

NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15(a) OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1

Republic of Mauritius

National Report

A: Methodology and Consultation process

1. The Mauritius national report for this review has been prepared in line with the guidance provided in the ‘Elements for a Roadmap’ based on Human Rights Council resolution 5/1 of 18 June 2007, and on the ‘General Guidelines for the Preparation of Information under the Universal Periodic Review’ contained in Document A/HRC/6/L.24. The national report covers the islands of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia and every other island comprised in the State of Mauritius.

2. In the process of producing the report, Government has invited for consultation established national human rights institutions and a range of non-governmental organisations active in the promotion of human rights. The consultation meeting was chaired by the Attorney-General. Many of those institutions and organisations made verbal as well as written submissions which were taken into consideration in the finalisation of this report.

B: Country Background and Human Rights Framework

3. The Republic of Mauritius, found in the south-west of the Indian Ocean, consists of the islands of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia. It has a population of about 1.2 million. Mauritius obtained its independence from Great Britain in 1968. Her Majesty the Queen of Great Britain was the Head of State until 1992 when Mauritius became a Republic. There exists a parliamentary democracy led by the Prime Minister as the Head of Government. The Head of State is the President of the Republic who is elected by a majority of all members of the Assembly on a motion made by the Prime Minister.

4. The State of Mauritius holds free and fair national and local elections at regular intervals. The conduct of these elections is supervised by an independent Electoral Supervisory Commission. The National Assembly consists of 70 members of whom 62 are elected in accordance with the first-past-the-post system and the remaining 8 are allocated seats from among the best losers at general elections on a communal and party basis. Government is in the process of consultation with the main political parties on the reform of the electoral system. In 2002, provision was made for a decentralized form of Government in the island of Rodrigues by setting up the Rodrigues Regional Assembly which is responsible for the formulation and implementation of policy for specified

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

5. The judicial system in Mauritius is largely inspired by British traditions which advocate the 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 as well as the Industrial Court which hears industrial disputes. The Supreme Court has unlimited jurisdiction to hear and determine any civil or criminal proceedings.

6. The Supreme Court is the principal court of original criminal jurisdiction and holds sessions for the dispatch of criminal business. Those 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 under the Dangerous Drugs Act, before a Judge of the Supreme Court without a jury.

7. 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 whereby it can review the decision of one of its own judges sitting at first instance or those of subordinate courts.

8. Final decisions of the Supreme Court are subject to appeal to the Judicial Committee of the Privy Council on matters of great general or public importance and in other circumstances laid down in the Constitution. The Judicial Committee of the Privy Council sat for the first time in Mauritius in September this year, in line with ongoing reforms of the judicial system aiming at providing better access to justice to citizens of Mauritius.

9. The Mauritian Government believes that economic, social and cultural rights are as important as civil and political rights. The economy is based on export-oriented manufacturing (mainly textiles), sugar, tourism and services. According to the latest UN Human Development Report, Mauritius ranks among those countries with a high level of human development. Average rates of growth have averaged 5% and per income capita now exceeds US\$ 6,000. Moreover the country has attained most of the targets related to the Millennium Development Goals (MDGs)

10. Based on the World Bank international poverty lines of \$1 and \$2 a day, absolute poverty remains negligible in the country. Using the \$1 parameter, the proportion of poor people stands at less than 1% while with the \$2/day poverty line, it is estimated at less than 1.5%. However, on the basis of a relative poverty line defined by half median monthly household income per adult equivalent, the proportion of poor people was

estimated at 8.5% in 2006/2007 compared to 7.8% in 2001/02. The share of the poorest quintile in national consumption stood at 7.6% in both 2001/2002 and 2006/07.

11. Given this situation, eradicating absolute poverty has become a priority for the Government and presently, this is high on the Government agenda, as indicated in the recent Budget. A series of measures have been announced to tackle the issue. A special Committee for the Eradication of Absolute Poverty (EAP) has been set up, which comprises all stakeholders, namely the public sector, the private sector and non-governmental organisations to look into the specific needs of the poor, provide urgent assistance and lend support to the children and the unemployed in the pockets of poverty. A five track partnership is being established, bringing together the entire range of social partner, including the socio-cultural organisations, NGOs, the corporate sector, development partners and the various levels of Government. The overall objective is to eradicate all cases of absolute poverty in the country within a span of seven to ten years.

12. It is estimated that Mauritius has a workforce of about 500 000 people amongst whom around 70 000 are in public employment. The Pay Research Bureau determines the salaries and other conditions of employment for public sector employees. On the recommendation of the National Remuneration Board, Government establishes minimum wages which vary according to the sector of employment. Government also reviews minimum wages each year based, inter alia, 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 and (in the sugar industry) the 40-hour week. Factory inspectors of the Ministry of Labour, Industrial Relations and Employment ensure that employers comply with health and safety requirements set by Government. Sanctions of a penal nature are provided for by law in cases of non-compliance with the said requirements. Mauritius is committed to safeguarding workers' rights and has ratified the eight core ILO Conventions pertaining to fundamental principles and rights at work.

