**Ministry of Foreign Affairs, Regional Integration and International Trade**

**(Human Rights Division)**

**Special Rapporteur on contemporary forms of slavery, including its causes and consequences**

1. **What is your understanding of the term “informal economy”?**

The International Labour Organization (ILO) defines the term “***informal economy*”** as all economic activities by workers and economic units that are - in law or in practice - not covered or insufficiently covered by formal arrangements. The informal economy manifests itself in a variety of forms across and within economies.

Work in the informal economy is often characterized by small or undefined work places, unsafe and unhealthy working conditions, low levels of skills and productivity, low or irregular incomes, long working hours and lack of access to information, markets, finance, training and technology. Workers in the informal economy are not recognized, registered, regulated or protected under labour legislation and social protection.

According to Statistics Mauritius, the informal sector comprises household unincorporated market enterprises that do not have a complete set of accounts. They can be engaged in any kind of productive activity – agriculture, mining, manufacturing, construction, retail distribution or production of other kinds of services. They can be single persons working, as street traders with no capital or premises of their own to manufacturing, construction or service enterprises with many employees.

1. **What are examples of informal employment in your country?**

In 2003, the 17th International Conference of Labour Statisticians at the ILO (17th ICLS) endorsed guidelines defining the concept of *informal employment* which encompasses "all remunerative work (i.e. both self-employment and wage employment) that is not registered, regulated or protected by existing legal or regulatory frameworks, as well as non-remunerative work undertaken in an income-producing enterprise”. Informal workers do not have secure employment contracts, workers' benefits, social protection or workers' representation.

Possible forms of informal employment in Mauritius may include among others, agricultural workers, domestic workers (i.e., gardeners, drivers in private households, taxis, buses, trucks, lorries, watchpersons), construction workers (masons, carpenters, bartenders, etc.) and self-employed people such as street vendors (food, clothing) who are not registered.

However, our regulatory framework which comprises the Workers’ Rights Act (WRA) 2019, the Employment Relations Act 2008, the Occupational Safety and Health Act 2005, the National Minimum Wage Consultative Council Act 2016 and their respective accompanying regulations provide protection indiscriminately to all workers in both the formal and informal employment, to the exception of self-employed persons. Workers include Part-time, Atypical, Home-workers and migrant workers.

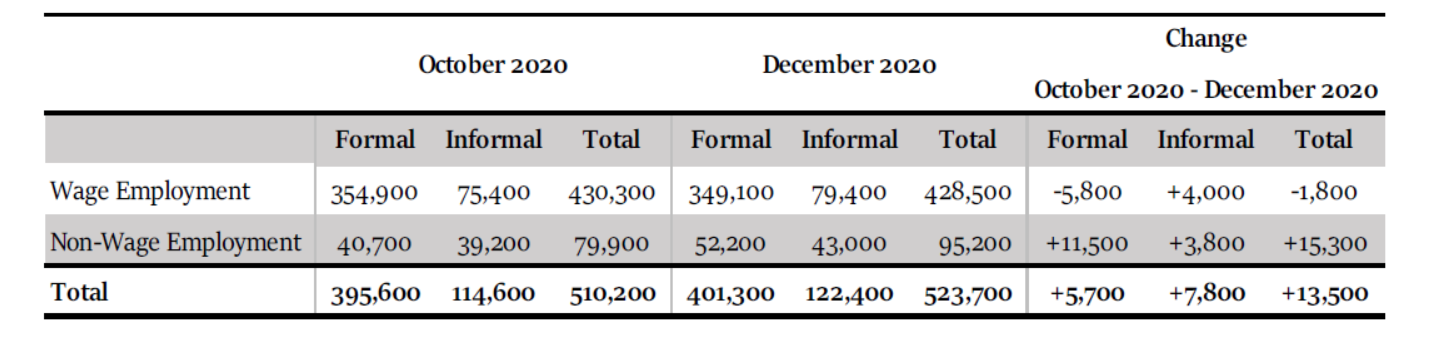
Moreover, as per the Census of Economic Activities (CEA) – Small Establishments, 2018, Statistics Mauritius, the persons operating in the informal economy are mostly engaged in ‘Wholesale and retail trade; repair of motor vehicles and motorcycles’ (33%), ‘Transportation and Storage’ (23%), ‘Manufacturing’(17%), ‘Construction’(12%) and ‘Accommodation and food service activities’ (8%).

