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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Fourth periodic reports submitted by States parties under
articles 16 and 17 of the Covenant**

MAURITIUS*

[3 March 2008]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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LIST OF ABBREVIATIONS

CAT	Convention against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CIB	Complaints Investigation Bureau
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
HR	Human Rights
ICC	International Criminal Court
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
LRC	Law Reform Commission
MIE	Mauritius Institute of Education
NHRC	National Human Rights Commission
PAS	Principal Assistant Secretary
PS	Permanent Secretary

Introduction

1. The Government of the Republic of Mauritius has the honour to report to the Committee on Economic, Social and Cultural Rights on measures giving effect to its undertakings under the International Covenant on Economic, Social and Cultural Rights (ICESCR).
2. The Committee on Economic, Social and Cultural Rights considered the initial report of Mauritius at its 40th, 41st and 43rd meetings on 27 and 28 November 1995.
3. The present combined report comprises of the second, third and fourth periodic reports of Mauritius.
4. This combined periodic report is presently submitted in accordance with articles 16 and 17 of the ICESCR and is in line with the General Guidelines regarding the form and contents of periodic reports to be submitted by States parties (HRI/GEN/2/Rev.4).
5. The present report has been prepared by the Attorney-General's Office and Ministry of Justice and Human Rights with the contribution of various ministerial bodies and following consultation with non- Governmental organisations and the National Human Rights Commission.
6. Except where it has been stated otherwise, the report covers the period starting 1996 to December 2007.
7. The Government of the Republic of Mauritius seizes this opportunity to reiterate its firm commitment to honouring its obligations under the Covenant and reaffirms that it is only if the appropriate conditions are created that everyone may enjoy his economic, social and cultural rights as well as his civil and political rights and that the individual will be able and free to enjoy freedom from fear and want.

I. CORE DOCUMENT

A. General information

1. Demographic, economic, social and cultural characteristics

8. Mauritius is an island of 720 square miles found in the south-west of the Indian Ocean and has a population of about 1.2 million.
9. The economy is mainly based on export-oriented manufacturing (mainly textiles), sugar, tourism and services.
10. In the context of the policy of Government to maintain the welfare State, free health services are available to the population. Private clinics also exist to cater for the needs of those who choose to pay for their treatment. Education is free up to the secondary level whilst primary and secondary education is compulsory by law for all children up to the age of 16.

11. There is no State religion and the Government does not interfere with or restrict worship by any religious denomination. Freedom of religion as propounded in the Constitution is of special importance in view of the social fabric of Mauritian society which comprises elements of all races, cultures and religions.

2. Constitutional, political and legal structure

12. The island obtained its independence from the British in 1968. Her Majesty the Queen of Great Britain was the Head of State until 1992 when Mauritius adopted a republican status. There exists a parliamentary democracy led by a Prime Minister, assisted by a Cabinet consisting also of a Deputy Prime Minister and 18 Ministers. The Head of State is the President who is elected by a majority of all members of the Assembly on a motion made by the Prime Minister and whose functions include upholding and defending the Constitution and ensuring that the institutions of democracy and the rule of law are protected and the fundamental rights of all are respected.

13. The State of Mauritius holds fair and free national and local elections at regular intervals. These elections are 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 the elections in accordance with the First Schedule to the Constitution.

14. The Constitution of Mauritius, a written document bequeathed by an Order-in-Council of the British Government at the time of independence in 1968, rests on two fundamental tenets: the rule of law and the doctrine of the separation of powers. It is provided under section 1 of the Constitution that the Republic of Mauritius shall be a “sovereign democratic State”. Fundamental rights and freedoms are expressly guaranteed under Chapter II of the Constitution which was largely inspired from the European Convention on Human Rights.

15. The Constitution being the “supreme law of the land”, it is the duty of the Supreme Court not only to interpret, but also to ensure obedience to, its provisions. It is up to the Supreme Court to determine the validity of any statute which is alleged to be unconstitutional because no law which contravenes the Constitution can be suffered to survive.

16. The Court’s primary concern in any case where a contravention of the Constitution is established is to ensure that such contravention is redressed as conveniently and expeditiously as possible.

17. The Constitution itself makes provision under section 17 for redress for any individual whose rights have been, are being or are likely to be contravened under Chapter II which ensures the protection of fundamental rights and freedoms of the individual (hereinafter referred to as “Chapter II Rights”).

18. Even where the law makes provision for disciplinary offences to be dealt with by certain tribunals or Service Commissions (by bestowing upon them special jurisdiction to that effect), decisions taken by such bodies are ultimately reviewable by the Supreme Court.

19. In addition to the normal channels of complaint through the police authorities, citizens of the Republic of Mauritius may have recourse to the office of the Ombudsman. The Ombudsman may investigate any act of maladministration which is alleged to have caused injustice to a member of the public.

20. The National Human Rights Commission set up by the Protection of Human Rights Act 1998 may enquire into any violation of the Chapter II rights of a person or any complaint made against a police officer. It may also visit any police station or other place of detention to examine the inmates' living conditions and treatment and may review the safeguard provided by or under any enactment for the protection of human rights.

21. The judicial system in Mauritius is largely inspired by the British adversarial system of litigation. It consists of the Supreme Court, the Intermediate Court and the District Courts which all have jurisdiction in civil and criminal matters, and the Industrial Court. The Supreme Court has unlimited jurisdiction to hear and determine any civil or criminal proceedings. Industrial disputes arising from employer-employee contractual relations may also be resolved through conciliation by the Industrial Relations Commission or through voluntary or compulsory arbitration by the PAT (Permanent Arbitration Tribunal). There are also numerous specialist tribunals to determine specific disputes (fiscal, environmental, professional negligence etc.).

22. The Supreme Court is the principal court of original criminal jurisdiction. Criminal trials before the Supreme Court are held before a Presiding Judge and a jury consisting of nine persons, and relate to very serious offences such as murder and manslaughter. Provision is also made for the prosecution of certain offences, including offences involving drug trafficking under the Dangerous Drugs Act, before a Judge of the Supreme Court without a jury. The death penalty was abolished in 1995. The Supreme Court may inflict sentences of penal servitude for life or sentences for terms not exceeding 60 years where the law so provides.

23. In addition, under section 82 of the Constitution, the Supreme Court has jurisdiction to supervise any civil or criminal proceedings before any subordinate court and make such orders as it considers necessary. The Supreme Court also has an appellate jurisdiction.

24. The decisions of the appellate division are in turn subject to appeal to the Judicial Committee of the Privy Council on matters of great general or public importance, subject to the other conditions laid down in the Constitution.

25. The Chief Justice presides over the Supreme Court with the assistance of a Senior Puisne Judge and nine Puisne Judges. The Intermediate Court and District Courts are presided over by Magistrates. They deal with most criminal matters while the jurisdiction of these courts in respect of civil matters is subject to monetary thresholds.

26. Defendants have the right to retain private counsel of their choice. However, in certain circumstances where there are genuine financial constraints, a party may be granted legal aid upon making an application to the Court.

27. Mauritius has a strong and healthy legal profession consisting of barristers, attorneys and notaries (who do mainly conveyancing and handle legal matters relating to the formation of companies). Barristers may read law in Britain, France or at the University of Mauritius and are called to the Bar at one of the Inns of Court in London or, after passing the vocational examinations of the Council of Legal Education, in Mauritius.

28. One of the fundamental principles of the Mauritian legal system is the separation of powers. Accordingly, the power to make laws has been vested into Parliament exclusively and the Courts are not entitled to encroach upon or usurp such powers. Whereas the Courts do have the power to interpret laws passed by Parliament, they do have to respect the established principles of statutory and constitutional interpretation in doing so.

29. The power to grant rights is thus vested in Parliament exclusively. While the Courts have the power to interpret the ambit of those rights, which have been granted by the Constitution or by Parliament, they cannot create rights which do not exist under domestic law.

B. General framework for the protection of human rights norms

1. Acceptance of international human rights norms

30. Mauritius has signed and ratified most of the international human rights conventions.

Universal Declaration of Human Rights

31. Mauritius is committed to the Universal Declaration of Human Rights through its support for UN resolutions dealing with Human Rights that have time and again unanimously affirmed and re-affirmed the Declaration.

Major United Nations human rights conventions

32. Mauritius has ratified the six major human rights conventions that have been adopted by the General Assembly of the United Nations and signed the Convention on the Rights of Persons with Disabilities.

International Covenant on Civil and Political Rights (ICCPR)

33. The Human Rights Committee considered the fourth periodic report of Mauritius held on the 17 and 18 March 2005. The concluding observations of the Committee appear in CCPR/CO/83/MUS.

International Convention on the Elimination of All Forms of Racial Discrimination 1966 (CERD)

34. The Committee set up under the Convention considered the 3rd and 4th periodic reports of Mauritius submitted as one document in August 2000. The concluding observations of the Committee appear in 01/05/2001CERD/C/304/Add.106.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

35. The Committee set up under CEDAW considered the combined third, fourth and fifth periodic reports of Mauritius in August 2006. The concluding observations of the Committee appear in CEDAW/C/MAR/CO/5.

Convention Against Torture and other Cruel, Inhuman or Degrading Treatment [CAT]

36. The outstanding periodic reports are being finalised and shall soon be submitted for presentation before the Committee against Torture. Mauritius had the privilege of being visited by the Subcommittee on the Prevention of Torture from 10 to 18 October 2007; in fact, Mauritius was chosen by a drawing of lots as the first country to be reviewed by the Subcommittee under the Optional Protocol to the Convention.

Convention on the Rights of the Child (CRC)

37. The Committee on the Rights of the Child considered the second periodic report of Mauritius in January 2006. The concluding observations of the Committee appear in CRC/C/MUS/CO/2.

Convention on the Rights of Persons with Disabilities (CRPD)

38. Mauritius signed the CRPD on 25th September 2007. This Convention endeavours to elaborate in detail the rights of persons with disabilities and set out a code of implementation. Countries that join in the Convention engage themselves to develop and carry out policies, laws and administrative measures for securing the rights recognized in the Convention and abolish laws, regulations, customs and practices that constitute discrimination. As a change of perceptions is essential to improve the situation of persons with disabilities, ratifying countries are to combat stereotypes and prejudices and promote awareness of the capabilities of persons with disabilities.

The African Charter on Human and Peoples' Rights

39. Mauritius has also ratified the African Charter on Human and Peoples' Rights and is in the process of finalising the national periodic report as required under Article 62 of the African Charter.

Conventions under the aegis of the International Labour Organization (ILO)

40. Thirty-five ILO Conventions have also been subscribed to by Mauritius, including Conventions No. 182 on the Worst Forms of Child Labour, No. 138 on Minimum Age, No. 182 on the Worst Forms of Child Labour, No. 100 on Equal Remuneration, No. 111 on Discrimination (Employment and Occupation), and No. 159 on Vocational Rehabilitation and Employment (Disabled Persons). A number of those Conventions have been incorporated in domestic labour laws.

The Rome Statute

41. The Rome Statute providing for the setting up of the International Criminal Court and the exercise for the first time in legal history of international criminal jurisdiction against individuals for the worst crimes against humanity, was ratified in 2002. Implementing legislation is being finalised.

The African Charter on the Rights and Welfare of the Child

42. The African Charter on the Rights and Welfare of the Child was ratified in 1992.

2. Legal framework for the protection of human rights at national level

43. The State of Mauritius is fully committed to the protection of human rights within its boundaries and in its dependant territories. There exist under national law several mechanisms, which aim at ensuring that the fundamental human rights of the individual are fully respected and at providing redress to any victim of the violation of any such right.

The Constitution of Mauritius

44. The Mauritian Constitution, which is the supreme law of the land, sets out in its Chapter II, entitled “Protection of fundamental rights and freedoms of the individual” a series of fundamental rights and freedoms ranging from the right to life to the freedom of religion and of thought.

45. These rights and freedoms have existed and shall continue to exist in Mauritius without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest.

46. Any citizen who believes that any provision of Chapter II has been, is being or is likely to be breached with respect to him may apply to the Supreme Court for redress under section 17 of the Constitution. The proviso to Section 17[2], however, renders the constitutional remedy one of last resort.

47. Our courts of law have generally adopted a wide and purposive interpretation of the Constitution:

“There is ample authority for saying that a written Constitution should not be looked upon as an Act of Parliament, but rather as a charter or covenant which must be given a purposive interpretation.”

Duval v. Seetaram [1991]

The Protection of Human Rights Act 1998

48. The Protection of Human Rights Act (the “PHRA”) came into force on 23 February 1999. Its aim is “to provide for the setting up of a National Human Rights Commission, for the better protection of human rights, for the better investigation of complaints against members of the police force, and for matters connected therewith or incidental thereto”. The Act defines “human right” as “any right or freedom referred to in Chapter II of the Constitution”.

49. Although it is generally acknowledged that Chapter II of the Constitution refers to civil and political rights, some of its provisions are of utmost relevance to economic, social and cultural rights. Thus the freedom of conscience, freedom of opinion and expression, freedom to establish schools ensure the blossoming of multiculturalism in Mauritius and allow for social harmony. Freedom of association enables workers to assert their economic rights. Protection from deprivation of property reassures investors, especially foreign ones and helps the economy to thrive. Protection from discrimination in Section 16 guarantees the enjoyment of all rights without distinction. Furthermore the right to life has also been interpreted in some cases as a right to live in dignity which would encompass the right to food, the right to clean water and protection from absolute poverty.

50. The National Human Rights Commission has therefore taken the view that it can also oversee the enjoyment of economic, social and cultural rights in so far as they feature in Chapter II of the Constitution. Chapter II of the Annual Report of the Commission for the year 2006 thus deals with “Economic, Social and Cultural Rights in Mauritius”.

The Sex Discrimination Act 2002

51. The **Sex Discrimination Act** came into force on 8 March 2003. Its aim is “to provide for the elimination of all forms of gender discrimination and sexual harassment in certain areas of public activity”.

52. A Sex Discrimination Division was set up within the NHRC in 2003 to enquire into complaints of sex discrimination and sexual harassment.

53. The Act lists out the particular fields where sex discrimination is likely to arise, such as employment, or in relation to professions, trades or occupations, education, in the provision of goods, services or facilities, in accommodation, with respect to the disposal of property, in companies, partnerships or associations and clubs.

54. The Act further provides in section 6 for a reasonableness test to assess whether it is reasonable to impose a condition, requirement or practice which causes a disadvantage to a person of the opposite sex.

The Child Protection Act 1994

55. The Child Protection Act (the “CPA”) came into force on 4 April 1995. Its aim is “to make better provision for the protection of children”. It provides for measures such as emergency protection orders where it is believed that a child is suffering or likely to suffer significant harm, or committal orders to a place of safety where children are ill-treated, neglected, abandoned, destitute, or otherwise exposed to harm.

56. The Child Protection Act also provides for offences such as ill treatment of children or causing children to be sexually abused, to have access to brothels or to engage in prostitution.

The Protection from Domestic Violence Act

57. The Protection from Domestic Violence Act came into force in 1998 and has since known a series of amendments as and when exigencies required. It adopts the widest definitions so as to provide for maximum protection. For instance, “domestic violence” is defined so as to encompass a whole range of situations from physical injury to intimidation and harassment to brutality and cruelty. “Child” includes any biological, adopted, step or foster child.

Case law

58. The Supreme Court has consistently given as wide and purposive an interpretation as it can to fundamental human rights, so as to afford maximum protection where warranted.

59. Instances of the above are many. In the case of *Philibert & ors v. State* (2007) SCJ 274, the Full Bench of the Supreme Court declared that Section 222[1] of the Criminal Code and Section 43[1] of the Dangerous Drugs Act 2000 as they read prior to the amendment effected by Act 6 of 2007 contravened Section 7[1] of the Constitution in as much as the mandatory imposition of a term of 45 years’ penal servitude contravened the principle of proportionality and amounted to “inhuman or degrading punishment or such other treatment” contrary to Section 7[1] of the Constitution. The Court went on to state that the said provisions could be read down to provide for the mandatory sentence laid down therein to be construed as a maximum sentence.

60. The Supreme Court in the case of *Wadud v. State* [1999] SCJ 187 overruled a previous judgment of 1997 (*vide State v. Coowar* [1997 MR 123].) in which the Court had held that the constitutional right of a detainee to be informed of his right to consult a lawyer is absolute, even if the Police are admittedly under a legal obligation to inform him of his right to counsel. In the case of *Wadud*, reference was made to a Privy Council case and it was held that the right to be informed of the right to consult was not an absolute one. The nature of a particular constitutional guarantee and the nature of a particular breach should be borne in mind.

61. Therefore, case law can be considered a “source” of human rights in Mauritius only inasmuch as it provides for an interpretation of the ambit of the rights, which have already been conferred, by the Constitution or other existing legislation. Any reform to the existing system of protection of human rights or any project to widen the ambit of the protection already afforded would therefore necessarily have to be undertaken by Parliament.

3. Framework within which human rights are promoted at the national level

The National Human Rights Commission (HRHC)

62. The National Human Rights Commission set up under the **Protection of Human Rights Act 1998** may enquire into any violation of the Chapter II rights of a person or any complaint made against a police officer. It may also visit any police station or other place of detention to examine the inmates’ living conditions and treatment and may review the safeguard provided by or under any enactment for the protection of human right.

63. Its members are appointed by the President of the Republic on the advice of the Prime Minister. The Chairperson (who is a former Judge of the Supreme Court) sits with three members within the Commission and the same Chairperson sits with two other members within the Sex Discrimination Division. This Division deals with complaints of sex discrimination and sexual harassment in both public and private sectors.

The Office of the Ombudsperson

64. The Constitution creates the office of the Ombudsman which is a public one. The Ombudsman is vested with the power to investigate any action by such officers or authorities as Government departments, the Police Force and members thereof, the Mauritius Prisons Service, authorities responsible for determining the persons with whom contracts are to be entered into by Government, local authorities and their members in the exercise of their respective administrative functions, where a member of the public claims or appears to the Ombudsman to have sustained injustice in consequence of maladministration in connection with the said action.

The Complaints Investigation Bureau (CIB)

65. The Complaints Investigation Bureau (the “CIB”) was set up in October 1999 to enquire into complaints made by members of the public against the police. It is the only organ of the Police Department vested with the authority and responsibility to enquire into complaints against the police force. Although the CIB operates under the supervision and in accordance with the directives of the National Human Rights Commission, it remains under the administrative control of the Commissioner of Police. Government is currently considering the setting up of an independent Police Complaints Commission in replacement of the CIB with a view to having a transparent and impartial approach to cases of complaints of police brutality.

Ombudsperson for Children

66. The **Ombudsperson for Children Act** (the “OCA”) came into operation on 20 November 2003. It provides for the establishment of the office of Ombudsperson for Children to ensure that the rights, needs and interests of children are given full consideration by public bodies, private authorities, individuals and associations of individuals, to promote the rights and interests of children, and to promote compliance with the Convention on the Rights of the Child. The Ombudsperson for Children also inter alia investigates complaints made by a child in relation to any breach of the rights of a child.

The Human Rights Centre

67. The recently inaugurated Human Rights Centre [situated opposite the Supreme Court] which operates under the aegis of the Ministry of Human Rights aims at being the main forum for the promotion of Human Rights in Mauritius. The Centre will also act as a channel for information and aims at making the public aware of existing institutions and laws so that they may better enforce their human rights. (Further information on the Human Rights Centre is provided at paragraph 577).

The Law Reform Commission (LRC)

68. The **Law Reform Commission Act 2005** which repeals and replaces the former Law Reform Commission Act came into operation on 10 January 2006. It establishes the Law Reform Commission (“the Commission”) of which the main functions are to make recommendations - accompanied by a draft Bill whenever applicable and practicable - for the reform and development of the law and to advise the Attorney- General on the ways in which the laws of Mauritius can be made as accessible as is practicable. The Commission shall also prepare and submit to the Attorney-General, at least once a year, a programme for the review of specified aspects of the law of Mauritius with a view to their reform or development.

69. The Attorney-General may, at any time, request the Commission to examine any aspect of the law of Mauritius, and the Commission shall review that aspect of the law accordingly and report to the Attorney-General thereon with its recommendations.

4. Other related human rights information

Right to development

70. Though the Mauritian Constitution does not provide for a specific right to development, the following laws may be considered to be in line with the Millennium Development Goals and the Right to Development:

71. The **Planning and Development Act 2004** (not yet fully in force) which aims at modernising town and country planning and makes comprehensive provision with respect to land use planning and development in Mauritius.

72. The **Convention on Social Security Act** which provides for the Convention on Social Security, which was signed on 22 April 1981 between the Government of Mauritius and that of the UK, to have force of law in Mauritius.

73. The **Government Guarantees (Development Purposes) Act** where the Government provides guarantees for the repayment of any money borrowed by a Mauritian for development purposes i.e. promoting the economic development of Mauritius.

74. The **Government Social Welfare Centres Act** establishing the Social Welfare Committee to manage the Social Welfare Centres.

75. The **Human Resource Development Act** establishing the Human Resource Development Council to advise the Government, amongst others, on human resource development policies and strategies.

76. The **Investment Promotion Act 2000** establishing the Board of Investment to stimulate the development of the Mauritian economy and promoting Mauritius as an international investment business and service centre and to formulate investment policies and the Act also provides the procedure for the application of investment certificates.

77. The Mauritius Industrial Development Authority Act establishing the Authority to develop and operate industrial sites and estates to promote the export of goods and services from Mauritius and to advise the Government on all matters relating to export promotion, amongst others.
78. The Mauritius Oceanography Institute Act establishing the Institute to foster interest in research and development in relation to oceanography and to advise Government on the formulation and implementation of policies and programmes, amongst others.
79. The Removal of Sand Act concerning the regulation of sand quarries.
80. The Mauritius Research Council Act establishing the Council to advise Government and to foster research and development in all spheres of scientific, technological, social and economic activities.
81. The Mauritius Sugar Industry Research Institute Act establishing the Institute to promote by means of research and investigation, the technical progress and efficiency of the sugar industry.
82. The **Mauritius Tourism Promotion Authority Act** establishing the Authority to promote Mauritius as a tourist destination.
83. The National Productivity and Competitiveness Council Act establishing the Council to stimulate and generate productivity and quality consciousness in all sectors of the economy.
84. The Road Development Authority Act establishing the Authority which shall be responsible for the construction, care, maintenance and improvement of motorways and main roads.
85. The Waste Water Management Authority Act establishing the Authority which shall be responsible for waste water management in Mauritius.
86. The **Wildlife and National Parks Act** establishing, inter alia, the Advisory Council to advise Government on any matter relating to wildlife, national parks and conservation generally.
87. The National Women Entrepreneur Council Act establishing the Council to promote entrepreneurial activities of women and the National Women's Council Act establishing the Council to assist in the implementation and evaluation of Government Policies relating to the needs of women.
88. The Noise Prevention Act which provides that an authority (i.e. a municipal or a district council) may make regulations against noise prevention.
89. The Outer Islands Development Corporation Act establishing the Corporation which shall be responsible for advising Government on the development of such activities as may lead to a more economic exploitation of the outer islands.

90. The Patents, Industrial Designs and Trademarks Act establishing the Industrial Property Office to investigate any allegation of an industrial property offence. The Copyright Act provides for protection of works.
91. The Protection against Unfair Practices (Industrial Property Rights) Act ensuring criminal and civil liability for unfair practices.
92. The **Fair Trading Act** criminalising prohibited consumer trade practices and providing for powers of inspection of any premises for the purpose of trade.
93. The **Computer Misuse and Cybercrime Act** regulating the unauthorised access to computer data and electronic fraud.

