



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

Distr.: General  
16 October 2012

Original: English

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**Committee on the Elimination of Racial Discrimination**

**Reports submitted by States parties under article  
9 of the Convention**

**Fifteenth to nineteenth periodic reports of States parties due  
in 2009**

**Mauritius\* \*\***

[16 May 2012]

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\* This document contains the fifteenth to nineteenth periodic reports of Mauritius due in 2009, submitted in one document. For the thirteenth to fourteenth periodic reports and the summary records of the meetings at which the Committee considered this report, see documents CERD/C/362/Add.2 and CERD/C/SR.1401, 1402 and 1414.

\*\* In accordance with the information transmitted to the States parties regarding the processing of their reports, the present document was not edited.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–2	3
II. General .....	3–17	3
III. Additional information relating to articles of the Convention.....	18–146	5
Articles 2 to 4.....	18–63	5
Article 5 .....	64–139	15
Article 6 .....	140	28
Article 7 .....	141–144	28
IV. Responses to concerns and recommendations contained in the Committee’s concluding observations on the fourteenth periodic report of Mauritius.....	145–198	28

## I. Introduction

1. This report constitutes the combined fifteenth, sixteenth, seventeenth, eighteenth and nineteenth periodic reports submitted pursuant to article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination. It has been drafted in the light of general guidelines regarding the form and content of reports to be submitted by States parties adopted by the Committee on the Elimination of Racial Discrimination.
2. The issues raised in the Committee's concluding observations on the fourteenth report submitted by the Government of Mauritius on 12 May 1999 are discussed below in chapter IV. As recommended by the Committee, the present report is an update of the last periodic report and it includes additional information relating to articles 1-7 of the Convention and some are elaborated upon in chapter III.

## II. General

3. The Republic of Mauritius, found in the south-west of the Indian Ocean, includes the islands of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia and any of the islands comprised in the State of Mauritius. It has a population of about approximately 1.3 million. The estimated resident population by sex in the Republic of Mauritius as at 1st July 2011 is 633,916 males and 652,424 females. The two main islands are the Island of Mauritius (1, 865 sq km) and the Island of Rodrigues (104 sq km); the former having a population of 614,972 males and 633,157 females while the latter is inhabited by 18,751 males, and 19,171 females. Mauritius has already highlighted in previous reports that it does not have an indigenous population.
4. Mauritius obtained its independence from Great Britain on 12 March 1968. Her Majesty the Queen of Great Britain was the Head of State until 1992 when Mauritius became a Republic. There exists a parliamentary democracy led by the Prime Minister as the Head of Government. The Head of State is the President of the Republic who is elected by a majority of all members of the Assembly on a motion made by the Prime Minister. The State of Mauritius holds free and fair national and local elections at regular intervals. The conduct of these elections is supervised by an independent Electoral Supervisory Commission. The National Assembly consists of 70 members of whom 62 are elected in accordance with the first-past-the post system and the remaining 8 are allocated seats from among the best losers at general elections on a community and party basis, in order to ensure a fair and adequate representation of each community. Government is in the process of consultation with the main political parties on the reform of the electoral system. In the Government programme 2010-2015, it has been spelt out that Government will start wide-ranging consultations. In fact Government has appointed a team of eminent constitutional experts, led by Professor Guy Carcassonne of the *Université de Nanterre* and comprising also Professor Vernon Bogdanor, Professor of Government at Oxford University and Dr Pere Vilanova Trias, Professor of Political Science and Public Policy at the University of Barcelona, to look into and propose constitutional reforms, including reform of the electoral system.
5. In 2002, provision was made for a decentralized form of Government in the island of Rodrigues by setting up the Rodrigues Regional Assembly which is responsible for the formulation and implementation of policy for specified matters in relation to Rodrigues

(such as agriculture, child development, employment, environment and tourism). Regional Assembly Laws may be adopted in relation to those areas of responsibility. Members of the Rodrigues Regional Assembly are elected by citizens of Mauritius who are residents of Rodrigues.

### **Chagos Archipelago**

6. The Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of Mauritius under both Mauritian law and international law. Although Mauritius has sovereignty over the Chagos Archipelago, it is being prevented from exercising its rights over the Chagos Archipelago because of the de facto control of the United Kingdom over the territory.

7. The Government of Mauritius does not recognize the so-called “British Indian Ocean Territory” (“BIOT”) which the United Kingdom purported to create by illegally excising the Chagos Archipelago from the territory of Mauritius prior to its independence. This excision was carried out in violation of international law and the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly Resolution 1514 (XV) of 14 December 1960) prohibiting the dismemberment of any colonial territory prior to independence, and General Assembly Resolutions 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967.

8. Since this illegal excision, Mauritius has consistently and persistently pressed the United Kingdom Government in both bilateral and multilateral fora for the early and unconditional return of the Chagos Archipelago to the effective control of Mauritius.

9. In this context, Mauritius has continuously received the support of the African Union and the Non-Aligned Movement which have constantly recognized the sovereignty of Mauritius over the Chagos Archipelago.

10. The excision of the Chagos Archipelago from the territory of Mauritius also involved the shameful eviction by the British authorities of the Mauritians who were residing at the time in the Archipelago (‘Chagossians’) in total disregard of their human rights in order to pave the way for the establishment of a US military base in Diego Garcia. Most of the Chagossians were removed to Mauritius.

11. Chagossians, being fully-fledged citizens of Mauritius, enjoy the same rights as other Mauritian citizens. The Government of Mauritius has also endeavoured over the years, within its available means, to facilitate the integration of the Chagossian community into the Mauritian society.

12. The Government of Mauritius recognizes the legitimate right and claim of the former inhabitants of the Chagos Archipelago, as Mauritian citizens, to be resettled in the Archipelago.

13. The Government of Mauritius will continue to press for the early and unconditional return of the Chagos Archipelago to the effective control of Mauritius, whilst firmly supporting the right of return of the Chagossians and other Mauritians to the Archipelago.

14. The Government of Mauritius considers that as Mauritius is a party to the International Convention on the Elimination of all Forms of Racial Discrimination and the Chagos Archipelago is subject to the sovereignty of Mauritius, the Convention applies to the Chagos Archipelago.

15. Since the United Kingdom which is a party to the CERD exercises de facto (but unlawful) control over the Chagos Archipelago, it has an obligation to give effect to applicable obligations under the Convention with respect to the Chagos Archipelago. In this regard, the Government of Mauritius supports the Concluding Observation of the Committee on the Elimination of Racial Discrimination on the 18th to 20th periodic reports of the United Kingdom (CERD/C/GBR/CO/18-20) that “reminds [the United Kingdom] that it has an obligation to ensure that the Convention is applicable in all territories under its control”, on the understanding that it is premised on a recognition of the de facto situation and de facto control and does not imply any recognition of United Kingdom sovereignty or analogous rights over the Chagos Archipelago.

16. The United Kingdom has acted, and continues to act, in violation of articles 2 and 5 of the Convention on the Elimination of All Forms of Racial Discrimination, inter alia, by preventing the exercise of the right of return of the former inhabitants of the Chagos Archipelago, as well as the right of entry of other Mauritian nationals.

17. Since there exists a dispute between Mauritius and the United Kingdom as to the interpretation and application of the Convention, including but not limited to the application of articles 2 and 5 to the Chagos Archipelago, the Government of Mauritius invited on 20 October 2011 and 21 March 2012 the Government of the United Kingdom to engage in negotiation within the meaning of article 22 of the Convention, with a view to an early resolution of the dispute.

### **III. Additional information relating to articles of the Convention**

#### **Articles 2 to 4**

18 Legislative measures have been taken to ensure that all sections of Mauritian society enjoy their constitutional rights as well as their economic, social and cultural rights equally and without discrimination.

#### **Definition of discrimination**

19. As was stated in previous reports freedom from discrimination is entrenched in the Mauritian Constitution. Subject to certain provisos, discriminatory laws or discriminatory treatment by public officials or bodies based on race, caste, place of origin, political opinions, colour, creed or sex is prohibited. Further, by referring to “different treatment” in its definition of what constitutes discrimination, the Constitution makes reference to direct forms of discrimination only.

20. The Equal Opportunities Act (EOA), which has been amended provides for the establishment of a full-fledged Equal Opportunities Commission to ensure better protection from discrimination as it prohibits both direct and indirect discrimination on the grounds of age, caste, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation. The legislation also prohibits discrimination by victimization.

21. Section 3 of the Constitution entitled “Fundamental rights and freedoms of the individual” reads as follows:

“It is hereby recognized and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political

opinions, colour, creed or sex, but subject to respect for rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms:

(a) The right of the individual to life, liberty, security of the person and the protection to the law;

(b) Freedom of conscience, of expression, of assembly and association and freedom to establish schools; and

(c) The right of the individual to protection for the privacy of his home and other property and from deprivation of property without compensation, and the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.”

22. Section 11(1), (4) and (5) of the Constitution entitled “Protection of freedom of conscience” reads:

“(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section, that freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance. (...)

(2) No person shall be compelled to take any oath that is contrary to his religion or belief or to take any oath in a manner that is contrary to his religion or belief. (...)

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision –

(a) in the interests of defence, public safety, public order, public morality or public health; or

(b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice any religion or belief without the unsolicited intervention of persons professing any other religion or belief, except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.”

23. With a view to allowing Mauritians of all cultural denominations the opportunity to participate in religious and cultural activities of their choice and to foster harmony and mutual respect, laws have been enacted to provide for the establishment of different cultural centres. It must also be stressed that in the local Mauritian context, it is very difficult to distinguish clearly between religion and culture as the two are inextricably linked, and therefore often in practice the rights ensuring protection of one’s culture may be extended to the protection of freedom of religion and vice versa. In this respect, students as from primary level are taught oriental/Asian languages (according to their personal liking or cultural/religious background, they may choose between Hindi, Modern Chinese, Tamil, Telugu, Marathi, Urdu, Arabic).

24. In the case of *Raj Dayal v. Gilbert Ahnee* [2002] SCJ 303, the plaintiff was the Commissioner of Police when in 1995 the defendants wrote and caused to be published an article which, in the plaintiff’s view, conveyed to the readers that there is a grotesque

conflict between his role as Commissioner of Police and the performance of public rituals pertaining to his faith. According to the plaintiff, he was sincerely involved in the practice of his religious faith and this did not in any way conflict with his obligations and duties as Commissioner of Police. The plaintiff also argued that there was nothing which prevented him from going about with his spiritual practice in public or in private in the company of other people.

25. The defendant, however, deposed in Court to the effect that he was “shocked and scandalized” to see the plaintiff on television actively participating in religious rituals on the occasion of Hindu festivals. According to the defendant, the plaintiff’s position as Commissioner of Police imposed on him “a *devoir de reserve*” and that as a high ranking officer of the State, the plaintiff should have refrained from actively and publicly participating in religious rites.

26. The Court held that the article in issue went much beyond the mere expression of the author’s views on secularism. The Court noted that the sincerity of purpose of a person who is involved in the practice of his religious faith was being questioned, and that the plaintiff’s conduct was being referred to as “*une indigne exploitation populiste des sentiments religieux*”. The article was held to be highly defamatory, and damages were awarded to the plaintiff.

