

LRC REFORM ROUND-UP

(I) LRC Current Projects

(As at August 2009)

Constitution, Human Rights, Court System & Legal Services, and other Public Law issues	Criminal Justice System and Criminal Law	Civil Justice System and Civil Law	Business Law, Tax Law, and other Law and Development Issues
<ul style="list-style-type: none"> - Constitution (including Electoral System) - Public Law Framework [including Freedom of Information and Regulatory Impact Assessment legislation; Judicial Review] - Mechanisms for Securing Human Rights (including Compliance of laws with human rights treaties, such as UN Convention on Rights of the Child) - Court Structure and Functioning, ADR Mechanisms, Provision of Legal Services (including Legal Assistance Scheme and Contempt of Court Proceedings) 	<ul style="list-style-type: none"> - Criminal Investigation Framework - Criminal Procedural and Evidential rules (including Law relating to admissibility of Confessions, Rights of Victims and ‘Constitution de partie civile’ in road accident cases) - Penal Offences under Criminal Code and other Legislation (including Road Traffic Act) 	<ul style="list-style-type: none"> - Code de Procédure Civile and other civil procedural rules (including Public Interest Litigation) - Family Law (including matrimonial regimes and successions) - Legal Framework for land transfer and property registration - Conformity of laws with Hague Conventions on Private International Law 	<ul style="list-style-type: none"> - Legal Framework for Empowerment of the Poor [through Reform of Business and Labour Rights] and Impact of Laws on Ease of Doing Business - Tax Laws (including Tax system linked with land transfer and Mechanisms for Review of tax assessments) - Conformity of laws having an impact on business and social cohesion with various international obligations and best legal practices (such as consumer protection law)

(II) List of LRC Reports and Papers
[As at mid August 2009]

- (1) Draft Report (together with draft Local Government Bill) on “Local Government Reform” [June 2009];
- (2) Discussion Paper on “Forensic Use of DNA” [April 2009];
- (3) Issue Paper on “The Office of Director of Public Prosecutions [DPP] and its Operational Autonomy” [March 2009];
- (4) 2009 Annual Program of the Commission for the Review, Reform and Development of the Law [Jan 2009].
- (5) Report (together with draft Bill) about “Law on Divorce” [December 2008];
- (6) Report (together with draft Bill) on “Disclosure in Criminal Proceedings” [December 2008];
- (7) Working Paper on ‘Reform of Local Government Legislative Framework’ [December 2008];
- (8) Issue Paper on “Equality/Anti-Discrimination Legislative Framework (*Re Equal Opportunities Bill No. XXXVI of 2008*)” [November 2008];
- (9) Report (together with draft legislation) on “Law relating to NGOs” [November 2008];
- (10) Review Paper on “The Criminal Justice System and The Rights of an Accused Person” [September 2008];
- (11) 2008 Annual Report on the Activities of the Commission (covering period 01 July 2007 to 30 June 2008) [July 2008];
- (12) Report (together with draft Bill) on “Access to Justice and Limitations of Actions against Public Officers and the State” [May 2008];
- (13) Discussion Paper on “Law and Practice relating to Criminal Investigation, Arrest and Bail” [April 2008];
- (14) 2008 Annual Program of the Commission for the Review, Reform and Development of the Law [Jan 2008];
- (15) Issue Paper on “Disclosure in Criminal Proceedings” [December 2007];

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- (16) 2007 Annual Report on the Activities of the Commission (covering period 01 May 2006 to 30 June 2007) [July 2007];
- (17) Issue Paper “Commentary on some of the Human Rights dimensions of the Sexual Offences Bill No. VI of 2007” [June 2007];
- (18) Discussion Paper on “Access to Justice and Limitations of Actions against Public Officers and the State” [June 2007];
- (19) Report (together with draft Bill) on “Relationship of Children with Grand Parents and Other persons under the Code Civil Mauricien” [June 2007];
- (20) Report (together with draft Bill) on “Opening Mauritius to International Law Firms and Formation of Law Firms/Corporations” [May 2007];
- (21) 2007 Annual Program of the Commission for the Review, Reform and Development of the Law [Jan 2007].