Right to a clean and decent environment

Legislative framework

Environment Protection Act (EPA) 2002

94. The EPA 2002 is the main environmental legislation. The underlying principles of this legislation are the protection of the environment and human health. It provides for:
- (a) The protection and management of the environmental assets of Mauritius so that their capacity to sustain the society and its development remains unimpaired;
 - (b) Ensuring harmony between quality of life, environmental protection and sustainable development for the present and future generations;
 - (c) The legal framework and the mechanism to protect the natural environment;
 - (d) Planning for environmental management and coordination of the inter-relations of environmental issues.

Environmental Stewardship

95. An important concept put forward by the EPA 2002 is Environmental Stewardship, which puts a duty on each and every citizen of Mauritius to preserve and enhance the quality of life by caring responsibly for the natural environment.

Environmental Impact Assessment

96. In order to mitigate environmental impacts resulting from developments taking place throughout the island, the EPA 2002 warrants an Environmental Impact Assessment (EIA) licence or a Preliminary Environmental Report approval for scheduled undertakings. These licences are granted after carefully evaluating all possible impacts and the means of mitigation. This mechanism is an important tool to ensure a sound and sustainable environment.
97. The EPA provides for an appellate mechanism; the Environment Appeal Tribunal hears and determines appeals made by persons aggrieved by the decision of the Minister.

Environment Protection Fee (EPF)

98. The EPA makes provision for a green tax based on the “Polluter Pays Principle” (PPP). The Environment Protection Fee is the first step in the phased introduction of the PPP and was introduced in 2000. The EPF is presently levied on hotels, boarding houses and the stone crushing industry and will be extended to other sectors in the future.

99. The EPA is presently in the process of being amended to make it more responsive to the challenges being posed by the new economic architecture and to ensure corporate environmental ethics.

Standards and regulations

100. The EPA also provides for the formulation of regulations and standards pertaining to protection of the environment. A series of regulations and standards have been made; including standards for drinking water quality, noise, air and regulations for discharge of effluent. In 2005, regulations providing for the declaration of 41 other enactments or part of enactments as environmental laws were made to enable use of the enforcement mechanism under the EPA. A few examples of environmental laws are the Ground Water Act, the Fisheries and Marine Resources Act and the Noise Prevention Act.

Other laws

101. Apart from the EPA, there are other sectoral legislations, which deal with environmental issues, such as the Local Government Act for solid waste management, the Planning and Development Act for land use issues and the Public Health Act for environmental nuisances and sanitation.

Institutional set-up

102. The EPA provides for the setting up of the institutional framework and other organizational system for managing the environment. The Ministry of Environment, through its Technical Department of Environment, maintains the primary responsibility of ensuring environmental protection, planning, monitoring, coordination and awareness-raising.

103. The National Environment Commission is the supreme environmental body chaired by the Prime Minister and comprising of all the Ministers dealing with environmental protection. It is the highest policy-making body mandated to monitor and review the work of public departments dealing with environment and make recommendations accordingly.

104. The Environment Coordination Committee (ECC) is steered by the Ministry of Environment. Public departments and enforcing agencies dealing with environmental protection meet in this platform to ensure that environmental laws, including standards, and policies are being complied with. The committee also advises the Minister on matters relating to pollution control measures and codes of practice for environmental protection.

105. The Environmental Liaison Officers (ELO) meeting, provided for under the EPA, ensures coordination among Enforcing Agencies for enforcement of environmental laws.

106. The national network for sustainable development under the chairmanship of the Minister of Environment and comprising of representatives from the public sector, private sector, parastatal bodies, NGOs, academia, acts as a forum for discussions and consultations on environmental policies and plans, quality & state of the environment, integrated pollution prevention and control, built-up environment and visual pollution in order to protect the environment and to achieve sustainable development.

107. The National Environment Fund is one of the co-funding mechanisms established under the EPA 2002 to fund projects, promote environmental education and research, support environmental NGOs and encourage local initiatives amongst others for the benefit of environment.

Environmental policies

108. The present policies for environmental management are contained in several documents such as the National Environment Policy (NEP) of 1991, the National Environmental Strategies (NES) of 1999 and other sectoral plans. The NES, which is a 10-year planning framework for environmental management, was commissioned to meet the challenges of changing production and consumption patterns which result as a consequence of economic growth. The 1991 policy has been reviewed into the draft White Paper on new National Environment Policy. The NES is under review to include emerging environmental concerns and the implementation of multilateral environmental agreements.

109. The NEP of 1991 sets out the principle that the Government shall ensure that there exists an appropriate legislation, enforcement and judicial mechanism, which guarantees to the citizens protection from the risks associated with pollution. It also fosters the “Polluter Pays Principle” in that the polluter must pay for the cost of cleaning up the pollution.

110. The National Environment Policy is now being reviewed in order to have a consolidated comprehensive policy statement. The need for this new policy is driven foremost by the fact that Sustainable Development is recognised as the dominant development paradigm in the present global context. This environment policy framework, anchored in the concept of SD will incorporate the relevant recommendations of the various global conferences on environment [Rio Earth Summit (1992), Millennium Development Summit (2000), Johannesburg World Summit (2002) and Mauritius International Meeting on Small Island Developing States (2005)]. Emphasis is being laid on improving environmental governance:

1. Improved access to information (public information centre, raised level of awareness across all stakeholders groups, websites, early warning in case of disasters such as tsunami/oil spills)
2. Enhanced public participation in decision making (e.g. comments during EIA process and environmental standards/policy/strategy development/ICZM Committee)
3. Strengthened enforcement (including decentralisation to local authorities, empowerment of enforcing agencies, recourse to Ombudsperson)

4. Innovative Enforcement mechanisms like fixed penalties
5. E-Government Services (online environment complaints)
6. Access to justice (e.g. Redress in court)
7. Liability and compensation in case of spills and environmental emergencies
8. Adaptation measures with regard to the impact of climate change in all spheres of economic and social activities

C. Information on non-discrimination and equality and effective remedies

Convention on the Rights of Persons with Disabilities

111. Government is committed to upholding and applying the provisions of the UN Convention on the Rights of Persons with Disabilities. In this context, a Steering Committee under the aegis of the Ministry of Social Security and National Solidarity is looking into the implementation of the Convention and is organising activities to raise awareness on this issue, with a view to proceeding with ratification of the Convention at the earliest.

The Constitution of Mauritius

112. **Section 3 of the Constitution entitled: “Fundamental rights and freedoms of the individual”** reads:

It is hereby recognised 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 the 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 of 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.

113. **Section 16 of the Constitution entitled “Protection from discrimination”** reads:

(1) Subject to subsections (4) (5) and (7), no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to subsections (4), (5) and (7), no law shall make any provision that is discriminatory either of itself or in its effect.

(3) Subject to subsections (6), (7) and (8), no person shall be treated in a discriminatory manner 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.

(4) In this section, “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.

(5) Subsection (1) shall not apply to any law so far as that law makes provision -

(a) for the appropriation of revenues or other funds of Mauritius;

(b) with respect to persons who are not citizens of Mauritius; or

(c) for the application, in the case of persons of any such description as is mentioned in subsection (3) (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law applicable to persons of that description.

(6) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, caste, place of origin, political opinions, colour, creed or sex) to be required of any person who is appointed to any office in the public service, any office in a disciplined force, any office in the service of a local authority or any office in a body corporate established directly by any law for public purposes.

(7) Subsection (2) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or (5).

(8) *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 whereby persons of any such description as is mentioned in subsection (3) may be subjected to any restriction on the rights and freedoms guaranteed by sections 9, 11, 12, 13, 14 and 15, being such a restriction as is authorised by section 9(2), 11(5), 12(2), 13(2), 14(2) or 15(3), as the case may be.*

(9) *Subsection (2) shall not affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.*

The Sex Discrimination Act 2002

114. The **Sex Discrimination Act 2002** came into force on 8 March 2003 and is designed “to provide for the elimination of all forms of gender discrimination and sexual harassment in certain areas of public activity”. The Act prohibits discrimination in employment: no employer is allowed, in relation to recruitment, selection or employment, to discriminate on the grounds of sex, marital status, pregnancy or family responsibility. Discrimination in education, in accommodation, in the disposal of property, in companies and partnerships, in clubs is strictly prohibited under the provisions of the Sex Discrimination Act.

115. In addition, the **Sex Discrimination Act 2002** in its Part IV also penalizes acts of sexual harassment (defined as unwelcome sexual advances, unwelcome requests for sexual favours, and unwelcome conduct of a sexual nature). In particular, no employer may sexually harass an employee or a job seeker, no employee may harass a fellow employee, no staff of an educational institution may sexually harass a colleague or a student.

116. The Sex Discrimination Division of the National Human Rights Commission is empowered to receive and enquire into any written complaint relating to alleged infringements of the Sex Discrimination Act. The functions of the Division also include promoting the understanding and application of the Act.

117. The Non-Citizens (Employment Restriction) Regulations have been made in 2001 regarding non-citizens married to Mauritians so that they are now exempted from the need to obtain a residence permit.

118. Section 3 (1) of the Social Aid Act **provides that a person who, as a result of -**

Any physical or mental disability;

Any sickness or accident certified by an approved medical practitioner;

Abandonment by his spouse; or

Any sudden loss of employment which has lasted continuously for not less than 6 months, is temporarily or permanently incapable of earning adequately his livelihood and has insufficient means to support himself and his dependants;

Shall be qualified to claim social aid.

119. **Section 4 of the Training and Employment of Disabled Persons Act** provides for a Board which shall prevent discrimination against disabled persons resulting from or arising out of their disability; amongst others. *Please refer to comments on article 15.*

120. **Section 3 of the Society for the Welfare of the Deaf Act** provides for the objects of the Society which shall aid, train and educate all deaf persons; assist deaf persons in obtaining medical treatment and suitable employment; grant deaf persons any material relief of which they may be in need; and erect, open and manage training centres, schools and hostels.

121. **Section 3(1) of the Unemployment Hardship Relief Act** provides that every person under the age of 60, who is unemployed, has a wife or a child or who is a disabled person, satisfies the prescribed conditions relating to residence; and whose resources are insufficient to meet his requirements, shall be qualified to claim hardship relief.

122. The Ministry of Social Security which is also responsible for the subject of national solidarity and senior citizens has undertaken a host of measures with regard to the protection and welfare of the elderly and disabled persons.

123. Moreover, persons aged 60 and above benefit from a pension from Government. Pensioners and disabled persons as well as students during school hours are also eligible for free bus transport.

124. **The Trust Fund for Soroptimist Day Care Centres for the Elderly Act** was enacted in 2004 to set up a Trust Fund to establish and operate day care centres to provide day care, nursing and other services to the elderly and promote the welfare of the elderly generally.

125. **The Protection of Elderly Persons Act** was passed in 2005; the object of the Act is to set up a legal and administrative framework to ensure that adequate protection and assistance are made available to elderly persons in Mauritius and Rodrigues. The Act makes provision for the creation of the following institutional mechanisms to, inter-alia, ensure, promote and sustain the physical, physical, emotional, social, cultural and economic protection of elderly persons:

- A Protection of the Elderly Network
- A Monitoring Committee for the Elderly
- An Elderly Person's Protection Unit and
- Elderly Watch for different regions of Mauritius

The Lois Lagesse Trust Fund and The Mauritius Union of the Blind

126. Lois Lagesse Trust Fund and the Mauritius Union of the Blind provide training for persons with disabilities in Mauritius. The Lois Lagesse Trust Fund caters for people with visual disability in Mauritius. Its main objective is to educate, train and seek employment for them. It runs a Primary School and a pre-primary unit, and a programme to identify and rehabilitate disabled persons through home visits. It provides equipment and mobility aids (white canes). It runs a sheltered workshop where persons with visual disability are involved in basketry and canework. Other services include training in mobility and orientation, guidance and counselling, job placement, home visits and talking library. It also runs a Resource Centre on visual impairment.

127. Mauritius Union of the Blind runs a school for persons with visual disability. It also runs a unit in a mainstream school and prepares visually impaired children and adults to integrate society by providing them with training in mobility, orientation, daily living skills and education. The Union is also involved in sports and cultural activities.

General policies

128. The Ministry of Social Security and National Solidarity also provides for 5,000 inmates of charitable institutions, disabled children attending special schools and elderly persons aged 90 and above to be vaccinated against influenza. In addition, this year, persons aged 65 and above will also be vaccinated. In this context, the Ministry is purchasing 45,000 vaccines.

129. One of the objectives of Government as per Government Programme 2005-2010 is to promote the concept of an inclusive society so that persons with disabilities are better integrated in the mainstream of society. To achieve this goal, a host of measures are being taken.

Pensions and allowances

130. In line with the UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities which stipulate that States should ensure the provision of adequate income support to persons with disabilities, a wide range of pensions and allowances are provided to disabled persons. These include the Basic Invalidity Pension, Social Aid where it is applicable and Carer's Allowance to those who are severely disabled.

Assistive devices

131. With a view to enhancing the mobility of disabled persons, a host of devices like wheelchairs and hearing aids are provided to those in need.

Education

132. To create an inclusive society, it is important that children with disabilities benefit from education on the same level as non-disabled children.

133. In this context, the Ministry of Education and Human Resources has come up with a Strategy Paper on Inclusive Education. Efforts are being made to integrate more and more disabled children in mainstream schools.

134. At the level of the Ministry of Social Security, incentives are provided to children with disabilities to pursue secondary and tertiary studies. For example, they benefit from a scholarship scheme known as the François Sockalingum Award.

135. Furthermore, to encourage parents to send their disabled children to schools, bus fares of children are refunded if they travel by special means of transport. In case they are accompanied, the bus fare of the accompanying parent is refunded too. For those who travel by ordinary means of transport, free bus passes are provided.

136. The target is to enable the maximum number of children with disabilities to study in mainstream institutions. Those who are severely disabled will continue to attend special schools run by NGOs.

Training and employment

137. A cornerstone of Government's policy is to empower persons with disabilities. One way of doing so is to provide quality training to disabled persons so that they can access the labour market and join the world of work. This will enable them to become self-reliant. They can earn a living and lead an independent life.

138. In this context, a Memorandum of Understanding has been signed between the Training and Employment of Disabled Persons Board and the Industrial and Vocational and Training Board (IVTB). The latter has agreed to open its training institutions to disabled persons who will benefit from the same kind of training as non-disabled persons. Employers will also be sensitised on the need to provide job opportunities to trained disabled persons.

139. Steps are also being taken to make the civil service more disabled-friendly.

140. On the other hand, micro-credit facilities will be provided to encourage disabled persons to be self-employed.

Accessibility

141. No integration can be effective without making public buildings and places accessible to persons with disabilities.

142. In this context, regulations have been made under the Building Act to make new public buildings accessible to disabled persons. A workshop will be held soon to enhance awareness of those regulations among all professionals concerned.

143. Necessary amendments will be made to the relevant legislations to make roads and pavements more accessible to the disabled.

144. Accessibility also means access to information. In this context, a Mauritian Sign Language (MSL) is being developed. News on TV is being signed for the benefit of deaf citizens.

Sports, culture and leisure

145. The talents of persons with disabilities have to be developed. In this context, it is proposed to set up a national troupe of artists with disabilities.

146. Disabled persons should also have access to leisure activities. In this context, apart from holiday camps, there will be special programmes for disabled persons in hotels, parks, shopping centres, etc. Activities will also be organised in collaboration with the Ministry of Tourism and Leisure (*please also refer to comments under Article 2 below*).

II. TREATY SPECIFIC DOCUMENT

A. General provisions of the Covenant

Article 1. Right to self-determination

The Chagos Archipelago

147. Ever since the unlawful excision of the Chagos Archipelago, including the island of Diego Garcia from the Mauritian territory in 1965, the Republic of Mauritius has been insisting with the Government of Britain and the international community that the sovereignty of Mauritius be restored over what is now referred to by the United Kingdom as the British Indian Ocean Territory (which Mauritius does not recognise).

148. The United Kingdom Government has given an undertaking to the effect that the Chagos Archipelago would be “returned” to Mauritius when it is no longer required for defence purposes.

149. A member of the Chagossian community first instituted legal proceedings before the English courts in the mid 1970’s but the case was withdrawn following an agreement between the parties. A sum of GBP 4 million was paid for the benefit of the Chagossian community in Mauritius. In 1998 another member of that community challenged the validity of the British Indian Ocean Territory Immigration Ordinance of 1971 prohibiting the entry of any person into the territory without a permit.

150. The Ordinance was held invalid in a High Court ruling **R v. Secretary of State for the Foreign Commonwealth Office, ex parte Bancoult [2000 ICHRL 81]**. The immigration law was in consequence amended to allow Chagossians to return and reside in any part of the territory (except on Diego Garcia for defence reasons).

151. In 2002 the Chagos Refugee Group, a Mauritius-based group of Chagos islanders applied to the UK courts for further compensation, but the High Court ruled however in favour of the British Government on all claims brought.

152. The High Court of England and Wales held in their judgment delivered on 11 May 2006 [2006] EWHC 1048 (Admin) that the Chagossian people have the right to return to their homeland i.e. the Chagos Archipelago excluding Diego Garcia, thereby rendering nugatory the Order in Council issued by Her Majesty in Council namely the British Indian Ocean Territory (Constitution) Order 2004 which declared that no person has the right of abode in BIOT nor the right without authorisation to enter and remain there.

153. The Government appealed against that decision and on 23 May 2007 the Court of Appeal (Civil Division) ruled once again in favour of the Chagossians. The Court did not grant the Government leave to appeal; however, it ruled that the Government seek permission from the House of Lords for permission to appeal the decision. The Government applied to the House of Lords for permission to appeal in June 2007. The House of Lords has to date not made a decision.

Tromelin

154. This island situated 350 miles northwest of Mauritius is a subject of dispute between Mauritius and France. There are ongoing bilateral negotiations with the French Government in this respect and a Joint Meeting of Legal Experts was held in Paris in January 2006.

Rodrigues

155. In 2001, the Constitution (Amendment) Act was passed by the Parliament of Mauritius to give a certain degree of autonomy to its dependant territory of Rodrigues. The Rodrigues Regional Assembly Act was enacted the same year establishing a Rodrigues Regional Assembly, which can make and implement its own policy in a number of specified areas of responsibility.

The Local Government Act

156. This Act which is partly in operation was adopted in 2003 and provides for further decentralisation and transparency in the performance of the functions of local authorities in Mauritius. The Local Government Act is being comprehensively reviewed by a British expert.

The electoral system

157. Mauritius enjoys a system of free and fair elections and each 5 years general elections are held by the office of the Electoral Commissioner for these purposes. International observers as well as an independent Electoral Supervisory Commission (established under the Constitution) oversee the elections.

Right to the free disposal of natural wealth and resources

Progress in management of natural resources

158. Mauritius has a narrow natural resource base comprising of very limited land resources, freshwater, air, coastal & marine resources, biodiversity (flora & fauna), solar and wind energy and mineral resources.

Land use

159. With regard to land use and management, Government has developed new laws and new institutional arrangements to manage change efficiently and sustainably, whilst allowing flexibility and innovation. These are:

The National Development Strategy

The review of the town planning legislation

Democratisation of Land, a Strategy for Social Change

Land Administrative Reform

Freshwater

160. Safe water and sanitation for all have been a principal feature of development. Steps have been taken in recent years to increase supply, reduce water cuts, improve water quality and reduce pollution of water resources. Future plans include improving integrated management to ensure better supply and more effective use of water, especially in agriculture and in industry, the heaviest users.

Biodiversity

161. A high proportion of native plants are threatened or endangered mainly due to introduced exotic plants. Major conservation and restoration projects for plants and birds in mainland of Mauritius and outer islets have proved successful. Mauritius has also prepared its Biodiversity Strategy and Action Plan.

Coastal resources

162. In addition to the terrestrial biodiversity, Mauritius has a rich coastal and marine biodiversity including coral reefs, mangroves and wetlands. The establishment of a 200-nautical mile Exclusive Economic Zone (EEZ) has vastly increased the fisheries and other marine resources available.

163. Major initiatives to protect the coastal zone have been undertaken as part of the integrated coastal zone management, including the banning of sand mining from the lagoon, mangrove planting programme, coastal protection works with *gabions*, the development of methods for beach nourishment, a national sewerage programme and daily beach cleaning.

Air

164. Though the ambient air quality is well within our Air Standards, local air pollution occurs principally due to emissions from the industrial sector and the transport sector. Government has defined a strategy to improve air quality in Mauritius which consists of:

- Introduction of diesel with lower sulphur content
- Introduction of unleaded petrol
- Enactment of legislation for the control of vehicular emissions
- Fiscal incentives to encourage use of autogas

165. The Air Standards have been reviewed. Government also plans to devise and implement policies and management tools to improve air quality.

Article 2. Right to non-discrimination

Guarantee of ICESCR rights to non-nationals

166. Non-nationals are subject to the laws of the country and, whilst they are in Mauritius, the same rights and freedoms apply to them as to Mauritian nationals. Notwithstanding this guarantee, section 16 of the Mauritian Constitution (as permitted by section 1(2) of the International Convention on the Elimination of All Forms of Racial Discrimination) provides for differentiation between citizens and non citizens within the law. Such distinctions inevitably deal with immigration, property rights and work-related issues.

167. Section 24 of the Constitution (as amended in 1995) ensures that the right to be registered as a citizen of Mauritius now applies equally to the foreign husband of a Mauritian woman as it did to the foreign wife of a Mauritian citizen.

The Immigration Act

168. The Act is aimed at regulating the admission and stay of people in Mauritius. It provides for the conditions under which different categories of people may be allowed to enter Mauritius or, being in Mauritius, may be allowed to remain there. These people may be classified as Citizens of Mauritius, Residents, Persons residing in Mauritius by virtue of an Occupation Permit, Permanent Residents, and Exempted Persons. A Citizen of Mauritius shall be allowed to enter Mauritius or, being in Mauritius, to remain there so long as he holds his status of Citizen.

169. Certain persons, not being citizens of Mauritius, may, upon satisfying certain conditions, have the status of Resident. These persons include Commonwealth citizens, aliens, the spouses of Citizens, their dependent children, persons who hold immovable property under the Integrated Resort Scheme under the Real Estate Development Scheme prescribed under the Investment Promotion Act, persons registered as investors, self-employed non-citizens or retired non-citizens with the Board of Investment, and holders of residence permits issued by the Prime Minister.

170. Residents are allowed to enter Mauritius or, being in Mauritius, to remain there so long as they hold the status of Resident.

Persons residing in Mauritius by virtue of an Occupation Permit

171. Notwithstanding the paragraphs relating to Residents and the Non-Citizens (Employment Restriction) Act:

(a) Any investor, self-employed non-citizen, employer of a professional, or retired non-citizen shall, through the Board of Investment, apply to the immigration officer for an occupation permit authorising the investor, self-employed non-citizen, professional, or retired non-citizen, as the case may be, to become a resident; and

(b) Any individual who is a non-citizen may, through the Board of Investment, apply to the immigration officer for a short-term occupation permit authorising him to reside and to work in Mauritius during a period not exceeding 9 months.

172. The immigration officer shall determine the application within 2 working days of the date of receipt of same. Where the application is not determined within the said 2 working days, it shall be deemed to have been approved.

Permanent Residents

173. A Permanent Resident is someone who has been granted a permanent residence permit. Where specified conditions are satisfied, the Minister may grant a permanent residence permit to the following people:

A person registered as an investor, a self-employed non-citizen or a retired non-citizen with the Board of Investment; or

A non-citizen who has been employed to work in Mauritius during at least 3 consecutive years immediately preceding his application;

The spouse or dependents of the persons referred to in paragraphs (a) and (b) above.

174. The actual Permanent Residence Permit is for a period of 10 years. With regard to non citizens who have purchased an Integrated Resort Scheme villa, a Permanent Residence Permit is granted so long as he still possesses the villa.