13. 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. The child mortality rate was 0.4 in 2007 for a total population of 1,223 089. Education is free up to the tertiary level whilst primary and secondary education is compulsory by law for all children up to the age of 16, including children with disabilities. Government has come up with a Policy Paper to promote the concept of inclusive education by integrating, as far as possible, children with disabilities in mainstream schools.

14. Elderly persons aged 60 years and above, widows under 60 years, invalid persons aged between 15 and 59 and orphans up to the age of 15, or 20 if at school, are entitled to the payment of a basic (non-contributory) pension on a universal basis. Furthermore, needy and destitute families are given social aid, unemployed heads of households with insufficient resources are eligible for unemployment hardship relief and all students, elderly persons and disabled persons are entitled to unlimited free public transport. Income support for purchase of rice and flour is given to about 50,000 needy families. The Protection of Elderly Persons Act 2006 provides for the protection of the elderly against abuse; persons who wilfully subject elderly persons to ill-treatment or wilfully fail to provide elderly persons under their care with adequate food, medical attention, shelter and clothing are liable to be prosecuted. The Elderly Persons' Protection Unit organizes public awareness and sensitization campaigns on elderly persons' rights, receives complaints from elderly persons in need of protection and may apply to the Court for a protection order on their behalf.

15. Mauritius has developed a National Gender Policy Framework (2008) to provide broad guidelines for the implementation of gender mainstreaming strategies. The Gender Unit within the Ministry of Women's Rights, Child Development and Family Welfare monitors the implementation of gender mainstreaming strategies for the empowerment of women and promotion of gender equality and equity. It conducts outreach activities at grassroots level through 15 Women Centres, the National Women's Council, the National Women Entrepreneur Council, the National Women Development Centre and some 1200 Women's Associations with respect to capacity building, service delivery and sensitisation campaigns for the empowerment of women, as well as gender mainstreaming at policy, programming and output level with Ministries, Departments and other stakeholders in line with the National Gender Policy Framework and the recent reforms towards effective public financial management and performance management.

16. As from July 2008, the Gender Unit is offering technical assistance to all Ministries to help them design their own sectoral gender policy, so that programmes and performance indicators of sectoral Ministries are gender-responsive and adequately reflected in the budget. The Gender Unit is currently working with three pilot Ministries on designing their sectoral gender policy.

17. The Ministry of Women's Rights, Child Development and Family Welfare set up a Family Welfare and Protection Unit in July 2003, the main aims of which are to implement appropriate policies and strategies to promote family welfare and combat domestic violence. The Unit has a network of 6 Regional Offices known as Family Support Bureaux where the following services are provided, 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; and individual, couple and mass counseling on all family-related problems. Hotlines are also

operational on a 24-hour basis to cater for family- related problems and officers intervene promptly to provide assistance to victims.

18. Conscious of the need to address the issue of domestic violence in a comprehensive manner, the Ministry of Women's Rights, Child Development and Family Welfare has adopted a broad framework to respond to domestic violence, focusing on prevention (campaigns, regular talks and activities are organized in different regions falling under the purview of the Family Support Bureaux to sensitise the public at large on issues pertaining to domestic violence), innovative projects (including Zero Tolerance Clubs , Anger Management Programmes and 'Men as Partners' Programmes'), capacity building (through training of service- providers, including medical practitioners, magistrates and police officers, to improve responses to cases of domestic violence) and forging social coalitions_ between Ministries, non-governmental organisations and community- based organisations (a Partnership against Family Violence Committee has been set up to provide a coordinated approach to combat domestic violence).

19. The Protection from Domestic Violence Act which was enacted in 1997 and amended in 2004 and 2007 affords protection to the spouse of, as well as other persons living under the same roof as, a violent person. The Act provides for the issue of protection orders, occupation orders and tenancy orders by a Magistrate and affords protection against physical, emotional, sexual violence and even threatened violence. A person who has wilfully failed to comply with an order made under the Act may, in appropriate cases, be ordered to attend counseling sessions.

20. There is no State religion and the Government does not interfere with or restrict worship by any religious denomination. Freedom of conscience and religion as propounded in the Constitution is of special importance in view of the social fabric of the Mauritian society which comprises of various races, cultures and religions. The Constitution prohibits discrimination on grounds of creed.

21. Freedom of the press is an essential component of the right to freedom of expression as enjoyed under section 12 of the Constitution. The local media enjoy a long tradition of freedom and pluralism. There are eight dailies (five in English and French and three in Chinese) and about 50 weeklies, fortnightlies and monthlies. The audiovisual landscape consists of the national radio and television broadcaster, the Mauritius Broadcasting Corporation, and three private radio stations. The MBC operates on a twenty-four hour basis on three analogue and 12 digital television channels and 3 FM and 2 AM radio channels, in a dozen languages. The Independent Broadcasting Authority regulates broadcasting in Mauritius, deals with the licensing of new radio and TV channels and the devising of parameters and criteria for the authorisation of new channels, including guidelines for programmes, safeguards against indecency and sanctioning non-conformity with established standards.