1. **In which sectors (e.g. domestic work, agriculture, manufacturing, street vending, rubbish collection, among others) does labour exploitation take place? Please provide details on the nature and extent of such exploitation, including forced/bonded labour, domestic servitude and child labour, including in its worst forms?**

No case of labour exploitation, as per examples provided above, have officially been reported or else detected. However, for the year 2021, 2 cases of child labour were reported to the Ministry of Labour, Human Resource Development and Training. In one case, prosecution has already been instituted against the defaulting employer, while enquiry is being carried out in the other case.

1. **What percentage of the workforce is in the informal sector/economy in your country?**

Pursuant to a report published by Statistics Mauritius in December 2020 and entitled “*Monitoring the Socio-Economic Effects of COVID-19 on Mauritian Households*” (see: [LF\_Emp\_Unemp\_Dec20\_310321.pdf (govmu.org)](https://statsmauritius.govmu.org/Documents/Statistics/ESI/2021/EI1580/LF_Emp_Unemp_Dec20_310321.pdf)), statistics on employment in population aged 16-64 and not in fulltime education for the period October and December 2020 is as follows:



Based on the table above, it is noted that in December 2020, formal employment was estimated at about 401,300 or 77 percent of total employment, while the remaining 122,400 or 23 percent was informal. Compared to October, employment increased by 13,500: 5,700 formal and 7,800 informal.

Out of the employed population of 523,700 in December, 428,500 or 82 percent were wage earners and the remaining 95,200 or 18 percent were in non-wage employment, that is, own-account workers, employers and contributing family workers. The increase of 13,500 in total employment from October to December was mainly attributable to non-wage employment (+15,300) partly offset by a decrease in wage employment (-1,800).

In December 2020, some 349,100 or 81 percent of the 428,500 wage workers were in formal employment and 79,400 or 19 percent in informal employment. Wage formal employment decreased by 5,800 compared to October, while wage informal employment increased by 4,000.

Around 52,200 or 55 percent of 95,200 non-wage workers in December 2020 were formal and 43,000 or 45 percent informal. Out of the 15,300 increase in non-wage employment from October to December, 11,500 or 75 percent occurred in formal employment and 3,800 or 25 percent in informal employment.

1. **Who is employed in the informal sector in your country? Please provide details with regard to gender, sexual orientation, race, ethnicity, age, nationality, as well as social and/or economic status. Are some categories of workers affected by contemporary forms of slavery more than others? Is so, please explain.**

As per CEA2018 on Small Establishments, male employment was estimated at 47, 311 and female employment at 17, 076.

1. **What are the main factors in the informal economy which push workers into these practices (e.g., a lack of employment contract, access to employment benefits and protection, complaint mechanisms, and wider regulation/protection by States)?**

A few reasons among others are -

1. low level of education of workers engaged in such activities;
2. poverty;
3. inability of workers concerned to access economic resources/information;
4. ineligibility of workers to qualify for payments of current social benefits (Transition unemployment benefits, social aid and other pension schemes) from the State;

choices of an increasing number of laid off workers to operate their own account business or to be independent, rather to join the mainstream employment.

The main reasons for SMEs operating in the informal sector are:

1. Lack of information on the procedures for registration;
2. No understanding of the present registration formalities (lack of education);
3. Not willing to pay taxes.
4. **Are contemporary forms of slavery in the informal economy more prevalent in rural or urban areas? Please provide details.**

Please refer to reply to question 3 above.

1. **What legislative and other measures are in place to address the informality of employment in your country?**
2. **Legislative Framework**

There is a wide array of legislations adopted by Mauritius, including the Workers’ Rights Act 2019 (WRA), the Employment Relations Act, the Occupational Safety and Health Act 2005, the National Minimum Wage Consultative Council Act 2016 and their respective accompanying regulations, together with the 31 Remuneration Regulations governing terms and conditions of employment, which cover all sectors of employment and apply indiscriminately to all workers, irrespective of whether they are employed in the formal or informal employment.