175. A Permanent Resident shall be allowed to enter Mauritius or, being in Mauritius, to remain there so long as he holds his status of Permanent Resident.

Exempted Persons

176. Exempted Persons are persons who may be conditionally admitted to Mauritius. These persons include, amongst others, diplomatic or consular officers, tourists or other visitors or persons coming for business (who are admitted for a period of 60 days), and persons who are investors under the Permanent Resident Scheme prescribed under the Investment Promotion Act.

177. An Exempted Person shall be allowed to enter Mauritius or, being in Mauritius, to remain there so long as he holds his status of Exempted Person.

178. Certain persons shall be deemed to be prohibited immigrants and shall not be admitted to Mauritius. These include, amongst others, persons who are likely to be a charge on public funds and persons declared suspected international terrorists under the Prevention of Terrorism Act 2002.

Rights specifically subject to non-discrimination provisions in national law

179. An account of the implementation of these rights has been given under Section I above.

B. Specific provisions of the Covenant

Article 6. Right to work

180. Mauritius acceded to the International Convention on the Elimination of All Forms of Racial Discrimination on 29 June 1972, and to the Convention on the Elimination of All Forms of Discrimination against Women in 1984.

Women and employment

181. 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 of any other person on the grounds of sex, marital status, pregnancy or family responsibility in:

The advertisement of the job;

The arrangements made for the purpose of determining who should be offered for employment;

The terms and conditions on which employment is offered;

The creation, classification or abolition of jobs.

182. Wages and other terms and conditions of employment in the private sector are prescribed by Remuneration Order Regulations in 29 sectors or by collective agreement and arbitration awards. The wages are fixed on the basis of sectors and grades without distinction between male and female employees. There are, however, a few sectors of employment, namely the sugar industry, field crop and orchard sector, tea industry, livestock sector and salt-manufacturing industry, where basic wages are prescribed on a gender basis owing to the strenuous nature of some operations which female employees are not compelled to perform.

183. 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.

184. 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. In its last report issued in 2003, the PRB has replaced all gender-based job appellations by gender-neutral ones.

185. The table below gives the percentage distribution of the employed population. It shows that most working persons were engaged in the manufacturing sector, which provided jobs to 31% of employed women and 19% employed men. Among women, wholesale and retail trade, etc provided a further 15% of jobs, followed by education (9%) and “agriculture and fishing” (8.5%).

Per cent employment by industry and sex, 2006

Industrial Group	Male	Female
Agriculture, forestry and fishing	10.4	8.1
Mining and quarrying	0.1	0.0
Manufacturing	18.4	26.7
Electricity, gas and water	1.0	0.1
Construction	15.2	0.5
Wholesale and retail trade, etc	13.1	15.9
Hotels and restaurants	7.1	7.0
Transport, storage and communication	9.1	2.9
Financial Intermediation	1.6	2.7
Real estate, renting & business activities	4.6	3.9
Public administration and defence	9.0	5.0
Education	3.9	9.2
Health & Social work	2.3	4.9
Other community, social and personal services	4.4	13.0
Total	100	100

Source: CSO, Continuous & Multipurpose Household Survey (CMPHS) 2006.

186. Working women tend to concentrate in small industrial sectors. The top 3 industries for women accounted for 55% of women’s employment while the top 3 industries for men absorbed 49% of male’s jobs.

Table on Employment in Government Services by occupation and sex (2007)

**A. Employment in Government Services by occupation & sex,
Republic of Mauritius, March 2007**

Occupation	Male	Female	Both sexes
Legislators, senior officials & managers	1 218	801	2 019
PS	18	9	27
PAS	33	23	56
Director/Manager	132	73	205
Rector, Principal	60	35	95
Head teacher, Deputy head teacher	525	527	1 052
Deputy/Assistant Director/Manager	43	16	59
Ambassador	18	3	21
First Secretary	19	4	23
Second Secretary	28	16	44
Senior Chief Executive	3	2	5
Minister Counsellor, Deputy High Commissioner	4	0	4
Other	335	93	428
Professionals	2 897	2 164	5 061
Judge	7	5	12
Magistrate	14	25	39
Law officers (Barristers)	26	28	54
Law Officers (Attorneys)	3	8	11
Doctor (medical)	641	202	843
Dentist	41	17	58
Pharmacist	13	8	21
Engineer	93	5	98
Economist	26	20	46
Statistician	18	10	28
Education Officer	1 126	1 552	2 678
Scientific Officer	33	13	46
Inspector, Supervisor - primary	67	36	103
Auditor, (senior/principal)	33	24	57
Accountant	12	4	16
Analyst/programmer	30	47	77
Advisor	54	6	60
Surveyor	59	4	59
Architect	21	6	27
Librarian	3	13	15
Other	577	131	708
Technicians & associate professionals	9 054	9 383	18 437
Teacher, Senior Teacher	1 739	3 101	4 840
Technical officer, technician & technical assistant (agricultural sector)	199	67	266
Dispenser	168	52	220
Nursing officer, midwife, ward asst. & student nurse	1 486	2 203	3 689
Assistant Secretary	56	66	122
Establishment Officer	31	96	127
Executive Officer, HEO	245	468	713

**B. Employment in Government Services by occupation & sex,
Republic of Mauritius, March 2007**

Occupation	Male	Female	Both sexes
Social Security Officer, Higher SSO, Senior SSO	219	260	479
Customs Officer	7	4	11
Labour Inspector	45	31	76
Statistical Officer, Senior SO	57	83	140
Personnel officer/Senior PO	49	73	122
Community health worker	51	179	230
Infant school teacher (pre-primary)	1	127	128
Instructor/instructress (dressmaking, etc.)	0	101	101
Finance Officer/Assistant Finance Officer	222	343	565
Examiner of accounts/Senior	37	43	80
Office Superintendent	14	28	34
Purchasing & Supply Officer	337	118	415
Other	4 091	1 940	6 031
Clerks	1 540	3 919	5 459
Clerk, clerical officer, school clerk	1 306	2 277	3 583
Confidential Secretary, typist/WPO & stenographer	21	1 432	1 453
Data entry operator	2	47	49
Telephonist	134	44	178
Other	77	119	196
Service workers	11 277	702	11 979
Police Constable, Officer, Sergeant	9 515	544	10 059
Prison Guard/Officer	817	70	887
Cook	150	59	209
Fireman/fire officer	729	0	729
Other	66	30	96
Skilled agricultural & fishery workers	282	1	283
Craft & related trade workers	3 312	35	3 347
Plant & machine operators	2 015	18	2 033
Elementary occupations	12 995	1 546	14 541
Labourer/agricultural worker/gardener	4 836	261	5 097
Caretaker, Senior caretaker	763	112	875
Attendant, hospital servant/domestic	3 278	1 118	4 396
Cleaner & Sanitary Attendant	104	14	118
Other	4 014	41	4 055
Total	44 561	18 533	63 094

Article 7. Right to enjoyment of just and favourable conditions of work

187. The Labour Act governs the relationship between employers and employees in the private sector. It regulates the terms of contracts of employment or service, 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.

188. Wages for the private sector are prescribed by Remuneration Order (RO) Regulations in 29 different sectors of the economy, following recommendations made by the National Remuneration Board (NRB), an independent body established under section 45 of the Industrial Relations Act. Minimum wages are also fixed by collective agreements or arbitration awards.

189. Wages in the public sector are recommended by the Pay Research Bureau (PRB) and are fixed on the basis of the job content without any distinction between male and female workers. In its last report issued in 2003, the PRB has replaced all the job appellations based on gender by gender-neutral appellations in regard to the same grade of employees. However, in a few limited cases e.g. the disciplined forces, the health and education sectors, the sex specific job categories have been maintained to ensure recruitment of the appropriate number of persons by sex to meet the needs of the particular service, e.g. a number of female ushers are required for schools catering for female student population, female prisons officers for prisons catering for female detainees, etc.

190. The national policy pursued by Government to promote equality of opportunity and treatment is reflected in various legal and practical measures adopted or envisaged. These include:

The protection against all forms of discrimination as enshrined in our Constitution

The introduction of the Sex Discrimination Act in December 2002 with, *inter alia*, the following objectives:

(a) To eliminate discrimination on grounds of sex, marital status, pregnancy or potential pregnancy in the area of employment;

(b) To eliminate discrimination involving dismissal of employees on ground of family responsibilities;

(c) To eliminate discrimination involving sexual harassment at workplace, in educational institutions and in other areas of public activity.

191. The **Occupational Safety and Health Act 2005**, proclaimed on 1 September 2007, makes provision for the safety, health and welfare of workers. This piece of legislation is being enforced by the Occupational, Safety and Health Division of the Ministry of Labour, Industrial Relations & Employment through inspection at workplaces, investigations into complaints, accident investigation and prosecution.

192. Under the Act, any enterprise employing more than 100 employees is required to employ a Health and Safety Officer. The role of the Health and Safety Officer is to:

- Ensure a safe and healthy work environment

- Educate and train workers in safe work practices, and
- Reduce or eliminate risks in the workplace

193. All accidents and injuries are notified to the Ministry of Labour, Industrial Relations and Employment. The highest number of accidents has been noted in the agriculture and the construction sectors. However statistics from the Ministry of Labour, Industrial Relations and Employment have shown a constant decrease in the number of accidents over the past few years in all the sectors especially in agriculture and construction. This is the result of education, training and regular visits to ensure compliance with the law.

194. The following mechanisms are in place for the prevention and control of accidents and injuries at work:

(a) The Occupational Safety and Health Act under the jurisdiction of the Ministry of Labour, Industrial Relations and Employment;

(b) The Dangerous Chemicals Control Act under the jurisdiction of the Ministry of Health and Quality of Life;

(c) The Environment Protection Act under the Ministry of Environment;

(d) The Occupational Safety and Health Inspectorate of the Ministry of Labour, Industrial Relations and Employment ensures compliance with the law through regular visits;

(e) The Occupational Health Unit and the Dangerous Chemicals Board of the Ministry of Health and Quality of Life ensure that workplaces are safe and workers are healthy and free from occupational diseases. Workers are seen at public health institutions, free of any user cost. A Health Screening Campaign especially for Non Communicable Diseases through the “*Caravane de Santé*” is carried out for all workers at the workplace;

(f) Health education and training of workers are important components in injury prevention and control and are carried out mainly by the officers of the Ministry of Labour, Industrial Relations and Employment, the Ministry of Health and Quality of Life, Health and Safety Officers and the Government Fire Services.

195. There is no specific provision in the labour law guaranteeing equal opportunity to everyone to be promoted in employment to a higher level subject to no consideration other than those of seniority and competence. In the public sector, appointments are made by promotion or selection by the Public Service Commission, a body established under the Constitution.

196. The Labour Act and the various Remuneration Orders provide for an average maximum of 45 hours’ work made up of 8 hours on 5 days of the week and 5 hours on one day with at least one day’s rest per week. It also provides for the grant of annual leave and for payment in respect of public holidays other than Sundays after 12 months’ continuous employment.

Article 8. Right to form and join trade unions and right to strike

197. **The Constitution** provides for the Protection of freedom of assembly and association at section 13, which 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.

198. The **Industrial Relations Act (IRA)** regulates the registration and administration of trade unions, the settlement of industrial disputes, the promotion of harmonious industrial relations, the establishment of a Permanent Arbitration Tribunal, an Industrial Relations Commission and a National Remuneration Board.

199. The right to organise has been explicitly recognised in the IRA. Section 49(1) protects in unambiguous terms the right of workers to be or not to be a member of a trade union and to participate in trade union activities, including the right to seek and hold appointment or election as officers of a union. Section 49(2) also protects the workers against discrimination, victimisation or termination of employment by the employer in the exercise of this right.

200. Section 27 of the IRA allows for the formation of a federation but does not make any provision for the formation of confederation or the right of unions to join international trade union organization. However, a number of confederations exist and several trade unions are affiliated to International Trade Union Organisations.

201. The actual powers of the Registrar of Associations as regards the internal administration of trade unions are considered to be excessively arbitrary and paternalistic by the trade unions. The intervention of the Registrar in the administration of the trade unions is viewed as a serious hindrance to the autonomy of these organisations.

202. Under the IRA, a strike becomes unlawful unless a dispute has been reported to the Minister and within 21 days there has been neither settlement nor a referral either to the Industrial Relations Commission or the Permanent Arbitration Tribunal and the strike starts within 56 days from the date of the receipt of the report by the Minister.

203. A draft **Employment Relations Bill** meant to replace the IRA was released on 30 August 2007 for consultation with the stakeholders. The Bill focuses on, *inter alia*:

- Protection and enhancement of the democratic rights of workers and trade unions
- Simplification of the procedures for registration and recognition of trade unions
- Promotion of collective bargaining
- Promotion of voluntary settlement and peaceful resolution of disputes
- 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
- Building of a productive employment relationship

Article 9. Right to social security

204. The social security system of Mauritius provides, in respect of contingencies like old age, invalidity, death of bread winner, sickness, unemployment, employment injury, for the provision of: basic benefits, social aid, unemployment hardship relief, contributory pensions, industrial injury benefits and refund of contributions made to National Savings Fund and interests.

Basic benefits

205. All basic benefits are non-contributory and are paid on a universal basis. They represent about 18% of average earnings.

206. A Basic Retirement Pension (BRP) (previously referred to as the Old Age Pension) is presently payable as from the age of 60 for both men and women. Government intends to increase the retirement age to 65 years over a period of 10 years beginning as from August 2008. An additional BRP is payable to beneficiaries who are substantially disabled and need the constant care and attendance of another person.

207. A Widow's Basic Pension is payable to a widow under the age of 60 who has not contracted a subsequent civil or religious marriage. In addition a child allowance is paid in respect of children (maximum 3) up to age 15, or up to 20 years if attending school.

208. An Invalid's Basic Pension is payable to a person between the ages of 15-59 years, who has been at least 60% disabled for a period of not less than 12 months. A child allowance is payable as at (b) above. A carer's allowance is also payable to invalid persons who need the constant care and attention of another person.

209. An Orphan's Basic Pension is payable in respect of a child whose parents are dead or unknown. There is no limit to the number of children. The entitlement to the pension lasts till age 15 or 20 if the child is at school. A Guardian's Allowance is equally paid along with the pension.

Types of contributory pensions

210. Along with a basic pension, a contributory pension is also payable.

211. A Contributory Retirement Pension (CRP) is payable to every person at the age of 60, who has contributed to the National Pension Fund (NPF). The scheme provides a pension of 1/3 of average earnings after 40 years of contributions to employees contributing at the standard rate of 9%, and a pension of 1/2 of average earnings to those contributing at the higher rate of 13.5% of basic income, subject to a ceiling.

212. A Contributory Widow's Pension (CWP) The scheme provides for a CWP of at least 1/6 of average earnings of the late husband. On remarriage a widow (under 60) is entitled to a lump sum equal to 12 times the CWP. At the age of 60, she is entitled to inherit the contributory retirement pension of her late husband.

213. A Contributory Invalidity Pension (CIP) is paid along with an Invalid's Basic Income and is based on the contributions standing to the account of the employee. The scheme provides for a maximum CIP of 1/6 of the employee's average earnings.

214. An Orphan's Contributory pension - The amount of pension payable to each orphan is 15 per cent of the higher contribution pension that was or would have been payable to either parent. There is no limit to the number of children in respect of whom an orphan's contributory pension is payable.

Enhancement of contributory pensions

215. The scheme started in 1978, and it was necessary to make provision for enhancing the level of benefits for those who could not work for 40 years in view of their age at that time. Hence the contributions of all those employees who were above 40 years in 1978 were doubled, and those who were between 21 and 40 years in 1978 would be considered as having contributed for 40 years at the time of retirement.

Inflation proofing

216. Every year pensions are increased in line with the Consumer Price Index so that their real value is maintained.

Industrial injury scheme

217. Industrial injury benefits are payable to an employee who is a member of the scheme suffering injury or death caused by an accident arising out of and in the course of his employment or by a prescribed occupational disease.

218. These benefits are also payable to an employee who is incapacitated or disabled in an accident while travelling as a passenger to and from his place of work in a vehicle provided by his employer.

219. All employees aged between 18 and 65 in respect of whom contributions are payable and all employees aged between 15 and 18 without any contributions are covered under the scheme.

220. Self-employed and non-employed persons who have become members of the National Pension Scheme (NPS) are not covered for industrial injury benefits.

Entitlement

221. The employer is required to pay full remuneration during the first two weeks of temporary incapacity for work. The NPS pays 80 per cent of insurable wage as from the third week of incapacity. The NPS is also responsible for payment of injury benefits for permanent disablement and in case of death resulting from work-related accidents.

Benefits for permanent disablement

- 100% disability - 80 per cent of monthly basic salary is payable
- Employee aged between 52 and 60: a lump sum equal to 8 years' basic salary is payable
- Disablement which is less than 100 per cent - product of 65 per cent of the employee's basic salary and the degree of disablement
- Disablement which is less than 20 per cent - the injured employee may opt to receive a lump sum equal to the product of eight years' basic salary and the degree of disablement

Survivors' benefits

222. This benefit is payable to the widow of an employee who dies as a result of an industrial accident.

- A monthly pension equal to half the basic insurable salary is payable
- A widower's pension is payable only where the husband suffers from a permanent incapacity of at least 60 per cent
- Where there is no widow, an orphan's industrial injury pension as well as a dependant's pension is payable
- An orphan is entitled to a monthly pension equal to 7.5 per cent of the insurable salary of any of the deceased parent

Other allowances

- Medical expenses up to a maximum of Rs 4,000
- Travelling expenses to attend medical treatment
- Reasonable expenses for the provision or replacement of certain artificial aids

Coverage

223. The number of private sector employers paying contributions to the National Pensions Fund is around 14,500 and the number of employers in respect of whom contributions are paid is around 280,000. Employees between 15 and 18 do not pay contributions. On attaining the age of 60, an employee who continues to work can opt to be paid his contributory retirement pension, in which case his employer must pay only his (the employer's) share of contributions. The employee can also opt to defer his claim for CRP up to the age of 65 in which case both himself and his employer must continue to pay the appropriate rate of contributions.

Self-employed or non-employed pensions

224. Section 15 of the National Pensions Act provides for any person who is between 15 and 59 years to be voluntarily insured with the National Pensions Fund. Government will "top up" to the extent of 50 per cent of the total contributions paid by that person.

Actuarial report

225. The last actuarial report on the National Pensions Fund is for the five-year period ending 2000. It contained recommendations to secure the long-term future viability of fund, such as increasing the retirement age to 65 years, increasing the rate of contributions, or the cost of one pension point etc. The actuarial report covering the 5-year period ending June 2005 will be submitted shortly.

226. In the last Budget Speech, it was announced that retirement age will be increased gradually to 65 over a period of 10 years beginning as from August 2008.

Investment Committee

227. An Investment Committee was set up by the Ministry of Finance to look into all questions relating to investment of surplus funds and maximization of returns. The Committee is composed of professionals (actuaries, economists etc) and is tripartite in nature.

National Savings Fund (NSF)

228. The NSF was set up in 1994 under the National Savings Fund Act. Every employer (both private and public) has to pay into the Fund a monthly contribution equivalent to 2.5 per cent of the basic salary (subject to a ceiling) of each employee. The contributions are credited into the individual account of the employee.

229. A lump sum made up of the accrued contributions plus interests is paid to the employee when he retires on grounds of age, or on medical grounds. It is also payable to employees above 45 who have suffered loss of employment or been made redundant due to closure of business or reduction of work force.

Social Assistance Scheme

230. The Scheme is made up of -Social Aid and Unemployment hardship relief scheme.

231. **Social Aid** is an income-tested scheme. It is payable where the head of household is temporarily sick, unable to earn his livelihood, and has inadequate resources to meet the needs of his family. It is also payable to abandoned women with dependents, persons having experienced sudden loss of employment, dependents of persons serving a prison sentence, low-income parents with disabled children etc. Beneficiaries are also entitled to such benefits as spectacles, 100% subsidy on the examination fees of their children, funeral grant in case of death of a family member, refund of travelling to attend medical treatment.

232. **Unemployment Hardship Relief (UHR)** is non-contributory and subject to a means-test and is payable to heads of households (with dependents) who are unemployed and actively looking for work, and have insufficient means.

233. Both Social Aid and UHR are increased in line with the Consumer Price Index annually.

Income Support Scheme (subsidy on rice and flour)

234. In July 2006, Government decided to grant income support in the form of a subsidy on rice and flour to the following neediest sections of the population:

- Beneficiaries of Social Aid and UHR
- Beneficiaries of a basic pension who would have qualified for social aid were they not in receipt of the basic pension
- Households whose names appear on the social list of the Central Electricity Board, with average monthly electricity consumption not exceeding 75 KWH

Article 10. Right to the protection of the family

235. Family law in Mauritius is primarily governed by the Civil Code which is inspired from French law. As from January 2008 two Judges of the Supreme Court are hearing family law matters on a full-time basis everyday during term-time. Previously family law matters, other than very urgent matters, were heard only on Fridays during term-time.

236. The Law Reform Commission, which is tasked with, inter alia, undertaking the systematic review and reform of the laws of Mauritius, has also been working on a review of family law, in the light of the recommendations made in Lord Mackay's report on the reform of the Judiciary.

237. The main relevant laws providing for protection of the family are as follows:

Section 7(1) of the **Divorce and Judicial Separation Act** provides for reconciliation of the parties seeking a divorce.

238. On presentation of a petition, the Judge in Chambers shall inquire from the petitioner and from the respondent, if in attendance, and their counsel or attorney, as to whether an attempt has been made to effect a reconciliation of the parties.

239. This Act also provides for the procedure to be followed for the institution of divorce proceedings.

240. Section 3 of the **Mauritius Family Planning Association Act** provides that the Association shall, *inter alia*, promote family welfare in all its aspects, personal, material and sociological, amongst others.

241. The **Action Familiale Act** created the Action Familiale Association which, *inter alia*, promotes the welfare and happiness of families, fosters the ideas of harmonious married life and responsible parenthood and supports the propagation of all natural methods for regulating childbirth.

242. **Section 4 of the National Women's Council Act provides that the Council shall, *inter alia*, establish and maintain effective communication with women and organisations of women, ensure coordination of activities of groups of women and organisations and assist in the implementation and evaluation of Government policies as they relate to the needs of women amongst others.**

243. **Section 4(1) of the National Youth Council Act provides that the Council shall, *inter alia*, establish and maintain effective communication between the Government and youth organisations and ensure coordination of activities of youth organisations amongst others.**

Protection of women

Existing provisions in relation to maternity protection

244. Normal duration of maternity leave, entitlement to such leave and entitlement to maternity allowance:

Remuneration Orders (Regulations)

(a) 12 weeks' leave to be taken at employee's discretion before and/or after confinement provided that at least 6 weeks' leave is taken immediately following confinement;

(b) Where a female employee is in the continuous employment of the same employer for 12 months immediately preceding her confinement, the leave is with pay and she is entitled to a maternity allowance;

(c) Where a female employee who has at any time had 3 confinements is pregnant or where she reckons less than 12 months' continuous service preceding her confinement, the leave is without pay and there is no entitlement of maternity allowance;

(d) Maternity allowance - is payable within 7 days of confinement and varies from Rs 300 to Rs 2,000.

245. The Labour Act provides for:

(a) 12 weeks' maternity leave entitlement to a female worker;

(b) Leaves deductible from the 12 weeks' entitlement which may be taken within a period of 6 weeks before confinement, provided that if the leave taken exceeds four days consecutively, the worker shall produce a medical certificate to that effect. Such entitlement shall not prejudice the right of a worker to go on sick leave within the period of 6 weeks before confinement.