22. Government intends to review the media landscape and to bring about reform in media law. In this context, Geoffrey Robertson, Q.C, a well-known authority on media law in Commonwealth States, was invited by Government in May 2008 to advise Government on the appropriate media framework for the benefit of both the public and Government. During his visit, he interacted with media organisations and other stakeholders. He is expected to submit his report in November 2008.

The Constitution

23. The Constitution of Mauritius, a written document bequeathed to Mauritius by an Order-in-Council of the British Government at the time of independence in 1968, is based on the Westminster model and 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", this being clearly in consonance with the fundamental rights and freedoms guaranteed under Chapter II of the Constitution which is largely inspired from the European Convention on Human Rights. Those fundamental rights and freedoms include the right to life, the right to personal liberty, protection from slavery and forced labour, protection from inhuman treatment, protection from deprivation of property, protection of the law, freedom of conscience, freedom of expression, freedom of assembly and association, freedom of movement and protection from discrimination.

24. The Constitution being the "supreme law of Mauritius", it is the duty of the Courts not only to interpret but also to ensure compliance with its provisions. It is up to the Supreme Court to determine the validity of any statute which is alleged to be unconstitutional; any law which contravenes the Constitution is, to the extent of the inconsistency, void. The Constitution itself makes provision under section 17 for redress to be afforded by the Supreme Court to any individual whose rights under Chapter II have been, are being or are likely to be contravened.

25. The Constitution provides for the independence of the Judiciary not only vis-à-vis the Legislature and the Executive but also vis-à-vis other political or social forces, as illustrated by the entrenched provisions governing the appointment of Judges, their terms of office and security of tenure, the provisions governing their removal in case of misconduct and the oath which they are required to honour under Chapter VII of the Constitution.

Legislation

26. In recent years, a number of human rights-related enactments have been passed in Mauritius. The Truth and Justice Commission Act which was passed a few months ago provides for the setting up of the Truth and Justice Commission which shall conduct inquiries into slavery and indentured labour during the colonial period in Mauritius,

determine appropriate measures to be extended to descendants of slaves and indentured labourers , enquire into complaints made by persons aggrieved by dispossession or prescription of any land in which they claim to have an interest and prepare a comprehensive report of its activities and findings based on factual and objective information and evidence. Once the Act is proclaimed, the Commission will be expected to complete its assignment and submit its report within a period of 24 months.

27. Measures are being taken to incorporate international norms into our domestic legislation. In particular, the definition of “torture” in the Convention against Torture was incorporated in section 78 of the Criminal Code in 2003 which provides for the offence of “Torture by public official”.

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

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

30. The Employment Rights Act which was passed at the same time aims at achieving the flexibility needed for creating demand for labour, together with security needed to protect the worker as he or she switches between jobs. The object of the Act is to revise and consolidate the law relating to employment, contracts of employment or service, the minimum age for employment, hours of work, payment of remuneration and other basic terms and conditions of employment with a view to ensuring appropriate protection of workers. Both the Employment Relations Bill and the Employment Rights Bill were

widely discussed with national stakeholders and experts from the International Labour Organisation before they were introduced in the National Assembly.

National jurisprudence

31. Our Constitution has conferred on the Judiciary the role of ensuring the proper functioning of a democratic society. The Judiciary under our Constitution operates within a system where the legislative and executive powers of the State are separate from those of the Judiciary. It is charged with the special duty of ensuring that legislative and executive powers are exercised in accordance with the Constitution and within the limits authorised by the Constitution. It is also charged with the duty to safeguard fundamental rights themselves which may be at risk in the exercise of legislative or executive powers.

32. Any person whose rights under Chapter II of the Constitution has been , is being or is likely to be contravened may apply to the Supreme Court for redress. Any law which is inconsistent with the Constitution shall, to the extent of the inconsistency, be void. Acts of public bodies may also be challenged in Court by way of applications for Judicial Review on grounds of illegality, “Wednesbury” unreasonableness, abuse of power and procedural impropriety.

33. In recent years, the Supreme Court and the Judicial Committee of the Privy Council have declared unconstitutional a section of the Constitution, as well as a section of the Dangerous Drugs Act, which provided for automatic denial of bail to an accused party who was arrested for a drug offence and had already been convicted of such an offence. Those provisions were held to contravene the principle of separation of powers implicit in section 1 of the Constitution. It was held that the granting of bail is essentially a judicial function.

34. The Supreme Court has also held last year that mandatory sentences were unconstitutional in that the indiscriminate imposition of a fixed term of penal servitude in all cases in which an accused party had been convicted of a particular offence contravened the principle of proportionality, amounted to inhuman or degrading punishment or treatment and was incompatible with the concept of a fair hearing.

Human Rights Infrastructure

National Human Rights Commission

35. The National Human Rights Commission (NHRC) was established under the Protection of Human Rights Act 1998 and is operational since April 2001. It was granted accreditation by the International Coordination Committee of National Human Rights Institutions in 2002 and is governed by the Principles Relating to the Status of National Institutions, Competence and Responsibilities (“Paris Principles”). The Sub-Committee on Accreditation of the International Coordination Committee of National Human Rights Institutions has recommended in April 2008 that the Commission be re-accredited Status A.