1. Workers’ Rights Act

As regards informal employment, section 17 of the WRA defines atypical workers as being a person aged 16 years or more, who –

(i) is not employed under a standard agreement;

(ii) works for one or more employers concurrently and is remunerated, on a time-rate or piece-rate basis or otherwise, by the employer or employers, as the case may be, for the work performed; or

(iii) undertakes to perform personally any work for, or who offers his services to, another party to the contract.

The term atypical worker also includes a person who performs work brokered through an online platform or other similar services, performs teleworking, performs works through an information technology system, or uses his personal equipment and tools to perform work or provide services.

The Workers’ Rights Act does not apply to an atypical worker whose basic wage or salary exceeds 600,000 rupees in a year, except in relation to:

(i) section 5, which provides for protection from discrimination in employment and occupation

(ii) section 26, which provides for equal remuneration for work of equal value

(iii) section 31, which ensures payment of remuneration due on termination of agreement

(iv) section 51A, which provides for remuneration and leave related to Covid-19 vaccination or RT-PCR Test

(v) part VI, which contains provisions relating to termination of agreement and reduction of workforce

(vi) parts VII and VIII, which provide for the Workfare Programme Fund and the Portable Retirement Gratuity Fund

(vii) parts XI, XII and XIII, which contain provisions relating to violence at work, administration, and other miscellaneous matters, respectively.

(section 3(d) of the Workers’ Rights Act)

Other stringent provisions in the WRA with a view to prohibiting likelihood of informality of employment and any contemporary forms of slavery can be found at ***Annex***.

1. The National Minimum Wage

To ensure uniformity and to enhance and improve the standard of living and conditions, especially of the lowest paid workers, the National Wage Consultative Council Act which was enacted in 2016, was entrusted with the objective of recommending, among others, a national minimum wage. The National Minimum Wage Regulations 2017 introduced with effect from 01 January 2018 the payment of a national minimum wage of Rs 8,140 per month for all full time employees. The national minimum wage was revised to Rs 9,700 in 2020 and Rs 10, 075 in 2021. In line with the payment of the additional remuneration for 2022, the amount has been reviewed to Rs 10,575 a month. The National Minimum Wage applies indiscriminately to all workers whether employed under a standard contract or in precarious/informal employment situations, or otherwise.

1. **Policy measures**

Government Wage Assistance Scheme (GWAS) and the Self-employed Assistance Scheme (SEAS)

Following the surge of the Covid-19 pandemic, Mauritius went for a first time into sanitary confinement from 23 March 2020 to 01 June 2020 and a second time from 10 March 2021 to 30 April 2021.

Government introduced the GWAS and the SEAS to limit the negative socio-economic impact of COVID-19, by way of a financial support to businesses and to employees who would have otherwise become unemployed on a temporary basis, as well as to those employed in the informal sectors or are self-employed.

In fact, in 2020, through the GWAS, Government had provided a wage subsidy to employers in the private sector, with a view to ensuring that all their employees earning wages up to Rs 50,000 were duly paid their salary, capped to an amount of Rs 25,000 monthly.

The measures urged unregistered businesses and self-employed to register themselves in order for them to benefit from the financial assistance provided by the Government.

The above measure was extended in 2021 to some specific sectors which were still subjected to the negative impact of the COVID-19 pandemic to avoid unnecessary laying off of workers therein.

1. **What kind of complaint/grievance mechanisms exist for informal workers to address violation of their human rights, including contemporary forms of slavery?**
2. Constitution

Chapter II of the Constitution provides for the protection of fundamental rights and freedoms of the individual. Where a person alleges that any of his rights, under sections 3 to 16 of the Constitution has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter that is lawfully available, that person may apply to the Supreme Court for redress. In considering such applications, the Supreme Court may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of sections 3 to 16 to the protection of which the person concerned is entitled. (section 17 of the Constitution)

1. Equal Opportunities Act

The Equal Opportunities Act provides for protection from direct and indirect discrimination (section 5 and section 6 respectively) and discrimination by victimisation (section 7).