Work-related benefits

246. Apart from maternity protection which women enjoy and the criteria for travelling refund which differ for male and female workers in certain sectors (i.e. Cleaning Enterprises, Electrical Engineering & Mechanical Workshops, Field Crop and Orchard, Livestock Breeding, Nursing Homes, Printing Industry & Tea Industry), the above benefits accrue equally to individuals irrespective of gender. It is to be noted that the criteria for travelling refund are gradually being standardised by the National Remuneration Board as and when the relevant Remuneration Orders are being revised.

Maternity benefit

247. Following revision of certain Remuneration Orders after 1990, the allowance was subsequently increased to Rs 500 in the following sectors:

Field crop and Orchard

Livestock Breeding

Public Transport

Security Guards

Tea Industry

Road Haulage Industry

In the "Baking", "Catering", "Cinema", "Construction", "Distributive Trades" and "Light Metal and Wooden Furniture" sectors the allowance has been revised to Rs 2000

248. In the sugar industry and tea industry, a female worker is entitled to 800 millilitres of milk per day during 3 months following her confinement or a daily allowance of Rs 3, for the sugar sector, and Rs 6 for the tea sector if milk is not readily available.

249. A female worker, who is nursing her breastfed child, is entitled to a break of one hour daily or a break of half an hour twice daily for the purpose of nursing the child, under Section 19(3) of the **Labour Act**. Additionally, express provision has also been made for the grant of such break in the following Remuneration Orders: Attorneys & Notaries, Baking, Construction, Catering, Distributive Trades, Cinema and Light Metal & Wooden Furniture.

250. Further, specific provisions exist in most Remuneration Orders in respect of miscarriages whereby a female is entitled to 2 weeks' leave on full-pay immediately after the miscarriage, duly certified by a medical practitioner.

251. Moreover, in 6 sectors (Baking, Construction, Catering, Distributive Trades, Light Metal & Wooden Furniture and Cinema) provisions exist whereby a female employee who gives birth to a stillborn child shall be entitled to opt for either 2 weeks' leave on full pay or 12 weeks' leave, the latter leave being deductible from the 3 confinements entailing paid maternity leave.

252. Besides, according to a Circular Letter from the Ministry of Civil Service & Administrative Reforms, dated 01 March 2006 (No. 6 of 2006), Government has decided that women public officers who are in their 9th month of pregnancy may now, on request, be allowed to leave office half an hour earlier in the afternoon to avoid peak time rush, such release to be reckoned against their normal leave entitlement.

253. Protection is also provided to female workers who have reached their 7th month of pregnancy, by providing them with light fieldwork or by prohibiting the lifting or carrying of materials or equipment. During intercrop season, in the case of a female worker who is employed otherwise than on task work, the length of a normal work day's work, excluding any time allowed for meal break is 6 hours on every day, other than a Saturday or a public holiday after she has entered the 7th month of pregnancy. Furthermore, female workers of the salt manufacturing industry shall not be compelled to do any work involving the carrying of a load of more than 18 kilos.

254. A female employee in the sugar industry is also entitled to an allowance equivalent to 15% of her wages whenever in the course of a normal day's work, she is required to do trashing, "*relevage de paille*", spreading of fertilisers or any operation comprised in planting including the application of ash, sand, scum and manure.

255. The law also provides for optional retirement of female employees (50 years in the sugar industry and 55 years in the salt manufacturing industry, and 58 years in the tea industry) with appropriate compensation.

Violence against Women

256. Mauritius ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1985. It also signed the SADC Declaration on Gender and Development in 1997, and the Addendum to the Declaration on the Prevention and Eradication of Violence against Women and Children in September 1998. At the Fourth World Conference on Women in Beijing in 1995, Mauritius identified gender-based violence as one of the critical priority areas.

Legislation

257. In May 1997, the Protection from Domestic Violence Act was enacted. It was proclaimed partly in August 1997 and fully in March 1998.. The Act provides for the issue of emergency protection orders, occupation orders and tenancy orders and includes a wide definition of domestic violence to include physical, emotional, sexual violence and even threatened violence. The aim of the Act is to protect spouses, including cohabitantes and children from violence at home.

258. The Protection from Domestic Violence Act has subsequently been amended to make it more responsive to the needs of victims of domestic violence and to ensure better protection to the victims.

227 Section 2 of the Protection against Domestic Violence Act as amended in 2004 defines “domestic violence” as including any of the following acts committed by a person against his spouse, a child of his spouse or another person living under the same roof:

- (i) Wilfully causing or attempting to cause physical injury;
- (ii) Wilfully or knowingly placing or attempting to place the spouse or the other person in fear of physical injury to himself or to one of his children;
- (iii) Intimidation, harassment, ill-treatment, brutality or cruelty;
- (iv) Compelling the spouse or the other person by force or threat to engage in any conduct or act, sexual or otherwise, from which the spouse or the other person has the right to abstain;
- (v) Confining or detaining the spouse or the other person against his will;
- (vi) Harming a child of the spouse;
- (vii) Causing or attempting to cause damage to the spouse’s or the other person’s property;
- (viii) Threatening to commit any act mentioned in paragraphs (a) to (g).

259. The Protection from Domestic Violence (Amendment) Act of 2007 inserted a new section 8A which provides that the Courts may where it thinks appropriate, order a respondent spouse to pay an aggrieved spouse and any child of the parties alimony. Additionally Section 13 has been amended to include new and harsher penalties on a second or subsequent conviction. Under this section police officers to whom an offence under this Act is reported shall forthwith inform the nearest hospital or the Permanent Secretary where the complainant is in an urgent need of medical assistance or of counselling and/or psychological support. A new section 13 A has furthermore been inserted to provide in exceptional cases for the court to make an order to attend counselling sessions following a conviction.

260. Conscious of the need to address the issue of gender-based violence in a comprehensive manner, the Ministry of Women's Rights, Child Development, Family Welfare and Consumer Protection (MWCDFW&CP) has adopted a broad framework to respond to gender-based violence and the areas of focus are:

Prevention

261. Through ongoing IEC Campaigns, regular talks and activities are organised in different regions falling under the purview of the Family Support Bureaux to sensitise the public at large on issues pertaining to domestic violence.

262. The year 2008 has been declared as “*L'année 2008: L'Année Sans Violence*” (i.e. 2008: year without violence). The campaign was launched in December 2007 to solicit the collaboration of various stakeholders, namely socio cultural organisations, religious groups and NGOs in the fight against violence. However, to sustain the campaign throughout the year, the Ministry in collaboration with several stakeholders, will conduct talks, workshops both at regional and national levels targeting youth, women and men.

263. Ongoing public awareness campaigns which aim at reducing the incidence of domestic violence in Mauritius are organised by the Ministry. Moreover, a simplified version of the CEDAW has been published and distributed widely across the island and is also available on the Website of the Ministry.

Projects

264. A series of innovative projects including Zero Tolerance Clubs and, “Men as Partners” Programme to combat domestic violence by involving members of the community and enhancing male participation and involvement in matters related to domestic violence were set up.

Capacity-building

265. Training of service providers including medical practitioners, magistrates and police officers has been carried out to improve responses to cases of violence.

Forging social coalitions

266. A multidisciplinary and comprehensive framework that builds on partnerships between Ministries, NGOs and Community Based organisations has also been adopted by the MWCDFW & CP to bring meaningful changes in addressing the issue of gender violence. In this connection a Partnership Against Family Violence Committee has been set up to further provide protection, services and rehabilitation to victims of violence.

Machineries

- *Family Welfare Unit*

267. In line with one of the UN recommendations that States should set up appropriate mechanisms to implement policies and programmes in favour of families, the Ministry of Women's Rights, Child Development, Family Welfare and Consumer Protection has set up a Family Welfare Unit since July 2003. The Family Welfare Unit has a network of 6 Regional Offices known as Family Support Bureaux (FSBx).

268. The Family Welfare Unit offers services for all members of the family through the Family Counselling Service at the Family Support Bureau. The Family Counselling Service which exists since 1986 provides individual and mass counselling on all family related problems.

- *National Policy Paper on the Family*

269. The Mauritian economy has undergone structural changes with unprecedented rapidity. Such changes have impacted upon the ways families earn their living and function thereby presenting tremendous challenges to families who have to adapt to new realities. Certain social realities and developments are also having a significant impact on the ability of families to fulfil their traditional roles, namely:

- (i) Ageing of the population;
- (ii) Changes in the role and function of women;
- (iii) Changes in the family structure from a traditional extended family to a nuclear family type;
- (iv) Erosion of family values;
- (v) Consumerism and globalisation;
- (vi) Unemployment and family poverty.

270. These various challenges have prompted the need for a policy paper that will address the problems faced by families and provide strategies to promote their well being. In May 2006, the Ministry launched the National Policy Paper on the Family which has the following objectives:

- (i) To identify the problem areas and remedy the obstacles to proper family functioning;
- (ii) To promote knowledge and understanding of family life including parenting responsibilities;
- (iii) To render the family institution safe and secure for children and other vulnerable members;
- (iv) To ensure families have the resources they require to meet the needs of its members;
- (v) To make families aware of their social responsibility to the community and for the protection of the environment.

271. Further, to meet those objectives, the following core policy areas have been identified:

- (i) Creating a strong foundation and strengthening marriage relationships;
- (ii) Balancing work-life and family life;
- (iii) Promotion of values for family life;
- (iv) Enabling families to nurture the young;
- (v) Support services for the family, in such areas as Health, Housing, social security and welfare etc.;
- (vi) An Action Plan to implement the recommended actions of the National Policy Paper on the family is being worked out.

272. A National Action Plan (NAP) to combat Domestic Violence has been launched in November 2007 on the occasion of the International Day Against Domestic Violence.

273. The Strategic Objectives of the NAP are as follows:

- (a) Improving legislation on Domestic Violence and strengthening of the justice system and other agencies response;
- (b) Appropriate, accessible, timely, coordinated multi-agency responses and support to all victims and children who need it;
- (c) Sensitize and change attitudes to prevent Domestic Violence from happening in the first place;
- (d) Promote responsible reporting, advocacy, sensitization and provision of a forum by media specialists to encourage the community at large to discuss domestic violence;
- (e) Undertake research and studies on domestic violence, strengthen capacity building and set up appropriate mechanisms for monitoring; and
- (f) Evaluation of the National Action Plan to Combat Domestic Violence for the promotion of best practices.

Institutional Support

274. The 6 Family Support Bureaux across the island offer the following services free of charge to families and children in distress:

Psychological and legal counselling

Assistance to adult victims of domestic violence

Assistance to children who are victims of abuse

Individual, couple and mass counselling on all family related problems

275. The above services are offered in a holistic manner within the same premises and in a decentralised manner with a view to minimising further trauma to victims of violence and to enable the public to have easier access to the various services.

276. Family Counselling Officers, Psychologists and Legal Resource Persons provide counselling to clients in strict confidentiality and Family Welfare & Protection Officers (FWPOs) provide assistance to victims of domestic violence in the filing of an application for a Protection Order at District Court. FWPOs also extend assistance to children who are victims of abuse and provide advice to parents on problems relating to ill-treatment of children. FWPOs refer clients (both adults and children) to Psychologists for counselling purposes.

277. Hotlines are also operational on a 24-hour basis to cater for family-related problems and officers intervene promptly to assist victims who call on the Hotlines.

Aims

278. Deepen the understanding of the problem of Gender-Based Violence, its causes and consequences through studies, community-based dialogues and public awareness campaigns and further develop strategies which will set specific short term and long term objectives to:

- Respond effectively and adequately to the needs of individual victims and survivors of gender-based violence
- Take appropriate action with regard to the perpetrators of gender-based violence
- Build the capacity of law enforcement agencies to address gender-based violence
- Train media to cover issues of violence against women with sensitivity and enlist their support to promote equal and peaceful gender relations at the household level

Financial support to address the needs of victims and witnesses

279. Under the Families in Distress Scheme, women victims of Domestic Violence who for various reasons cannot return to their previous residence are temporarily placed in a shelter following an Interim Protection Order. Upon their discharge from the shelter, they are given an allowance of Rs 3,000 to meet their immediate needs.

280. The table below indicates the number of cases registered at the Family Counselling Service/Domestic Violence Intervention Unit/Integrated Services Centres by nature of problem and sex in 2003, 2004 and 2005.

	2004		2005		2006	
	Male	Female	Male	Female	Male	Female
Total registered	4 287	10 555	4 418	10 848	5 022	11 468
Made up of:	2 325	4 949	1 817	4 337	3 038	6 561
Follow-up cases						
New cases	1 962	5 606	2 601	6 511	1 984	4 907
Which are due to:						
Accommodation	7	19	46	72	1	26
Alcoholism/drug addiction	27	716	82	1 549	21	409
Alimony	27	109	24	146	-	32
Conflict with in-laws	50	235	40	354	38	264
Conflict with partner	343	1 773	434	2 114	298	1 622
Damage	8	50	9	300	3	31
Divorce	36	154	52	282	38	154
Extra-marital affairs	65	395	69	615	60	287
Family dispute	22	64	19	101	17	25
Harassment	60	661	53	894	25	345
Ill-treatment	61	645	53	891	28	315
Legal problems	47	235	24	77	56	195
Physical assault	99	1 116	66	1 140	39	519
Sexual abuse	13	144	30	314	1	47
Sexual harassment	3	32	7	90	-	8
Threatening assault	21	319	39	1 319	21	224
Threatening behaviour	15	328	25	975	2	47
Verbal abuse	66	806	65	1 212	29	438

Source: Ministry of Women's Rights, Child Development, Family Welfare & Consumer Protection.

281. The Ministry also assists victims of Domestic Violence by providing services of Barristers as and when required at Court Level as well as financial assistance when victims leave the shelter. The Ministry further refers victims to the Ministry of Social Security for social aid in cases where the victims have been abandoned by their spouse and are faced with financial difficulties. Support services to victims include:

- (a) Shelters provided by NGOs and by Government shelter;
- (b) Free legal assistance by Government;
- (c) Medical assistance through the public hospitals which are free of charge;
- (d) Police assistance for protection and removal of goods from residence;
- (e) Family counselling through the Family Counselling Services;
- (f) Placement of children in case the parent cannot take care of them.

282. A Protocol of Assistance to Victims of Sexual Assault is operational since March 2006. The purpose of the Protocol is to ensure prompt and timely assistance to victims of sexual assault. Victims may now report their case either at the Police Station of the region where the incident took place or directly to any of the 5 regional hospitals. Victims who report their case at the Police station are conveyed by the Police to the nearest regional hospital. In line with the provisions of the Protocol, the Ministry is informed of the case by the Police on hotline 119 (operational on a 24-hour basis) and arrangements are made for psychological assistance and legal counselling to be provided to the victim. Depending on the seriousness of the case, the psychologist may also visit the victims at the hospital where the case is being handled. Follow-up actions are then insured through the Family Support Bureaux of the Ministry.

283. Sexual Assaults Units have been set up at the level of the five (5) regional hospitals in the ward for female adults and in the Paediatric wards for children with a view to providing a fast track approach, whereby services of a Psychologist, Police Officers (for statement purposes) and Medical Social Workers are available.

284. Since 2002, a project on “*Zero Tolerance Zones*” has been set up in four regions with the collaboration of members from Youth Centres who act as peer groups to sensitise the public. This project has been extended to involve children forming part in clubs affiliated to the National Children’s Council with the involvement of Community Workers. The Zero Tolerance Clubs comprise representatives of various community based organisations with a view to involving the community to identify and combat domestic violence in different regions. The objective of this project is to use innovative techniques such as theatre, sports, poems and leisure activities to sensitise the public on domestic violence.

285. Several other programmes have been implemented such as the “*Marriage Enrichment Programme*”, “*Pre-Marital Counselling*” and “*Men as Partners Programme*”. The “*Marriage Enrichment Programme*” aims at strengthening and promoting understanding and respect between married couples. Pre Marital Counselling aims at sensitising unmarried/engaged couples for a more stable married life as well as at preparing couples to cope with marital conflicts. The “*Men as Partners Programme*” lays emphasis on men’s responsibility and increased participation within the family.

286. The Oasis Association also provides opportunities for victims of domestic violence to meet as a group, share their experiences, conduct activities for self-help and welfare with a view to build self-confidence. This process is facilitated with the regular intervention of psychologists through counselling and group therapy.

287. Over and above group therapy, additional activities (such as outdoor activities) are organised to promote positive thinking and attitudes aimed at rehabilitation of such victims.

288. A Partnership against Domestic Violence Committee has been set up in 2004. The following projects have been submitted and approved by the Ministry to combat the problem of domestic violence against women on a cost sharing basis under the above partnership:

The setting up of a family support unit at the prisons department

289. The objectives of the project are to carry out family therapy and arrange for additional visits to reinforce marital life, promote advocacy for strong family ties and societal values.

“Back Home” by PILS

290. The objectives of the project are to educate families of HIV Positive prisoners about the virus, prepare the families to welcome them back home on release and reduce family and sexual violence by creating a climate of understanding within the family.

Imparting moral values and personality development for a better family life to avoid domestic violence

291. The objectives of the project are to create awareness on how to tackle social ills, to eradicate domestic violence and bring social harmony. This project is being spearheaded by the Mauritius Council of Social Services (MACOSS).

Protection of children

292. In 1993, Government signed the Hague Convention on Civil Aspects of International Child Abduction and in 2000 legislation was enacted to designate the Ministry of Women’s Rights, Child Development and Family Welfare as the Central Authority to deal with cases of Child Abduction. There have been 36 reported cases of child abduction from the period 2000 to January 2008.

Convention on the Rights of the Child

293. Mauritius has acceded to the Convention on the Rights of the Child (CRC) which contains a comprehensive set of international legal norms for the protection and well-being of children. It has also signed the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography on 11 November 2001.

294. Mauritius, as a State Party, has the obligation under Articles 34 and 35 of the CRC, to protect the child from all forms of sexual exploitation as well as to take appropriate measures to prevent the sale of and trafficking in children.

Relevant Legislation

295. **The Mauritius Child Care Society Act** provides that the objects of the Society shall be to promote motherhood skills and child care in Mauritius through lectures, home visits, baby shows and exhibitions and to do such things as are incidental or conducive to the attainment of these objects.

296. **Section 4 of the National Children’s Council Act** provides that the Council shall be the key consultative and coordinating national body on all activities and issues related to children; protect the rights of children, promote their interest and well-being and ensure their participation in matters of interest to them; and promote activities for the welfare of children in line with the Convention on the Rights of the Child amongst others.

297. **Section 4 of the National Adoption Council Act** provides that the Council shall inquire into all demands for the adoption of citizens by non-citizens before any application is made to the Judge in Chambers and advise the Minister on all matters relating to such demands for adoption amongst others.

298. The **Child Protection (Amendment) Act was enacted in 2005** to palliate the lacunae in our laws with regard to trafficking in children and to comply with the Optional Protocol to the UN Convention against Transnational Organised Crime (**Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime**). “Exploitation” was defined in the Act as including the exploitation of the prostitution of children or other forms of sexual exploitation, forced labour or services, slavery or, practices similar to slavery, servitude or the removal of organs.

299. The 2005 Act also provided for all existing offences relating to child trafficking, abduction and abandonment to be transposed from the Criminal Code to the Child Protection Act, in order to provide for a concerted approach. The Act provides for the following penalties: where the victim is mentally handicapped, to penal servitude for a term not exceeding 15 years; in any other case, to penal servitude for a term not exceeding 10 years. A Draft Bill on Trafficking in Persons, including Children, is being reviewed by the relevant Ministries.

300. The Ombudsperson for Children Act which was passed in 2003 was amended in 2005 in its section 7 to confer on the Ombudsperson for Children the power to summon witnesses and examine them on oath, call for the production of any document or other exhibit and obtain such information, file or other record, upon application to the Judge in Chambers whenever necessary under any law, as may be required for the investigation.

301. The Government of Mauritius is firmly committed to the survival, development and protection of children from any form of abuse and exploitation. Sexual abuse and commercial sexual exploitation have been a special concern for the Ministry.

Study on Commercial Sexual Exploitation of Children (CSEC)

302. A study on the Protection of Children against Sexual Abuse including Commercial Sexual Exploitation of Children (CSEC) was carried out in September 2001 in order to have a better understanding of the problem. The study recommends the preparation of a National Plan of Action (NPA) in order to prevent and progressively eliminate CSEC, to protect CSEC victims and ensure their recovery and integration in society. While preparing the NPA, an integrated and holistic approach has been adopted for the implementation of activities on protection of children. It has a broad scope geared towards the overall protection of children from any forms of abuse including commercial sexual exploitation in line with existing legislation and the provisions of the CRC. The objective of the NPA is to ensure the protection of our children from any form of abuse and the creation of a conducive environment within the family and the civil society. It also aims at developing strategies and activities to be implemented by all stakeholders including Government institutions, the private sector, non-Governmental organisations, the community and the family for the best interests of the child. The NPA is based on the four components of the Agenda of Action against CSEC adopted at Stockholm in Sweden as follows:

- (a) Coordination and Cooperation;
- (b) Prevention;
- (c) Protection; and
- (d) Recovery and Reintegration.

Child Labour

Legislation

303. **The Child Protection Act** was enacted in 1994 to ensure protection of children from all forms of abuse and protection. The national laws have been harmonized in line with the Convention on the Rights of the Child. In this respect, a number of laws pertaining to children have been amended in the form of Child Protection (Miscellaneous) Act, the Criminal Code (Amendment) Act and the Criminal Code Supplementary (Amendment) Act.

304. The Child Protection Act was amended in December 2005 as follows:

- (i) The definition of the word “harm” has been extended so that “harm” now is defined as “includes physical, sexual, psychological, emotional or moral injury, neglect, ill-treatment, impairment of health or development”;
- (ii) The definition “place of safety” has been amended to also include “a convent, a charitable institution, an institution for children and a hospital”;
- (iii) The definition of who can report cases of suspected abuse has been enlarged;
- (iv) Provisions under Section 262A to 267, relating to child abandonment and sections 268 to 271 relating to child abduction have been transferred to the Child Protection Act;
- (v) Tougher penalties are provided for in case of contravention of the provisions of the law. Penalties under the present Child Protection Act for sexual offences and indecent photographs of children have been revised from a fine of Rs 50,000 and imprisonment not exceeding 5 years to Rs 75,000 and 8 years respectively. Where the victims are mentally handicapped, offenders will be liable to a fine of Rs 100,000 and imprisonment for a term not exceeding 15 years instead of Rs 75,000 and 8 years respectively.

The Criminal Code (Amendment) Act 1998

305. The Criminal Code was amended in 1998 to increase penalties for offences against children including sexual abuse. The offence for sexual harassment was introduced along with penalties provided for the abandonment of a pregnant spouse, failure to pay alimony, etc.

National Children's Council Act 2003

306. The National Children's Council (NCC) Act 2003 which became effective as from 28 February 2004, aims at making the National Children's Council more dynamic and responsive to the needs of children and ensuring better participation of children.

307. The NCC Act provides that the Council shall:

- (a) Be the key consultative and coordinating national body on all activities related to children;
- (b) Protect the rights of children, promote their interest and well-being and ensure their participation in matters of interest to them; and
- (c) Promote activities for the welfare of children in line with the Convention on the Rights of the Child.

Computer Misuse and Cybercrime Act 2003

308. The Computer Misuse and Cybercrime Act 2003 which was enacted in 2006 *inter alia* makes child pornography a criminal offence. An Inter-Ministerial Committee chaired by the Minister of Information Technology is looking into the introduction of comprehensive legislation for Online Child Protection.

Ombudsperson for Children Act 2003

309. The Ombudsperson for Children Act 2003 which was passed in 2003 provides for the establishment of an office of Ombudsperson for Children.