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

37. Several recommendations were made by the NHRC in its annual report for the year 2007. These related mainly to economic, social and cultural rights, the police, prisons, sex discrimination and the administration of justice. Its recommendations, inter alia, are as follows:

- (a) a future new Constitution should provide explicitly for the protection and promotion of economic, social and cultural rights;
- (b) measures be taken to ensure the impartiality of disciplinary action against police officers;
- (c) police investigations should respect certain rules aimed at protecting the right to liberty and measures should be taken to prevent the recurrence of death in police custody;
- (d) measures should be taken to rationalize the system of inspection of prisons and the processing of complaints and remission should be reintroduced even for serious crimes and proper medical care should be afforded to prisoners who are genuinely ill;
- (e) consideration should be given to the setting up of an open prison for women;
- (f) sex offenders should be tried as soon as possible after the commission of the offence and where appropriate, should be given psychological treatment and released on parole with the necessary safeguards;
- (g) a simplified version of all laws, especially new laws, should be published in Creole.

38. The Sex Discrimination Division, which is part of the National Human Rights Commission, was set up under the Sex Discrimination Act 2002 and is empowered to receive and enquire into any written complaint relating to alleged infringements of the Act. The Sex Discrimination Act 2002 which came into operation on 8 March 2003 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.

Office of the Ombudsperson for Children

39. The office of the Ombudsperson for Children was established under the Ombudsperson for Children Act 2003. The objective of the office is to ensure that the rights, needs and interests of the children are given full consideration by public bodies, private authorities, individuals and associations for individuals, to promote the rights and best interests of children, to promote compliance with the Convention on the Rights of the Child.

40. The Ombudsperson for Children has the role of an advocate for children's rights, advises the Minister and other public bodies and institutions on matters relating to promotion and protection of children's rights and carries out such investigations as she may decide, on complaints relating to the rights of the child.

The Ombudsman

41. The office of the Ombudsman was created under section 96 of the Constitution in 1968 in order to address issues arising from alleged maladministration in the public sector and wrongs that may be found to have been committed. The Ombudsman does so through independent, objective and impartial investigations initiated upon receipt of written complaints or acting on his own initiative. He attempts to strike a fair balance between what the citizen expects from Government services (including local authorities) and the Government (or local authority) that provides these services.

42. The Ombudsman's ultimate objective is to bring about a public service culture characterized by fairness, openness and accountability.

Commission on the Prerogative of Mercy

43. The Commission on the Prerogative of Mercy is an extra-judicial body set up under the Constitution, which advises the President of the Republic on the granting of pardons or respites, either indefinite or for a specified period, of the execution of any punishment imposed on that person, the substitution of a less severe form of punishment for any punishment imposed or the remission of the whole or part of any punishment imposed on that person for an offence or of any penalty or forfeiture otherwise due to the State on account of any offence.

Commissions set up under the Constitution

44. The Constitution provides for the establishment of a Public Service Commission which appoints persons to hold or act in any office in the public service, exercises disciplinary control over such persons and, where necessary, removes them from office. The Constitution equally provides for a Disciplined Forces Service Commission which has the power to appoint persons to hold or act in any office in the disciplined forces (including the police force) and to exercise disciplinary control over such persons as well as the power to remove such persons from office.

45. The Electoral Supervisory Commission has general responsibility for the registration of electors and supervises the conduct of elections. The Electoral Boundaries Commission set up under section 38 of the Constitution is responsible for the review of the boundaries of the constituencies and is empowered to make recommendations for any alterations to be brought to the boundaries of the constituencies.

Data Protection Commissioner

46. The Data Protection Act 2004 provides for the setting up of a Data Protection Office to be headed by a Commissioner. The object of the Act is mainly to provide for the protection of the privacy rights of individuals in the light of developments in the techniques used to capture, transmit, and manipulate, record or store data relating to individuals.

Independent Commission against Corruption

47. The Prevention against Corruption Act 2002 establishes the Independent Commission against Corruption which has wide investigative powers with regard to alleged complaints of corruption and money-laundering. Its functions also include educating the public against corruption, advising and assisting public bodies on ways and means in which corruption may be eliminated and advising public bodies on the adoption of codes of conduct.

Law Reform Commission

48. The Law Reform Commission, which is a statutory body, is responsible for keeping under review in a systematic way the laws of Mauritius and making recommendations for their reform and development. Over the past year, the Commission has produced Discussion Papers and Reports on matters such as “The Criminal Justice System and the Constitutional Rights of Accused Parties” and “Access to Justice and Limitation of Actions against Public Officers and the State”, which are being considered by Government.