(III) Implementation and Impact of Recommendations/Observations in LRC Reports/Papers

[As at August 2009]

Report/Paper	Government/ Cabinet	National Assembly/ Secondary Legislation	Other Developments [such as Media Coverage, Judicial and Academic Citations]
<p>REPORT (with draft Local Government Bill 2009 attached) on Local Government Reform [June 2009]</p> <p>WORKING PAPER Reform of Local Government Legislative Framework [December 2008]</p>	<p>Main policy options underlying Local Government Bill 2009 agreed upon by Ministry of Local Government [July 2009] and to be considered by Cabinet.</p> <p>Areas calling for Policy Development, and Law Reform Strategy agreed by Ministry of Local Government (January 2009).</p>		<p>-Media Coverage: *Interview of Minister of Local Government where he indicates LRC is reviewing and reforming the Local Government Acts [L'Express Dimanche, 29.06.08]</p>
<p>DISCUSSION PAPER on Forensic Use of DNA [April 2009]</p>	<p>Observations of Commission on appropriate legislative framework taken into account</p>	<p>DNA Identification Bill introduced in National Assembly on 12 June 2009 and passed on 21 July 2009</p>	<p>-Media Coverage of LRC's Discussion Paper *'DNA Bill unconstitutional' [Mauritius Times 19.06.09] *'L'AND mène l'enquête' [L'Express 20.06.09]</p>

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<p>ISSUE PAPER The Office of Director of Public Prosecutions [DPP] and the Constitutional Requirement for its Operational Autonomy [March 2009]</p>	<p>Letter from Secretary to Cabinet, dated 10 April 2009, informing Commission its recommendations have been approved and are being implemented</p>	<p>In Appropriation Bill 2009 budget of Office of DPP appears for the 1st time as a vote item for an independent body autonomy of Office given effect]</p>	<p>-Media Coverage: *‘How independent is the DPP?’ [<i>Mauritius Times</i> 27.03.09]</p>
<p>REPORT and DRAFT BILL Law on Divorce [December 2008]</p>	<p>-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.</p>		<p>-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>

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<p>REPORT and DRAFT LEGISLATION Law relating to NGOs [Nov 2008]</p>	<p>Reform Proposals agreed upon by Ministry of Labour, Industrial Relations and Employment [June 2009]</p>		<ul style="list-style-type: none"> - Budget Speech June 2009 reaffirms need for a New Partnership Government-Business-NGO sector and for NGO facilitation. - The Expert Council on NGO Law, established in January 2008 by the Conference of International NGOs of the Council of Europe, released its First Annual Report on ‘Conditions of Establishment of NGOs’ in January 2009.
<p>ISSUE PAPER Equality/Anti-Discrimination Legislative Framework (Re Equal Opportunities Bill No. XXXVI of 2008) [November 2008]</p>	<p>Under consideration</p>		

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<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’ [<i>L’Express</i> 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>

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<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>- Prime Minister's Office requests views of Commission on draft DNA Identification Bill [May 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, 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 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. *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>-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 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>
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<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 deposited 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 , when examining report of Mauritius, favourable to reasoning adopted by LRC [February 2009] - Resolution on Decriminalization of Sexual Orientation adopted at the Commonwealth Lawyers Association Conference [Hong Kong, 5-9 April 2009] - High Court of Delhi in the case of <i>Naz Foundation (India) Trust v. Government of NCT Delhi & Ors</i> issued on 2 July 2009, struck down as unconstitutional Section 377 of the Indian Penal Code, which criminalized consensual adult private sexual conduct by persons of the same sex.
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<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’ [Le Défi Plus 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>

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<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 (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 (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>- 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>	<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>
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**(IV) Requests from Hon. Attorney-General under section 6(1) of
Law Reform Commission Act
[As at August 2009]**

