

LAW REFORM COMMISSION OF MAURITIUS

Implementation and Impact of Recommendations/Observations in Reports/Papers

[As at March 2009]

Report/Paper	Government/ Cabinet	National Assembly/ Secondary Legislation	Other Developments [such as Media Coverage, Judicial and Academic Citations]
ISSUE PAPER The Office of Director of Public Prosecutions [DPP] and the Constitutional Requirement for its Operational Autonomy [March 2009]	Under consideration		-Media Coverage: *‘How independent is the DPP?’ [<i>Mauritius Times</i> 27.03.09]
REPORT and DRAFT BILL Law on Divorce [December 2008]	-Cabinet has agreed on 26 March 2009, in line with Law Reform Commission [LRC] recommendations, to simplifying law on divorce proceedings and allowing divorce by mutual consent.		-Media Coverage: * ‘Nouvelle Legislation – Le divorce à l’amiable présenté au Cabinet’ [<i>L’Express</i> 29.01.09] *‘Projet de loi Divorce’ [<i>L’Express</i> 05.02.09] * Jean-Maurice Labour, Vicaire général du diocèse de Port-Louis : «Il est bon que cette démarche soit rendue moins pénible» [<i>L’Express</i> 05.02.09] * ‘Divors - Bann defayans dan lalwa’ [<i>Le Mauricien</i> 04.03.09] *‘Le PMXD/MR salue l’introduction du divorce à l’amiable’ [<i>Le Matinal</i> 05.03.09] *‘L’ébauche du divorce à l’amiable présentée au cabinet ce mois-ci’ [<i>Le Matinal</i> 10.03.09] *‘Code Civil – Le Cabinet approuve la loi sur le divorce’ [<i>L’Express</i> 27.03.09]

<p>WORKING PAPER Reform of Local Government Legislative Framework [December 2008]</p>	<p>Areas calling for Policy Development, and Law Reform Strategies to be adopted, agreed by Ministry of Local Government (January 2009).</p> <p>Preparation of Local Government Bill 2009 is in process.</p>		<p>-Media Coverage: *Interview of Minister of Local Government where he indicates LRC is reviewing and reforming the Local Government Acts [<i>L'Express Dimanche</i>, 29.06.08]</p>
<p>REPORT and DRAFT LEGISLATION Law relating to NGOs [Nov 2008]</p>	<p>Reform Proposals (establishment and governance of NGOs, in particular associations, as well as fiscal issues) under consideration</p>		<p>- The Conference of International NGOs of the Council of Europe established an Expert Council on NGO Law on 22 January 2008 to examine national NGO law and its implementation and promoting its compatibility with Council of Europe standards and European good Practice. The Expert Council on NGO Law released its First Annual Report on 'Conditions of Establishment of NGOs' in January 2009.</p>

<p>ISSUE PAPER Equality/Anti- Discrimination Legislative Framework (Re Equal Opportunities Bill No. XXXVI of 2008) [November 2008]</p>	<p>Under consideration</p>		
<p>-REPORT and DRAFT BILL Disclosure in Criminal Proceedings [December 2008]</p> <p>-ISSUE PAPER on Disclosure in Criminal Proceedings [Dec 2007]</p>	<p>Proposals under consideration</p>		<p>-Media Coverage: * <i>Le Mauricien</i> in its issue of 26 January 2008 referred to the proposals the Law Reform Commission had submitted to AG regarding 'disclosure in criminal proceedings' [draft Criminal Procedure (Amendment) Bill].</p> <p>-The issue of 'Prosecution Disclosure Obligations' was addressed at the Meeting of Commonwealth Law Ministers' (Edinburgh, July 2008); the Meeting approved the undertaking by the Commonwealth Secretariat of a comparative study of the approach to disclosure in criminal proceedings in Commonwealth Member States.</p>

<p>REVIEW PAPER Criminal Justice System and the Constitutional Rights of an Accused Person [Sept 2008]</p>	<p>-Under consideration</p>	<p>On 15 July 2008, Attorney-General, in reply to PQ B 852, informed the House he would seek the views of LRC before incorporating into our law provisions similar to those prevailing under section 116 of the UK Criminal Justice Act 2003, regarding evidence of witnesses whose presence in court cannot be secured.</p>	<p>-Media Coverage *'LRC – Know your rights' [L'Express 02.10.08]</p> <p>-Justice Balancy in <i>State v Mootien & ors (2009) SCJ 28</i> recommends that LRC studies, in respect of sentencing policy, the issue of deduction of time spent on remand when passing sentence and makes appropriate recommendations for change in legislation</p>
<p>DISCUSSION PAPER Law and Practice relating to Criminal Investigation, Arrest and Bail [April 2008]</p>	<p>Further and wider public consultation on issues suggested by Attorney General's Office [Nov 2008]</p>	<p>-Reference to LRC's work on those issues in replies to PQs *Prime Minister informs House that LRC is working on laws relating to procedures in criminal investigations [reply to PNQ 17.04.07] *Prime Minister welcomes the suggestion from an Opposition MP that LRC prepares a Position Paper on DNA [reply to PQ B 224 on 15.04.08] *Prime Minister, on 29 April 2008, in reply to PQ B 300 on 'Provisional information against suspect', informs the House LRC is looking at all the implications of arrest and bail which also deals with the issue of provisional information and that</p>	<p>-Civil Society approves approach taken by LRC [Brainstorming session with political parties and NGOs on 7 May 2008, at the then Human Rights Centre]</p> <p>-Media Coverage * On Saturday 19 April 2008, the Editor-in-Chief of <i>Le Mauricien</i> devoted his editorial on 'Société Policée' to LRC Discussion Paper. *'La mise en oeuvre du Droit Criminel et la LRC' [<i>Le Mauricien</i> 19.04.08] *' Law Reform Commission : Un séminaire pour dégager des idées' [<i>Hebdo</i> 11.05.08]</p> <p>-Further consultations and feed-back inter alia with Prime Minister's Office (Home Affairs Division) and Mauritius Police Force</p> <p>-Submissions by Justice [Association against Violence</p>