Section 9 of the Act imposes a duty on all employers (which is defined under section 2 as including a person, an enterprise, the State, a statutory corporation, a body of persons employing a worker, or a group of employers or a trade union of employers) to draw up and apply an equal opportunity policy at his place of work with the view to minimise the risk of an employee being discriminated against and to promote recruitment training, selection and employment on the basis of merit.

The employer is also required, with a view to promoting equality among his employees, and taking into consideration the employer’s resources and circumstances in general, take such measures as may be required to –

(a) ensure that working conditions are suitable for women and men; and

(b) facilitate gainful employment and parenthood for female and male employees.

The Act also provides for protection from discrimination by employers in the employment of persons (section 10), against employees (section 11) and against persons undergoing training (section 12).

Section 27 of the Equal Opportunities Act provides for the establishment of the Equal Opportunities Commission, which is inter alia responsible for the elimination of discrimination, and the promotion of equality of opportunity and good relations between persons of different status. The Commission is empowered to investigate complaints of acts of discrimination under the Equal Opportunities Act and may refer matters to the Director of Public Prosecutions and to the Equal Opportunities Tribunal (which is also set up under the Equal Opportunities Act).

1. Protection of Human Rights Act

The promotion and protection of human rights also fall under the purview of the National Human Rights Commission, which is set up under the Protection of Human Rights Act. The functions of the Commission are to:

1. promote and protect human rights;
2. review the safeguard provided by or under any enactment for the protection of human rights;
3. review the factors or difficulties that inhibit the enjoyment of human rights;
4. submit to the Minister any opinion, recommendation, proposal or report on any matter concerning the promotion and protection of human rights;
5. prepare reports on the national situation with regard to human rights in general, and on more specific matters;
6. inform the Minister of situations of violation of human rights and advise on ways in which such situations can be ended;
7. promote and ensure the harmonisation of national legislation and practices with the international human rights instruments to which Mauritius is a party, and their effective implementation;
8. encourage ratification or accession to the instruments referred to in paragraph (g), and ensure their implementation;
9. contribute to the reports which Mauritius is required to submit to United Nations bodies and committees, and to regional institutions, pursuant to its treaty obligations and, where necessary, to express an opinion on the subject, with due respect for its independence;
10. cooperate with the United Nations and any other organisation in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights;
11. assist in the formulation of programmes for the teaching of, and research into, human rights and take part in their execution in schools, universities and professional circles;
12. publicise human rights and efforts to combat all forms of discrimination by increasing public awareness, especially through information and education and by making use of all press organs;
13. exercise such other functions as it may consider to be conducive to the promotion and protection of human rights.

(section 3A of the Protection of Human Rights Act)

There is established within the National Human Rights Commission a Human Rights Division and a National Preventive Mechanism Division. The Human Rights Division is empowered to enquire into any written complaint from any person alleging that any of his human rights has been, is being or is likely to be violated by the act or omission of any other person acting in the performance of any public function conferred by any law or otherwise in the performance of the functions of any public office or any public body. It may, where it has reason to believe that such an act or omission has occurred, is occurring or is likely to occur, of its own motion enquire into the matter.

(sections 3B and 4 of the Protection of Human Rights Act)

1. Industrial Court Act

The Industrial Court, which is established under section 3 of the Industrial Court Act, has exclusive civil and criminal jurisdiction to try any matter arising out of the following enactments:

1. Employment and Training Act
2. Industrial Expansion Act
3. Occupational Safety and Health Act
4. Passenger Transport Industry (Buses) Retiring Benefits Act
5. Sugar Industry Retiring Benefits Act
6. Workers’ Rights Act 2019
7. Workmen’s Compensation Act

The Magistrate of the Industrial Court is also conferred informal powers under section 5 of the Act, as follows:

(1) (a) Any person may apply to a Magistrate for advice, or help in the settlement out of court of a dispute arising or which is likely to arise, in respect of a matter within the jurisdiction of the Court, even though no action has been entered or complaint made.

(b) The Magistrate shall freely give his advice, guidance or help to any person who applies to him under paragraph (a) and shall use his best endeavours to secure a settlement out of court between the parties to an existing or likely dispute.