	Aspect of the Law to be reviewed	Project Status/Outcome of Review
1	To review Law Practitioners Act to allow the formation of law corporations and the opening of Mauritius to international law firms [Nov. 2006]	Report (together with draft Bill) on “Opening Mauritius to International Law Firms and Formation of Law Firms/Corporations” [May 2007]
2	To review law on disclosure in criminal proceedings [prosecution and defence disclosure] in the light of UK Criminal Procedure and Investigations Act 1996, and the Code of Practice and Guidelines issued there under [Nov. 2006]	<ul style="list-style-type: none"> - Issue Paper on “Disclosure in Criminal Proceedings” [December 2007] - Report (together with draft Bill) on “Disclosure in Criminal Proceedings” [December 2008]
3	Review the proposal for the putting in place of a system of “Juge d’Instruction” in order to ensure greater transparency and professionalism in the conduct of criminal investigations [Nov. 2006]	Commission has considered it would be inappropriate to introduce in our criminal justice system the system of “juge d’instruction”; a more effective, transparent and accountable investigation system can be achieved through the introduction of legislation, with codes and guidelines, as is the case with UK Police and Criminal Evidence Act 1984 [PACE]. An Issue Paper on this aspect of the law is under preparation.
4	To review the Law and Practice relating to Criminal Investigation, Arrest and Bail [March 2008]	<ul style="list-style-type: none"> - Discussion Paper on “Law and Practice relating to Criminal Investigation, Arrest and Bail” [April 2008] - Discussion Paper on “Forensic Use of DNA” [April 2009] <p>Report on Reform of Bail Act being finalized</p>
5	To review the grounds for divorce [Oct. 2008]	Report (together with draft Bill) about “Law on Divorce” [December 2008]
6	To review the Law on Mediation and Conciliation in commercial matters [May 2009]	Work in progress; Report is in the process of being finalized.

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(V) Projects undertaken by the Law Reform Commission of its own initiative under section 5(1)(a) of Law Reform Commission Act

[As at August 2009]

	Aspect of the Law to be reviewed	Project Status/Outcome of Review
1	Review the Constitution and Compliance of Laws with the constitutional norms [Annual Programs 2007, 2008, 2009]	<ul style="list-style-type: none"> - Review Paper on “The Criminal Justice System and The Constitutional Rights of an Accused Person” [September 2008] - Issue Paper on “The Office of Director of Public Prosecutions [DPP] and its Operational Autonomy” [March 2009] <p>Reflection on Constitutional Norms and Practices is an Ongoing activity; Commission currently working on mechanisms for better securing human rights in the Constitution</p>
2	Review Conformity of Laws with Human Rights Standards [Annual Programs 2007, 2008, 2009]	<ul style="list-style-type: none"> - Issue Paper “Commentary on some of the Human Rights dimensions of the Sexual Offences Bill No. VI of 2007” [June 2007] - Issue Paper on “Equality/Anti-Discrimination Legislative Framework (Re Equal Opportunities Bill No. XXXVI of 2008)” [November 2008] <p>Systematic review of compliance laws and practices with international human rights treaty obligations is an Ongoing Activity</p>
3	Court Structure and Functioning, Access to Justice and the Provision of Legal Services [Annual Programs 2007 and 2008]	<ul style="list-style-type: none"> - Discussion Paper on “Access to Justice and Limitations of Actions against Public Officers and the State” [June 2007] - Report (together with draft Bill) on “Access to Justice and Limitations of Actions against Public Officers and the State” [May 2008]