310. The objective of the Office is to:

- (i) Ensure that the rights, needs, interests of the children are given full consideration by public bodies, private authorities, individuals and associations for individuals;
- (ii) Promote the rights and best interest of children; and
- (iii) Promote compliance with the Convention on the Rights of the Child, and more particularly, to create an effective mechanism for the investigation of complaints regarding violation of children's rights.

311. The Act enables the Ombudsperson to assume the role of an advocate for children's rights, to advise the Minister and other public bodies and institutions on matters relating to promotion and protection of children's rights and to carry out any such investigations as the Ombudsperson may decide, on complaints relating to the rights of the child.

Ombudsperson for Children (Amendment) Act 2005

312. Amendments were brought to the Act in 2005 to:

(a) Empower the Ombudsperson for Children to compel witnesses to attend and give evidence on oath before and produce documents to the Ombudsperson in connection with investigations conducted under the Act; and

(b) Provide for various offences, including failure to attend and take the oath before the Ombudsperson, giving false evidence, insulting the Ombudsperson and wilfully interrupting proceedings conducted before the Ombudsperson.

313. The Ombudsperson for Children is responsible for promoting children's interests, protecting victims of exploitation, investigating complaints of violations and presenting proposals for preventing trafficking.

314. The **Labour Act** prohibits the employment of children under the age of 16 and also provides that no child under the age of 18 shall be employed on work which is harmful to his health, dangerous or otherwise unsuitable for him. Any person who contravenes these provisions commits an offence and shall on conviction be liable to a fine not exceeding Rs 2,000 and to imprisonment for a term not exceeding one year.

315. The **Labour Act** is actually being revised so as to also prohibit the employment of children under 18 on work which by its nature is likely to jeopardise their safety, physical, mental, moral or social development and to increase the penalty for the offence from Rs 2,000 to Rs 10,000.

316. Generally speaking, employers and workers have now been sensitised on the child labour issue. The regular site inspections effected by enforcement officers act as a deterrent to such practice so that fewer and fewer cases are being detected.

317. The current policy of the Ministry of Labour, Industrial Relations and Employment is to issue warnings prior to envisaging prosecution. Out of the cases of child employment detected in 2007, 3 cases have been referred to Court and 8 other cases are being processed for criminal action.

318. Furthermore, the reforms undertaken in the education sector will undoubtedly contribute to a significant reduction, if not eradication, of child labour in view of the positive impact in terms of increased access to education, rise in enrolment rate, reduction in the number of school drop outs as well as compulsory schooling up to the age of 16. The Ministry of Education & HR is currently laying emphasis on the role of Social Workers and Parent Mediators to assist and support the parents and children from "*Zones d'Education Prioritaire*" (ZEP) schools in their effort for an improved parenting and for creating the right learning environment for the children.

319. The attendance of chronic absentees is being closely monitored at the level of schools and Head Teachers arrange with Social Workers of the Ministry of Education & HR to contact the parents of these children and explain to them the need for their ward to attend classes and to improve their attendance at school. This issue is also raised during meetings of the Parent Teachers Associations.

320. The new curriculum reform initiated by the Ministry of Education & Human Resources will consolidate literacy and numeracy skills and develop as from primary level, competencies for autonomous life long learning. Emphasis in the new curriculum will be given to an inclusive pedagogy to develop the whole child. The new continuous assessment mode at primary level to boost achievement level will encourage students to stay longer in the educational system and make learning more relevant and meaningful. It will go a long way towards alleviating poverty and bringing social equity.

321. In Mauritius, for the period from 1 June 2003 to 31 May 2005, out of 5,679 inspection visits made in connection with child employment, 20 cases involving 24 children were detected. The employment of these children was stopped forthwith and the employers concerned were warned accordingly. The detected cases were also referred to the Child Development Unit for rehabilitation purposes. During the period from 1 June 2005 to May 2006, 5,690 inspection visits were carried out. No case of child labour was detected.

322. In Rodrigues, 45 site visits were made but no case of child employment was detected during the period under review.

323. Available statistics reveal that the magnitude of child employment in Mauritius is quite minimal. According to the 2000 Housing and Population Census some 763 children, that is about 0.1% of the working population, were in employment at the time the survey was carried out. For reasons mentioned above, this figure is bound to decrease further in the years to come.

324. Additionally, at the initiative of the Ministry of Women's Rights, Child Development, and Family Welfare, 42 children, abandoned or at risk, have been placed in 31 foster homes.

Evaluation of the NPA

325. The National Plan of Action incorporates prevention measures, such as the development of appropriate Information, Education, Communication (IEC) strategy, the training of trainers and training of community/youth leaders and awareness campaigns on the Rights of the Child. Support has also been organised for the recovery and rehabilitation of those who manage to get out of the sex trade. Therefore, the different stakeholders were required to participate in the successful implementation of the NPA in order to combat child abuse in all its forms. After two years of implementation of CSEC, an evaluation exercise has been carried out with a view to:

- (a) Evaluation of the NPA on CSEC;
- (b) Identify bottlenecks, weaknesses in the course of implementation; and
- (c) Make recommendations, as appropriate.

National Children's Policy (NCP) 2003

326. The MWRCDFW & CP with the assistance of UNICEF has prepared a National Children's Policy with a view to establish linkages with all relevant Government Institutions and NGOs, to coordinate and monitor children's policies. The adoption of the NCP is an important step taken by Government in its commitment to human rights generally and to child rights and welfare specifically.

National Plan of Action (NPA)

327. A National Plan of Action (NPA) has been prepared with a view to implementing the policy statements stipulated in the National Children's Policy (NCP). The discussion process in the preparation of the NPA with stakeholders aimed at:

- (i) Streamlining the objectives and action areas ensuing directly from the objectives already outlined in the NCP;
- (ii) Stating responsibilities of parties involved in implementation;
- (iii) Proposing measures for evaluating the effectiveness of such actions and programmes;
- (iv) Examining the possibility of immediate launching of actions and programmes for each core policy area;
- (v) Following the Rights-based approach; and
- (vi) Addressing the Key issues of Participation, Community Development, Partnership Development, Information, Communication and Research, and Institutional Mechanisms and Legislations outlined in the Policy Document.

Institutional mechanisms

Child Development Unit

328. The Child Development Unit of the MWRCDFW & CP was set up in 1995. It is the executive arm of the Ministry to intervene in cases of child abuse and neglect. It is also responsible for the implementation of policies and programmes pertaining to the development, protection and survival of children. This Unit works closely with other agencies such as the Police Department, to provide 24-hour service through hot lines to children at risk as well as free legal assistance and psychological counselling to children.

329. A Child Protection Unit has been set up in collaboration with the Police Department and the MWRCDFW & CP to provide immediate assistance and protection to children, victims of abuse.

Creativity Centre for Children

330. A Creativity Centre for Children based on the National Bal Bhawan Model in New Delhi has been set up at Mahebourg. The setting up of the Creativity Centre would enable children to participate in a variety of activities, thus promoting their social, intellectual, moral and physical development.

Shelter for Children Victims of Abuse at Bambous

331. In line with Government's commitment to the development and protection of children from any forms of abuse and exploitation, it has been proposed to construct a shelter for children at

Bambous which will accommodate an optimum number of victims of abuse: some 100 children in addition to mothers accompanied by their children. The building will be equipped with all the necessary infrastructures and facilities.

Community Child Protection Programme (CCPP) based on a closed loop participatory evaluation of service delivery

332. The Ministry has launched the CCPP that provides for the setting up of formal forums on a district wise basis as well as at grassroots level to ensure community development with respect to child protection and welfare. This programme allows for interplay of dynamic top down and bottom up forces to provide for equilibrium in an otherwise open system, and as such will be a recipient of much information, education and communication campaign as well as empowerment processes. This programme should, if well implemented, also provides for penetration of communities and eventually reach out to those families & children who are marginalized and excluded for a process of reconstruction.

333. District Committees have been launched in Riviere du Rempart, Port Louis and Plaines Wilhems.

334. Community Child Watch Meetings have been launched in Cite Mangalkan, Camp Levieux and Cite Mere Theresa.

335. The main components of the programme are as follows:

(a) The Community Child Watch to be set up in the immediate locality of high risk areas to ensure early detection and reporting of child at risk cases;

(b) The Case Conference at Family Support Bureau level with officers of the Ministry to review and monitor the handling of cases and so to expedite as far as possible on lessening trauma and trigger early rehabilitation of children victims of abuse and neglect;

(c) The Area Child Protection Committee comprising regional stakeholders to ensure better collaboration and coordination in the handling of cases;

(d) The District Child Protection Committees to take cognisance, review and monitor Child Protection issues at their level;

(e) The National Child Protection Committee to coordinate and monitor the work of the 6 ACPCs, to develop and agree on policies, review and monitor procedures for inter-agency work for protection of children, to make appropriate recommendation to ensure coordination and concrete action, including training/IEC in relation to Child Protection.

Tardy Declaration

336. A child who is not declared does not have any identity and is not recognised as a citizen of Mauritius. Declarations of birth must be done within 45 days following the birth of the child. The process of tardy declaration of birth is lengthy and cumbersome. The Ministry is facilitating the registration process of undeclared children through a coordinated approach, in collaboration with the Ministry of Education, Ministry of Health and other Government departments.

Undeclared children who are identified to be tardily declared are referred to the vaccination unit of the Ministry of Health for immunisation. The Ministry of Education then steps in to get the children admitted in pre-primary, primary or vocational schools, according to their age and abilities.

High Level Committee (Tardy Declaration)

337. A *High Level Committee* co-chaired by the Attorney-General and the Minister of Women's Rights, Child Development, Family Welfare and Consumer Protection was set up in August 2005 to take stock of the situation regarding tardy declarations and to find means to improve upon the existing system and monitored the tardy declaration of birth program on a weekly basis.

338. The following action was taken to streamline the procedures for the tardy declaration of birth:

- (i) A pool of 3 Attorneys was set up to deal with cases, providing free legal aid;
- (ii) Arrangements have been made with the Magistrate to be on call at court in cases of tardy declaration;
- (iii) Transport facilities are provided to parents;
- (iv) Non-declaration of birth can be reported through a hotline which operates on a 24 hour basis;
- (v) Sensitisation is being carried out regularly in the media to increase public awareness.

339. Since the setting up of the Committee, there have been 479 cases of undeclared persons (including children) being registered. However, there are still some pending cases - 84 children and 26 adults.

Foster care system

340. One major step towards implementing measures aimed at ensuring better protection to children, especially those at risk and providing a better alternate for rehabilitation and care of children is the introduction of the Foster Care System on a pilot basis. The aim of the Foster Care System is to provide the children with an alternative family environment, which will foster their physical, emotional and social development. Some 50 children have been placed in 35 families so far and more and more families are showing their interest in this project. With the success of this project, the Foster Care Unit has been integrated with the Child Development Unit as from 31 May 2004. An Advisory Committee has been set up to monitor the Foster Care System.

341. A Child Mentoring Programme is also currently under study.

Drop-in centre

342. A residential drop in centre for children victims of commercial and sexual exploitation of children, including sexual abuse, will soon be set up in line with the commitment taken by the

Government before the Committee on the Rights of the Child. The Residential Drop In Centre will accommodate some 20 children and have separate dormitories for the different age groups. It will provide continuous support & counselling to victims with a view to facilitating the reinsertion of the abused children into the mainstream of society.

Shelter for women and children victims of abuse

343. In line with Government's commitment to the development and protection of children from any forms of abuse and exploitation, the Ministry is proposing to construct a shelter for children at Bambous. Same will accommodate an optimum number of victims of abuse, namely children in addition to mothers accompanied by their children. The building will be equipped with all the necessary infrastructures and facilities.

Shelter

344. There are two shelters for children, one of which is run by a Trust Fund and the other is under the Ministry. The main types of abuse experienced by the children who are sent to shelters and charitable institutions are related to child neglect, abandonment of children, incest and violence. The majority of the children are in 11-14 age groups.

Police Family Protection Unit (PFPU)

345. The Police Family Protection Unit (PFPU) was set up with the special mandate to provide specific services to a category of people who are termed vulnerable within society. This category of people includes women, children and the elderly. They are considered as vulnerable because they are less able to protect themselves when faced with crimes and criminal justice system as compared to other members of the society. Given their position of vulnerability, their rights are more likely to be violated than others. Hence, a special policing approach towards them is required.

346. PFPU also has a special Children's Corner which has been set up with the help of a child psychologist. It contains items aimed at putting children at ease, such as small colourful tables and chairs, toys, white board with markers, coloured pencils, drawing books and so on.

Brigade pour la Protection des Mineurs (BPM)

347. As children are becoming more and more vulnerable in our society, the Mauritius Police Force has at the request of this Ministry, set up a new unit styled "*Brigade pour la Protection des Mineurs*" as from May 2004. One of the priorities of the Brigade is to act as a watchdog against all forms of exploitation and abuse against children. The Brigade is providing a meaningful and sound customer care service aimed at optimising the protection of children and helping to alleviate the anxiety of parents whose children have been subjected to such abuses. This Unit is now effective; the latest measures taken have been for the past weeks to "track down" during school hours, students who fail to attend school and are found on the streets or in public places.

Child Protection Unit (CPU)

348. CPU deals specifically with child victims of sexual abuse.

349. It is acknowledged by Government that NGOs play an active role in protecting and promoting the rights of the child and of the family cell. *(Please refer to list/ table below.)*

Residential care institutions for children

350. Several organizations/charitable institutions provide residential care facilities for children victims of abuse/neglect. These children are under the Ministry of Women's Rights, Child Development, Family Welfare and Consumer Protection following the issue of an Emergency Protection Order/Interim Committal Order/ Committal Order and are placed in these institutions which are considered as places of safety at the level of the District Courts. These children are removed from the care of their biological parents as the latter are not in a position to ensure their safety and security. The Court Orders are issued under the Child Protection Act 1994.

Institutions providing residential care facilities

1	Shelter: Forest Side, Albion
2	Terre de Paix
3	Foyer Pere Laval
4	Foyer Mgr Leen
5	SOS Children's Village Beau Bassin
6	CEDEM: Floreal, Hollywood
7	SOS Children's Bambous
8	Crèche Coeur Immaculé De Marie
9	Gayasing Ashram
10	Mauritius Muslim Orphanage
11	WEAM
12	YMCA
13	Save the Children Mauritius
14	Halley Movement
15	Rivière du Rempart Pre Primary Teachers Association
16	Bahai Child Pre-Education Committee
17	Probation Home for Girls
18	Federation of Playgroup
19	Societe Mauricienne pour la Protection de L'Enfant
20	Pathfinders Club
21	SACIM
22	Institute for Consumer Protection
23	MAPBIN CHAN
24	Mauritius Mental Health Association
25	Fondation Georges Charles
26	SENS
27	Amnesty International
28	Institute for Children's Rights

351. The Association de Parents d'Enfants Inadaptés de l'île Maurice (APEIM), founded in 1970, initiated an Early Intervention Programme in 1983, to train parents and volunteers in Community Based Care. This programme has now been expanded and decentralized. APEIM has conducted mass media campaigns about the rights and needs of handicapped children, and public awareness has increased, as more children come to their centres at an earlier age. Children who cannot be integrated into normal schools are sent to special schools, and extremely handicapped children are provided home visits.

352. The *Bethleem Diocese Crèche (BDC)*, displays the Convention at its centres, and distributes it to parents. Since its inception in 1979, the BDC has trained over 1,500 trainees in its Early Childhood Development training centre.

353. The *Centre d'Education et de Développement des Enfants Mauriciens (CEDEM)* has been providing assistance to normal and handicapped children since 1984. CEDEM concentrates on a process of integrating children, except for the severely handicapped, who need special assistance, in all their activities. CEDEM runs several types of training programmes, including basic programmes in remedial education for parents, teachers, helpers, police officers, probation officers, social workers and other concerned parties. It runs the "Riviere du Rempart Home" for abused girls and conducts "learning through play" programmes in deprived areas once a week. It conducts awareness campaigns about the Convention by door-to-door counselling, and various animated activities. Children in the CEDEM Youth Wing are encouraged to express their concerns, advocate for their rights, and lobby Ministers and Organizations through letters, songs, paintings and other activities.

354. The *Organisation Mondiale Pour l'Education Pre-Scolaire (OMEP)*, formed in 1972, has specialized in training teachers, and running parent awareness classes, and conducting workshops in childcare and development. At present, it has trained over 1,000 teachers in areas from child nutrition to recognizing child abuse.

355. The *Mauritius Family Planning Association (MFPA)*, has since 1957 been working successfully towards family planning issues, but has shifted its approach since 2000, towards a "broader concept of sexual and reproductive health", which includes promoting gender equality, and programmes on adolescent sex and reproductive health issues. In 2003, the Mauritius Family Planning Association was entrusted by the Ministry to manage the Drop-In Centre designed specifically to help and assist sexually abused children and commercial sexual exploitation victims. The Association provides Family Life Education (FLE) sessions in various schools, IVTB institutions and institutions catering for children and adolescents with special needs. Regular medical check-ups and consultations including immunization services are offered and educational sessions on Childhood Development are conducted. The Association has also integrated Voluntary Counselling and Testing for HIV/AIDS in its services and acts as a Referral Point. The Association liaises with funding agencies such as the Trust Fund for Social Integration of Vulnerable Groups to submit income generating project proposals to meet their specific needs.

356. The MFPA has been active in disseminating information about the Convention in secondary schools, through the "Well Women-Clinic", (launched in 2000, so that all women could have access to general medical care), through Parent Teacher's Association (PTA), through the University of Mauritius, and through Women Empowerment Group (WEG), located in 9 districts in Mauritius, and in Rodrigues.

357. Action Familiale since its foundation has contributed to the welfare of children by having family life education as a strong component of its service to couples, aiming at providing the couples with tools to help them achieve harmonious family life and develop parental skills.

358. The Mauritius Scout Association was formed in 1912, and is active in 7 districts in Mauritius and in Rodrigues. It is estimated that there are 3,500 Scouts in Mauritius. As part of the training of trainers, Scout leaders are given basic knowledge of the Convention of the rights of the child.

359. The Mauritius Girl Guides Association created in 1926 is active in Mauritius and in Rodrigues, with approximately 1,200 Girl Guides. Information about the Convention is given to all Girl Guides, and they help disseminate the information. They have also helped sensitizing the youth about AIDS, and encouraged students with low academic performance.

360. The Women's organizations and other NGOs - The Ministry also secures the participation of NGOs. Below is a list of these NGOs:

1. Mauritius Council of Social Services (MACOSS)
2. Action Familiale
3. Association des Femmes Mauriciennes
4. Business & Professional Women of Mauritius
5. Federation des Travailleurs Unis
6. Soroptimist International IPSAE
7. Mauritius Family Planning Association
8. Association Mauricienne des Femmes Chefs d'Entreprise
9. Brahma Kumari World Spiritual Raja Yoga Centre
10. Mauritius National Women's League
11. Women's Bahai Association
12. Mauritius Alliance of Women
13. SOS Femmes
14. Centre de Formation EVA
15. Muslim Youth Federation
16. Women's Self-Help Association
17. Federation des Syndicats des Corps Constitués

18. Jagriti Handicraft Cooperative Society
19. National Federation of Young Farmers Women's Unit
20. Women's Committee of Socialist Working Youth League
21. Women's International Association
22. Mouvement Liberasyon Fam
23. Women's Association for the Promotion of Chinese Culture
24. SMF Wives' Club
25. Association Maison D'Entraide "Women's Handicapped"

Article 11. Right to an adequate standard of living; food and shelter

361. The National Development Strategy (NDS, 2003) for Mauritius revealed that it was impossible to determine accurately the number of housing units between existing settlements and Greenfield locations as there is no monitoring either at central or local Government level once "morcellements" have been approved, or at other approved planning applications or building construction (NDS, 2003, p.78). Furthermore, the RDI (Relative Development Index) shows some wide regional disparities in the levels of development. Geographical dispersal of industrial location and tourism activities has spread out opportunities of employment widely but there are still pockets of deprivation which have not benefited from these opportunities.

362. The provision of affordable housing is a key to tackling the problems of housing supply and social exclusion. The Habitat II Conference (Istanbul, 1996) was meant to produce a practical roadmap to the future of the predominantly urban world; emphasis was placed on provision of adequate shelter for all, sustainable human settlements, participation and gender equality and the financing of human settlements. Governments, it claimed, should integrate shelter policies with macroeconomic, social and environmental policies as well as actions to improve shelter delivery systems. The strategies emphasise that individuals, families and communities must be able to improve their housing. Governments in addition had a vital role to promote better housing by prohibiting discrimination and ensuring legal security of tenure and equal access to land.

363. In Mauritius, the Housing Sector Strategy is guided by the aim of "*Un toit pour toi*" meaning "a roof for you". Strategies that are being contemplated currently by the Ministry of Housing in respect of the provision of affordable housing are as follows:

- Low-cost housing production to cater for the housing needs for low income families and disadvantaged groups through the National Housing Development Company Ltd.
- Creating facilitating conditions for housing construction by all families who wish to accede to first home ownership
- Upgrading of infrastructure on existing NHDC housing estates

- To devise mechanisms to encourage an innovative and forward looking approach to funding tools for the production of affordable housing by encouraging the participation of the private sector
- Provision of land for social housing under the Empowerment Programme (under the aegis of the Ministry of Finance)
- Preparation of a National Housing Policy Framework for future housing strategies (low income families)

Ongoing activities

364. Low cost housing construction - construction of 533 Firinga-type (named after a recent cyclone) housing units by the NHDC Ltd (Funding: Loans from the MHC which have been guaranteed by Government).

365. Site and Services Projects - 300 lots are being contemplated per year and contracts will soon be awarded for three sites already identified, namely Ville Noire, Glen Park and Souillac (Funding: Under the Empowerment Programme).

366. Lower middle income groups housing project - Housing project at Military Road and Penang Street (Funding: Private sector financing is being contemplated for the building works whereas the infrastructure works will be borne by Government).

367. Upgrading of site infrastructure on existing NHDC housing estates - Sewerage treatment plant at Beau Vallon and Dagotiere (Funding: Government).

368. Grant for the casting of roof slabs for low income households (Rs 55,000) - about 3,000 cases are approved every year under the supervision and recommendation of NHDC Ltd. (Funding: Government).

Activities in the pipeline

Preparation of the National Housing Strategy (NHS) (Main)

369. Specific objective: To identify and formulate a set of housing policies and strategies based on the local context and to provide a long term investment programme to balance the demand and supply of social housing in Mauritius. Hence, to devise a programme of policy direction with the aim of identifying the real needy households and thus, targeting the right population for housing support.

370. An overview of the housing context in Mauritius revealed that the number of units produced between 2000 and 2020 will need to increase to 7,000 per annum to meet new and existing household requirements and an additional 3,000 for stock replacement. (Source: Census 2000, NDS 2003).

371. As at to date the National Housing Development Company Ltd (NHDC) has recorded around 30,800 applications for an NHDC housing unit, out of which 95% of the households have an income of less than Rs. 7,500.

372. Based on the above figures the target would be to cater for about 8,500 households per year for the next 3 years in order to alleviate the shortage of housing for the low income groups.

373. On the other hand, currently with around 4400 households who benefits from government assistance, some 50% of the low income families are being catered for.