International Obligations

49. Mauritius is party to the major United Nations instruments, amongst which are the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child. Government endeavours to honour its obligations under those instruments by, inter alia, ensuring that its laws and policies are compliant with those instruments and submitting periodic reports to the respective treaty bodies

50. Mauritius signed the UN Convention on the Rights of Persons with Disabilities in September 2007 and is committed to upholding and applying its provisions. Government has come up with a Policy Paper and Plan of Action on Disability which contains a

series of measures relating to health, education, training, employment, human rights, sports, leisure, transport, communication and accessibility. In this context, an Implementation and Monitoring Committee has been set up to work on the implementation of the recommendations of the Action Plan and early ratification of the Convention.

51. Mauritius is also a party to regional human rights instruments, such as the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, and the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights. Mauritius has signed the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

52. Mauritius is a party to the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and has acceded to the Convention on the Civil Aspects of International Child Abduction.

53. Mauritius has acceded to the African Peer Review Mechanism in July 2003 and was among the first countries to start the review process which covers four substantive thematic areas, namely Democracy and Political Governance, Economic Governance and Management, Corporate Governance and Socio-Economic Development. The National Economic and Social Council, an independent body, has been designated as the national focal point to oversee the process in Mauritius. Mauritius is currently finalizing its self-assessment report and is expected to be peer reviewed in the course of 2009.

Protocols

54. Mauritius being a party to the Optional Protocol to the International Covenant on Civil and Political Rights, citizens of Mauritius may submit individual petitions to the Human Rights Committee.

55. Mauritius has also signed the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict on 11 November 2001. Following the concluding observations of the Committee on the Rights of the Child on Mauritius, the State has withdrawn its reservation to Article 22 of the Convention on the Rights of the Child.

56. Cabinet approval has been obtained for the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women which allows, inter alia, individual petitions to the Committee on the Elimination of Discrimination against Women.

57. Mauritius which became a party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2005 was chosen, by a drawing of lots, as the first country to be reviewed under the Optional Protocol and had the privilege of receiving the visit of the Subcommittee on

Prevention of Torture from 10 to 18 October 2007. During the course of their visit, the SPT visited the Police facilities, Police Detention Centres, prisons and other institutions such as the Rehabilitation Youth Centre at Beau Bassin and the Shelter for Children and Women in Need. A National Preventive Mechanism, as provided for under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, has been set up administratively pending amendments to be brought to existing legislation setting up the legal framework under which the National Preventive Mechanism is to operate. The Subcommittee submitted its report on its visit in Mauritius in July this year. A High-Level Committee is looking into the implementation of the findings, observations and recommendations in the report.

C: Promotion and Protection of Human Rights on the Ground

Implementation of human rights obligations

58. International treaties ratified by Mauritius are not automatically incorporated directly into the laws of Mauritius. Where necessary, changes are made to the domestic legislation to enable Mauritius to comply with its treaty obligations. Mauritius is endeavouring to submit its periodic reports to the human rights treaty bodies in a timely manner in order to address the issue of overdue reports. Particular attention is paid to the recommendations of human rights treaty bodies which have examined the periodic reports submitted by Mauritius and follow-up action, as appropriate, is taken.

National Human Rights Legislation

59. Section 17 of the Constitution provides that a citizen, who alleges that any of his constitutional rights has been, is being or is likely to be contravened, may apply to the Supreme Court for redress. It is worth noting that Section 17 is entitled “Enforcement of Protective Provisions”. In December 2002, in the interlocutory judgment in the case of **Bishop of Roman Catholic Diocese of Port Louis and Ors v. S.Tengur**, the Supreme Court observed that: “*A declaration of fundamental rights is meaningless unless there are effective judicial remedies for their enforcement. The right to move the Supreme Court for redress where a fundamental right has been infringed is itself a fundamental right...Section 17 is the soul and heart of the Constitution...*”

60. The Abolition of Death Penalty Act was passed in 1995. All death sentences imposed before that Act was passed were commuted to sentences of penal servitude for life.

61. In June 1998, Mauritius signed the Rome Statute of the International Criminal Court and subsequently ratified same on 5 March 2002. Drafting work pertaining to the implementation of the provisions of the Rome Statute has been undertaken by the Attorney-General’s Office with the assistance of the Office of the Regional Delegation of the International Committee of the Red Cross for Southern Africa and the Indian Ocean. The International Criminal Court Bill will be introduced in Parliament shortly.

62. The Child Protection Act was enacted in 1994 to ensure protection of children from all forms of abuse .The word “harm” includes physical, sexual, psychological, emotional or moral injury, neglect, and ill-treatment, impairment of health or development. The Act provides for the issue of an emergency protection order by the Magistrate where it is reasonably believed that a child is suffering or likely to suffer significant harm.