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		Preliminary work undertaken regarding procedure for bringing before Court persons alleged to have committed a contempt of Court
4	Review aspects of Public Law (such as freedom of information and regulatory impact assessment legislation; judicial review) [Annual Program 2009]	Preliminary work undertaken
5	Review of Criminal Justice System: Procedural and Evidential Rules (including law on admissibility of confessions) [Annual Programs 2007, 2008, 2009]	Ongoing activity; preliminary work undertaken
6	Review of Criminal Justice System: Review of Penal Offences under the Criminal Code and other legislation [Annual Programs 2008, 2009]	Ongoing activity; preliminary work undertaken
7	Review of Criminal Justice System: Rights of Victims of Offences and the concept of 'Constitution de Partie Civile' [Annual Program 2009]	Preliminary work undertaken
8	Review Code Civil and other civil laws	Ongoing activity; work in progress
9	Review the Code de Procédure Civile and other civil procedural rules (including public interest litigation and ADR) [Annual Programs 2008, 2009]	Ongoing activity; work in progress
10	Review Business Laws & Regulatory Impact of Laws on Ease of Doing Business (including law on land transfer and registration of property) [Annual Programs 2007, 2008, 2009]	<ul style="list-style-type: none"> - Comments forwarded on draft Insolvency Bill to Steering Committee on Insolvency and Creditor Rights [Oct. 2007] - Comments forwarded on draft Copyright Bill to Director-General Mauritius Society of Authors (MASA) [Jan. 2009] - Ongoing activity; Work in progress in respect of law on land transfer and property registration
11	Review of Tax Laws and Mechanisms for Reviewing Tax Assessment [Annual Programs 2007, 2008, 2009]	Ongoing Activity; preliminary work undertaken

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12	Harmonize Mauritius Laws with international obligations [Annual Programs 2007, 2008, 2009]	Preliminary work undertaken in respect of conformity of laws with Universal postal Convention and Hague Conventions on Private International Law

(VI) Projects undertaken by the Law Reform Commission on Request being made by State Actors (other than Attorney-General) under section 5(1)(a) of Law Reform Commission Act
[As at August 2009]

	Aspect of the Law to be reviewed	Project Status/Outcome of Review
1	National Human Rights Commission: On 6 September 2007, when reporting on complaint made by one Mr. JFB, NHRC recommended LRC could look into procedure for bringing before Court persons alleged to have committed a contempt of Court	Preliminary work undertaken
2	In its 2006 Report, the Sex Discrimination Division of NHRC (at para. 141) recommends that LRC reviews provisions of the law which may be discriminatory	The issue of equality/freedom from discrimination is addressed as an ongoing process; an Issue Paper on the 'Equal Opportunities Bill' was released in Nov. 2007
3	Ministry of Local Government: To review local government legislation and propose a new Local Government Bill based on democratic principles which would enable local authorities to administer their respective council areas in a more autonomous, transparent and effective manner, and which would ensure community participation in the management of the affairs of local authorities and engage all stakeholders in local community affairs [May 2008]	<ul style="list-style-type: none"> - Working Paper on "Reform of Local Government Legislative Framework" [December 2008] - Draft Report (together with draft Local Government Bill) on "Local Government Reform" [June 2009]
4	Ministry of Women's Rights, Child Development and Family Welfare: To consolidate our laws on children's rights and harmonize our Laws with the provisions of the UN Convention on the Rights of the Child [Dec. 2008]	Work in progress

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5	Ministry for Consumer Protection and Citizens Charter: To review legislation pertaining to consumer protection and consumer's rights [May 2009]	Work in progress

NB: Many suggestions/proposals by State Actors have been integrated in ongoing projects.

(VII) Projects undertaken by the Law Reform Commission on Request being made by Civil Society and other Non-State Actors under section 5(1)(a) of Law Reform Commission Act

[As at August 2009]

	Aspect of the Law to be reviewed	Project Status/Outcome of Review
1	Mr. PB: Review Law relating to relationship between children and grand-parents [Nov 2006]	Report (together with draft Bill) on "Relationship of Children with Grand Parents and Other persons under the Code Civil Mauricien" [June 2007]
2	Mauritius Council of Social Services [MACOSS], in partnership with UNDP and Government [Ministry of Social Security]: To formulate legislative proposals for a new legal and regulatory framework for NGOs (non-government organizations), in light of September 2007 Assessment Report (by P.R. Domingue & D. Moore) [April 2008]	Report (together with draft legislation) on "Law relating to NGOs" [November 2008]

NB: Many suggestions/proposals by Civil Society and Non-State Actors have been integrated in ongoing projects.