374. The above have been based only on NHDC figures and hence, do not set the real picture of housing needs and demand. Therefore, in order to assess the housing sector in Mauritius and hence, the real demand for social housing, this will require in-depth research in different avenues to be able to:

- (a) Provide evidence-based data to inform about the level of affordable housing required, including the need for different sizes for affordable housing;
- (b) Provide robust evidence to inform policies aimed at providing the right mix of housing across the whole housing market - both market and affordable housing;
- (c) Encourage the development of market restructuring and re-modelling of partnerships and hence, the development of local, regional and national housing policies and strategies by involving the community as partners in the development of their own areas;
- (d) Redirect mainstream, new initiatives and other funding resources into housing;
- (e) Channel additional gap funds into holistic market and community restructuring and remodelling strategies; and
- (f) Provide a framework for community cohesion, sustainability and regeneration in deprived areas;
- (g) Encourage an innovative and forward-looking approach to funding tools, working with the private sector where appropriate, and adding value and quality to development;
- (h) Help to put in place an appropriate housing structure for the implementation of the above and hence, for regular update of data as well as the production of reports and guidelines, etc, in order to guide policy change and future housing development.

375. The main output of the National Housing Strategy (NHS) would be to:

- (a) Increase the supply of social housing as well as affordability;
- (b) Reduce squatting problems;
- (c) Create sustainable communities in areas of actual or potential market collapse;
- (d) Manage planned intervention over a number of years;
- (e) Lever in as much private funding as possible;

- (f) Marshal existing funding resources and to maximise “housing” money by matched funding from other related activities;
- (g) Create and/or support effective and efficient delivery vehicles and mechanisms;
- (h) Provision of an integrated approach to housing development;
- (i) Link housing activity with complementary physical and social regeneration initiatives.

Article 12. Right to physical and mental health

376. Health, being a fundamental right, is placed at the core of the socio-economic development agenda of Government. Besides, health services are provided, free of any user cost, to the entire population at the point of use, irrespective of age, sex, religion and race.

Article 12. 2 (a) (provision for the reduction of the still-birth rate and of infant mortality and for the healthy development of the child)

377. With universal coverage achieved in the areas of antenatal care, delivery care and postpartum care, the infant mortality rate and still-birth rates in Mauritius compare favourably with other countries in the region. Infant mortality rate has significantly declined since 1976. Infant mortality rate which was 67.5 per 1000 live births in the late seventies has declined to 13.5 per 1000 live births in 2006. Still-birth rate has declined from 34.0 in the late 70’s to 8.0 per 1,000 total births in 2006. Under-five mortality which stood at 52.0 per thousand live births in 1976 fell to 16.1 in 2006.

378. The following indicators show the decline rate of child mortality:

Period	Infant mortality rate	Still-birth rate	Under-five mortality rate
1976	40.4	34.0	52.0
1980	32.3	24.3	40.6
1990	19.9	15.7	22.4
2000	15.8	13.4	17.9
2001	13.9	12.2	16.4
2002	14.5	10.2	16.7
2003	12.9	10.9	16.0
2004	14.0	9.1	16.1
2005	13.2	9.6	15.9
2006	13.5	8.0	16.1

Factors which have contributed to the healthy development of the child

- (i) Free and equitable access to antenatal care, delivery care and postnatal care for pregnant women;
- (ii) High literacy rate among the population;

- (iii) Close monitoring of the health situation of the woman during antenatal visits, with emphasis on health promotion and counselling to avoid maternal risks;
- (iv) Improved quality of care at the peripheral health institutions;
- (v) Improved quality of obstetric care at the hospital level;
- (vi) Guidelines for managing obstetric care;
- (vii) Nearly 100% of birth attended by qualified personnel;
- (viii) 100% immunisation coverage for children and pregnant women, including immunisation of children against measles;
- (ix) Promotion of exclusive breastfeeding;
- (x) Enhanced nutrition strategies;
- (xi) Specialised neonatal services at hospital level.

**Article 12. 2 (b) (improvement of all aspects of
environmental and industrial hygiene)**

379. Refer above.

**Article 12. 2 (c) (prevention, treatment and control of
epidemic, endemic, occupational and other diseases)**

380. Malaria: The Malaria Control Programme is being implemented on a sustainable basis. This Programme is in line within the framework for the implementation of Roll Back Malaria and the Plan of Action of the Abuja Declaration. There is a well-established surveillance system to track imported cases of malaria. Passengers from malarial countries as well as migrant workers are screened. Blood examinations, both for private and public sectors are carried out at the special malaria laboratory. This laboratory is also involved in monitoring resistance to malaria parasite and to drugs. Entomological surveillance comprising survey of breeding places is an ongoing activity. Community participation and participation by other stakeholders including the private sector are also encouraged in order to keep Mauritius a malaria free zone.

381. It is to be noted that since 1997 no indigenous case of malaria has been recorded. For the year 2005, 35 imported cases of malaria were registered.

382. Poliomyelitis: Not a single case of polio has been notified in Mauritius since 1967. Since August 2003, Mauritius is implementing the Acute Flaccid Paralysis (AFP) Surveillance programme. This programme aims at monitoring towards complete polio eradication. The programme is in line with the certification of Africa as a polio-free area.

383. Clean water supply is provided to the entire population. The polio (3rd dose) vaccination coverage in public health institutions is 88.8 per cent.

384. Tuberculosis: Mauritius is not a high burden country concerning tuberculosis. An incidence of around 12 per 100,000 persons has been maintained over the past ten years. For the year 2006, 115 cases of tuberculosis were recorded, out of which 100 were pulmonary cases. There are twice as many cases in males than in females. The largest number of cases is found in the (35-45) years' age group. Tuberculosis in children under 14 years is fortunately rare. The mortality rate is less than 2%. The number of cases of TB/HIV co-infection for 2006 is 5.

385. The main objective of the TB control programme in Mauritius is to interrupt and to prevent the transmission of the tubercle bacilli. The control of tuberculosis is based on early diagnosis and adequate treatment of pulmonary cases, contact tracing, and BCG Vaccination.

386. The surveillance and treatment of tuberculosis in Mauritius is effected from the Chest Clinic at Port Louis where the national programme is based. Being a notifiable disease, all cases are recorded in a register maintained at the Chest Clinic. The disease surveillance is on good tract.

387. All cases of tuberculosis are treated by Specialist staff at the Chest Clinic. They are referred from other units and by General Practitioners. Diagnosis is established by sputum examination, both direct and culture. Chest X-rays are also used for diagnosis, treatment, assessment and follow-up. Tuberculin tests are also performed.

388. Treatment is in accordance with the Protocol laid down by WHO and consists of short course chemotherapy, which is standard. DOTS is implemented in Mauritius and has a 100% coverage. An active home visiting service is carried out by trained nursing staff. All contacts of index cases are screened. They have tuberculin tests and chest X-rays.

389. In Mauritius, BCG is given as a preventive measure to all newborns and this forms part of the expanded immunisation program carried out by the Ministry of Health and Quality of Life. In 2005, 16,147 BCG immunisations were carried out, representing 90.1 per 100 live births.

390. There are only few cases of multi-drug resistant tuberculosis due to non-compliance to treatment. HIV and AIDS have not had an appreciable impact on tuberculosis so far. The Ministry remains vigilant with the rising number of cases of HIV and AIDS. Government is committed towards strengthening the WHO Stop TB Initiative and the DOTS strategy.

391. Chikungunya: Since July 2006, no single case of Chikungunya has been reported. A new Plan of Action has been prepared to ensure sustainable actions against existing and emerging vector-borne diseases including *Chikungunya*. The Plan of Action consists of:

- (a) Reorganisation and reinforcement of vector control activities at the level of the 13 health offices;
- (b) Carrying out social mobilisation to enlist community participation in vector control activities;
- (c) Reinforcement of entomological surveillance;
- (d) Strengthening of intersectoral cooperation.

392. HIV and AIDS: The infection rate in the population in general is 0.5%, while the prevalence rate in the group with high-risk behaviour such as sex workers, injecting drug users and prison inmates is more than 5%. Since 2001 the HIV epidemic in Mauritius has taken an upward trend, with an annual 100% rise in new infections. The trend since 2003 demonstrated that injecting drug use (IDU) is considered as the main driver to the epidemic, with 92% of new infections among injecting drug users in 2005. This mode of transmission is a cause of major concern for the country.

393. A National Day Care Centre for the Immuno-suppressed (NDCCI) has been set up in December 1999 for the clinical, biological and psychological treatment, care and follow-up of people living with HIV and AIDS. The NDCCI Centre offers an array of services which include amongst others the following:

- (a) Treatment of most common opportunistic infections;
- (b) Implementation of a Prevention of Mother to Child Transmission programme (PMTCT) was set up in December 1999. Under this programme all pregnant women following antenatal clinics are screened for HIV. Those tested positive are offered a prophylactic treatment, which reduces the risk of transmission from mother to child from 30% to 1%;
- (c) Introduction of Post Exposure Prophylaxis to all accidental injuries including victims of rape;
- (d) Provision of antiretroviral treatment free of charge to all HIV infected persons in need and follow-up of patients;
- (e) Voluntary Counselling and Testing;
- (f) Collection of blood samples for tests i.e. CD4, Viral load, Routine test, PCR test;
- (g) Artificial milk distribution to babies born from HIV Positive mothers.

394. Furthermore, the Central Virology Laboratory has been upgraded with additional facilities to enable the follow-up of ARV treatment. Voluntary Counselling and Testing Service (VCT) has also been extended to all Health Regions. Detoxification of drug users on a fortnightly residential basis is also undertaken at the Brown Sequad Mental Health Care Centre. A mobile caravan has been made available to the Unit to extend its outreach activities to reach the groups with high risk behaviours. Health promotion activities, including health education and preventive health are being carried out at the national level with the collaboration of Non-Governmental Organisations.

395. Mauritius responded promptly to the HIV epidemic as a National AIDS Control Programme (NACP) was established in 1987 before the first AIDS case was detected. The programme aimed primarily at sensitizing the population through information and education. One short Term Plan (87-89) and one Medium Term Plan (89-93) were implemented followed by consecutive annual plans. The main goal of the plans was to prevent new HIV infections, including, through Blood Transfusion Safety, established since 1987. More aggressive sensitisation campaigns have targeted identified groups with high-risk behaviours (sex workers, injecting drug users etc.)

396. Tremendous efforts have been made to bring all the partners in the fight against HIV and AIDS together. This has resulted in the formulation of a Multi-Sectoral National HIV and AIDS Strategic Plan 2001-2005. All the partners under the guidance of the UNAIDS Inter country Programme Adviser have worked together in the elaboration of the plan. The responsibility of ensuring the implementation of the National Strategic Plan from a holistic and integrated approach rests with the National AIDS Committee. The National AIDS Committee has been reformed and is chaired by the Prime Minister. It comprises 8 other Ministers and representatives of NGOs and of the private sector.

397. A multi-sectoral technical advisory committee has been set up and is responsible to suggest and recommend plans of actions within the strategic framework. It also advises the NAC on issues relating to HIV/AIDS in particular identify any emerging symptoms prone to affect positively or negatively the situation so that objectives and activities may be reviewed accordingly.

398. The National Strategic Plan (NSP) for the period 2001-2005 has already been implemented. The National Strategic Plan 2007-2011 has been prepared in close collaboration with major stakeholders and will be implemented as from this year. This Plan is based on the evaluation report of the previous NSP, the UNGASS Report 2005 and the Universal Access Report 2006. This new strategic Plan will be implemented as from early 2007.

399. To deal with the challenges of HIV/AIDS and in line with the Biennial UNGASS Report 2005, the following additional measures have/will be initiated:

(a) Methadone as substitution therapy has already been introduced since November 2006. Government has also agreed to the implementation of a Needle Exchange Programme;

(b) HIV and AIDS legislation has already been enacted. This Act will ensure an effective legal framework to implement the Needle Exchange Programme, eliminate all forms of discrimination and assure the full enjoyment of human rights by people living with HIV/AIDS;

(c) In line with the UNAIDS guiding principles, a Monitoring and Evaluation (M&E) framework for HIV/AIDS responses has been elaborated;

(d) An action plan for people living with HIV/AIDS has been finalized and will be implemented soon;

(e) A medium and long term media plan on sensitisation, education and information on HIV/AIDS is being prepared. In addition, intersectoral collaboration to deal with the scourge of HIV/AIDS is being strengthened;

(f) An Action Plan has been developed by the Council of Religions. This Plan emphasises on ways and means to combat stigma and discrimination experienced by People Living with HIV/AIDS. It also provides for the creation of an enabling environment for women to protect themselves from HIV infection;

(g) An operational plan on prevention for groups with high risk behaviour is being elaborated. It will also include Rehabilitation and Social Reinsertion Programmes;

(h) The setting up under the Prime Minister's Office of both the National AIDS Secretariat and the National Monitoring and Evaluation Unit in line with the UNAIDS guiding principles;

(i) The elaboration and rapid implementation of the National Strategic Plan for 2007-2011 where priorities will be given to review and intensify primary prevention efforts for groups with high risk behaviour, and improve the quality of life of people living with HIV/AIDS (PLWHA) through comprehensive care and support. This document is nearing finalization; and

(j) Reinforced intersectoral collaboration.

400. Avian and Pandemic Influenza: Presently, although Mauritius is free from Avian Influenza, measures as recommended by the World Health Organization are still in place and close monitoring of the situation is ongoing.

401. The following measures have been taken by the Ministry of Health and Quality of Life in view of the potential threat of a pandemic strain of influenza virus:

- (i) Surveillance of communicable diseases has been reinforced at the Port and the Airport, including the airport at Plaine Corail in Rodrigues;
- (ii) Travellers to affected areas have been advised to avoid visiting poultry farms and crowded markets where poultry is being sold and to report to the health authority in case of illness following their return to the country;
- (iii) Regional Health Directors have been requested to provide isolation facilities in each hospital to cater for suspected cases of Avian Flu;
- (iv) Health Inspectors are carrying out regular visits to poultry farms to ensure that proper husbandry practices are being observed and also to report abnormal deaths of poultry which may be the first sign that the disease has reached our shores;
- (v) Arrangements are being made for the partial procurement of a stock of personal protective equipment for the health care personnel;
- (vi) Influenza surveillance has been stepped up. Regional Health Directors have been requested to make arrangement with doctors in their respective health region to submit specimens of throat swab to the Virology Laboratory, Victoria Hospital, for the detection of influenza virus. This will ensure early detection of any new influenza virus circulating in the country;
- (vii) Presently, there is available in stock Oseltamivir (Tamiflu) for the treatment of 160,500 persons; and

- (viii) The carrying out of Polymerase Chain Reaction (PCR) and Rapid Tests for diagnosis of Avian Flu by the Virology Laboratory. Specimens of confirmed influenza cases will be referred to the WHO Influenza Reference Laboratory in London for identification of strain;
- (ix) Consistent with the recommendations of the World Health Organisation to prepare an Emergency Preparedness Plan for pandemic influenza preparedness, a Monitoring Committee, comprising all stakeholders concerned has been set up to;
- (x) Take stock of the existing facilities to address problems encountered and make proposals in the light thereof; and
- (xi) Work out a National Preparedness Plan.

402. A contingency plan has accordingly been drawn up which provides for the interventions mentioned in the to be carried out in phases:

- (i) The interpandemic period;
- (ii) The pandemic alert period;
- (iii) The pandemic period;
- (iv) The interpandemic period.

403. The main actions would be directed towards the assessment of national capacity to respond to early reports of new influenza virus strain and to develop effective mechanisms for mobilisation and deployment of resources to areas of need. The measures would include:

- (i) Setting up of a National Pandemic Planning Committee;
- (ii) Situation monitoring and assessment;
- (iii) Prevention and containment;
- (iv) Preparing for health system response through training of staff, patient education and confirmation of isolation facilities;
- (v) Providing for consumables;
- (vi) Reinforcement of staff;
- (vii) Reinforcement of Laboratory capacity;
- (viii) Clinical management and treatment;
- (ix) Mortuary capacity and disposal of corpses;
- (x) Communication system.

The Pandemic alert period

- (a) The Planning Committee would meet more frequently;
- (b) The Contingency Plans are reviewed and updated;
- (c) Surveillance among humans and animals are enhanced;
- (d) Availability of drugs (antivirals) are reassessed;
- (e) Strategies, guidelines and priorities are reviewed; and
- (f) Information for the mass media, patients, health workers and policymakers are reviewed and updated.

Pandemic period

404. The aim is to minimise the impact of the pandemic. The following measures should be taken:

- (i) Activation of Crisis Committee;
- (ii) Implementation of the National Pandemic Plan including coordination of response and implementation of specific interventions; and
- (iii) Assessment of current and cumulative national impact.

405. Non-Communicable Diseases (NCDs): NCDs are present throughout the world. It has reached epidemic proportions in many countries and its prevalence is likely to increase in the coming years. The main factors associated with the increasing prevalence of NCDs worldwide are:

- (i) Demographic changes with a progressive ageing of the population;
- (ii) Urbanisation accompanied by changing lifestyle and behaviour; and
- (iii) Globalisation where multi-nationals such as in the food, alcohol and tobacco industries have gained access to all parts of the world.

406. In Mauritius, routine statistics in the 1980's indicated increasing rates of diabetes and hypertension. With the collaboration of WHO and its collaborating centres, NCD surveys on disease and risk factor prevalence were carried out in 1987, 1992, 1998 and 2004. These surveys showed high rates of diabetes and hypertension along with high rates of risk factors such as smoking, alcohol abuse, elevated cholesterol, overweight/obesity, and lack of physical activity.

407. The 2004 survey showed a prevalence of 19.3% indicating a probable stabilization of the diabetes epidemic. The other findings were:

- (a) The high prevalence of diabetes increased from 14.3 % in 1987 to 19.5 % in 1998 and then decreased slightly to 19.3% in 2004 (age \geq 30 years);

(b) On the positive side the prevalence of IGT (pre-diabetes) declined gradually from 19.3% in 1987 to 12.1% in 2004;

(c) Prevalence of obesity and overweight showed the same pattern as for diabetes - Obesity: 6.3% in 1987, 11.5% in 1998 & 10.3% in 2004 and overweight: 24.2% in 1987, 29.1% in 1998 and 25.4% in 2004;

(d) Prevalence of moderate/heavy leisure activity in age group 35-54 years increased in males from 11.8% in 1987 to 24.5% in 2004 and in females from only 1.4% in 1987 to 9.5% in 2004;

(e) Prevalence of hypertension did not change significantly. In 1987, it was 30.2% and in 2004, the figure at 29.8%;

(f) Tobacco consumption decreased in males from 57.9% in 1987 to 35.9% in 2004, but for females it remained low at 7% in 1987 and 5.1% in 2004.

408. The repeated surveys showed that detection of the disease and quality of care for diabetes and other NCDs, lagged behind with increasing serious complications like renal failure, blindness, amputations and coronary heart disease/stroke with heavy cost implications. At present diabetes prevalence remains high in Mauritius and will probably continue to stay high for several years to come. There may be as many as 120,000 diabetics with nearly 50% of them not knowing that they have the disease. Most of these people with diabetes have poor control of their condition and consequently cardiac, vascular, neurological, eye and renal complications are likely to increase in the near future.

409. Prevention and control of chronic diseases is a difficult and prolonged battle. It demands political support, adequate technology and private sector / community/ international support as well as committed technical staff.

410. Among the NCDs, diabetes is the most costly and is also a major risk factor for other NCDs. Despite the continued efforts to provide an easily accessible diabetes service care to all patients, it appears that so far the service has satisfied neither the providers nor the users. Most of the clinics are overcrowded and the set-up does not favour optimal care and attention.

411. A managerial structure was instituted and had the task of integrating various units and programmes of the Ministry of Health & Quality of Life in one framework for better effectiveness and efficiency. Thus, the Mental Health and Substance Abuse Unit, the HIEC Unit, the Nutrition Unit, the Community Based Rehabilitation Programmed (CBR), the Primary Health Care (PHC), including the Medi-Clinics, UNICEF/UNFPA Projects and the Carnet de Santé Programme through the Community Health Unit, were integrated within the Division.

412. In 2001, the NCD Division was decentralised with an NCD Co-ordinator being nominated in each region but there was no focal point with technical expertise at the level of the Ministry of Health & Quality of Life to ensure coordination, monitoring and evaluation at national level.

413. The National Service Framework for Diabetes for Mauritius (NSFD) is being implemented. The NSFD is based on materials from the United Kingdom Department of Health NSFD document, the diabetes action plans of other nations such as Finland and Australia and on the Diabetes Strategy paper for Africa, an initiative of the IDF (Africa Region) developed in partnership with the WHO-Afro and the African Union. It includes standards and key interventions that are important for improving the primary, secondary and tertiary prevention and care of diabetes in Mauritius.

414. The targets set are guided by the Western Pacific Diabetes Declaration and Plan of Action (2000) and the African Diabetes Declaration and Strategy (2003). The targets are towards the achievement of specific 10-year aims.

415. Based on the rate of the specific complications of diabetes, 10-year aims are as follows:

- (a) To reduce new cases of blindness due to diabetes by one third or more;
- (b) To reduce end-stage diabetic renal failure by at least one third;
- (c) To reduce limb amputations for diabetic gangrene by one half;
- (d) To reduce morbidity and mortality from coronary heart disease.

416. Furthermore, the 10-year aims will only be achievable from the time that the specific standard or standards relating to the specific complication is successfully put in place, for instance, reducing new cases of blindness by one third or more would only be achievable with the implementation of an effective digital retinal screening programme and the laser therapy service necessary to deal effectively with those cases of diabetic retinopathy requiring laser treatment detected during the screening process.

**Article 12. 2 (d) (creation of conditions which would assure to all
medical service and medical attention in the event of sickness)**

417. The Public Health Service (PHS) is a central element of the Welfare State of the Republic of Mauritius. Health care services are delivered through a regionalised 3-tier system and specialised health institutions. The health delivery system is characterised by:

- (a) A network of primary health care institutions;
- (b) Hospital care;
- (c) Tertiary care; and
- (d) Support services.

418. The crux of the Primary Health Care Policy since independence has been based on bringing about a more equitable distribution of health resources with greater accessibility to primary health care and its supporting services. On the basis of this fundamental policy, a sustainable programme of extending and developing the network

of institutions providing integrated primary health care throughout the country has been developed and implemented. At present, the primary health care system comprises 21 Area Health Centres, 2 Medi-Clinics, 2 Community Hospitals and 112 Community Health Centres.

419. The hospital system of the country forms a significant part of the socio-economic activities of the nation, with more than 75 per cent of the health budget allocated to public hospitals. Hospitals in Mauritius record an average of 2,900,000 outpatient attendances and 200,000 inpatient admissions every year. Universal coverage, equity, and free services continue to be the prominent cornerstone of the hospital services. The continuous acquisition of up to date medical devices and equipment, which are outcomes of the evolving world of medical science and technology, has considerably increased the range of clinical services and remarkably improved the quality of clinical management. The hospital network is made up of three district hospitals, five specialised hospitals, including the Cardiac Centre and five regional hospitals namely:

- Dr A.G. Jeetoo Hospital 462 beds
- SSRN Hospital 547 beds
- Flacq Hospital 306 beds
- J. Nehru Hospital 437 beds
- Victoria Hospital 660 beds

420. Support services in the public health system, include amongst others, the laboratory services, the blood transfusion unit, the hotel and ambulance services. These services have been strengthened to meet increasing demands of the primary and secondary care institutions. The “Service d’Aide Médicale d’Urgence” (SAMU) has been set up at each Accident/Emergency Department in the five regional hospitals.

421. Furthermore, Government funds all interventions/examinations that are undertaken abroad for those patients who cannot be treated locally.

Mental health care

422. The Brown Sequard Mental Health Care Centre was established under the Mental Health Care Act 1998 to provide mental health care to all those who seek help without discrimination. There exists a system of self referral whereby the patient only presents himself at the hospital for a consultation. The hospital comprises of 13 doctors, 220 attending nurses along with medical social workers, welfare officers, medical records officers, occupational therapist, psychologists etc. At present the number of in patients amount to 520 for long stay patients and about 200 per day (depending on admissions and discharges) for acute patients. About 330 outpatients receive treatment at the hospital daily (new cases and follow-up cases). Illnesses treated cover all types of mental disorders as defined by the International Classification of diseases (ICD 10) ex, schizophrenia, hypomania, depression, bipolar disorders etc but alcoholics are also cared for in relation to detoxification and rehabilitation.