63. Corporal punishment is prohibited in schools by virtue of regulation 13 (4) of the Education Regulations, section 13 (1) of the Child Protection Act and section 230 of the Criminal Code. Circulars are sent to schools by the Ministry of Education at the beginning of every term reminding them of those regulations and teachers are required to acknowledge having taken cognizance of same. Programs on the Convention on the Rights of the Child are carried out in schools by the Ministry of Women’s Rights, Child Development and Family Welfare. However, some cases of physical molestation including sexual abuse are reported every year to the Ministry and, in most cases, they are referred to the police and disciplinary action is taken against the culprit. The Office of the Ombudsperson for Children also monitors any allegation of child ill-treatment

64. The Training and Employment of Disabled Persons Act 1996 aims at preventing discrimination against disabled persons resulting from or arising out of their disability. The object of the Training and Employment of Disabled Persons Board set up under the Act is to prevent discrimination against disabled persons and to encourage the establishment of appropriate vocational centres and other institutions for the training of disabled persons. It is an offence for employers to discriminate against disabled persons in relation to advertisement and recruitment for employment. Other laws catering for the needs of persons with disabilities include the Building Act (accessibility to public buildings), the Road Traffic Act (special parking slots and free provision of parking coupons for disabled persons) and the Sports Act (sports activities for disabled persons).Steps have been taken to make voting procedures disabled -friendly.

65. The Mental Health Care Act which was passed in 1998 provides for patients with mental disorders to be admitted to mental health care centres on a voluntary basis without a Magistrate’s order. Any patient who is ordered to be admitted to a mental health care centre (against his will) has the right to appeal to a Mental Health Commission. Patients suffering from mental disorders and their next of kin are informed of their rights and freedoms (as prescribed in a Schedule to the Act) in a language which they understand.

66. The Imprisonment for Civil Debt (Abolition) Act which was passed following comments made by the Human Rights Committee in 2005 provides that debtors may only be imprisoned for a civil debt where fraud or a criminal offence is committed. A person can no longer be imprisoned merely on account of a civil debt.

67. The Transfer of Prisoners Act which was passed in 2001 allows for the transfer of prisoners to and from Mauritius to serve the remainder of their sentences. The designated countries to which the Act applies include countries which are parties to the Strasbourg Convention on the Transfer of Sentenced Persons and the Scheme for the

Transfer of Convicted Offenders within the Commonwealth. Bilateral agreements on the transfer of prisoners have also been entered into with the Republic of Guinea (June 2003), the United Republic of Tanzania (June 2003), India (October 2005) and Madagascar (July 2008). Agreements are presently under consideration with Kenya, Uganda and Burundi.

Voluntary pledges taken by Mauritius as candidate for election to the Human Rights Council

68. Mauritius pledged to continue to uphold primacy of democracy, good governance and development and strengthen national institutions that protect human rights of citizens, to play a constructive role in advancement of human rights and further contribute to the enhancement of UN human rights activities, to participate actively in the work of the Human Rights Council for the promotion and protection of all Human Rights in a spirit of impartiality, dialogue and cooperation, to be reviewed under the Universal Periodic Review mechanism and to support international efforts to enhance intercultural dialogue and understanding amongst civilizations, cultures and religions with a view to facilitating the universal respect of all human rights.

69. Mauritius believes it has lived up to and continues to honour these pledges through the action it has undertaken at domestic and international level.

National Human Rights Institutions Activities

The National Human Rights Commission

70. The NHRC conducted a workshop on Human Rights for newly recruited prisons officers. Two experts from the International Centre for Prison Studies came to Mauritius to advise the Commissioner of Police on a training course for prisons officers a to undertake a training system assessment

71. Members of the NHRC also visited all the prisons in Mauritius including 'Pointe la Gueule' in Rodrigues during the year 2007 to examine conditions of detention therein. The NHRC has further produced a Prisoners' Manual containing the prisons regulations in a simplified version in English, French and Creole to be distributed to convicted prisoners on their admission to prison.

Sex Discrimination Division

72. The Sex Discrimination Division pursued its awareness raising campaign on sex discrimination and sexual harassment in schools, the private sector, banks, the Police Force Training School, social groups and women's centres in Mauritius and in Rodrigues

The Office of the Ombudsperson for Children

73. The Ombudsperson for Children organizes training sessions and a number of talks, seminars and workshops, both in Mauritius and in Rodrigues, in order to sensitise

stakeholders working with children on the Convention on the Rights of the Child and on related issues such as violence against children, child abuse and prostitution, and child labour. A kit on violence against children addressed to the personnel working in the education sector has been prepared by the Ombudsperson in collaboration with the Ministry of Education.

Cooperation with Human Rights Mechanisms

74. Mauritius actively participated in establishing the Human Rights Council as a founding member and has contributed towards making this body as effective as possible. As a member of the Council, it has consistently made its voice heard in defence of those who are deprived of their fundamental freedoms. Mauritius is committed to ensuring that attempts to make the world safer are not to the detriment of human rights and personal freedom. It holds the view that the multilateral system, in particular the United Nations, must work with all countries in a spirit of dialogue, cooperation, objectivity and non-selectivity to pursue the advancement of human rights in each and every country.

75. In addition to upholding human rights at national level, Mauritius is committed to their promotion and protection at the international level. Mauritius fully cooperates with the human rights mechanisms, including treaty bodies and is actively engaged on the full range of human rights issues with other international and regional organisations such as the African Union. Mauritius also participates in regional efforts to promote and protect human rights. It is thus a party to regional human rights instruments, including the African Charter on Human and Peoples' Rights.