27. Section 16 of the Constitution provides that no law shall make any provision that is discriminatory either of itself or in its effect. The term “discriminatory” means 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 or are accorded privileges or advantages that are not accorded to persons of another such description. Section 17 of the Constitution provides that a citizen who alleges that his right under, *inter alia*, section 16 of the Constitution is being or is likely to be contravened may apply to the Supreme Court for redress.

28. Section 12 of the Constitution guarantees the freedom of expression. This means that people can voice dissent within a democratic framework, allowing for a divergence of opinions on all issues of national interest. This provision confers the freedom to practise one’s own culture, to express oneself in one’s language, or through writing, music, drama, dancing, painting or even culinary arts. The freedom to receive and impart ideas and information without interference implies that one can discuss political, social, cultural, economic issues as long as the rights and freedoms of others are not impinged upon. The press has the liberty to criticize politicians and other persons in the public eye and to discuss public issues freely. Wireless broadcasting allows for a diversity of expression and opinion and the promotion of culture.

29. Section 14 of the Constitution further provides for the “Protection of the freedom to establish schools” and reads as follows:

“(1) No religious denomination and no religious, social, ethnic or cultural association or group shall be prevented from establishing and maintaining schools at its own expense.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that the law in question makes provision –

(a) In the interests of defence, public safety, public order, public morality or public health; or

(b) For regulating such schools in the interests of persons receiving instruction in them,

- Except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.
- However, it is understood that the specific conditions as specified as the Education regulations (relating to school premises and infrastructure) as well as the programme offered to student have to be met.

(3) No person shall be prevented from sending to any such school a child of whom that person is parent or guardian by reason only that the school is not a school established or maintained by the Government.

(4) In subsection (3), “child” includes a stepchild and a child adopted in a manner recognized by law, and “parent” shall be construed accordingly.”

30. As already indicated in the previous report submitted, the National Human Rights Commission (NHRC) was established under the Protection of Human Rights Act and is operational since April 2001. It was granted accreditation by the International Coordination Committee of National Human Rights Institutions in 2002 and is governed by the Principles Relating to the Status of National Institutions, Competence and Responsibilities (“Paris Principles”). The Sub-Committee on Accreditation of the International Coordination Committee of National Human Rights Institutions re-accredited Status A to the National Human Rights Commission in 2008 and the latter is so accredited as at date.

31. The NHRC mainly enquires into complaints from persons alleging violation of their rights under Chapter II of the Constitution by the acts of public bodies or public officers and complaints against acts of members of the police force. It can also enquire of its own motion into such acts. Its functions also include visiting police stations, prisons and other places of detention to study detainees’ living conditions.

32. Several recommendations were made by the NHRC in its past annual reports. These related mainly to economic, social and cultural rights, the police, prisons, sex discrimination and the administration of justice. Its recommendations, inter alia, are as follows:

(a) A future new Constitution should provide explicitly for the protection and promotion of economic, social and cultural rights;

(b) Measures should be taken to ensure the impartiality of disciplinary action against police officers;

(c) Police investigations should respect certain rules aimed at protecting the right to liberty and measures should be taken to prevent the recurrence of death in police custody;

(d) Measures should be taken to rationalize the system of inspection of prisons and the processing of complaints and remission should be reintroduced even for serious crimes and proper medical care should be afforded to prisoners who are genuinely ill;

(e) Consideration should be given to the setting up of an open prison for women;



(f) Sex offenders should be tried as soon as possible after the commission of the offence and where appropriate, should be given psychological treatment and released on parole with the necessary safeguards;

(g) A simplified version of all laws, especially new laws, should be published in Creole.

33. The Truth and Justice Commission Act 2008 which came into operation on 1 February 2009 on the very day commemorating the abolition of slavery in Mauritius, provides for the setting up of the Truth and Justice Commission which shall conduct inquiries into slavery and indentured labour during the colonial period in Mauritius, determine appropriate measures to be extended to descendants of slaves and indentured labourers, enquire into complaints made by persons aggrieved by dispossession or prescription of any land in which they claim to have an interest and prepare a comprehensive report of its activities and findings based on factual and objective information and evidence. The Truth and Justice Commission has already submitted its recommendations which are being studied at the level of an Inter-Ministerial Committee. Some of the recommendations have already been approved by Government for implementation.

34. Under the Criminal Code, there are offences pertaining to discrimination on grounds of race or creed in general:

- (a) Section 51 provides for "Stirring up war against the State";
- (b) Section 62 provides for "Stirring up civil war";
- (c) Section 183 provides for "Interference with freedom of conscience";
- (d) Section 184 provides for "Disturbing religious ceremony";
- (e) Section 185 provides for "Outrage on religious worship";
- (f) Section 206 provides for "Outrage against public and religious morality";
- (g) Section 282 provides for "Stirring up racial hatred";
- (h) Section 283 provides for "Sedition";
- (i) Section 284 provides for "Inciting to disobedience or resistance to law";
- (j) Section 286 provides for "Importing seditious publication";
- (k) Section 287A provides for "Prohibiting circulation of seditious publication".

35. Upon complaints made to the police, an investigation is carried out by the police and if charges are found to be substantiated, the office of the Director of Public Prosecutions advises prosecution.

36. To counter the use of the internet in the dissemination of discriminatory or racist messages, the Information and Communication Technologies Act 2001 criminalizes the use of an information and communication service in the following circumstances:

(a) For the transmission or reception of a message which is grossly offensive, or of an indecent, obscene or menacing character; or

(b) For the purpose of causing annoyance, inconvenience or needless anxiety to any person; and

(c) For the transmission of a message which is of a nature likely to endanger or compromise State defence, public safety or public order.

37. An Independent Broadcasting Authority was created in 2001 to oversee the provision of radio and television broadcasting services. Its objects also include the preservation and promotion of the plural nature of Mauritian culture by ensuring that licensees include, in their services, programmes reflecting the linguistic and cultural diversity of Mauritius. A Standards Committee set up under the IBA is responsible for the drawing up of a code of ethics for licensees and a code of advertising practice.

38. The Code of Conduct for Broadcasting Services, in its Preamble, stresses on the upholding of the fundamental principle “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.” Further, Broadcasting licensees may 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 sections of the population.” The Authority has set up a Complaints Committee which considers and adjudicates inter alia on any complaint of breaches or anticipated breaches of the codes and unjust or unfair treatment or the likelihood of such treatment in a broadcast programme.

39. The Aapravasi Ghat Trust Fund has been set up following the passing of the Aapravasi Ghat Trust Fund Act in 2001 and amended in 2006 and 2011. The objectives of the Fund are to promote, inter alia, the social and cultural aspects of sites associated with indentured labour. Section 4 of the Aapravasi Ghat Trust Fund Act provides that the Trust Fund shall establish, administer, manage, maintain and promote the Aapravasi Ghat as a national, regional and international heritage site, preserve, manage and restore the aesthetic and architectural aspects of Aapravasi Ghat and related sites; set up a museum at the Aapravasi Ghat and create public awareness on the history of indentured labour; establish links with appropriate national, regional and international organizations in line with the objects of the Act; identify and acquire sites, buildings and structures associated with indentured labour; and encourage and support interdisciplinary scientific research related to indentured labour and to the sites specified in the schedule to the Act.

40. The ‘Le Morne Heritage Trust Fund’ (The “Fund”) is established under the Le Morne Heritage Trust Fund Act. Its main objects are, amongst others, to promote Le Morne as a national, regional and international memorial site, to preserve and promote the historical, cultural, environmental and ecological aspects of Le Morne, to collect, publish and disseminate information pertaining to the history of slavery and “marronage”.

41. The objects of the Nelson Mandela Centre for African Culture Trust Fund includes inter alia the preservation and promotion of African arts and culture; to preserve and promote Creole arts and culture; collect, publish and disseminate information with respect to the African and Creole arts and culture or organize lectures, seminars, workshops, exhibitions and any other activities leading to the better understanding of the African and Creole arts and culture; to conduct research and to reflect on the impact slavery has had in Mauritius; and to establish useful links with organizations engaged in similar activities locally and internationally.

42. The Islamic Cultural Centre Trust Act was set up in 1989. Its main objects being to:

- (a) Preserve and promote Islamic art and culture;

- (b) Promote study of Arabic and Urdu;
- (c) Collect, publish and disseminate valuable information pertaining to Islamic art and culture through the establishment of educational and welfare institutions affiliated to the Centre;
- (d) Organize lectures, seminars, workshop, exhibitions and any other activities which will lead to a better understanding of Islamic art and culture;
- (e) Create facilities for documentation and research on Islamic art and culture;
- (f) Provide training in relevant fields of study;
- (g) Establish useful links with organizations engaged in similar activities locally and internationally;
- (h) Deal with matters relating to the organizing, facilitating, monitoring and supervision of Islamic pilgrimage to the holy places.

43. The Mauritian Cultural Centre Trust, set up under the Mauritian Cultural Centre Trust Act, aims at promoting Mauritian culture and developing a plural Mauritian cultural identity through, inter-alia:

- The establishment of a register of Mauritian artists and associations of artists
- The creation of facilities for multi-disciplinary documentation and research
- The collection, publication and dissemination of information on Mauritian culture, and history
- The organization of lectures, seminars, workshops, exhibitions and other activities to develop and improve the knowledge, understanding, and practice of Mauritian culture
- The collaboration with other Cultural Centres both at national and international levels; and
- The establishment of links with organizations engaged in similar activities locally and internationally
- The identification, development and perpetuation of Mauritian cultural heritage inclusive of oral traditions and folk arts
- Showcasing Mauritian culture worldwide, including the setting up of a website
- Encouraging Mauritian artistic and cultural creativity; and
- Setting up a Mauritian Cultural Troupe

44. The Mauritius Marathi Cultural Centre Trust Fund, the Mauritius Tamil Cultural Centre Trust Fund, the Mauritius Telegu Cultural Centre Trust Fund, the Islamic Cultural Centre Trust Fund and the Nelson Mandela Centre for African Culture Trust Fund have all been set up by statute to preserve and promote Marathi, Tamil, Telegu, Islamic and African art and culture as well as the study of the Marathi, Tamil, Telegu, Arabic, Urdu and creole languages respectively.

45. The following pieces of legislation have also been enacted to enable each community to promote their traditional values:

- The Hindi speaking Union Act 2002

- The Urdu speaking Union Act 2002
- The Roman Catholic Church Act
- The Tamil Maha Sangam Act

46. The main object of these Acts is to trigger and carry on educational work for physical, moral, intellectual, social, cultural and religious advancement by the establishment of schools, colleges and libraries and the organization of lectures and debates. They provide facilities for extensive exchange programmes, scholarships and social intercourse with other organization at regional and international level.

47. Recently, the following laws have been passed by Parliament and gazetted on 09 July 2011:

- The Arabic-Speaking Union Act 2011
- The Bhojpuri- Speaking Union Act 2011
- The Chinese- Speaking Union Act 2011
- The Creole- Speaking Union Act 2011
- The Sanskrit- Speaking Union Act 2011

48. The National Heritage Fund, set up under the National Heritage Fund Act, aims at safeguarding, managing and promoting the national heritage of Mauritius, preserving the national heritage sites as a source material for scientific and cultural investigation and as an enduring basis for the purposes of development, leisure, tourism and enjoyment of present and future generations worldwide and educating and sensitizing the public on cultural values, national heritage and instilling a sense of belonging and civic pride with respect to national heritage.