423. Section 4 of the Mauritius Mental Health Care Act provides that the objects of the Mauritius Mental Health Care Association shall be to promote good human relations and the highest level of mental health, either alone or in co-operation with other national or international organisations; foster the ability to live harmoniously in a changing environment and encourage research in the field of mental health; provide information, advice and assistance in the field of mental health; and promote and manage a school for educationally retarded Children.

424. Organisations providing services for persons with mental health disabilities are: the Cypres Handicapped Association, the “*Association de Parents d’Enfants Inadaptés de l’Ile Maurice*” (APEIM), Friends in Hope, A.P.S.A. (International) Association for the promotion of health; Dominique Savio Association, Epilepsy Group EDYCS; Eastern Welfare association for the Disabled; Fondation Georges Charles; Fellowship First Aiders; Flacq Disabled Centre; Special Education Needs (SENS) and Southern Handicapped Association provide services for persons with mental health disabilities.

425. The Mauritius Mental Health Association runs a school for children with mental health disability, where academic education and training in activities of daily living are taught. Pre-vocational training is provided to children between 15 and 18. A sheltered workshop has been set up for people with severe disability, aged over 18.

426. The Cypres Handicapped Association organises leisure activities to its members and is involved in handicraft products. The APEIM runs several special schools for children with mental health disability. It also provides services involving parent volunteer training programme, early intervention, speech therapy, occupational therapy, medical follow-up and psychological support. Other services include pre-vocational training, sheltered employment, special classes for children with autism, home visits and parent counselling. Friends in Hope was founded by relatives of persons suffering from psychiatric disorders, and include among its numerous objectives; the improvement of public awareness and understanding of psychiatric illnesses etc.

Article 13. Right to education

The Constitution and related legislation

427. The Constitution, although it does not expressly make mention of a right to education, nevertheless provides in its section 14, for the protection of the freedom to establish schools. The right to education is in practice fully guaranteed through the various Acts passed and regulations made to that effect.

428. Section 37 of the **Education Act** provides for education to be mandatory for all children up to the age of 16.

429. Free education is also available to all, irrespective of nationality, race, caste, religion, place of origin, political opinion, colour, creed or sex, without prejudice to the establishment of religious schools.

430. Section 4(1) of the **Mauritius Institute of Education Act** provides that the Institute shall provide facilities for and engage in educational research, curriculum development and teacher education in order to promote the advancement of learning and knowledge in the field of education and a teacher education which is responsive to the social, linguistic, administrative, scientific, agricultural and technological needs of Mauritius, amongst others.

431. Section 4 of the **Tertiary Education Commission Act** provides that the duties of the Commission shall be to foster the development of post secondary education and training facilities, amongst others.

432. Section 6 of the **University of Mauritius Act** entitled “No discrimination” provides: *No discrimination on account of nationality, race, caste, religion, place of origin, political opinion, colour, creed or sex shall be shown against any person in determining whether he or she is to -*

- (a) *Be appointed to the academic or other staff of the University;*
- (b) *Be registered as a student of the University; or*
- (c) *Graduate from, or hold any advantage or privilege of, the University.*

433. Section 35 of the **Education Act** provides:

State supported schools open to all -

All Government schools and all schools in receipt of a regular grant in aid from public funds shall be open to pupils of any race or religion.

434. This Act is supplemented by the **Education Regulations 1957**, which in regulation 52 provides:

“(1) A secondary school in Mauritius to qualify for registration as an approved secondary school shall comply with the following conditions -

it shall not refuse admission to any pupil on the grounds of race or religion.”

435. **Section 11(2) & (3) of the Constitution entitled “Protection of freedom of conscience” reads:** *Except with his own consent (or, if he is a minor, the consent of his guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion that he does not profess.*

No religious community or denomination shall be prevented from making provision for the giving, by persons lawfully in Mauritius, of religious instruction to persons of that community or denomination in the course of any education provided by that community or denomination.

Case law

436. 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.”

437. In the case of **Roman Catholic Diocese of Port Louis v. Minister of Education** [1991 MR 176], 179-180, 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.”

438. The Judicial Committee of the Privy Council held in the case of **Bishop of Roman Catholic Diocese of Port Louis and others v. Suttyhudeo Tengur and others, Privy Council Appeal No. 21 of 2003**:

“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.”

439. 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”.

Education in statistics

440. The data presented below has been compiled on the basis of information collected through the annual survey conducted in schools in March 2007, together with data from other sources. The data refer to the Republic of Mauritius (excluding the island of Agalega) and cover pre-primary, primary, secondary (academic and pre-vocational) and tertiary education. For the financial year 2007/2008, Government recurrent expenditure on education was estimated at about Rs 6,940 million, representing 13% of total recurrent expenditure. Government capital expenditure on education was nearly Rs 872 million, that is, 9% of total capital expenditure.

Pre-primary

441. Pre-primary schools numbered 1,076 in March 2007 with an enrolment of 36,421 children (50% boys, 50% girls). The Gross Enrolment Ratio (number of students enrolled per 100 population aged 4-5) works out to 94% with an average of 15 pupils per teacher.

Primary

442. As at March 2007, there were 289 primary schools with 119,310 pupils (51% boys, 49% girls). Total staff comprised 8,026 persons with 4,201 General Purpose Teachers and 1,347 Oriental Language teachers. The Gross Enrolment Ratio (number of students enrolled per 100 population aged 6-11) is 101% and the pupil/teacher ratio 28.

Secondary

443. I. Academic - As at March 2007, there were 186 schools providing secondary education in the academic stream. The secondary school enrolment was 116,706 (48% boys, 52% girls) and the number of teachers was 7,423. The Gross Enrolment Ratio (number of students enrolled per 100 population aged 12-19) works out to 69% and the pupil/teacher ratio 16.

444. II. Pre-vocational - Pre-vocational education was dispensed in 153 schools in March 2007 with an enrolment of 9,573 students (62% boys, 38% girls) and 701 teaching staff. The pupil/teacher ratio was 14.

CPE, SC and HSC results

445. Pass rate for Certificate of Primary Education (CPE) examination has increased from 64.9% in 2005 to 67.9% in 2006. For the Cambridge School Certificate (SC), percentage pass increased from 78.4 in 2005 to 78.9 in 2006. Similarly, for the Cambridge Higher School Certificate (HSC), percentage pass rose from 78.2 to 79.3.

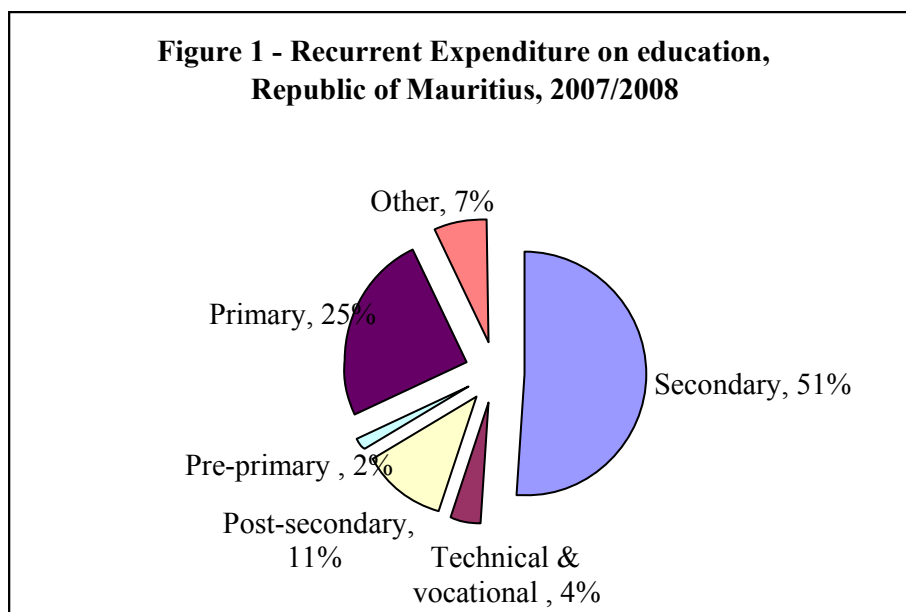
Tertiary education

446. Tertiary level enrolment went up by 15%, from 28,864 students in 2005 to 33,230 in 2006.

Expenditure

447. Total Government expenditure estimates for the financial year 2007/2008 is Rs 61,544 million, out of which, Rs 7,812 million (13%) has been allocated to education. Government capital expenditure on education, estimated at Rs 872 million, represents 9% of total government capital expenditure (Rs 10,050 million), and recurrent expenditure on education estimated at Rs 6,940 million, that is 13% of the government total recurrent expenditure (Rs 51,494 million).

448. Out of the recurrent budget on education and training for the year 2007/2008, 51% is allocated to secondary education, 25% to primary education, 11% to post secondary education, 4% to technical and vocational education, 2% to pre-primary education and the remaining 7% to other expenses (Table 1.3 and Figure 1).



Pre-primary education

Schools

449. In March 2007, there were 1,076 schools providing pre-primary education: 1,044 in the Island of Mauritius and 32 in Rodrigues. Of these schools, 826 (77%) were privately run institutions; 179 (17%), operating on government primary school premises, were administered by the Pre-School Trust Fund (PSTF) and the remaining 71 (6%) were administered by either Roman Catholic (RC) authorities or Municipal/Village Councils (Table 2.1).

Enrolment

450. Total enrolment in pre-primary schools numbered 36,421, of whom 18,339 were boys and 18,082 girls (Table 2.3). The Gross Enrolment Ratio (pre-primary enrolment as a percentage of the population aged 4 and 5 years) works out to 94% in 2007 against 95% in 2006.

Personnel

451. In March 2007, total employment in pre-primary schools stood at 3,386, of whom 2,500 were teachers and 886, non-teaching staff. The average number of pupils per teacher works out to 15.

Primary education

(i) Schools

452. In March 2007, there were 289 schools providing primary education, 276 in the Island of Mauritius and 13 in Rodrigues. The majority (219) of the schools was run by Government, 51 by the Roman Catholic Education Authority (RCEA), 2 by the Hindu Education Authority and the other 17 were private non-aided schools.

(ii) Enrolment

453. The primary school population in the Republic of Mauritius decreased by about 2% from 121,387 in 2006 to 119,310 in 2007. Boys represented 51% of the 2007 primary school population and girls 49%. Around 74% of the primary school population was enrolled in government schools and the remaining was in private aided and non-aided schools (Table 3.3).

454. Distribution by grade shows that the highest number of pupils was in standard VI (23,897 pupils including 4,441 repeaters). The Gross Enrolment Ratio (primary enrolment as a percentage of the population aged 6 to 11 years) works out to 101%, against 102 in 2006.

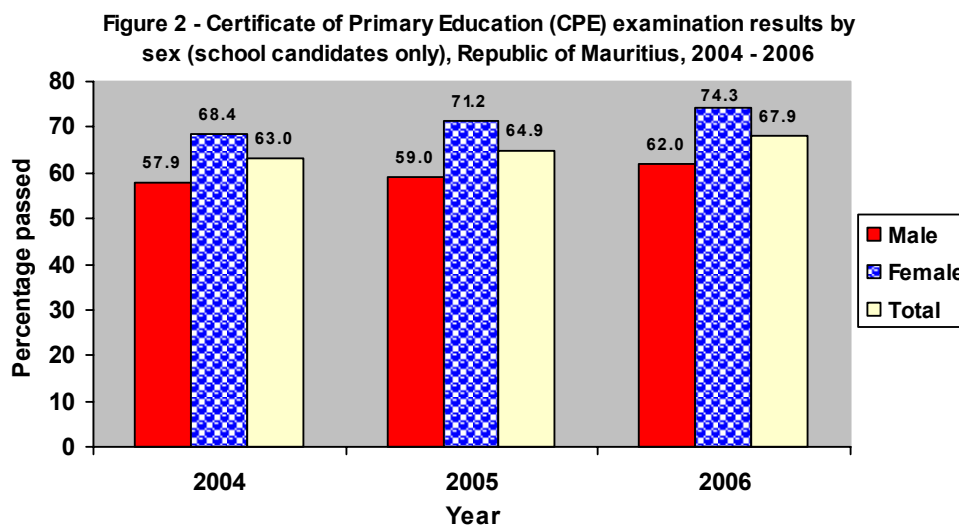
(iii) Personnel

455. At March 2007, 8,026 persons were employed in primary schools. Of this number, 5,548 were teaching staff: 4,201 General Purpose Teachers and 1,347 Oriental Language Teachers. The remaining 2,478 comprised 287 Head Teachers, 829 Deputy Head Teachers and 1,362 administrative and other workers (Table 3.9). The pupil/teacher (general purpose) ratio in primary schools works out to 28.

Certificate of Primary Education (CPE)

456. In 2006, the number of candidates who took part in the CPE examination was 27,771 (25,007 school candidates and 2,764 private candidates), with an overall pass rate of 65%.

457. The pass rate among school candidates, comprising 12,942 boys and 12,065 girls, was 68%. The girls were more successful than the boys, with respective pass rates of 74% and 62% (Table 3.11 and Figure 2).



458. The overall pass rate among the 2,764 private candidates (1,562 boys and 1,202 girls) was 41%, with girls again achieving better results than boys, 46% against 37% (Table 3.12).

459. School candidates who took part in the CPE examination for the first time did much better than those taking the examination a second time, 76% against 40% (Table 3.12).

Secondary and pre-vocational education

General

460. At March 2007, 40 schools were offering secondary academic education only, 7 pre-vocational education only and 146 both secondary academic and pre-vocational education.

Secondary education (academic only)

Schools

461. Out of the 186 schools dispensing secondary education, 181 were in the Island of Mauritius and 5 in Rodrigues. State administered schools numbered 70, while the other 116 were private aided and non-aided schools (Table 4.1).

Enrolment

462. Table 4.3 shows that secondary education enrolment increased by about 2% from 114,657 in 2006 to 116,706 in 2007. Among the students, 60,609 (52%) were girls and 56,097 (48%) were boys. About 38% of the secondary school population were in state schools and 62% in private (aided and unaided) schools. Gross Enrolment Ratio (secondary education enrolment as a percentage of the population aged 12 to 19 years) for the academic stream works out to 69% in 2007, same as in 2006.

Pre-vocational education

Schools

463. At March 2007, 153 schools were offering pre-vocational education: 148 in the Island of Mauritius and 5 in Rodrigues. Sixty-six of these schools were state secondary schools and state pre-vocational schools while the remaining 87 were private schools.

Enrolment

464. Enrolment in the schools offering pre-vocational education was 9,573 comprising 5,957 boys and 3,616 girls (Table 4.11). About 36% of the students in pre-vocational schools were in state schools.

Personnel

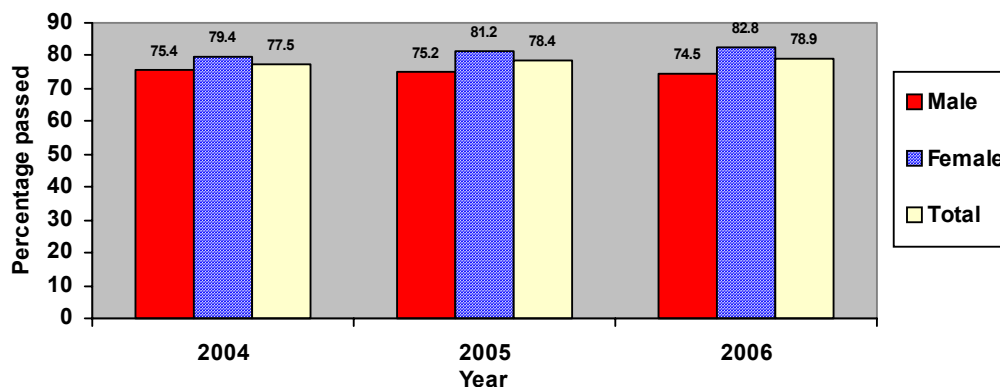
465. The number of teachers working in schools offering secondary and pre-vocational education was 8,124 at March 2007.

466. The secondary education teaching staff in the academic stream was 7,423 (3,278 males and 4,145 females). The pupil/teacher ratio works out to 16. On the other hand, the pre-vocational education teaching staff stood at 701 (260 males and 441 females), giving an average of 14 pupils per teacher.

Cambridge School Certificate (SC)

467. In 2006, out of 16,448 candidates (7,790 males and 8,658 females) who took part in the Cambridge School Certificate examination, 12,971 were successful. Comparison with the 2005 results shows that the overall pass rate has slightly gone up from 78.4% to 78.9% (Table 4.17 and Figure 3).

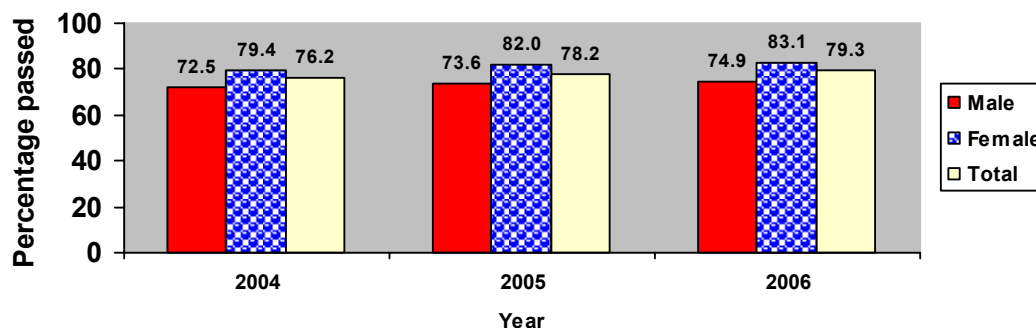
Figure 3 - Cambridge School Certificate (SC) pass rate (school candidates only), Republic of Mauritius, 2004 - 2006



Cambridge Higher School Certificate (HSC)

468. The number of students taking part in the 2006 Cambridge Higher School Certificate examination stood at 8,040 (3,698 males and 4,342 females). The overall pass rate was 79.3% compared to 78.2% in 2005 (Table 4.18 and Figure 4).

Figure 4 - Cambridge Higher School Certificate (HSC) pass rate (school candidates only), Republic of Mauritius, 2004 - 2006



Tertiary education

469. As at December 2006, the total number of students (part-time and full-time) enrolled on tertiary-level programmes (including Distance Education) reached 33,230 compared to 28,864 in December 2005, representing an increase of 15.1%.

470. The majority of students (75%) were enrolled in tertiary education locally in both public-funded institutions (47%) and private institutions (28%). Another 25% of the students were enrolled in tertiary education overseas (Table 5.1b).

471. The gross enrolment rate (tertiary education enrolment as a percentage of the population aged 20 to 24 years), which was 28.4% in 2005, reached 34.1% in 2006.

Article 14. Compulsory education

472. The Education Act 1957 was amended to provide for compulsory education at primary level in Mauritius. This Act was further amended in 2004 by repealing section 37 and replacing it with a new section 37 which provides for Compulsory education up to the age of 16. The 2004 amendment now provides that any responsible party who fails to comply with this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to a term of imprisonment not exceeding 2 years.

Article 15. Right to culture and scientific development

The Constitution

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

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.

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.

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 -

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

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.

474. 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 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 languages (*according to their personal liking or cultural/religious background, they may choose between Hindi, Mandarin, Tamil, Urdu*).

475. 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.

476. 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.

(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 recognised by law, and "parent" shall be construed accordingly.

Legislation

477. Section 4 of the Mauritian Cultural Centre Trust Act entitled "Objects of the Trust" provides:

The objects of the Trust shall be -

(a) To promote Mauritian culture and develop a plural Mauritian cultural identity through, inter alia;

(b) The establishment of a register of Mauritian artists and associations of artists;

(c) The creation of facilities for multi-disciplinary documentation and research;

(d) The collection, publication and dissemination of information on Mauritian culture, and history;

(e) The organisation of lectures, seminars, workshops, exhibitions and other activities to develop and improve the knowledge, understanding, and practice of Mauritian culture;

(f) The collaboration with other Cultural Centres both at national and international levels; and

(g) *The establishment of links with organisations engaged in similar activities locally and internationally;*

(h) *To identify, develop and perpetuate Mauritian cultural heritage inclusive of oral traditions and folk arts;*

(i) *To showcase Mauritian culture worldwide, including the setting up of a website;*

(j) *To encourage Mauritian artistic and cultural creativity; and*

(k) *To set up a Mauritian Cultural Troupe.*

478. Section 4 of the **Mauritius Marathi Cultural Centre Trust Fund Act** provides that the Trust shall preserve and promote Marathi art and culture and promote the study of Marathi, amongst others.

479. Section 4 of the **Mauritius Tamil Cultural Centre Trust Fund Act** provides that the Trust Fund shall preserve and promote Tamil art and culture and promote the study of Tamil, amongst others.

480. Section 4 of the **Mauritius Telegu Cultural Centre Trust Fund Act** provides that the Trust shall preserve and promote Telugu art and culture and promote the study of Telugu, amongst others.

481. Section 4 of the **Islamic Cultural Centre Trust Fund Act** provides that the Trust shall preserve and promote Islamic art and culture and promote study of Arabic and Urdu, amongst others.

482. Section 4 of the **Aapravasi Ghat Trust Fund Act** provides that the Trust Fund shall establish and promote the Aapravasi Ghat as a national, regional and international memorial site, preserve and restore the aesthetic and architectural aspects of Aapravasi Ghat and set a museum at Aapravasi Ghat and create public awareness in the history of the site and depict the arrival, settlement and evolution of the immigrants in Mauritius, amongst others.

483. Section 4 of the **Nelson Mandela Centre for African Culture Trust Fund Act** provides that the Trust Fund shall preserve and promote African arts and culture and preserve and promote Creole arts and culture, amongst others.

484. Section 4 of the **National Heritage Fund Act** provides that the Fund which shall:

(a) Safeguard, manage and promote the national heritage of Mauritius;

(b) Preserve 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

(c) Educate and sensitise the public on cultural values, national heritage and instil a sense of belonging and civic pride with respect to national heritage.

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

- (i) The Hindi speaking Union Act;
- (ii) The Urdu speaking Union Act 2002;
- (iii) The Roman Catholic Church Act;
- (iv) The Tamil Maha Sangam Act.

486. The main object of these Acts are 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 organisation of lectures and debates. They provide facilities for extensive exchange programmes, scholarships and social intercourse with other organisation at regional and international level. It may be noted also the Government also subsidises the main religious associations.

Case law

487. In the case of *Raj Dayal v. Gilbert Ahnee (2002)*, 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 is nothing which prevents him from going about his spiritual practice in public or in private in the company of other people.

488. 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 festival. 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 refrain from actively and publicly participating in religious rites.

489. 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*".

490. The article was held to be highly defamatory, and damages were awarded to the plaintiff.

Measures adopted and the progress made in achieving the observance of the following rights

- (i) To take part in cultural life;
- (ii) To enjoy the benefits of scientific progress and its applications; and
- (iii) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Promotion of arts and culture

Reinforcement of multiculturalism, by celebrating cultural and linguistic diversity as well as multiple identities; implementation of policies aimed at promoting national unity

491. Mauritius does not have an indigenous population. The Mauritian Nation is a multicultural community comprising of descendants of migrants hailing from Africa, Asia and Europe. Yet within a history spanning hardly over three centuries, Mauritius has emerged as a model of *Unity in Diversity*, where the cultural rights of all components of the population are safeguarded and promoted without any hindrance. It is precisely that Unity in Diversity which has been the basis for our socio-economic development.