(VIII)LRC’s Response to Suggestions/Proposals for Review/Reform of Aspects of Law made by State Actors or Civil Society and other Non-State Actors [under section 5(1)(a) of Law Reform Commission Act]

[As at August 2009]

State Actors	
<u>Suggestion/Proposal</u>	<u>LRC’s Response</u>
<p><u>Hon. Attorney-General</u></p> <ul style="list-style-type: none"> • Hon. Attorney-General informs National Assembly, in response to PQ B/439 on 12 May 2009, of his intention to request LRC to review law regarding non-payment of alimony to children • In National Assembly, on 15 July 2008, Hon. Attorney-general was asked [PQ B 852] whether, in regard to the absence of witnesses in court in criminal cases, he will state if he will consider amending the Courts Act, with a view to introducing provisions similar to those obtained in the United Kingdom, which cater for situations where it is impossible to secure the presence in court of key witnesses or because they have passed away. In his reply, he informed the House he would seek the views of the Law Reform Commission on the issue before implementing provisions similar to those prevailing under section 116 of the Criminal Justice Act 2003 of the United Kingdom into our law • In the issue of 7 January 2008 of <i>Le Mauricien</i>, it is reported Hon. Attorney-General is considering to 	<p>Issue to be addressed when reporting on Consolidated Children’s Bill</p> <p>Issue to be addressed by Commission when reporting on review/reform of criminal procedural rules</p> <p>Issue to be examined as part of Criminal Law Review</p>

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<p>refer to the Commission a proposal to decriminalize the issue of cheque without provision</p> <ul style="list-style-type: none"> • When summing-up the Courts (Amendment) Bill (No. XV of 2007), Hon. Attorney-General informs the House he shall request the Commission to review civil procedural rules as well as criminal procedural rules. • When replying to PQ B/1597 on 5 December 2006, Hon. Attorney-General informs the House he shall request the Commission to review the law on criminal procedure and evidence and make recommendations for reform 	<p>The Commission has initiated review of evidential and procedural rules</p>
<p><u>National Human Rights Commission [NHRC]</u></p> <ul style="list-style-type: none"> • In its 2006 Report, the Sex Discrimination Division of NHRC (at para. 141) recommends that LRC reviews provisions of the law which may be discriminatory • On 6 September 2007, when reporting on complaint made by one Mr. JFB, NHRC recommended LRC could look into procedure for bringing before Court persons alleged to have committed a contempt of Court 	<p>Commission has always been addressing the issue of equality/freedom from discrimination [an ongoing process]; an Issue Paper on the ‘Equal Opportunities Bill’ was released in Nov. 2007</p> <p>Commission announced in its 2009 Annual Program it could examine this aspect of the law</p>
<p><u>Ministry of Finance</u></p> <p>Review Laws relating to land transfer [such as the Registrar-General Act, the Land (Duties and Taxes) Act, the Stamp Duty</p>	<p>Commission is currently reviewing law on land transfer and property registration as part of its project of examining legislative</p>

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<p>Act, the Transcription and Mortgage Act, the Sale of Immovable Property Act, and the Registration and Transcription of Deeds and Inscription of Mortgages, Privileges and Charges (Rodrigues) Act], which are out-dated and in need of reform [April 2008]</p>	<p>reforms for easing the doing of business [vide Annual Program 2009]</p>
<p><u>Rodrigues Regional Assembly</u> Views of Commission on Amendments to Rodrigues Regional Assembly Act would be sought [May 2008]</p>	<p>Proposals are still awaited.</p>
<p><u>Steering Committee on Insolvency and Creditor Rights</u> Views on draft Insolvency Bill sought [Sept. 2007]</p>	<p>Comments on draft Insolvency Bill submitted [Oct. 2007]</p>
<p><u>Mauritius Society of Authors [MASA]</u> Views on draft Copyright Bill sought [December 2008]</p>	<p>Comments on draft Copyright Bill submitted [Jan. 2009]</p>
<p><u>Office of Ombudsman</u> To dispense with need, as laid down in section 3(1) Ombudsman Act, to communicate a copy of complaint to a member of the Assembly [April 2008]</p>	<p>To be considered when dealing with mechanisms of redress for grievances against administrative action</p>
<p><u>Ministry of Public Infrastructure, Land Transport and Shipping</u> To review Road Traffic Act [April 2008]</p>	<p>Considered as part of Criminal Law Review Project; to be examined also when Review of Public Law Regulatory Framework initiated</p>