#### **Gender related dimensions of racial discrimination**

49. A National Gender Policy Framework has been elaborated in 2008 with the aim of providing the general guidelines to ensure gender mainstreaming. The implementation of strategies for gender mainstreaming is monitored by the Gender Unit which is set up within the Ministry of Gender Equality, Child Development and Family Welfare. The Gender Unit also provides technical assistance to government departments.

50. In line with the Government Programme 2005/10, the Ministry of Gender Equality, Child Development and Family Welfare has adopted a rights based approach to implementing its programmes and projects for women's empowerment and promotion of gender equality.

51. It has also adopted a paradigm shift from women in development to gender and development so as to translate into actions the various commitments taken at international and regional fora, including, the Commonwealth Plan of Action on Gender and Development, the SADC Protocol on Gender and Development and the MDGs.

52. The Government Policy of "Putting People First" and working towards a fair and equitable society has been used as a guiding principle in all planning processes.

53. To that effect, a series of initiatives has been implemented to translate into action, the measures spelt out in the Government programme 2005/10 with a view to promoting the social, economic and political empowerment of women. In line with Government Programme 2005/10 to mainstream gender in Government's policies and programmes, the

Ministry with the support of the UNDP has implemented a project entitled “Capacity Building for Gender Equality and Empowerment of Women” (2005-2009). The project aims at consolidating the National Gender Machinery into a full-fledged gender analysis, policy making, monitoring and reviewing body.

54. Under the project, a National Gender Policy Framework (NGPF) has been designed as an overarching framework that provides the guiding principles, broad operational strategies and institutional arrangements for achieving gender equality at the national level. The NGPF further sees implementation in line with the current reforms of the Government towards performance management and programme based budgeting.

55. Eight Pilot Ministries namely the Ministry of Public Infrastructure National Development Unit, Land Transport and Shipping; the Ministry of Gender Equality, Child Development and Family Welfare; the Ministry Education and Human Resources; the Ministry of Agro-Industry and Food Security; the Ministry of Industry and Commerce; the Ministry of Youth and Sports; the Ministry of Health and Quality of Life; and the Ministry of Labour, Industrial Relations and Employment have been provided with technical gender expertise to guide them in the process of aligning budgets to sectoral strategies within the context of the NGPF.

56. Capacity building of Gender Focal Points (GFPs) in all Ministries and Departments on gender mainstreaming, gender analysis, impact assessment and the African Gender Development Index has been carried out.

57. A Gender Information System is expected to be fully operational in June 2010 with a view to:

- Providing reliable and up to date information on gender sensitive indicators
- Measuring the impact of policies, plans and programmes on the implementation of gender equality; improve interaction between Gender Focal Points (GFPs) of different Ministries and also with public on gender issues (through appropriate web forum); act as an information repository on gender related materials ; and
- Acting as a repository of all relevant gender tools developed by the MWRCDFW for GFPs to download and use, and act as a communication lever through an interactive web forum, and assess the status of gender equality through the PBB exercise of the Government.

58. Measures and action plans in the context of the protection of human rights have been made consistently with the Durban Declaration and Program of Action.

#### **Case law**

59. In the case of *Government Teachers Union v. Roman Catholic Education Authority* 1987 MR 88 at page 94, Lallah ASPJ, as he then was, said:

“Further our State being secular in character, even where the Constitution in section 14(1) confers a fundamental right on religious denominations or religious, social, ethnic or cultural associations or groups to establish and maintain schools at their own expense, the responsibility of regulating such schools is reserved to the State, by section 14(2), in the interests of students to an extent reasonably justifiable in a democratic society.”

60. In the case of *Roman Catholic Diocese of Port Louis v Minister of Education* 1991 MR 176, the Court said:

“Section 14 only formally protects the right of certain classes of persons in the religious, cultural and social fields to establish schools at their own expense. We are not in a situation where the right to establish denominational, or minority group, schools is guaranteed simpliciter, a situation which has resulted in the formulation, in certain foreign texts and decisions, of the principle that the State then has a constitutional duty to provide funds, where necessary, to enable that right to be exercised, and to do so with no unnecessary strings attached.”

61. In the case of *Bishop of Roman Catholic Diocese of Port Louis and others v Suttihudeo Tengur and others*, Privy Council Appeal No.21 of 2003, it was held that sections 3(b) and 14(1) of the Constitution, read together made it plain that denominational groups were entitled, without discrimination between one group and another, to establish and maintain schools, but it was a limited right, protected only if the schools were maintained and established without expense to the State. The Catholic colleges were originally established without expense to the State but had, by the time Mr. Tengur commenced his action, ceased to be so maintained. The appellants were thus no longer exercising a right protected by sections 3 and 14. As section 16(2) made it clear, it was discrimination in the public domain, through the involvement of the State, which brought the prohibition on discriminatory treatment into play. If the Catholic colleges were still self-financing, their admission policy would not have attracted the operation of section 16(2) since although some potential pupils would still be treated in a discriminatory manner, such treatment would not be “by any 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 authority”.

62. The following excerpts from the case are of relevance:

“Since the Catholic colleges now receive a regular grant in aid from public funds, section 35 of the Education Act also requires that they be open to pupils of any religion: while they have always admitted non-Roman Catholic pupils, the section must require that they be equally open to pupils of any religion as was made clear by regulation 52(1)(a) of the 1957 Regulations, which forbade refusal of admission to any pupil on the grounds of religion. Such refusal would inevitably be the result in the case of any non-Roman Catholic applicant to the Catholic colleges who would qualify for admission on the basis of his or her CPE grading but is refused admission to accommodate the Catholic colleges’ policy of filling 50 per cent of places with Roman Catholic pupils.”

63. As section 16(2) of the Constitution makes it clear, it is discrimination in the public domain, through the involvement of the state, which brings the prohibition on discriminatory treatment into play. If the Catholic colleges were entirely self-financing, the appellants’ admission policy would not attract the operation of section 16(2) since although some potential pupils would still be treated in a discriminatory manner, such treatment would not be “by any 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 authority”.

## Article 5

### **The right to equal treatment before the tribunals and all other organs administering justice**

### **The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution**

64. The majority of complaints received by the NHRC relates to instances of police brutality and complaints against prison authorities. A workshop was conducted, in 2008, with the assistance of the UNDP and the OHCHR, on the issue with a view to the creation of an independent Police Complaints Commission to enquire into complaints against the police. A Bill is in the process of being finalized. In addition, the enlargement of the powers of the NHRC will ensure better protection against violence.

65. Draft legislation has been prepared to review the structure of the National Human Rights Commission so as to enable it to accommodate preventive mechanisms namely the Human Rights Division, the Police Complaints Division and the National Preventive Mechanism (against Torture).

66. The provisions of the Protection of Human Rights Act have been included in the curriculum of training of all newly recruited police officers. Moreover, with a view to inculcating in police officers issues pertaining to human rights principles, lectures are often delivered by representatives of the National Human Rights Commission to senior police officers who, in turn, impart same to junior officers. New recruits, Sergeants and Inspectors are additionally examined on Human Rights issues during the end-of-course assessments.

67. Amongst others, the following subjects pertaining to human rights issues are taught at the Police Training School:

- The Constitution of Mauritius
- The Protection of Human Rights Act 1998
- Ethical and Legal Police Conduct
- Policing in Democracies
- Police and non-discrimination
- Arrest and Detention
- Use of Force and Firearms
- Police and the Protection of Juveniles

68. Moreover, the curriculum of the Certificate/Diploma/ BSc (Hons) Degree Course in Police Studies taught at the University of Mauritius comprises a module on Human Rights and another one on International Humanitarian Law.

69. All self-defence courses have been replaced by 'Officer Safety' courses specifically tailored to meet the requirements of the concept of reasonable force in line with human rights principles.

70. A copy of the Universal Declaration on Human Rights has been circulated to police officers, thus enabling police officers to get acquainted to international human rights standards to be observed by all bodies involved in law enforcement.

71. In order to prevent unlawful acts such as police brutality, Divisional Commanders and Branch Officers, including Heads of the different divisions of the Central Investigation Department and the Anti Drug and Smuggling Unit have been urged to regularly address human rights issues, so that all officers under their orders are sensitized on the importance of respecting human dignity and human rights values at all times. Moreover, whenever recommendations are made by the National Human Rights Commission on police procedures and practices to counter police brutality, these are taken into consideration and if need be are incorporated through circular letters and daily lectures.

### **Political rights**

72. Paragraph 5 of the First schedule to the Constitution of Mauritius caters for the allocation of eight additional seats in the National Assembly. Paragraph 5(1) reads as follows:

“In order to ensure a fair and adequate representation of each community, there shall be 8 seats in the Assembly, additional to the 62 seats for members representing constituencies, which shall so far as is possible be allocated to persons belonging to parties who have stood as candidates for election as members at the general election but have not been returned as members to represent constituencies”.

73. In light of the above, each candidate is required to declare on his nomination paper the community to which he belongs, as provided in paragraph 3 of the said schedule.

74. Paragraph 3(1) reads as follows:

“Every candidate for election at any general election of members of the Assembly shall declare in such manner as may be prescribed which community he belongs to and that community shall be stated in a published notice of his nomination”.

75. Paragraph 3(4) reads as follows:

“For the purposes of this Schedule, the population of Mauritius shall be regarded as including a Hindu community, a Muslim community and a Sino-Mauritian community; and every person who does not appear, from his way of life, to belong to one or other of those 3 communities shall be regarded as belonging to the General Population, which, shall itself be regarded as a fourth community”.

76. It is important to note that the information regarding the community of each candidate does not appear on the ballot paper.

77. A group of persons belonging to a political party named ‘Rezistans ek Alternativ’ challenged the above requirement for a candidate to declare which community he belongs to under the communications procedure laid down in the First Optional Protocol to the International Covenant on Civil and Political Rights (the Covenant). The Applicants also highlighted the vagueness of the criteria which determines which community they belong to. They alleged breaches of articles 18, 25 and 26 of the Covenant.

78. As at 6 October 2009, the Human Rights Committee at its ninety-seventh session has held as follows:

(a) The Human Rights Committee notes that the authors failed to lodge a constitutional complaint before the Supreme Court with regard to the alleged violation of their freedom of thought, conscience and religion and that they have failed to exhaust domestic remedies to address their claim under article 18 of the Covenant and, therefore, the claim is inadmissible under article 5, paragraph 2(b) of the Optional Protocol;



(b) With regard to the authors' claims under articles 25 and 26 of the Covenant, the Human Rights Committee considers that in the light of the Supreme Court decision of 10 November 2005 overruling latter's earlier decision in favour of the authors, of the constitutional provision about the division of the Parliament seats according to affiliation to communities and of the Supreme Court's view that only the Legislature can amend the Constitution, the Human Rights Committee concludes that the authors did not have further domestic remedies available and accordingly, the Human Rights Committee does not preclude examination of this part of the communication;

(c) The Human Rights Committee is of the view that the facts of the communication raise potential issues under articles 25 and 26 of the Covenant and, therefore, considers the claims of the authors admissible;

(d) The Human Rights Committee further concludes in the light of the Supreme Court decision of 10 November 2005 considering that the authors refuse to classify themselves according to the community affiliation, that the authors have effectively been precluded from participating in any future elections. It considers that the authors have substantially substantiated, for the purposes of admissibility, their quality of victims and their claims under articles 25 and 26 of the Covenant;

(e) That, in accordance with article 4, paragraph 2 of the Optional Protocol, the State party is requested to submit to the Committee within six months of the date of transmission of the decision written explanations or statements clarifying the matter, and indicating the measures, if any, that may have been taken by the State party.