492. The cultural policy of Government is to provide financial and institutional support to ensure that all practised aspects of arts and culture in Mauritius are preserved and promoted. These aspects include the preservation and promotion of our ancestral languages and traditions. In this endeavour, Government benefits from the collaboration of several stakeholders such as Cultural Centres, socio-cultural organisations, the media (written and spoken), NGOs and the public at large.

493. Today Mauritius is acclaimed over the world for the successful management of its cultural diversity. It should be emphasised that this is possible because the recognition of cultural specificities and promotion of diversity are shared by both Government and the people. This explains why Mauritius has not known any major social disturbance throughout its history as has been the case with other nations with diverse population. All major cultural celebrations are marked by public holidays to enable the entire population to understand, appreciate and participate therein. Thus, it can be said that every Mauritian is a citizen of multiple identities.

494. Activities such as Divali and Eid celebrations, Christmas and Spring Festival are organised annually at national level. The objective behind these celebrations is to foster mutual understanding and sharing of values between the various communities as well as to encourage intercultural dialogue within the Mauritian community.

495. The concept of the programmes mounted lay emphasis on unity. A National Unity Award has been set up to acknowledge the contribution of individuals/organisations for their outstanding role in the promotion of national unity on a yearly basis.

Promotion of cultural heritage

496. The Ministry celebrates several festivals at national level along with a significant number of other artistic and cultural events on the basis of an elaborate annual Calendar of Activities duly approved by Government, to ensure the promotion of all aspects of cultural heritage.

Promotion of artistic creation (painting, sculpture, music, drama, theatre, writing, etc.)

497. Workshops, Exhibitions, programmes, concerts, plays in ten languages and creative writing (subsidized) are organised on a regular basis. The book loaning-cum-reading culture too is growing more and more vibrant. The publication of books is subsidised by the Ministry of Arts and Culture and the President's Fund for Creative Writing in English.

Creation of specialised institutions

498. With a view to offering a specialised service in the fields of arts and culture to members of the public, the following institutions have been set up:

- Aapravasi Ghat Trust Fund
- Board of Film Censors and Stage Play Censors
- Centre de Lecture et d'Animation Culturelle
- English Speaking Union
- Hindi Speaking Union
- Islamic Cultural Centre
- Le Morne Heritage Trust Fund
- Malcom de Chazal Trust Fund
- Mauritius Council of Registered Librarians
- Mauritius Museums Council
- Mauritius Society of Authors
- National Archives Department
- National Art Gallery
- National Heritage Fund

- National Library
- Nelson Mandela Centre for African Culture
- President's Fund for Creative Writing in English
- Professor Basdeo Bissoondoyal Trust Fund and
- Urdu Speaking Union

Conservation of culture heritage

Safeguarding both tangible and intangible cultural heritage

499. The National Heritage Fund (NHF) has been entrusted the responsibility to manage the built and intangible heritage of Mauritius. The vision of the NHF is to develop a sense of belonging by caring for the past and bequeathing it to the future. Its mission is to identify, valorise and promote National Heritage.

500. To achieve its objectives, the NHF undertakes several activities such as:

- Public Awareness campaigns
- Excavation campaigns
- Underwater archaeological campaign
- Mare aux Songes Excavation campaigns (unearthing of remains of the extinct Dodo)
- Workshops
- Inventories
- Exhibitions
- Publications
- Declaration of new sites as National Heritage Sites
- Proposed drawing of a list of potential religious heritage sites
- Feasibility Studies
- Comprehensive inventory and
- Strategic Management Plan of built heritage

Trust funds for the protection of historical sites of significant importance

Aapravasi Ghat Trust Fund

501. The Aapravasi Ghat is the site where hundreds of thousands of indentured workers landed during the British period of Mauritian history. A significant percentage of those workers chose to settle down permanently on the island.

502. The Aapravasi Ghat Trust Fund was established by virtue of the **Aapravasi Ghat Trust Fund Act 2001**. The main objects of the Fund are, *inter alia*:

- (i) To establish and promote Aapravasi Ghat as a national regional and international memorial site; and
- (ii) To preserve and restore the aesthetic and architectural aspects of Aapravasi Ghat.

503. The Aapravasi Ghat was inscribed on the World Heritage List of UNESCO on 16 July 2006. Consequently, it is now known as the Aapravasi Ghat World Heritage Site.

Le Morne Heritage Trust Fund

504. Le Morne holds great importance in the history and memory of Mauritius that has increasing implications globally and is a symbol of resistance to slavery and quest for emancipation. It is now a focal point of commemorating the Abolition of Slavery in Mauritius.

505. The **Le Morne Heritage Trust Fund Act** was enacted on 28 May 2004. The main objects of the Le Morne Trust Fund are, *inter alia*:

- (i) To promote Le Morne as a national and international memorial site; and
- (ii) To preserve and promote the historical, cultural, environmental and ecological aspects of Le Morne.

506. The Final Nomination Dossier and Draft Management Plan of Le Morne Cultural Landscape were submitted to World Heritage Centre, UNESCO on 25 January 2007.

507. The decision of the World Heritage Committee, UNESCO, regarding the inscription of the Cultural Landscape as a World Heritage Site will be known in July 2008 at the 32nd session of the World Heritage Committee.

508. Protection of the moral and material interests resulting from any scientific, literary or artistic production of authors.

509. The **Copyright Act 1997** provides for the protection of artistic, literary or scientific works. It also provides certain rights to authors as follows:

Economic rights

(1) *The copyright owner of a work shall, in relation to the whole or a substantial part of the work, have the exclusive right to carry out or authorise any of the following acts:*

- *Reproduction of the work*
- *Distribution to the public of the original and each copy of the work by sale, rental or otherwise*
- *Public performance of the work*
- *Communication of the work to the public*
- *Broadcasting the work*
- *Importation of copies of the work, even where the imported copies were made with the authorisation of the author or other owner of the copyright*
- *Translation of the work or*
- *Adaptation, arrangement or other transformation of the work*

(2) (a) *where an original work of fine art is sold by the purchaser thereof at a public auction or through a professional art dealer, the author shall be entitled to a share of the resale price if that price is higher than the amount that had been originally paid by the purchaser,*

The share referred to in paragraph (a) shall be -

determined by the Society;

collected from the auctioneer or dealer, as the case may be, and distributed, by the Society.

Moral rights

An author shall, whether or not he has transferred his economic rights, have the right to -

claim authorship of his work, except where the work is included, incidentally or accidentally, in reporting current events by means of broadcasting;

remain anonymous or use a pseudonym;

object to any distortion, mutilation or other alteration of his work, where such an act, is or would be prejudicial to his honour or reputation.

The rights referred to in subsection (1) shall be protected until the expiry of the period specified in section 16 for the protection of the economic rights relating to the work.

A moral right shall be unassignable.

510. The Ministry is reviewing the **Copyright Act** with a view to -

- Making it in line with international treaties such as the WIPO Performances and Phonograms Treaty and WIPO Copyright Treaty
- Providing enhanced protection to copyright owners, and
- Providing for enforcement measures under the Act

511. The Mauritius Society of Authors (MASA), Police Department, Mauritius Revenue Authority (Customs and Excise Department) and Ministry of Foreign Affairs are also involved in fight against piracy.

512. The Anti-Piracy Unit comprising the Mauritius Society of Authors, the Police Department and the Mauritius Revenue Authority has intensified its fight against the sale and hire of pirated works. Several raids have been carried out, several contraveners arrested and pirated works secured. Moreover, there are concerted efforts between the Police, the Customs and Excise Department and the Mauritius Society of Authors (MASA) to combat the scourge of piracy and to enforce the Copyright Act.

513. Besides enforcement action, preventive measures are also taken.

514. From July 2005 to date, over 450,000 infringed copies of CDs, VHS, VCDs and DVDs of both Indian and European films and music have been seized.

Development and diffusion of culture

515. A non-refundable grant of Rs 15,000 and a subsidised loan of Rs 25,000 were made to artists for cultural projects (e.g. production of audio cassettes/CDs/Video Clips/Publication of Books/Mounting of exhibitions and stage plays).

516. Since 2003, more than 500 artists have benefited from the Assistance Scheme. Some have obtained the grant twice as artists are eligible for the assistance every two years for a new project.

Cash grant up to a ceiling of Rs 15,000

Artistic production	2005/2006 (Rs)	2006/2007 (Rs)
Books	135 000	165 000
Audio cassettes/CDs	660 000	690 000
Exhibitions	165 000	190 000
Others	15 000	45 000

517. In 2005/2006 26 projects and in 2006/2007 31 projects benefited from a recommendation for a Loan by the Development Bank of Mauritius up to a ceiling of Rs 25,000 per project.

Provision of financial assistance to artists for purchasing musical instruments

518. The Ministry is considering favourably requests for purchase of musical instruments from socio-cultural organisations and members of the community of artists.

Research

519. A survey on cultural industry, with the collaboration of UNESCO and the Mauritius Research Council (MRC), is being carried out by the University of Mauritius and is expected to be completed by February 2008. The results of the study would be used to boost all aspects of the industry, which would help in the social development of the country while increasing the quality of life of local people.

520. It is also proposed to establish an Indian Ocean cultural observatory based in Mauritius to collect, collate and publish data, reports, and news on the cultural/ creative industries with the aim to improve the contribution of the sector to the diversification and repositioning of Indian Ocean economies. A feasibility study has already been conducted for the setting up of the observatory with the assistance of UNESCO. The course of action for the implementation of this project is being finalised.

Development of international contacts and cooperation in the scientific and cultural fields

521. The Ministry has signed cultural exchange programmes with the following countries with a view to promoting cultural and artistic exchanges at international and regional levels:

Seychelles
Madagascar
Mozambique
France
Malaysia
Senegal
South Africa
India
Pakistan
Egypt
China
Korea and
Russian Federation

522. The cultural exchange programmes provide for exchanges of artists, groups of artists, exchange of documentation as well as exchange of professionals in various artistic and cultural fields.

523. Mauritius has succeeded to, accepted, ratified or acceded to the following Conventions:

SN	Convention/Agreement	Status
1.	Agreement on the Importation of Educational, Scientific and Cultural Materials, with Annexes A and E and Protocol annexed (Florence, 17 June 1950)	Notification of succession 18 July 1969
2.	Universal Copyright Convention, with Appendix Declaration relating to Article XVII and Resolution concerning Article XI (Geneva, 6 September 1952)	Notification of succession 20 August 1970
3.	Protocol 1 annexed to the Universal Copyright Convention concerning the application of that Convention to the works of stateless persons and refugees (Geneva, 6 September 1952)	Notification of succession 20 August 1970
4.	Protocol 2 annexed to the Universal Copyright Convention concerning the application of that Convention to the works of certain international organisations (Geneva, 6 September 1952)	Notification of succession 20 August 1970
5.	Protocol 3 annexed to the Universal Copyright Convention concerning the effective date of instruments of ratification or acceptance of or accession to that Convention (Geneva, 6 September 1952)	Notification of succession 20 August 1970
6.	World Intellectual Property Organization Convention	Accession 21 June 1976
7.	Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 14 November 1970)	Acceptance 27 February 1978
8.	Berne Convention for the Protection of Literary and Artistic Works	Accession 9 February 1989
9.	Convention concerning the Protection of the World Cultural and Natural Heritage (Paris, 16 November 1972)	Ratification 19 September 1995
10.	Convention on the Safeguarding of the Intangible Cultural Heritage (Paris, 17 October 2003)	Ratification 4 June 2004
11.	Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Paris, 20 October 2005)	Ratification 29 March 2006
12.	Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954)	Accession September 2006

III. CONSIDERATION OF INITIAL REPORT BY THE COMMITTEE - SUGGESTIONS AND RECOMMENDATIONS MADE BY THE COMMITTEE AND ACTION TAKEN BY THE GOVERNMENT

Elimination of discriminatory practices against women

524. Mauritius became a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1985. The Optional Protocol to the CEDAW has been signed in November 2001. Mauritius also signed the SADC Declaration on Gender and Development in 1997 and in September 1998, it signed the Addendum to the Declaration on the prevention and eradication of violence against women and children.

Legislation

525. The Constitution of Mauritius guarantees the equality of all citizens and the respect of fundamental rights and freedoms. In 1995, the Constitution was amended to make sex discrimination unlawful.

526. Other achievements in terms of legislation in favour of gender equality are summarised below.

527. Since 1981, the Code Napoleon has undergone major changes. A woman can choose her profession, open up her own bank accounts, transact land matters; Women have the right to choose their matrimonial regime. Under “separation de biens”, both spouses retain and manage their wealth and property separately. Under the regime of “communauté des biens”, the man remains the head of the community and has exclusive control over those goods forming part of the community. However, the woman retains the right to manage that part of her wealth which does not go into the community. Other provisions under the “*communauté des biens*” ensure that the woman does not become destitute by losing the house of her husband’s heirs. She can enjoy the usufruct of her deceased husband’s estate.

528. Divorce can now be granted on the grounds of “faute” or “rupture de vie commune”. However, divorce by mutual consent is not yet recognised.

529. Both spouses have joint responsibility over the family. They have equal rights, obligations and responsibilities towards each other. They have a duty to cohabit though they can retain separate domiciles. However, the welfare of the child is primordial in deciding about his custody.

530. Parental authority is shared and the welfare of the child is now paramount in deciding about custody. However, the law provides that if the child is of tender age and breast fed, the mother gets immediate care and control over same. In most cases, except where the child’s welfare is at stake, any child under the age of 5 years is entrusted to the mother. After a social enquiry report from the Probation Officer, the court decides for the right of visit/or “*droit d’hébergement*” as regards the other party.

531. In cases of divorce, custody, access to children, alimony, provision is made in law that for any unemployed woman or if employed and earning less than Rs. 3,500 free legal aid is provided by the State. She should not be the owner of any immovable property exceeding Rs. 50,000 in value.

532. The official age for marriage is 18 years. The age of consent for marriage has been raised from 12 to 16. However, a female of 16 but under the age of 18, may with her parents' consent, contract civil marriage.

533. Any person having sexual intercourse with a child under 16 years commits a criminal offence even if the defendant maintains that there was consent.

534. A woman, after marriage is permitted by law to keep her surname, or may use both hers and that of her spouse. The husband may use that of his spouse if he so wishes.

535. The Labour Act, the Industrial Relations Act and the National Remuneration Orders and the Export Processing Zone Acts guarantee the equality of men and women with respect to the individual's constitutional right to work and protection from unlawful dismissal. The Labour Acts also contain specific provisions applicable to women only, concerning child birth, maternity leave, the nursing of breastfed children and restrictions on night work. However, there is no legislation, which guarantees the principle of equal pay for equal work.

536. The National Pensions Act was amended in 1987 to waive out the discrepancy between men and women concerning the payment of a lump sum to the surviving spouse should the insured person die before 60, the official age for retirement. Private pension and life insurance schemes had already adopted the notion of spouse rather than that of husband and wife to get over this problem.

537. In 1979, the Income Tax Act was amended to allow married women drawing emoluments to elect to be assessed separately from their husbands, irrespective of their matrimonial regime. However, they could only deduct their personal allowances, pension contributions, life insurance premiums, and interest paid on secured loans and mortgages from their taxable income. In 1992, the Act was again amended to allow women to deduct the contributions to an approved medical scheme. In 1993, their financial contributions for the upkeep of the children were finally recognised. The deduction for dependent children can now be made by either spouse by mutual consent. The Act was also amended to allow self-employed married women to elect to be assessed separately in the same way as those drawing emoluments.

538. Provision has now been made for a woman who is the head of the household to deduct for her spouse if for example the latter is unemployed, incapacitated, etc.

539. In 1990, the Jury Act was amended to enable women to sit as jurors.

540. Previously, according to the Mauritius Citizenship Act, only a male citizen marrying a foreigner retained all his legal rights, for example that of transmitting the Mauritian nationality to his children regardless of where they were born, or obtaining the Mauritian nationality for his spouse immediately after marriage, etc. among others. Such rights were not allotted to a female citizen marrying a foreigner. This discrepancy has been reviewed when the law was amended in May 1995 to grant female citizens the same privilege as men. Please refer to comments under article 10 above.

The Protection from Domestic Violence Act (PDVA)-1997

The Sex Discrimination Act (SDA 2002)

The Sexual Offences (Miscellaneous Provisions) Act 2003 reinforces the sanctions associated with sexual offences. When cases of sexual assault are reported at the Police Department or the Ministry of Health and Quality of Life, apart from medical examination, victims are referred to the Family Protection Unit of the Ministry where appropriate structures exist for interviewing or counselling them in privacy and ensuring sufficient emotional support following the stress and trauma they experienced. Sexual assault has been widely condemned in Sensitisation Campaigns through posters, talks on radio and TV, in Women Centres.

541. **The Labour Act** - was amended in 2004 to provide for offences where workers are abused, threatened, assaulted or subjected to other offensive behaviour in the course of or as a result of their work. This piece of legislation is gender-neutral.

The situation of foreign workers in light of articles 6, 7 and 9

542. A migrant worker enjoys terms and conditions of employment which are not less favourable than those granted to a local worker. The majority of the migrant workers are employed in the EPZ sector. The prescribed normal working week, which applies equally to a local worker, is 45 hours' work and a worker in the sector may be required to perform extra hours of work up to 10 hours per week. A worker is not required to perform extra hours of work in excess of 10 hours per week, except with his consent and where prior notice of at least 24 hours has been given to him.

543. Regular inspection visits are carried out by officers of the Special Migrant Workers' Unit of the Ministry of Labour, Industrial Relations and Employment during day and night at workplaces where migrant workers are employed to, *inter alia*, ascertain that the employer is complying with the terms and conditions of employment as provided for in the vetted contract of employment and in the prevailing labour legislation. In the course of inspections, the officers also check whether every migrant worker has received a copy of the contract of employment in a language that he can read and understand. Furthermore, on assumption of duty of migrant workers, the officers of the Ministry of Labour, Industrial Relations & Employment meet those workers to inform them of their rights and obligations arising out of their (vetted) contract of employment.

544. As regards the living conditions of migrant workers, the Ministry of Health and Quality of Life and the Fire Services Department ensure that decent accommodation (provided with water, electricity and gas supply) according to norms are provided.

545. Furthermore, all dormitories where migrant workers are lodging have to obtain Health and Fire Clearances. A migrant worker has also the same right as a local worker -

- (a) To form or join a trade union of his own choice;
- (b) To be a member or to refuse to be a member of a trade union;
- (c) To take part in the activities of a trade union of which he is a member.

Industrial relations legislation

546. On the recommendation of the National Remuneration Board the Government established minimum wages which vary accordingly to the sector of employment and reviews minimum wages each year based on inflation. The actual income for most workers is higher than the recommended minimum wages, due to the present shortage of labour. The standard legal number of working hours is embodied in the concept of the 45-hour week.

547. The Government sets health and safety standards; the factory inspectors of the Ministry of Labour ensure that employers comply with the health and safety requirements. Sanctions of a penal nature are provided for by law in cases of non-compliance with the said requirements. Please refer to comments under articles 6 and 7 above.

Study and analysis of the situation of child abuse, child prostitution, domestic violence against women, teenage pregnancy, abortion, suicide, alcohol and drug abuse

548. Please refer to comments under article 10 above.

Intensive and systematic public information campaign on human rights in general and on the ICESCR in particular

Human Rights Centre

549. The recently inaugurated Human Rights Centre [situated opposite the Supreme Court] aims to be the one of the main promoters of Human Rights in Mauritius. The Centre will also channel human rights related information and aims at making the public aware of existing institutions and laws so that they may better avail themselves of such.

550. In addition to its numerous tasks in matters of education and sensitisation the Centre will also serve as one of the main human rights fora where:

- (a) Non-religious groups and associations, clubs and even political parties from all spheres will be welcome to organise debates and meetings on Human rights related issues;
- (b) Foreign visitors in the field of human rights will animate conferences and talks on a regular basis in the premises of the Centre. The members of the UN Subcommittee on Prevention of Torture met Mauritian stakeholders for discussions on the said premises;
- (c) Proper training is given to various people from NGO' s and Trade Unions who will in turn be assisting and empowering citizens at grassroots level;
- (d) All year round various sessions will be held by local guest speakers, on a voluntary basis, from different spheres of society on different topics in the human rights area;
- (e) The Centre will initiate HR campaigns and the publication of brochures and pamphlets on human rights issues;

(f) The provisions of the main Human Rights Conventions (including the ICESCR), their ratification by Mauritius and specially the rights contained therein will be widely disseminated to the general public.

National Action Plan on Human Rights

551. Mauritius is at present finalising a National Action Plan on Human Rights. This Action Plan seeks to develop a strong culture of human rights in Mauritius by providing better protection for individuals, creating more effective programmes that enhance the quality of life for all, particularly vulnerable groups, and by improving national harmony. It also aspires to achieve promotion of greater awareness of human rights, both in the general public and in specific sectors. The overarching objective of the Plan is to bring about tangible improvements in the observance of all categories of human rights.

552. The National Action Plan has been developed on the basis of realistic objectives and clear targets and it covers a broad field of areas. It includes an expose relating to the international and national legal framework, a description of the different categories of human rights enjoyed by Mauritians, the role of national institutions and civil societies and lays emphasis on the need for human rights education. It describes the actions taken so far in each field and the shortcomings which need to be overcome, and proposes measures to address these shortcomings. The Plan also proposes specific time frames for the achievement of its objectives, with short term, medium term and long implementation of the measures. The provision of a time frame will ensure that those involved in realizing the targets of the Action Plan have a deadline to structure their activities and should ultimately facilitate monitoring and final evaluation.

Human rights education in all school curricula

553. The Ministry of Education and Human Resources in line with its Human Rights Education Plan of Activities is currently working on the integration of human rights education into the school curricula at both primary and secondary levels.

554. Furthermore this plan has provided for the training of curriculum writers who are responsible for the development of proper teaching and learning materials (textbooks and teacher's guides). The training which may involve the assistance of technical experts in human rights curriculum, will ensure that human rights components are integrated in the different disciplines in the school curricular, in line with the National Curricular Framework.

555. The Ministry of Education has committed itself to introduce modules of Human Rights Education in the "in-service" and "pre-service" courses of the MIE intended for primary and secondary school teachers as well as PGCE students.

556. A series of events and activities have been designed, under the Human Rights Education Revised Plan of Activities, with a view to achieving a better awareness of human rights issues in primary and secondary schools:

- (a) Launching of a series of a number of activities including;
- (b) Essay/poem/song competitions, drawing/ poster competition, story-telling, debates, elocution contests;

- (c) Exhibitions of the best entries above;
- (d) Preparation of a kit on human rights for distribution to schools;
- (e) At morning assembly, schools may be requested to devote some assemblies to human rights messages; resource persons to be invited to talk on human rights; school rules and regulations could be subject for Human rights education; the life and achievements of great freedom fighters also to be the subject of dissemination.

557. At the initiative of the Ministry for Justice and Human Rights, over 35,000 copies of the Constitution have been printed and distributed for free among various groups of the population. Another 30,000 copies are actually in print and will be distributed to all secondary students.

Human Rights Club

558. Many schools are already operating "Amnesty Clubs". It is proposed that Human Rights Clubs be set up in secondary schools where there is no Amnesty Club.

Mini-moot court

559. Mini-moot court or mock trial could be organised at inter collegiate level to familiarise students with human rights laws and procedures.

560. With regard to international humanitarian law, it is to be noted that a National Humanitarian Law Committee which has as prime objective the task of ensuring that Mauritius is compliant to the international humanitarian law instruments that it is a party to and recently, it has been decided that international humanitarian law will be introduced in schools in order to sensitise students about its importance.
