to vote and to be elected at periodic elections through universal suffrage as the inalienable right of the people;
- (c) establishing independent and impartial national electoral bodies responsible for the management of elections;
- (d) establishing and strengthening national mechanisms that redress election-related disputes in a timely manner;
- (e) ensuring fair and equitable access by contesting parties and candidates to state controlled media during elections; and
- (f) allowing rights holders to take part in the conduct of public affairs as voters and candidates for election.

The law provides that in the event of any electoral dispute, an election petition can be presented at the Supreme Court to seek redress. Section 45 of the Representation of the People Act provides the grounds for which an election petition complaining of an undue election of a member can be presented.

The right to stand as candidate is provided under Sections 33 and 34 of the Constitution. These legal provisions do not differentiate between independent and party candidates. Independent candidates are also given the same opportunities as party candidates. The principle of equality applies to independent candidate and the requirements for the nomination of independent candidates in no way discourage their participation.

It is to be noted that Section 33 of the Constitution provides that for a person to stand as candidate for the National Assembly Elections, he shall, inter alia, be a

Commonwealth citizen of not less than the age of 18 years and has resided in Mauritius for a period, or periods amounting to not less than 2 years before the date of his nomination for election.

In accordance with Section 42(1) of the Constitution, a person is entitled to be registered as an elector provided-

- (a) he is a Commonwealth citizen of not less than the age of 18 years; and
- (b) either he has resided in Mauritius for a period of not less than two years immediately before such date as may be prescribed by Parliament or he is domiciled in Mauritius and is resident there on the prescribed date.

Non-citizens who satisfy the abovementioned qualifications, have the right to stand as candidate and vote for general elections. However, this provision currently applies only to Commonwealth citizens.

Section 43 of the Constitution provides that no person shall be entitled to be registered as an elector if he is under sentence of death imposed on him by a Court in any part of the Commonwealth or is serving a sentence of imprisonment exceeding 12 months imposed on him by such a Court or substituted by competent authority for some other sentence imposed on him by such a Court, or is under a sentence of imprisonment the execution of which has been suspended.

Persons in pre-trial detention are presently excluded from exercising their right to vote.

### **11.1** Voting by proxy

The State of Mauritius also provides for voting by proxy for elections. The regulation makes provision only for those persons entitled to vote by proxy to appoint any person to vote on their behalf at an election.

Section 34 of the National Assembly Elections Regulations 2014, Section 40 of the Municipal City Council and the Municipal Town Council Elections Regulations 2012 (as amended) and Section 40 of the Village Council Elections Regulations 2012 (as amended) provide for persons entitled to vote by proxy.

Voting by proxy is restricted to certain categories of persons according to the relevant elections, for example, for the National Assembly Elections only the following persons are entitled to vote by proxy: -

- (a) members of the Police and election officers who engaged in the performance of duties at an election;
- (b) service electors or any elector other than a service elector who is –
  - (i) serving as Ambassador, High Commissioner or other principal representative of Mauritius abroad;
  - (ii) a public officer performing duties on behalf of the Government of Mauritius under a person specified in subparagraph (i); or
  - (iii) a member of the family of a person specified in subparagraph (i) or (ii) and forms part of his household abroad
- (c) any candidate duly nominated for election;



- (d) any public officer who is an elector in Rodrigues or Agalega and is serving in the Island of Mauritius; and
- (e) any public officer who is an elector in a constituency in the Island of Mauritius and is serving in Rodrigues or Agalega.

The minimum age to stand as candidate as well as to qualify to be registered as an elector is as provided in sections 33 and 42 of the Constitution. There is accordingly no disparity between the voting age and the minimum age of eligibility to stand as candidate for elections, i.e. 18 years.

Presently, the Mauritian diaspora do not have the right to vote at the National Assembly Elections and Local Government Elections.

## **11.2 Participation of persons with disabilities in the electoral process**

The Office of the Electoral Commissioner has over the years taken a series of measures to facilitate the participation of all citizens in the electoral process, including persons with disabilities.

The measures are as follows:

- (a) sensitisation campaigns and publicity spots on voting procedures are broadcast with sign language on television;
- (b) setting up of a “special need voting room’ with a special adjustable booth for wheelchair users in all polling stations in order to allow electors with disabilities to exercise their voting rights without undue hardship;
- (c) any incapacitated elector may vote with the assistance of a companion (father, mother, brother, sister, husband, wife, son or daughter of the incapacitated person) or an election officer; and
- (d) consultations are ongoing to promote the right of the blind and visually impaired voter to cast their vote in an effective manner.

The only document required to be able to vote is to produce the National Identity Card or any other document acceptable by the Office of the Electoral Commissioner. The Office of the Electoral Commissioner takes necessary measures to facilitate the registration of electors, including women. There is no burden in terms of the administrative requirements.

The independence and autonomy of the Electoral Management Bodies, i.e., the Electoral Supervisory Commission, the Electoral Boundaries Commission and the Office of the Electoral Commissioner are enshrined in the Constitution. Section 40(3) of the Constitution provides that the Electoral Commissioner shall not be subject to the direction or any other person or authority in the exercise of his functions.

The voting and counting process is done in a complete transparent manner with the presence of candidates, election agents, polling agents and counting agents at all stages of the process.

All measures with respect to the maintenance of public safety and public order are taken by the Commissioner of Police as from the issue of writ of election for the safety of the public, including safety of women standing as candidates.

## **12. Youth participation in election**

In order to sensitise the youth to exercise their rights to participate in elections, several training programmes, including a life skills education programme, training in youth leadership, a National Youth Civic Service, and the Youth Parliament have been curated by the MYESR. A close collaboration is also maintained by the aforementioned Ministry with the Office of the Electoral Commissioner while organizing such sensitisation campaigns for the youth. However, that there is a low representation of the youth (aged 18 to 35 years) in National Assembly in the State of Mauritius.

## **13. Participation in non-electoral context**

### **13.1 Using information and communications technology to strengthen equal and meaningful participation**

In the State of Mauritius, the Information and Communication Technologies Authority (ICTA) has the statutory duty, under sections 18 (1) (w), and 21 (1) of the Information and Communication Technologies Act 2001, to establish and manage a Universal Service Fund (USF). The fund was set up in October 2008 under the Information and Communication Technologies (Universal Service Fund) Regulations 2008 and its basis, was established as a principle under section 16(a) of the Information and Communications Technologies Act 2001. The licensed public operators offering incoming voice services (ILD) and/or roaming services (PLMN) are currently the ones contributing to the Fund.

### **13.2 USF used for the Rodrigues Satellite Bandwidth Project, 2017**

In the year 2017, in respect of Satellite Bandwidth Services between mainland Mauritius and the Island of Rodrigues within the Republic of Mauritius, dedicated satellite bandwidth capacity of 425 Mbps (Download: 325 Mbps / Upload: 100 Mbps) was acquired.

The bandwidth capacity acquired represented an increased from 163 Mbps to 425 Mbps that was for the supply and support of services such as data, voice, video and Internet services including IP-based services between Mauritius and the island of Rodrigues. The satellite bandwidth capacity of 425 Mbps was fully allocated to various stakeholders in Rodrigues and the Island has witnessed significant better internet user experience as compared to the preceding years.

In March 2020, the Island of Rodrigues was connected via undersea submarine cable; a project of the Government of Mauritius. Hence upon the expiry of the satellite contract, same was not renewed.

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