79. There has been since further communications offered both by the State and the complainants on the matter, the latest one being a Memorandum dated 22 February 2011 by the Complainants to which there has been a reply by the State as at 14 June 2011 and a further submission by the Complainants on 8 July 2011.

80. The same issues outlined above have been canvassed before the Judicial Committee of the Privy Council in an application and an appeal entered by representatives of "Rezistans ek Alternativ". The matter was heard on the 25 and 26 October 2011 in the United Kingdom and judgment has been reserved.

### **Other civil rights**

#### **The right to freedom of thought, conscience and religion:**

##### **Grant of religious subsidy for the promotion of all religions**

81. The Government continues to maintain the policy of grant of subsidy to all religious bodies, mainly through the respective apex socio-cultural Federations. Religious subsidies enable those bodies to meet current expenses of the institutions and also for the realization of projects.

##### **Freedom to practise one's religion**

82. Absolute freedom of religion has to be distinguished from the freedom to practise one's religion which is limited by the Constitution. Incident regarding the call to prayers in mosques whereby the Supreme Court held that call to prayers did not form part of prayers and therefore did not fall within the exemption to the prohibition of use of loudspeakers, under municipal law. Following demonstrations by members of the Muslim Community and certain acts of violence directed against the property of the complainant in the Court

case, discussions were held at the political level to find a solution. It was resolved that the call for prayers will not exceed a fixed level of loudness.

### **The right to freedom of opinion and expression**

83. Section 12 of the Constitution provides for the protection of freedom of expression and such right includes the freedom to hold opinions and to receive and impart ideas and information without interference and freedom from interference with one's correspondence.

84. The Independent Broadcasting Authority Act 2001 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.

85. The Second Schedule to the 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”.

86. 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 sections 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.”

87. In its judgment in the case of *Raj Dayal v. Gilbert Ahnee* [2002] SCJ 303, the Supreme Court observed that:

“There is no doubt that freedom of expression is an entrenched constitutional right of the highest importance in a democratic society like ours.”

88. Freedom of the press is an essential component of the right to freedom of expression as enjoyed under section 12 of the Constitution. The local media enjoy a long tradition of freedom and pluralism with a number of dailies, weeklies, fortnightlies and monthlies whilst the audiovisual landscape consists of the national radio and television, the Mauritius Broadcasting Corporation and equally private radio stations. Government intends to review the media landscape and to bring about reform in media law. In this context, Geoffrey Robertson, Q.C, a well-known authority on media law in Commonwealth States, was invited by Government in May 2008 to advise Government on the appropriate media framework for the benefit of both the public and Government.

89. It was held in *State v Sir Bhinod Bacha & Ors* [1996] SCJ 105 that although there is no doubt that the press has the right and indeed the duty to bring facts to the attention of the public, it has however a corresponding duty to be fair. It is certainly no role of the

independent and responsible press to fabricate and still less to accuse persons of crimes. Contempt of Court may be committed even though proceedings are neither in existence nor imminent.

90. The accused was charged, along with others with the murder of his wife and son, who had died in a fire which had destroyed their residence.

91. Following the fire, the press published extensive articles which were misleading and prejudicial to the accused.

### **The right to freedom of peaceful assembly and association**

92. Section 13 of the Constitution provides for the protection of freedom of assembly and association and reads as follows:

“(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and, in particular, to form or belong to trade unions or other associations for the protection of his interests;

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision:

- (a) In the interests of defence, public safety, public order, public morality or public health;
- (b) For the purpose of protecting the rights or freedoms of other persons; or
- (c) For the imposition of restrictions upon public officers, except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

93. In the case of *General Workers Federation v The Commissioner of Police 2003 SCJ 3*, the applicant was aggrieved by a decision of the respondent to prohibit a gathering, and referred the matter to the Judge in Chambers.

94. The facts were as follows: by virtue of the provisions of the Public Gatherings Act 1991, the applicants informed the respondent of their intention of holding a peaceful march in the City of Port Louis to protest against the unfair and unjust conditions contained in the African Growth and Opportunity Act and also against the policies of President Georges W Bush. The letter stated the itinerary of the proposed march as well as the time at which the march would end. The respondent took the decision to prohibit the march, but failed to inform the applicants of the decision with the delay of 48 hours imposed on him by Section 4 (3) of the Public Gatherings Act.

95. The reason given by the respondent for the refusal reads thus:

“I wish to inform you that as the AGOA Conference will be in progress, no public gathering or procession will be allowed as the Force will be fully taken up with the commitments in connection with the said conference”.

Section 4 of the Public Gatherings Act provides for the powers of the Commissioner of Police after he has been duly notified of a proposed public gathering. That section reads as follows:

“4. Regulation of public gatherings

(3) The Commissioner shall have power, for the purpose of preventing public disorder, damage to property or disruption of the life of the community, to impose conditions on the holding of a gathering.

(4) Where the Commissioner intends to exercise his powers under subsection (1), he shall within 48 hours from receiving notice of the gathering, call the organizers and inform them of his intention to impose conditions on the holding of the gathering and the reasons for those conditions.

(5) The Commissioner shall have the power to prohibit the gathering where he reasonably believes that imposing conditions would not be sufficient to prevent public disorder, damage to property or disruption of the life of the community and shall so inform the organizers within 48 hours of receiving the notice.

(6) Any person aggrieved by a decision of the Commissioner under this section may refer the matter to a judge in Chambers who shall, after hearing the parties, make any such order as he may deem fit in the circumstances.”

96. It was held by the Court that the Commissioner of Police had made a wrong use of his powers under the Public Gatherings Act and he could only prohibit a gathering where it was not possible to impose appropriate conditions on its being held. The decision to prohibit the gathering was also held to be in violation of “the spirit of” Section 12 (freedom of expression) and Section 13 (freedom of assembly) of the Constitution.

97. In order to reform the industrial relations framework, promote effective tripartism and strengthen dialogue with social partners, a new Employment Relations Act was passed in August 2008. The Act focuses on, inter alia, the protection and enhancement of the democratic rights of workers and trade unions, the simplification of the procedures for registration and recognition of trade unions, the promotion of collective bargaining, the promotion of voluntary settlement and peaceful resolution of disputes, the strengthening of the disputes and conflict resolution procedures and institutions to ensure speedy and effective settlement, the right to strike as a last resort after conciliation and mediation have failed and the building of a productive employment relationship.

98. The Employment Rights Act which was passed at the same time aims at achieving the flexibility needed for creating demand for labour, together with security needed to protect the worker as he or she switches between jobs. The object of the Act is to revise and consolidate the law relating to employment, contracts of employment or service, the minimum age for employment, hours of work, payment of remuneration and other basic terms and conditions of employment with a view to ensuring appropriate protection of workers. Both the Employment Relations Bill and the Employment Rights Bill were widely discussed with national stakeholders and experts from the International Labour Organization before they were introduced in the National Assembly. .. Subsequently, the Employment Relations Act and the Employment Rights Act were passed by the National Assembly on 22 August 2008 and came into operation on 2 February 2009 following their proclamation by the President of the Republic.

### **Economic, social and cultural rights**

#### **The right to work and the right to form and join trade unions**

99. Mauritius is a party to the International Covenant on Economic, Social and Cultural Rights and every Mauritian citizen is entitled to work and to receive equal pay for equal work as guaranteed under article 6 of the Covenant.

100. Regarding the right to work, it is estimated that Mauritius has a workforce of about 500 000 people amongst whom around 70 000 are in public employment. The Pay Research Bureau determines the salaries and other conditions of employment for public sector employees. The National Remuneration Board fixes sectorial minimum wages in the private sector.

101. The right to the same employment opportunities between men and women is guaranteed by section 5 of the Sex Discrimination Act 2002 which provides:

No employer shall, in relation to recruitment, selection or employment of any other person for purposes of training, apprenticeship or employment, discriminate against that other person on the grounds of sex, marital status, pregnancy or family responsibility in:

- (a) The advertisement of the job;
- (b) The arrangements made for the purpose of determining who should be offered that employment;
- (c) The terms and conditions on which employment is offered;
- (d) The creation, classification or abolition of jobs.

102. Wages and other terms and conditions of employment in the private sector are prescribed by Remuneration Order Regulations in 30 sectors by collective agreement and arbitration awards. The wages are fixed on the basis of sectors and grades without distinction between male and female employee except in the Sugar Industry and Tea Industry where basic wages are still prescribed on a gender basis owing to the strenuous nature of some operations which female employees are not compelled to perform.

103. However, such discriminatory provisions are being seriously looked into and the National Remuneration Board (NRB) has been requested to examine these gender-based job classifications and to make recommendations with a view to eliminating them. The NRB has been reviewing job appellations and classifications to ensure they are based on the principle of equal remuneration for work of equal value. References to “female worker” in various Remuneration Orders have been removed and gender neutral terms are being used. In the recent review of two Remuneration Regulations governing the Field Crop and Orchard Workers and Livestock Workers, the discriminatory provisions prescribing wages on a gender basis have been removed. The wages are now prescribed on a job content basis.

104. As regards the public sector, the Pay Research Bureau (PRB) is responsible for reviewing salaries and other terms and conditions of employment. The wages and conditions recommended are fixed on the basis of job content without distinction between male and female employees.

105. A migrant worker has the same right as a local worker to:

- (a) Form or join a trade union of his own choice;
- (b) Be a member or refuse to be a member of a trade union; and
- (c) Take part in the activities of a trade union of which he is a member.

106. A migrant worker whose contract of employment is vetted by the Ministry of Labour, Industrial Relations and Employment before the contract is signed by him and his employer enjoys prescribed salary and other conditions of employment which are not less favourable than those granted to a local worker.

107. Regular inspection visits are carried out at workplaces, where migrant workers are employed, by officers of a Special Migrant Workers' Unit set up by the Ministry of Labour, Industrial Relations & Employment to ascertain that employers are complying with terms and conditions of employment as provided for in the vetted contract of employment and in the prevailing labour legislation. In the course of inspection, the officers check whether every migrant worker has received a copy of the contract of employment in a language that he can read and understand, and meet the workers to inform them of their rights and obligations arising out of their vetted contract of employment and the provisions of the existing labour legislation.

108. Regular inspection visits are also carried out by officers of the Occupational Safety and Health Inspectorate of the Ministry of Health and Quality of Life at the dormitories occupied by the migrant workers to ensure that the decent living requirements are being complied with. It is to be noted that the Occupational Safety and Health (Employees' Lodging Accommodation) Regulations 2011 which came into force on 28 January 2011 aim at improving the standards of living conditions in lodging accommodation provided to migrant workers.

109. Although Mauritius is not a signatory to the 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families of 1990, the Government as far as possible applies the essence of the Convention in cases of disputes between migrant workers and their employer.

110. Section 76 of the Employment Relations Act provides for the right to strike and recourse to lock-out.

#### **Right to strike and recourse to lock-out**

“(1) Subject to section 77, every worker has the right to strike and every employer may have recourse to a lock-out, where:

- (a) a labour dispute has been reported under section 64 and no agreement has been reached;
- (b) the parties to the labour dispute have not elected to refer the dispute for voluntary arbitration under section 63;
- (c) a strike ballot has been successfully taken in accordance with section 78; and
- (d) a notice of the strike or lock-out has been given to the Minister in accordance with section 79.