(c) Where the parties reach a settlement out of court, he terms of the settlement shall be drawn up in a memorandum which shall be signed by the Magistrate and signed or marked by the parties, and thereupon the memorandum shall have the same effect as if it were a judgment of the Court.

(2) A Magistrate may at any time offer his advice, guidance or help to any person if he considers that such a course is desirable to promote good industrial relations.

Under section 15(1) of the Industrial Court Act, the Permanent Secretary of the Ministry of Labour and Industrial Relations may institute such civil or criminal proceedings as he thinks necessary and conduct such proceedings in the Court, for or in the name of a worker.

1. Inspection and Enforcement Section

In so far as human rights with regards to labour rights are concerned, the Inspection and Enforcement Section (IES) of the Ministry of Labour, Human Resource Development and Training (MLHRDT), through its 17 regional labour offices scattered over the island and its Special Migrant Workers Unit (SMWU) based at Headquarters provide a well-established complaint handling mechanism to *any worker* (whether in formal or informal employment), local or migrant, who is aggrieved by any work related issues, for redress as may be appropriate.

In cases of dispute of interest or dispute related to reinstatement, workers may call at the conciliation service of the MLHRDT or report a dispute at the Commission for Conciliation and Mediation. In case of non-settlement, the matter may be referred to the Employment Relations Tribunal.

Officers of the MLHRDT are required to ensure and enforce compliance with other sections of the labour legislation as well as to initiate civil and criminal proceedings (Industrial Court) against defaulting persons whenever infringements of legislation are detected or else reported.

1. **Is the labour inspectorate in your country mandated to inspect the informal sector and to take action in case abuse/labour exploitation is detected?**

The IES and SMWU are also responsible, among others for carrying out full-scale inspections at workplaces to enforce and ensure compliance with provisions of the labour legislation as well as to detect and sanction any case of non- compliance with the provisions of the labour legislation.

Emphasis is also laid during inspections to detect, deter and curb any cases of trafficking in persons through joint inspections with officers of the Occupational Safety and Health Inspectorate, the Employment Division and the Passport and Immigration Office.

During such inspections, officers also ascertain that the **Passports** of migrant workers are not withheld by the employers. Any infringement on this issue is referred to the Commissioner of Police for appropriate action as may be required.

Sensitization campaigns are also carried out to create awareness among workers and employers alike. Sensitization on the subject matter is effected on an ongoing basis by Officers of the Information, Education and Communication Section of the MLHRDT through talks, seminars at workplaces or at the level of the MLHRDT or during radio/TV programmes.

1. **What kind of financial, legal or other assistance exists for victims/survivors of contemporary forms of slavery in the informal economy?**

Under section 4 of the Legal Aid and Legal Assistance Act, any person who wishes to obtain legal aid to be a party to civil or criminal proceedings shall -

(a) make a written application to the Authority;

(b) make a sworn statement that -

(i) excluding his wearing apparel and tools of trade and the subject matter of the proceedings, he is not worth 500,000 rupees; and

(ii) his total monthly earnings are less than 15,000 rupees.

In addition, as mentioned above in reply to Question 9, civil and criminal proceedings against defaulting employers are initiated at the level of the Industrial Court by the MLHRDT on behalf of the aggrieved workers. It is worth noting that *free assistance* is given to the workers concerned.

Social protection measures exist in the WRA under the Workfare Programme (WP) to provide for a financial support to the laid-off workers, who would otherwise have found themselves in very difficult financial position whilst initiating action to secure another job.

1. **What role, if any, do civil society organisations and trade unions play in preventing informal workers from being subjected to contemporary forms of slavery in your country? Please provide examples.**

Civil society organisations and trade unions do make representations on behalf of workers (both in formal or informal employment) to the authorities and do assist them at workplaces in furtherance of the protection of their labour rights/disputes. They also assist workers to exercise their fundamental as well as their rights at work.

Trade unions participate in tripartite meetings or workshop and are members of tripartite bodies to convey their grievances or suggestions for discussions or policy making/decisions.

**11.03.2022**