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<p><u>Ministry of Industry, Science and Research</u></p> <p>To review laws having a bearing on investment and operation of businesses so as to meet Government objective of being ranked amongst the ten best countries in World Bank’s Report on Ease of Doing Business [September 2008]</p>	<p>Commission is already reviewing Business Laws & Regulatory Impact of Laws on Ease of Doing Business</p>
<p><u>Ministry of Local Government</u></p> <p>To review local government legislation and propose a new Local Government Bill based on democratic principles which would enable local authorities to administer their respective council areas in a more autonomous, transparent and effective manner, and which would ensure community participation in the management of the affairs of local authorities and engage all stakeholders in local community affairs [May 2008]</p>	<p>Project completed: Working Paper on “Reform of Local Government Legislative Framework” [December 2008]; Draft Report (together with draft Local Government Bill) on “Local Government Reform” [June 2009]</p>
<p><u>Ministry of Women’s Rights, Child Development and Family Welfare</u></p> <p>To consolidate our laws on children’s rights and harmonize our Laws with the provisions of the UN Convention on the Rights of the Child [Dec. 2008]</p>	<p>Work in progress</p>
<p><u>Ministry of Labour, Industrial Relations and Employment</u></p> <p>Views on draft Registration of Associations Bill 2009 [incorporating recommendations of LRC in its Nov. 2008 Report on NGO Law] sought [May 2009]</p>	<p>Comments on draft Registration of Associations Bill forwarded [June 2009]</p>

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<p><u>Ministry for Consumer Protection and Citizens Charter</u></p> <p>To review legislation pertaining to consumer protection and consumer's rights [May 2009]</p>	<p>Work in progress</p>
<p><u>Supreme Court</u></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>Considered as part of Review of Criminal Procedural Rules</p>
<p>Civil Society & Other Non-State Actors</p>	
<p><u>Mr. Said Toorbuth, Bar-at-Law</u></p> <p>To consider, when reviewing/reforming appellate procedure, need to incorporate guarantees for the protection of litigants against judicial arrogance and/or judicial impropriety [Feb. 2007]</p>	<p>To be considered when reviewing appellate procedure</p>
<p><u>Mr. Kader Bhayat, SC, Bar-at-Law</u></p> <p>To review sections 79 and 81(2) of the Income Tax Act 1995, in the light of the judgment of the Privy Council in <i>Chiniah v Commissioner of Income Tax</i> (Privy Council Appeal No. 101 of 2005) [June 2007]</p>	<p>Proposal is being considered as part of \Tax Law Review/Reform</p>
<p><u>Mr. Dattatreya Panday, Bar-at-Law</u></p> <p>To review constitutional norms regarding security of tenure of Magistrates [January 2009]</p>	<p>To be examined in the context of Constitution Review project</p>

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<p><u>Mr. YR</u></p> <p>To review operational framework of Council of Legal Education, under Law Practitioners Act [Jan. 2007]</p>	<p>To address in light of recommendations of Ministerial Committee on Reform of Council of Legal Education</p>
<p><u>Mr. VV</u></p> <p>To review postal legislation in light of provisions of Universal Postal Union Convention [Oct. 2006]</p>	<p>Preliminary work undertaken; to report in the context of compliance of laws with international obligations</p>
<p><u>Mr. PB</u></p> <p>Review Law relating to relationship between children and grand-parents [Nov 2006]</p>	<p>Project undertaken and completed; Report (together with draft Bill) on “Relationship of Children with Grand Parents and Other persons under the Code Civil Mauricien” [June 2007]</p>
<p><u>Mrs. GR</u></p> <p>To ensure the law sufficiently safeguards rights of married women in respect of matrimonial property [February 2007]</p>	<p>Being considered when reviewing provisions and recommending reforms to Code Civil in respect of the ‘droit patrimonial de la famille’</p>
<p><u>Mr. PM</u></p> <p>To consider establishing a land court (which would have jurisdiction in respect of disputes over land and in respect of Landlord and Tenant Act) [Jan. 2007]\</p>	<p>Not considered desirable [a Tribunal Terrier had existed during French colonial period but was abolished with reorganization of court structure during British colonial period]</p>
<p><u>Mrs. MD</u></p> <p>To review the law so as to better secure the rights of suspects [Jan. 2007]</p>	<p>Being considered in the context of Review of Criminal Procedural and Evidential Rules</p>