(2) Notwithstanding subsection (1), a worker shall have the right to strike where:

- (a) the strike relates to a major health and safety issue that may jeopardize the life and security of any worker, unless the worker has been transferred forthwith to another workplace which is safe and without risks to health; or
- (b) more than 50 per cent of the workers of an enterprise have not been paid remuneration within the prescribed period, and the Minister has been notified and remedial action has not been taken by the employer within a reasonable delay fixed by the Minister.”

### The right to housing

111. The Ministry of Housing and Lands ensures that the land and housing needs of the population are met. To this end it devises and implements housing and land policies and programmes, paying particular attention to vulnerable groups and improving the latter's access to resource. Through the overall objective of "*un toit pour toi*" (translation: "a roof for you"), the Ministry has adopted an integrated approach, and is providing land for housing, onsite and off-site infrastructure and assistance to the lower income owners.

112. The plan of the Ministry of Housing and Lands is to develop a Sector Strategy for 2008-2020 which is geared towards meaningful social integration firstly by ensuring that land planning and housing development policy keeps pace with socio economic development and secondly by targeting needy households.

113. From the 1960s to 1980s the Government of Mauritius started a vast housing construction programme to provide shelter to homeless families through the Central Housing Authority (CHA). There are 177 such housing estates scattered throughout the island and some 19,300 beneficiaries. In 1989, the Government introduced the 'right to buy' policy whereby occupiers were encouraged to become the owners of their house within the CHA housing estates. In 2007, in line with Government reform programmes to empower the people, the "Right to Buy" policy was re-introduced for the sale of the plot of State Land on which stands Ex-CHA houses at a nominal price.

114. Subject to availability of land, building sites leases are granted to persons of low income groups so that they are able to erect a house on their own. However, such a person should own land or an ex-CHA housing unit or a National Housing Development corporation unit and have a family income of not more than Rs 3,000 per month. From year 1998 as at April 2008, some 2560 building site leases have been allocated by this Ministry, the majority of which accounts for the regularization of squatters found on State Land. Building site leases have been granted from May 2008 to August 2011 by Ministry of Housing and Lands as follows:

<i>SN</i>		<i>Number</i>
1.	New Parcel lease	83
2.	NHDC	1,800
3.	New Lease on Transfer	183
4.	New Lease on Renewal	358
5.	Regularization of Squatters	102
	Total	2,526

115. Through the site and services scheme the Government basically allows households to have access to a plot of land and subsequently, encourages them to construct a housing unit on their own.

116. Government Sponsored Loans and Grants have proved to be cost effective ways of facilitating access to housing for the low income groups who are owner of a plot of land or who have been allocated a BSL/ Serviced lot. This has embodied the principle that the lowest income groups should have access to a greater subsidy than households who earn more. A new Social Housing Development Fund has been created which is to be managed by Social Housing Fund Committee chaired under the Ministry of Housing and Lands. This Fund will receive and manage the 1,000 Arpents (which are being identified) and improve

financing for housing by developing and overseeing a new programme of new mixed income housing communities, on a PPP basis. The Fund would offer a new housing loan to assist in purchase of land and building.

#### **The right to public health, medical care, social security and social services**

117. Health Services in the Republic of Mauritius are provided free of any user cost, from primary care to hospital care, including the delivery of high- tech medicine, at the point of use to the entire population irrespective of race, sex, religion, income or occupation.

118. The HIV and AIDS Act which was passed in 2006 and proclaimed in 2007 provides for a rights- based approach to HIV and AIDS-related issues, and aims in particular at protecting persons living with HIV and AIDS from discrimination. One of the objects of the Act is to respond to the escalating HIV/AIDS epidemic being witnessed in Mauritius through enhanced HIV prevention programmes and scaled up national mechanisms for voluntary counselling and testing. Provision is made for the introduction of risk minimization interventions, namely the Needle Exchange Programme. The Civil Status Act was amended in order to allow marriages between a Mauritian citizen and a non-citizen who is HIV positive or has AIDS.

#### **The right to education and training**

119. As at March 2010, in the Republic of Mauritius, there were at primary level, 222 Government school, 53 private aided schools and 30 private non-aided schools. At the secondary level, there were 69 Government schools, 92 private aided schools and 21 private non-aided schools. The total number of schools at different levels and their enrolment are as follows:

	No. of schools	Enrolment
Pre-primary	1041	35139
Primary	305	117432
Secondary	182	115003

120. Asian languages and Arabic are taught in primary and secondary schools and Kreol Morisien and 'Bhojpuri' as Heritage languages/Mother Tongue will be introduced in Standard I in January 2012.

121. As for the Technical and Vocational Education and Training sector, in 2006, there was a total of 8023 students following the courses offered in the IVTB Centres, 3518 of them being full-time students.

122. The Education Reforms that are being undertaken rest on five pillars, namely access, quality, equity, relevance and achievement. An inclusive approach to access to education means that measures have been put into place to (a) alleviate the financial burden of families of school going children (b) take into account Pupils having Special Education Needs and (c) to seek out children who are not enrolled while responding flexibly to the circumstances and needs of the diversity of learners so that no child is left out.

123. The Ministry of Education and Human Resources runs a special education programme for schools in the *Zone d'Education Prioritaire* (ZEP) which are found in areas



being pockets of poverty. The programme gives special support and compensatory education to pupils attending low performing primary schools by improving school attendance and academic performance.

124. An equitable approach is adopted by the Ministry, aimed at reducing and eliminating disparity between the education provided (a) in State-owned and private grant-aided, (b) in rural and urban areas, and (c) to students of both sexes.

125. Finally, regarding relevance of education provided, the Ministry of Education & Human Resources is currently giving consideration to implementing a certain number of activities aimed at sensitizing students on Human Rights and on the Convention on the Rights of the Child.

126. In 2007, “Exploring Humanitarian Law”, an educational programme for the age group 13-18 has been implemented in the State Secondary Schools. This programme aimed at having the students learn about humanitarian law, and principles of human dignity, outlined in the Geneva Conventions. The project has been extended to private schools as well.

127. The National Curriculum Frameworks for primary and secondary levels make mention of the integration of Human Rights Education as a cross cutting theme.

128. The Mauritius Institute of Education has incorporated Human Rights Education modules offered for in-service and pre-service courses- for Primary School Teachers and the Post Graduate Certificate Education Course for the Secondary School Educators.

#### **Human rights education in schools**

129. Human Rights Education is being integrated into the school curriculum. The Prime Minister’s Office in collaboration with the Ministry of Education & Human Resources and the Commonwealth Secretariat is currently working on a project for the integration of human rights across the curriculum at pre-primary, primary and secondary levels through training of teachers, writing of school textbooks and extra-curricular activities. A Consultant has recently been appointed by the Commonwealth Secretariat to look at the status regarding human rights education and to submit recommendations on the way forward. His report is awaited. Schools are encouraged to organize activities related to Human Rights. Amnesty Clubs have been set up in some Secondary Schools.

#### **The right to equal participation in cultural activities**

130. Succeeding Governments have upheld the ideal of Unity in Diversity and every effort has been made to allow each community or section of the community to preserve and practise their own culture and language while maintaining the balance of respect for the rights of others.

131. Actions undertaken by the Ministry of Education, Culture and Human Resources also through its bodies or organizations operating under its aegis include:

(a) The setting up of language Unions for all components of population. Thus far the Speaking Unions which have been set up include Hindi, Urdu, English, Marathi, Tamil and Telugu. A few other Language Unions will be set up in the near future;

(b) The setting up of Cultural Centres for all cultures present in country. The following cultural centres have been set up: the Nelson Mandela Centre for African Culture (formerly African Cultural Centre), the Islamic Cultural Centre, the Marathi Cultural

Centre, the Tamil Cultural Centre, the Telugu Cultural Centre and the Mauritian Cultural Centre. The objective of the Mauritian Cultural Centre is to promote interaction among the various cultures present in the country;

(c) The Promotion of ten languages (Creole, Bhojpuri, Tamil, Telugu, Marathi, Hindi, Mandarin, Urdu, English and French) and dramatic art through annual and national Drama Festivals;

(d) Public holidays for the major festival of each component of the population;

(e) Three major events of national importance are celebrated each year: Abolition of Slavery (1 February), National Day (12 March), and Commemoration of the Arrival of Indentured Workers in Mauritius (2 November).

### **National festivals**

132. Actions undertaken by the Ministry of Education, Culture and Human Resources also include:

(a) Four popular festivals having a common significance based on sharing are celebrated with much pomp at National Level, namely, Chinese Spring Festival, Eid-ul-Fitr, Divali and Christmas;

(b) Conceptualization and Mounting of Artistic and Cultural Programmes;

(c) Promotion of all arts, languages and cultures by the national radio and television;

(d) Organization of events on the basis of an elaborate Calendar of Activities to pay due homage to the different components of the society. All cultural celebrations organized by the Ministry are free of charge and open to the public;

(e) The inscription of the Aapravasi Ghat and the Le Morne Cultural Landscape as UNESCO World Heritage Sites in 2008 represented the culmination of the efforts of the Government to preserve and promote these historical sites.

133. The Aapravasi Ghat is the location in the Port-Louis Harbour where indentured workers landed and were received upon disembarkation. An Aapravasi Ghat Trust Fund was created by Act of Parliament in 2001. The objects of this Trust Fund were revised and enlarged in 2006. Amongst others, the object of the Trust Fund are to establish, administer, manage, promote and maintain the Aapravasi Ghat as a national, regional and international heritage site as well as to preserve, restore and manage it. To achieve these objectives, the Trust Fund is to set up a museum and create public awareness of the history of indentured labour, encourage and support projects and publications related to the indentured labour, identify and acquire sites, buildings and structures associated with indentured labour.

134. The *Le Morne* Cultural Landscape symbolizes the resistance of runaway slaves against their colonial masters. The Le Morne Heritage Trust Fund Act was passed in 2004 and the objects of the Fund include the promotion of *Le Morne* as memorial site, the preservation and promotion of the historical, cultural, environmental and ecological aspects of *Le Morne*, the setting up a museum and creating public awareness in the history of *Le Morne*, encouraging and supporting research and publication on slavery and marronage. A monument symbolizing International Slave Route has been erected on the site which is used to host events promoting Creole culture. A website has been created by the Trust Fund to provide online information on the *Le Morne* Cultural Landscape.

135. The Government provides assistance to local artists and writers. The majority comes from vulnerable backgrounds.

136. In a joint project between the *Organisation Internationale de la Francophonie* (OIF) and the Ministry of Education and Human Resources, sixteen centres called *Centre de Lecture et d'Animation Culturelle* (CLAC)s have been set up (12 CLAC in mainland Mauritius and four in Rodrigues). The aim of these centres is mainly to promote the reading culture and creativity among children of rural areas.