76. Mauritius has fielded the candidatures of its nationals to serve on human rights treaty bodies. Mauritian nationals are currently members of the following bodies: Human Rights Committee; Committee on Economic, Social and Cultural Rights; Human Rights Council Advisory Committee; and Committee on the Elimination of Discrimination against Women. Further, the Chief Justice serves on the African Commission on Human and Peoples' Rights.

77. Mauritius recognizes that the fight against poverty, development and human rights are interlinked and mutually reinforcing. It is in this spirit that Mauritius hosted the SADC International Conference on Poverty and Development in April 2008. The Conference agreed, *inter alia*, to work towards the establishment of a Regional Poverty Observatory to monitor progress made in the implementation of actions in the main priority areas of poverty eradication.

D: Achievements, Best Practices, Challenges and Constraints

Achievements and Best Practices

Human Rights Centre

78. The Human Rights Centre was set up in 2007 for the promotion of Human Rights in Mauritius. The Centre aims mainly at making the public aware of existing human rights institutions and laws so that they may better avail themselves of such.

79. The Centre also serves as one of the main human rights fora where non-religious groups and associations, clubs and even political parties from all spheres are allowed to organise debates and meetings on human rights- related issues. Foreign experts in the field of human rights will be invited to hold conferences and talks on a regular basis on the premises of the Centre. The members of the UN Subcommittee on Prevention of Torture met Mauritian stakeholders for discussions on the said premises. Training is given to various people from NGO' s and Trade Unions who will in turn be assisting and empowering citizens at grassroots level. Training sessions will be held by local guest speakers, on a voluntary basis, from different spheres of society on different human rights topics. The Human Rights Centre also initiates human rights campaigns and the publication of brochures and pamphlets on human rights issues and will distribute copies of the main human rights conventions ratified by Mauritius to the general public.

National Action Plan on Human Rights

80. Mauritius is at present finalising a National Action Plan on Human Rights. This National Action Plan seeks to develop a strong culture of human rights in Mauritius by providing better protection for individuals, creating more effective programs 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 National Action Plan is to bring about tangible improvements in the observance of all categories of human rights.

81. The National Action Plan has been developed, in consultation with stakeholders, on the basis of realistic objectives and clear targets and covers a broad field of areas. It includes an overview of 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 action taken so far in each field and the shortcomings which need to be overcome, and proposes measures to address these shortcomings. The National Action Plan also proposes specific time frames for the achievement of its objectives, with short term, medium term and long term implementation of the measures. The provision of a time frame will ensure that those involved in realising the targets of the Action Plan have a deadline to structure their activities and should ultimately facilitate monitoring and final evaluation.

Distribution of free copies of the Constitution

82. Over 35 000 copies of the Constitution have been printed and distributed free among various groups of the population. Another 30 000 copies are actually in print and will be distributed to all secondary school students. It is also intended to make copies of

the Constitution available in Braille for the benefit of those who have a visual impairment.

International Humanitarian Law

83. The National Humanitarian Law Committee was set up under the aegis of the Prime Minister's Office in 2002. The purpose of the Committee is to implement and disseminate knowledge of International Humanitarian Law instruments to which Mauritius is a party. "Exploring Humanitarian Law" was introduced in State Secondary Schools on a pilot basis in 2007. Procedures are currently under way to extend the project to Private Secondary Schools. At the tertiary level, a module on International Humanitarian Law was introduced for "Bachelor of Laws with Honours" courses at the University of Mauritius. The Committee also actively sensitises the public on International Humanitarian Law through workshops, seminars and distribution of books to the National Library of Mauritius.

84. Mauritius is a party to the main International Humanitarian Law instruments and is considering adherence to the International Convention for the Protection of All Persons from Enforced Disappearance.

85. Training on Human Rights issues was dispensed to more than 700 prisons officers and to new recruits in the Prisons Department. In 2007, the United Nations Development Programme assisted the Prisons Department by providing two consultants to carry out an assessment and a revision of the Prisons Officers' Training Curriculum. Human rights concepts and practices are to be mainstreamed through a revision of the curriculum. The United Nations Development Programme also supported the Prisons department in the Training of Trainers' course in Human Rights for 20 senior officers and its assistance has now been requested for an expert to head the Prisons Training School. Workshops are being organized to empower Prison Officers to combat drugs and HIV/AIDS in prisons

86. Allegations of police brutality are enquired into and dealt with expeditiously and firmly by the National Human Rights Commission and the Courts .A judicial enquiry is held promptly where a person dies in prison or in police custody. Where enquiry discloses prima facie evidence against police or prisons officers, the officers are prosecuted before Court. The State has, in a few recent cases, made ex gratia payments to the next of kin of persons who have died in police custody, without awaiting the judgment of the Supreme Court on its liability. Other measures to address this problem of police brutality are outlined in paragraph 91

Challenges and Constraints

87. Section 10(1) of the Constitution entitled "Provisions to secure protection of law" provides that any person who is charged with a criminal offence shall, inter alia, be afforded a fair hearing within a reasonable time. Despite efforts being made by the police, prosecution and the Courts, cases are at times disposed of several years after the date of the offence. The delay in lodging and disposing of cases is mainly due to shortage of staff in the police and the Office of the Director of Public Prosecutions and a backlog of cases

before some Courts. Accused parties who have the constitutional right to be defended by Counsel of their own choice often insist on being represented by particular lawyers who may be unavailable on the dates scheduled by the Court. The period of pre-trial custody has in some cases been decried as being inordinately long.