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<p><u>Mr. NR</u></p> <p>To improve court administration (such as court delays in disposing cases) and provision of legal services [Jan. 2007]</p>	<p>Matters raised are already being addressed in the context of current Judicial Reform</p>
<p><u>Mauritius Council of Social Services [MACOSS]</u></p> <p>To formulate legislative proposals for a new legal and regulatory framework for NGOs (non-government organizations) [April 2008]</p>	<p>Project completed; Report (together with draft legislation) on “Law relating to NGOs” [November 2008]</p>
<p><u>Union Chrétienne</u></p> <p>To review Constitution to provide adequate representation of persons of various religious communities (Christians, Muslims and Hindus) in Parliament and in Offices [June 2008]</p>	<p>The Commission at its 29th meeting held on 17 April 2009 took note of the views of Professor S.A. De Smith, Constitutional Commissioner, in his November 1964 Report, against any form of ‘communal representation’, viz. the immediate effect of the introduction of communal representation in any form would be to intensify communalism by endowing it with the accolade of legitimacy, that candidates in an electoral campaign would experience irresistible temptations to appeal to the narrower communal prejudices, that there would be increasing demands for communal representation in other walks of public life, and that the long-term effects would be deleterious both to the minorities which now think of it as a safeguard and to the general welfare of the island.</p>
<p><u>LALIT Political Party</u></p> <p>To review laws on confessions, to prevent/sanction abuse of human rights of suspects, and the powers of police in respect of criminal investigations [May 2008]</p>	<p>Proposals are being considered in context of Review of Criminal Procedural and Evidential Rules Project; also in respect of Project on mechanisms for better securing human rights</p>

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<p><u>Messrs KP, RB and WMM</u></p> <p>To review laws relating to juvenile justice system [May 2008]</p>	<p>Considered in the context of project for harmonizing laws with UN Convention on the Rights of the Child, and in the context of Attorney General's Office proposals for reform of juvenile justice system</p>
<p><u>Mrs. SR</u></p> <p>To review Article 1421 and other provisions of the Code Civil so as to better protect married women [May 2008]</p>	<p>Being considered when reviewing provisions of Code Civil in respect of the 'droit patrimonial de la famille'</p>
<p><u>Ms. PR</u></p> <p>To review law governing custody of child aged less than 5 to mothers</p>	<p>Being considered in the context of project for harmonizing laws with UN Convention on the Rights of the Child in the context of when reviewing provisions</p>

(IX) Projects Selection Criteria

Projects are selected according to the following criteria:

- (1) Importance of the issues: there is a major problem in that area of law; the law is unsatisfactory (it is unfair, unduly complex, unclear, inaccessible or outdated); and the potential benefits likely to accrue from undertaking reform are significant (it affects many people and there is a real demand for reform);
- (2) Suitability of the issues to be dealt with: the problem is predominantly legal and there is likely to be a solution; changes and improvements in the law can appropriately be put forward after legal (including socio-legal) research and consultation, and there is a fair chance that the proposed solution is likely to be implemented. This would tend to exclude subjects where the considerations are shaped primarily by political judgments;
- (3) Availability of resources in terms of both expertise and funding: legal expertise and funding are likely to be available; there is a real prospect for the project to be completed to a very high standard and in a reasonable period.