137. Since 2006, the the Ministry of Tourism and Leisure and its partners organized a Festival International Kreol which consisted of activities and concerts held over several days to celebrate the Creole culture and identity. In December of 2008 the theme was "Freedom-Equality-Pride":

- The opening conference was cantered on "Ki Kreolite" with orators from Seychelles, Haiti and Reunion being invited to share their views on Creole as an identity.
- "Selebre la fam kreol" was organized at a public beach and focussed on the Creole woman in order to celebrate her identity, beauty and achievements. The event included activities such as the exhibition and sale of local food, beverage and handicrafts, a fashion show, water sports and a Kreol costume competition. The participants were from the Islands of Mauritius and Rodrigues.
- Reflecting Mauritius as a pluri-ethnic society, "Sware Metisse", an evening show, displayed Kreol arts in all its form: painting, sculpture, music, dance and photography. Artists performed live and there was a display of Metisse fashion.
- The public beach of historical Le Morne a "Sware Tipik" saw the setting up of a typical fisherman village with live cooking of traditional foods "Manze D'Antan". This event included a session of story telling, 'Sirandane' and authentic sega "sega tipik" sung by pioneers of the music around a bonfire.
- An evening of poetry reading "Sware Pwezi" was hosted to pay tribute to the Kreol language.
- The festival ended with a "Gran Konser", an all night concert, where over 70, 000 international, regional and local artists participated.

138. International press was invited to cover the events so as to display at the international level, Mauritian culture, beauty and prosperity.

**The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.**

139. The EOA specifically addresses the prohibition of discrimination in the provision of goods, services and facilities, accommodation, and access to premises to which the public or a section of the public may enter or use, irrespective of payment being required or not.

## **Article 6**

140. Section 17 of the Constitution provides an effective judicial remedy for breaches of rights under Chapter II of the Constitution. In *S. Tengur and others v. Bishop of Roman Catholic Diocese of Port-Louis and Others* 2002 SCJ 298, the Supreme Court held that an agreement between the Government and operated by the Ministry of Education and

Scientific Research on the one hand and Catholic Colleges owned by the Defendants on the other was discriminatory as the agreement allowed the Catholic Colleges to allocate 50 per cent of their seats to students of Roman Catholic faith. The catholic schools received their funding, mainly, if not wholly, from Government and thus were performing a public function. The defendants were unable to show any justification for the differentiation in allocation of 50 per cent of their seats. The judgment of the Supreme Court was confirmed on appeal to the Judicial Committee of the Privy Council.

### **Article 7**

141. Measures are taken both in the field of culture and education to promote racial understanding and harmony.

142. Section 12 of the Constitution provides for freedom of expression. Freedom of the press is an essential component of the right to freedom of expression as enjoyed under section 12 of the Constitution. The local media enjoy a long tradition of freedom and pluralism. The audiovisual landscape consists of the national radio and television broadcaster, the Mauritius Broadcasting Corporation, and private radio stations. The Independent Broadcasting Authority regulates broadcasting in Mauritius, 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.

143. It is the intention of Government to come up with a Media Bill. Government has appointed Mr. Geoffrey Robertson QC, an internationally respected human rights lawyer known for his defence of freedom of expression and individual rights to advise Government on the Media Bill. In fact, Mr. Robertson has already submitted a preliminary report on the new media law. Mr. Robertson was in Mauritius in November 2010 for further discussions with a view to finalizing the Bill. The present role and functions of the Media Trust will be revisited in the new Bill.

144. Mauritius has a multi ethnic population and schools accommodate children of all ethnic groups. It is also ensured that there is a right mix of children from all communities in the class. New textbooks for the primary have integrated elements of learning pertaining to unity, peace, justice and tolerance and also cultural events.

## **IV Responses to concerns and recommendations contained in the Committee's concluding observations on the fourteenth periodic report of Mauritius**

### **Reply to the recommendations contained in paragraph 7 of the concluding observations (CERD/C/304/Add.106)**

145. The National Human Rights Commission (NHRC) has been empowered, under the Protection of Human Rights Act, to "exercise such other functions as it may consider to be conducive to the promotion and protection of human rights." Human rights is defined as "any right or freedom referred to in Chapter II of the Constitution" and thus includes freedom from discrimination on racial grounds.

146. Since 2001, the NHRC has organized numerous workshops on Human Rights. In 2008, several workshops, which were financed by the UNDP and dealt with human rights

and the protection mechanism under Mauritian law, were targeted at administrative cadres of different Ministries or Departments and newly recruited police officers. A working session on Police Oversight and Complaints Mechanism included addresses by experts from the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Drugs Office (UNODC) and the Independent Police Complaints Commission (IPCC) of the United Kingdom. In conjunction with the *Bureau d'Education Catholique*, the NHRC conducted the training of trainers to teach detainees, in Mauritian Prisons and Correctional Centres, reading and writing in the Mauritian dialect Creole ('lir, ekir dan kreol morisien').

147. The NHRC makes yearly visits to the Island of Rodrigues to hear and attend to complaints and to conduct talks.

148. Sensitization campaigns have been conducted with the public at large and at primary and secondary schools, youth centres, community centres, recreational centres, ministries, municipalities, and public and private institutions. The SDA has also contributed to the Workshop on Domestic Violence (Family Protection Unit) and the HIV and AIDS and Gender Policy Workshop.

149. The Prime Minister's Office in collaboration with the NHRC and Amnesty International organized sensitization sessions on human rights for citizens including vulnerable groups around the island. This project is ongoing.

#### **Reply to the recommendations contained in paragraph 8 of the concluding observations**

150. Mr Joseph Reginald Topize, a popular Creole singer also known as Kaya, was arrested for having smoked gandia at a public gathering organized in support of the decriminalization of gandia. The meeting also turned out to be a concert and was attended mostly by Creole youths from the locality. Following the death of Kaya while he was in police custody, several police stations as well as public and private buildings and structures came under attack. Riots broke out in several regions of the island. The regular police force obtained reinforcement from the Special Support Unit (SSU) and the Special Mobile Force (SMF), to deal with the rioters. Around 80 persons including police officers were injured and three persons died during these riots which lasted three days. Following the burial of the victims of the riot on the fourth day, the unrest started anew. The cost to the country of the violence of February 1999 was assessed by the Commission of Inquiry set up by the President of the Republic of Mauritius in 2001 and was found to amount to Rs 1426 million or 1.5 per cent of the GDP.

151. The Commission of Inquiry, in its findings submitted to the President, found that the initial rioting was the spontaneous reaction to the unexplained death in police custody. The second phase of the rioting was the result of the rioters targeting symbols of profit and success and then taking a communal turn. It was found that there was an erroneous perception that mostly Creoles die in police custody. The evidence before the Commission of Inquiry revealed that there was a consensus that, in its early stages, the death of the singer was a detonator of the expression of an underlying frustration from section of the population, from underprivileged areas and inhabitants of low-cost housing ('cités'). Kaya managed to succeed with his music despite his modest origins in one particular suburb, where there are these 'cités'. According to evidence received by the Commission, the discontent of the Creole, known as the Malaise Creole, has been exacerbated by the rising level of unemployment, increased cost of living and lack of adequate housing. The Commission of Inquiry concluded that the eruption of violence in the aftermath of the death

of Kaya was fuelled by statements from both politicians and religious leaders who give a communal slant to their discourse to their own community.

152. The Commission of Inquiry assessed the actions of the Police Force and recommendations made for reforms especially with regard to the handling of riots. The delay and lack of vigour of the Police in reaction to the riots led the citizens to defend themselves and their property. The Commission also found that there was a lack of official information to the public. Thus rumours, especially those of a communal character, were rife and led to a sense of fear and insecurity amongst the population. Responsibility for the escalation of violence was also laid at the door of the press, in particular the written press.

153. The Commission of Inquiry also recommended that there should be research and studies into the root causes of social problems to identify the actions to be taken, and, in order to avoid the incidence of exclusion, economic development should not be dissociated from human values and cooperation with the community at large. The Commission of Inquiry highlighted the importance of education, in particular relating to the contributions of the different migrant groups and their descendants.

154. A judicial enquiry was instituted under sections 111 and 112 of the District and Intermediate Courts (Criminal Jurisdiction) Act, to investigate into the circumstances surrounding the death of Mr Topize during detention. The enquiry ended on the 10th January 2002, and the findings were filed in 2003. Counsel whose services were retained by the family of the deceased was informed of the conclusions of the learned magistrate to the effect that there was no conclusive evidence of foul play.

155. In the meantime Mrs Topize, widow of late Mr R. Topize had entered an action for damages, jointly against the State, the Commissioner of Police and 3 other police officers, before the Supreme Court on the 20th February 2001. An agreement was reached between the parties in this case. The State, without in any way admitting liability, nonetheless agreed to make an ex-gratia payment to Mrs Topize and her two minor children, in the sum of 4.5 million rupees in full and final satisfaction of their claim. The Supreme Court therefore gave judgment on the 9th October 2006 in terms of the agreement reached.

#### **Reply to the recommendations contained in paragraph 9 of the concluding observations**

156. The Central Statistics Office is the Government Department which is responsible for carrying out national censuses and surveys. In the course of these exercises, the Central Statistics Office collected data regarding community of all Mauritian nationals up to the 1972 Census. However for the 1990, 2000 and 2011 Population Censuses, Government decided that no question on community should be asked; it is believed that this is a very divisive question which can jeopardize the unity of the Mauritian nation.

157. The census exercises for the years 1962 and 1972 provide information in relation to gender and four communities. "Community", had the same meaning as under the Constitution and electoral law where the population of Mauritius is regarded as including a Hindu Community, a Muslim Community, a Sino- Mauritian Community and the General Population community. The latter category comprises of Creoles, Franco-Mauritians and other immigrants and descendants of immigrants from other European countries.

**Table 1 - Population enumerated at 1962 and 1972 Censuses by community and sex - Republic of Mauritius<sup>1</sup>**

Year of census	Community	Republic of Mauritius us			Island of Mauritius			Island of Rodrigues		
		Both sexes	Male	Female	Both sexes	Male	Female	Both sexes	Male	Female
1962 <sup>2</sup>	Total Population	699,954	351,368	348,586	681,619	342,306	339,313	18,335	9,062	9,273
	Hindu	344,622	174,713	169,909	344,587	174,698	169,889	35	15	20
	Muslim	110,404	56,018	54,386	110,322	55,971	54,351	82	47	35
	Sino-Mauritian	23,436	12,864	10,572	23,058	12,654	10,404	378	210	168
	General Population	221,492	107,773	113,719	203,652	98,983	104,669	17,840	8,790	9,050
1972 <sup>2</sup>	Total Population	850,968	425,850	425,118	826,199	413,580	412,619	24,769	12,270	12,499
	Hindu	428,345	215,752	212,593	428,167	215,654	212,513	178	98	80
	Muslim	137,171	68,834	68,337	137,081	68,789	68,292	90	45	45
	Sino-Mauritian	24,373	13,018	11,355	24,084	12,849	11,235	289	169	120
	General Population	261,079	128,246	132,833	236,867	116,288	120,579	24,212	11,958	12,254

Source: CSO, Census 2000

158. From table 1 above, it can be deduced that the composition by community in 1972 was as follows:

- (a) Hindu: 50.3 per cent
- (b) Muslim 16.1 per cent
- (c) Sino-Mauritian 2.9 per cent
- (d) General population 30.7 per cent

<sup>1</sup> Refers to islands of Mauritius and Rodrigues.