		<p>the Commission is expected to make proposals should there be any need to provide better safeguards in relation to the arrest of a suspect by the Police.</p> <p>*Prime Minister informs House that LRC is reviewing the law on bail [reply to PQ B 378 on 06.05.08; reply to PQ 846 on 15.07.08]</p>	<p>by State Officers] (May 2008) [mentioned in <i>Le Matinal</i> and <i>Le Mauricien</i> of 27.05.08] inter alia on admissibility of confessions.</p>
<p>ISSUE PAPER The Human Rights Dimensions of the Sexual Offences Bill No. VI of 2007 [June 2007]</p>		<p>Chief Executive Officer of LRC deposed before Select Committee on Sexual Offences Bill on 20 March 2008</p> <p>[Report of Select Committee awaited for response to observations]</p>	<ul style="list-style-type: none"> - Working Group on Universal Periodic Review of UN Human Rights Council , in its Draft Report after examining report of Mauritius, recommends inter alia that Sexual Offences Bill be finalized and adopted on same lines as suggested by LRC [17 February 2009]
<p>REPORT and DRAFT BILL Relationship of Children with Grandparents and other Persons under the Code Civil Mauricien [June 2007]</p>	<p>Cabinet has agreed on 8 November 2007 to the introduction into the National Assembly of the Code Civil Mauricien (Amendment) Bill No. XXVIII of 2007.</p> <p>[LRC Reform proposals implemented]</p>	<p>Code Civil Mauricien (Amendment) Bill No. XXVIII of 2007 [Bill introduced on 08 November 2007; First Reading on 13 Nov 2007; debates on Bill and bill passed on 11 Dec 2007; assented to by Ag. President on 20 Dec 2007 as Code Civil Mauricien (Amendment) Act No. 24 of 2007.]</p>	<p>-Media Coverage: * 'Un couple septuagénaire se bat pour voir ses petits-enfants' [<i>Le Défi Plus</i> 14-20 March 2009]</p>

<p>REPORT and DRAFT BILL Access to Justice and Limitation of Actions against Public Officers and the State [May 2008]</p> <p>DISCUSSION PAPER Access to Justice and Limitation of Actions against Public Officers and the State [June 2007]</p>	<p>Under consideration</p>		<p>-Discussion Paper referred to by Supreme Court in <i>Mungroo & ors v State of Mauritius & ors</i> (2007) SCJ 326 [Court of Civil Appeal]</p> <p>-Report referred to by Intermediate Court in <i>DSA Company Ltd v Ministry of Public Infrastructure & Ministry of Youth & Sports</i> [2008 INT 235]</p> <p>-In light of observations and findings in Report, constitutionality of section 4 of Public Officers Protection Act raised by counsel in <i>Balgobin v State of Mauritius</i> (2009) SCJ 18 but not addressed by Court (as issue not a ground of appeal)</p>
<p>REPORT and DRAFT BILL Opening Mauritius to International law Firms and Formation of Law Firms/Corporations [May 2007]</p>	<p>-On 15 June 2007, in his Budget Speech, the Minister of Finance informed the House that Government shall soon, in line with the report of LRC, introduce legislation to amend the Law Practitioner's Act to allow the establishment of law firms or corporations by both Mauritians and foreigners. These corporations will be able to employ foreign lawyers.</p> <p>-Cabinet took note, on 26 October 2007, that the draft Law Practitioners</p>	<p>- Law Practitioners (Amendment) Bill No. V of 2008 [Bill introduced on 04 April 2008; First Reading on 8 April 2008; debates on 15 and 29 April and 13 May 2008; passed on 13 May; assented to by President of the Republic on 23rd May 2008 as Act No. 8 of 2008] [Coming into force on 15 Dec 2008: P 21/08].</p>	<p>-Media Coverage: *'Hommes de loi étrangers à Maurice' [<i>L'Express Dimanche</i> 29.07.07] *' Projet de loi : Les firmes légales pourront exercer' [<i>L'Express</i> 27.10.07] *'Law Practitioners Amendment Bill - Les avocats, avoués et notaires disent oui à l'ouverture' [<i>L'Express</i> 31.10.07] *' Les juristes étrangers bientôt à Maurice' [<i>L'Express Dimanche</i> 06.04.08] *' Profession Legale : Des juristes locaux favorables à l'installation de cabinets étrangers' [<i>L'Express</i> 10.04.08]</p>

	<p>(Amendment) Bill would be discussed with relevant stakeholders before introduction into the National Assembly.</p> <p>-Cabinet agreed on 4 April 2008 to its introduction in the National Assembly. [LRC Reform proposals implemented with amendments]</p>	<p>- Law Practitioners (Registration of Law Firms, Foreign Law Firms, Joint Law Ventures and Foreign Lawyers) Registration Reg 2008 [GN No. 268/08, cif 15.12.08]</p>	
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