<sup>2</sup> De facto population

159. The last census exercise which data is available is the 2000 Housing and Population Census. The three main religious groups according to the census for the year 2000 are Hindu (49 per cent), Christian (32.2 per cent) and Islam (16.6 Per cent). The resident population by religious group and sex in the Republic of Mauritius (the islands of Mauritius and Rodrigues) are as follows for the year 2000:

<i>Religious Group</i>	<i>Both Sexes</i>	<i>Male</i>	<i>Female</i>
Buddhist / Chinese	8,151	2,226	5,925
Assemblée de Dieu	10,945	5,208	5,737
Church of England	3,102	1,605	1,497
Roman Catholic	278,251	138,950	139,301
Other Christian	87,844	43,816	44,028
Hindi Hindu	3,041	1,498	1,543
Marathi Hindu	20,055	9,972	10,083
Tamil Hindu	71,521	35,377	36,144
Telegu Hindu	29,792	14,614	15,178
Vedic	24,776	12,285	12,491
Other Hindu	436,025	216,616	219,409
Islam	196,240	97,682	98,558
Other & not stated	9,105	3,907	5,198
<b>Total</b>	<b>1,178,848</b>	<b>583,756</b>	<b>595,092</b>

160. The resident population by nationality and sex on census night in the year 2000 is as follows (CSO, Census 2000):

<i>Country, Island and Nationality</i>	<i>Resident population</i>		
	<i>Both sexes</i>	<i>Male</i>	<i>Female</i>
Republic Of Mauritius			
Total	1,178,848	583,756	595,092
Mauritian	1,163,292	578,042	585,250
By birth	1,155,516	574,406	581,110
By descent	3,061	1,531	1,530
By registration	2,047	833	1,214
By naturalization	2,668	1,272	1,396



<i>Country, Island and Nationality</i>	<i>Resident population</i>		
	<i>Both sexes</i>	<i>Male</i>	<i>Female</i>
Non-Mauritian	15,543	5,705	9,838

161. On the basis of information collected on language of ancestors at Census 2000, the following population estimates can be derived on the origin of the population. (CSO, Census 2000).

162. For the estimated population by country origin of ancestors, Census 2000 – Republic of Mauritius see table below:

<i>Country of origin of ancestors</i>	<i>Language spoken by ancestors</i>	<i>Estimated population by country of origin of ancestors</i>
India	Bhojpuri, Gujrati, Hindi, Marathi, Tamil, Telegu, Urdu & other oriental languages	545,714
France	French	21,171
China	Cantonese, Chinese, Hakka, Mandarin & other Chinese	22,715
Other & not stated	Creole, English, Arabic & others	589,248
Total		1,178,848

163. In the absence of data on the ethnic composition of the population, the language used by the resident population and that of their forefathers can be indicative of the ethnic composition of the population, but by no means determinative.

**Table 2 – Comparative table on resident population by language and sex**

*Republic of Mauritius<sup>3</sup> – CSO Census 2000*

<i>Language</i>	<i>Language of forefathers</i>			<i>Language usually spoken at home</i>		
	<i>Both sexes</i>	<i>Male</i>	<i>Female</i>	<i>Both sexes</i>	<i>Male</i>	<i>Female</i>
Creole	454,763	227,449	227,314	826,152	414,504	411,648
Cantonese	348	161	187	134	59	75
Chinese	16,972	6,381	10,591	6,796	1,154	5,642
Hakka	4,009	1,987	2,022	610	214	396
Mandarin	1,209	232	977	996	78	918

<sup>3</sup> Refers to islands of Mauritius and Rodrigues.

Other Chinese	177	65	112	212	47	165
English	1,075	493	582	3,512	1,764	1,748
French	21,171	10,092	11,079	39,953	18,780	21,173
Other European	840	376	464	756	359	397
Arabic	806	417	389	82	43	39
Bhojpuri	361,250	179,070	182,180	142,387	68,872	73,515
Gujrati	1,975	985	990	241	140	101
Hindi	35,782	17,959	17,823	7,250	3,975	3,275
Marathi	16,587	8,218	8,369	1,888	887	1,001
Tamil	44,731	22,265	22,466	3,623	1,893	1,730
Telegu	18,802	9,203	9,599	2,169	1,067	1,102
Urdu	34,120	16,919	17,201	1,789	892	897
Other Oriental	1,779	1,056	723	722	485	237
Creole & Chinese	3,473	1,767	1,706	1,506	746	760
Creole & French	18,181	8,685	9,496	33,795	16,309	17,486
Creole & Other European	4,490	2,268	2,222	5,952	3,052	2,900
Creole & Bhojpuri	65,868	32,714	33,154	64,105	31,565	32,540
Creole & Hindi	5,222	2,584	2,638	4,572	2,215	2,357
Creole & Marathi	1,809	910	899	1,656	778	878
Creole & Tamil	7,845	3,863	3,982	3,274	1,593	1,681
Creole & Telegu	2,201	1,087	1,114	2,841	1,382	1,459
Creole & Urdu	11,164	5,609	5,555	3,536	1,720	1,816
Creole & Other Oriental	2,877	1,396	1,481	1,881	937	944
Chinese & European	100	41	59	63	35	28
Chinese & Oriental	249	130	119	39	19	20
French & Other European	1,550	746	804	1,719	824	895
French & Oriental	457	226	231	430	209	221
Other European & Oriental	2,068	1,028	1,040	2,501	1,265	1,236
Bhojpuri & Hindi	22,97	11,472	11,505	7,298	3,660	3,638
Bhojpuri & Marathi	673	322	351	86	44	42

Bhojpuri & Tami	613	293	320	13	6	7
Bhojpuri & Telegu	697	353	344	52	23	29
Bhojpuri & Urdu	3,842	1,925	1,917	166	79	87
Bhojpuri & Other Oriental	407	207	200	30	17	13
Hindi & Marathi	189	89	100	26	18	8
Hindi & Tamil	359	193	166	18	17	1
Hindi & Telegu	177	101	76	18	11	7
Hindi & Urdu	265	156	109	8	4	4
Hindi & Other Oriental	165	97	68	73	58	15
Marathi & Tamil	81	46	35	8	4	4
Marathi & Telegu	19	10	9	-	-	-
Marathi & Urdu	6	4	2	-	-	-
Marathi & Other Oriental	12	6	6	3	1	2
Tamil & Telegu	133	62	71	3	1	2
Tamil & Urdu	32	12	20	-	-	-
Tamil & Other Oriental	41	19	22	4	2	2
Other	1,040	556	484	807	515	292
Not stated	3,170	1,451	1,719	3,093	1,434	1,659
All linguistic groups	1,178,848	583,756	595,092	1,178,848	583,756	595,092

**Table D10 - Resident population by language of forefathers and language usually spoken at home (CSO Census 2000)**

Country, Island and Language of forefathers	Total	Language usually spoken at home										
		Bhojpuri	Chinese languages	Creole	English	French	Hindi	Marathi	Tamil	Telegu	Urdu	Other and N. stated
Republic of Mauritius												
Total	1,178,848	142,387	8,748	826,152	3,512	39,953	7,250	1,888	3,623	2,169	1,789	141,377
Arabic	806	2	-	643	5	20	-	-	-	-	26	110
Bhojpuri	361,250	126,702	34	187,129	349	1,137	2,609	9	19	21	134	43,107
Chinese	22,715	2	8,433	11,092	125	904	-	-	-	-	-	2,159

Country, Island and Language of forefathers languages	Total	Language usually spoken at home										
		Bhojpuri	Chinese languages	Creole	English	French	Hindi	Marathi	Tamil	Telegu	Urdu	Other and N. stated
Creole	454,763	547	109	423,246	397	10,492	56	5	22	8	61	19,820
English	1,075	-	1	88	747	119	7	-	2	-	-	111
French	21,171	4	4	1,469	151	17,877	2	-	2	-	-	1,662
Hindi	35,782	5,082	7	20,962	282	512	3,466	8	3	4	2	5,454
Marathi	16,587	184	-	12,778	40	82	8	1,778	-	-	-	1,717
Tamil	44,731	117	6	36,644	137	546	11	1	3,443	2	-	3,824
Telegu	18,802	241	-	13,175	32	199	9	2	5	2,065	-	3,074
Urdu	34,120	302	7	29,349	185	381	50	-	-	-	1,356	2,490
Other and not stated	167,046	9,204	147	89,577	1,062	7,684	1,032	85	127	69	210	57,849

### Reply to the recommendations contained in paragraph 10 of the concluding observations

#### Committee on Poverty

164. The aim of the Committee on Poverty set up in was to alleviate poverty through educational projects and its role was to be advisory. However, the activities of this institution were subsequently superseded by the adoption of alternative programmes for tackling poverty. Several programmes, funded by both local and international agencies, have been implemented or are ongoing to assist and empower the poor and to bring them in the mainstream of productive activities.

#### Other programmes for the alleviation of poverty

165. In May 2010, Government set up a dedicated Ministry of Social Integration and Economic Empowerment to clearly demonstrate its engagement to combat poverty as well as any form of social exclusion resulting therefrom. The main thrust of that Ministry is to provide assistance to the needy by exploring all possible avenues open to them to access resources and facilities. Its mandate is primarily to put up a strong and diversified platform so to formulate targeted strategies and initiatives to:

- (a) Combat poverty;
- (b) Eliminate exclusion;
- (c) Promote inclusive and sustainable growth, and
- (d) Facilitate social progress.

166. The National Empowerment Foundation (NEF), a non-profit government owned company, is the executing arm of the Ministry and is already implementing a package of programmes within a holistic framework so as to provide immediate support to vulnerable groups, foster integrated community development, enable re-skilling of the unemployed and promote development of income generating activities. For year 2011, a budget of Rs 688 M has been provided to the NEF.

#### **Case Management Unit**

167. The National Empowerment Foundation is adopting a case management approach with the family as the focus of attention. This approach involves the profiling of individual vulnerable families and their members, assessing their needs, linking them to the appropriate services, monitoring progress, motivating and mentoring them towards their empowerment.

168. In this context, Mauritius has been divided into 29 regions, with each region under the responsibility of one Case Supervisor who is assisted by two Case Workers. The Case Worker carries out the profiling of the families with a view to identifying the problem within the family, e.g. unemployment, irregular schooling of children, drug abuse, housing problems, etc..

169. The Case Supervisor, with the assistance of the Case Workers, assesses the needs of the families and link them to the appropriate services and monitor their progress. In this exercise the support of community leaders and NGOs are also enlisted. A database has been constituted at the level of NEF on absolute poor families.

170. The Case Management Unit refers cases to the following programmes under NEF:

#### **Placement and Training Programme**

171. The objective of this Programme is to provide the unemployed with an in-company placement coupled with a work related formal training so as to enhance their employability. It attempts to address the problem of mismatch in the labour market, with on one hand, employers finding it difficult to find the labour force they need, and on the other, a high rate of unemployment. The programme is designed to provide the unemployed with an in-company placement coupled with a work-related formal training so as to make them employable. The employer will retain at least 60 per cent of the trainees in placement for at least 13 months so that the employer could participate again in this scheme.

172. Employers and unemployed register free of charge with the P&T. The NEF contributes to a refund of up to 60 per cent of training costs and 50 per cent of stipends paid to trainees during placement (limits apply for training costs and stipends) where the maximum ceilings vary from Rs. 30 000 to Rs. 60 000 depending on academic qualifications of trainees. The formal training and on-the-job training take place simultaneously or sequentially.

173. This approach has been successful in providing training to some 12 800 unemployed and ensuring employment in the different sectors of the economy, namely construction, hotel, ICT, textile, printing, agriculture, and other services such as security, cleaning, etc.

174. The Programme collaborates with other relevant Ministries/agencies to assist Mauritians to secure employment abroad for a limited period of time so that they can grasp professional experience. On their return to Mauritius, they are provided support so that they can either create their own business or join a company. Currently, Mauritius has concluded

agreement with the French Government and also with representatives of Canadian employers. More than 300 Mauritians have been sent abroad up to now.

#### **Entrepreneurship Support Programme**

175. Under this Programme support are provided to the unemployed so that they can start a business. The Programme provides financing solution for the creation or development of business through the Development Bank of Mauritius. In this respect, a mentoring scheme has been put in place in order to enhance opportunities of success of new business ventures. Accordingly, out of the 132 beneficiaries who have been mentored by ESP for the period Jan to Dec 2010 only 3 are currently in a default situation, hence leading to a record loan repayment rate of 99 Per cent. The number of beneficiaries being followed amounts to 105.

#### **Community Empowerment/Social Housing Programme**

176. Under this Programme, vulnerable families are provided social support and housing through an integrated approach that takes into account all factors related to social development: employment, housing, education, health and family responsibility. It is not a programme of free accommodation, but an integrated project where beneficiaries are financially and morally committed by a social contract. The beneficiaries finance the purchase of their homes by monthly payments. Also among the conditions to which they agree, is the requirement to have a job or follow placement & training to improve employability and take up offers for work. Other equally important conditions are required such as (among others) the obligation to educate their children.

177. Funds to the tune of some Rs285 M for provision of emergency Corrugated Iron Sheet housing units and for social housing projects have been provided for 2011 as well as a provision of Rs200 M under the Corporate Social Responsibility Programme.

178. Emergency housing in terms of CIS houses have been provided to some 1600 families in Mauritius for period Jan 2010 to July 2011.

179. Two Integrated Social Housing Projects have been implemented so far at La Valette, Bambous and at Sottise, Grand Baie for some 200 families. Life skills training and 'accompagnement social' have been provided to some 265 vulnerable families

180. Another integrated social housing project is being implemented at Gros Cailloux for some 59 vulnerable families.

181. A new Scheme for the provision of concrete houses with CIS roof has been introduced in May last in order to upgrade the living conditions of vulnerable groups who are owners of land and it is expected that 200 houses will be constructed in 2011.

182. A budget of Rs108 M has been provided under the "Eradication of Absolute Poverty" Programme for community empowerment projects in deprived regions. The NEF is implementing several projects, namely provision of access roads, public utilities and drains in deprived areas, upgrading of the living environment, provision of community and recreational facilities, provision of toilets to vulnerable families, setting up of day care centres to enable vulnerable women to seek employment opportunities.

#### **Child and Family Development Programme**

183. NEF has introduced a new programme on Child and Family Development so as to provide comprehensive support to deprived children in a holistic manner. The Programme

addresses the following as a matter of priority and focuses on children as from the age of 3 months:

- (a) Promoting the setting up and operation of affordable nurseries at community level for needy children from 3 months to 3 years old with the objective of releasing mothers so that they can go out to work;
- (b) Support to needy children for pre-primary education;
- (c) Support to needy children at primary and secondary levels through the provision of school bags, stationeries, shoes and uniforms;
- (d) Remedial classes for school children having difficulty to cope with the curriculum;
- (e) Attending to welfare of children with special needs/street children;
- (f) Promotion of creative arts/sports among children of poor localities; and
- (g) Providing parental skills in deprived regions and build parental network

184. So far, three day care centres have been set up and six more centres will be operational by the end of 2011.

185. Educational support has been provided to around 21,869 needy students, including 3,956 students in Rodrigues.

#### **Corporate Social Responsibility**

186. A statutory scheme established by the Government requires companies to spend 2 per cent of their net profits to finance and implement programmes of social responsibility (CSR) for the community for social or environmental cause. 50 per cent of this contribution must go to three priority areas: housing, child care and eradication of absolute poverty.

#### **NEF in Rodrigues**

187. A dedicated Unit has been set up in Rodrigues so as to implement the above programme in Rodrigues as well. These are as follows:

- Financial and technical support to the unemployed and ex-lagoon fishermen wishing to start small businesses
- Support to needy children attending school similar to what prevails in Mauritius
- Upgrading and development of typical Rodriguan crafts
- Social housing for poor families including provision of water tank for the capture and storage of rainwater
- Implementation of various services currently offered by the NEF
- Some 400 concrete cum CIS houses have been constructed for period Jan 2010 to July 2011

#### **Decentralised Cooperation Programme**

188. Under EU-Government cooperation, the Decentralised Cooperation Programme was implemented over 4.5 years from September 2005 to March 2010 for 16 million Euros towards which the EU provided a grant of 13.5 million Euros under the 9th EDF. The specific objectives of the Programme were as follows:

- Poverty alleviation by means of improving the delivery of social services and the participation of NSAs in national policy dialogue, and complementing the resources of vulnerable groups.
- Reduction of unemployment in terms of re-skilling of workers and through capacity building in business support services and promotion of more sustainable innovative and higher value-added entrepreneurship. SMEs will face direct competition from low-cost producing countries.
- Promotion of good governance through awareness campaigns and strengthening of NSA for participatory policy formulation and fight against fraud and corruption in all sectors.
- Better management of natural resources (Rodrigues) through a more efficient and integrated approach.

189. In total, 340 community-based projects were implemented by some 240 non-state organizations in Mauritius and Rodrigues with funding amounting to Euros 7 million on these themes, and with nearly 60 per cent channelled towards poverty alleviation.

190. 150. DCP II is the follow-up programme whose implementation is now starting under EDF 10. EU funding will amount to 5.5 million Euros over the next 48 months. However, it will concentrate on poverty alleviation and capacity building of NSAs.

191. Mauritius has adopted an Equal Opportunities Act which prohibits discrimination on various grounds, including colour, ethnic origin and race in various spheres of activities, namely employment; education; provision of goods, services or facilities; accommodation; disposal of immovable property; companies, partnerships, “sociétés” or registered associations; clubs; and access to premises and sports. The establishment of an Equal Opportunities Division within the National Human Rights Commission and of an Equal Opportunities Tribunal with wide powers is provided for to enforce the provisions of the Act. However, Government intends to bring amendments shortly to the Equal Opportunities Act (which has not yet been proclaimed) in order for the Equal Opportunities Commission to operate as an independent body.

#### **National Human Rights Commission (NHRC)**

192. The NHRC deals with the following guaranteed rights laid down in Chapter II of the Constitution:

193. However, the Protection of Human Rights Act restricts the NHRC’s temporal, *ratione personae* and subject matter jurisdiction. Thus the NHRC cannot enquire into:

- (a) The following rights:
  - (i) The right to life;
  - (ii) The right to personal liberty;
  - (iii) The right to protection from slavery and forced labour;
  - (iv) The right to protection from inhuman treatment;
  - (v) The right to protection from deprivation of property;
  - (vi) The right to privacy of home and other property;
  - (vii) The right to secure protection of the law;



- (viii) The right to freedom of conscience;
- (ix) The right to freedom of expression;
- (x) The right to freedom of assembly and association;
- (xi) The right to freedom to establish schools; and
- (xii) The right to protection from discrimination;
- (b) Events dating back to more than two years;
- (c) Complaints [against the police] which are already being investigated by the Ombudsman;
- (d) Complaints against:
  - (i) The President or his personal staff;
  - (ii) The Chief Justice;
  - (iii) The Director of Public Prosecutions or any other person acting on the DPP's instructions;
  - (iv) The Commission on the Prerogative of Mercy, the Electoral Boundaries Commission, the Electoral Supervisory Commission, the Judicial and Legal Service Commission, the Public Service Commission and the Disciplined Forces Service Commission; and
  - (v) Any person exercising powers delegated to him by the Public Service Commission and the Disciplined Forces Service Commission;
- (e) Economic, social and cultural rights which are not referred to in the Constitution of Mauritius;
- (f) Private dispute between individuals or any complaint against private employers or professionals, e.g. lawyers, doctors, etc.

194. As indicated in previous reports, the NHRC does not have the power to impose fines, imprison or in any other way punish any person against whom a complaint is made. However, with the enactment of the Equal Opportunities Act, an Equal Opportunities Tribunal will be created to hear and determine complaints referred to it by the Equal Opportunities Commission. The Equal Opportunities Tribunal will have the power to issue interim orders and where it determines that a complaint was justified, it may require a respondent to pay compensation to the aggrieved party up to an amount not exceeding Rs 500,000.

195. The NHRC has received only a small number of complaints relating to racial discrimination and the majority of these were not within the jurisdiction of the Commission:

<i>Year</i>	<i>Complaint</i>	<i>Action taken</i>
2001	A local organization requested the setting up, by the Government, of a Committee which will allocate compensation by the State for descendents of slaves	Complainant was informed that the NHRC had no power to compel the Government to set up such a Committee
	A participant in an international quiz complained that he/she has received less	Since section 16 of the Constitution only concerns discrimination by public

<i>Year</i>	<i>Complaint</i>	<i>Action taken</i>
	<p>press coverage than another participant from a different community, even though the latter did not do as well in the competition. S/he also complained as to the fact that a local press had refused to publish a rejoinder on a review of a book which related that convicts were brought from the Indian-subcontinent to work in local sugarcane fields in the 19th Century.</p> <p>Complaint was made against the Ministry of Education regarding a subtle form of racial discrimination.</p>	<p>bodies, no action could be taken. The NHRC deplored the fact that there is in Mauritius no Press Council or Press Complaints Commission responsible for enforcing a Code of Practice for the press to ensure that a fair opportunity is given to correct or refute inaccuracies.</p> <p>The complaint was made over 2 years from the incident and the vacancies had been filled by PSC. The NHRC had no jurisdiction.</p>
	<p>Allegation that racist language had been used by a hotel manager towards taxi drivers operating from the hotel and that the activities of the latter were being hampered by hotel</p>	<p>The NHRC had no jurisdiction as the complaint concerned a private body.</p>
2002	<p>Allegation of racial discrimination regarding the fact that the complainant's son had not been selected for instrument practice by the <i>Conservatoire de Musique, François Mitterrand</i></p>	<p>The Complainant was informed that a new admission test will be administered.</p>
	<p>Allegation of discrimination on the grounds of race and religion against the National Transport Authority in the refusal of an application for a Public Service (Taxi) licence.</p>	<p>The complaint was found to be unsubstantiated.</p>
	<p>A student in a private secondary school alleged that his teacher made humiliating remarks concerning his race and origins.</p>	<p>The NHRC had no jurisdiction as the complaint related to a private individual/institution. A conciliation process was nonetheless offered. However it was refused.</p>
2005	<p>A 7th day Adventist who worked in a private company alleged breach of his freedom of religion by the company which suspended him from work on account of his non-attendance on Saturdays. This, notwithstanding that a verbal arrangement was reached in 1997 when he joined the company.</p>	<p>The NHRC had no jurisdiction in respect of matters in the private sector.</p>
2007	<p>Allegation of overt cases of racial discrimination at the Central Water Authority by that body.</p>	<p>The NHRC has sought the views of the CWA. The Complaint was not substantiated.</p>

196. In its 2001 report the NHRC noted that there were a number of foreign workers in the textile industry but that no complaints of racial discrimination had been received from them.

**Reply to the recommendations contained in paragraph 11 of the concluding observations**

197. The matter is under consideration.

**Reply to the recommendations contained in paragraph 12 of the concluding observations**

198. The Republic of Mauritius takes note of the recommendation to ratify the amendments. The matter is still under consideration.

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