88. Although the number of allegations of police brutality has drastically decreased in recent months, it is still perceived that police officers focus on obtaining confessions, often described as the “best evidence”, through improper means rather than using more modern investigative methods. These are dealt with in paragraphs 98, 99 and 100 below.

89. Prisons in Mauritius are undoubtedly overcrowded, owing to the rise in the number of prisoners and persons on remand. There have also been reports of drug trafficking in prisons.

90. Migrant workers have complained in recent months of unsatisfactory working and living conditions.

E: Key national priorities, initiatives and commitments of Mauritius

91. The Protection of Human Rights Act setting up the National Human Rights Commission is to be reviewed 10 years after the Act was passed. Government has entrusted this task to a former Chief Justice who is also a serving member of a treaty body. The review of the Act will involve, inter alia, a review of the role, powers and composition of the National Human Rights Commission.

92. Government is committed to make or support far-reaching reforms to the justice sector with a view to improving the delivery of justice, as per the recommendations made by the Presidential Commission chaired by Lord Mackay of Clashfern. Amendments are to be made to the Constitution shortly to provide for separate Court of Appeal and first instance Court within the Supreme Court of Mauritius. Since January 2008, two Judges have been hearing criminal cases and two others have been hearing family law cases on a full-time basis with a view to clearing the backlog. As from January 2009, two Judges will be hearing commercial cases on a full-time basis.

93. The Equal Opportunities Bill will be introduced in Parliament in November 2008, incorporating all the different grounds of discrimination covered under sections 3 and 16 of the Constitution as well as age, pregnancy, mental and physical disability *and sexual orientation* in areas dealing with employment, education, the provision of accommodation, goods, services and other facilities, sports, the disposal of immovable property, admission to private clubs and premises open to members of the public. The Bill will also provide for the establishment of an Equal Opportunities Commission and an Equal Opportunities Tribunal.

94. It is also intended to introduce a Police Complaints Bill in Parliament shortly. The Bill will provide for the setting up of an independent body which will deal with complaints made against police officers in respect of acts done in the execution of their functions. Consultations were held in October 2008 with the National Human Rights

Commission and other stakeholders as well as with experts from the Independent Police Complaints Commission of the United Kingdom, the Office of the High Commissioner for Human Rights and the United Nations Office on Drugs and Crime.

95. The Ministry of Education, Culture and Human Resources, in line with its National Curriculum Framework, is currently working on the integration of Human Rights Education into the school curricula at primary level. On the finalization of the National Curriculum Framework for secondary schools, Human Rights Education will be introduced at lower secondary level.

96. The development of the Human Rights Education Curriculum will necessitate the training of curriculum writers who are responsible for the writing of teaching and learning resource materials. The training will involve the assistance of technical experts in human rights curriculum in order to ensure that components of Human Rights Education are effectively integrated into the different learning areas to bring the required desirable behavioural changes in pupils.

97. In line with the Programme of Action 2005 – 2009 of World Programme for Human Rights Education, the Ministry of Education, Culture and Human Resources has set up a Human Rights Education Task Force comprising members from different Ministries, NGO's and international organisations to carry out a campaign for immediate visibility and scaling up of Human Rights Education, in addition to integration into the curriculum.

98. The Task Force has proposed a Plan of Activities with a view to achieving better awareness of human rights issues at school level. The activities include, among others, essay/poem/song competitions, drawing and poster competitions, story-telling, debates, elocution contests, exhibition of the best entries and preparation of a kit on human rights for distribution to schools. Schools may also take up human rights issues in their morning assemblies.

99. For a more effective implementation of Human Rights Education, teacher-training has to be carried out. The Mauritius Institute of Education which is responsible for in-service and pre-service training will consider having some modules of Human Rights Education into their programmes. Hence, teachers will be better prepared to implement the Human Rights Education curriculum.

100. Many schools are already running '*Amnesty Clubs*' and students actively participate in them by carrying out sensitization programmes on human rights abuses in other countries. A further co-curricular activity could be the setting up of Human Rights Clubs in schools. These Clubs would focus on national human rights issues and activities. In addition, these clubs will provide students with real learning opportunities in human rights approach to develop their personality, strengthen respect for human rights and fundamental freedoms.

101. The Police has engaged in a process of modernization of working methods, structure and technology for the tracking down of criminals. Nowadays, there is a shift from confession-led to evidence-led investigation for crime solving. In this respect, emphasis is being put on the use of new technologies in the field of forensic science.

102. DNA Testing facilities are now fully operational at the Mauritius Forensic Science Laboratory. In February this year, a team from the UK Forensic Science Services was in Mauritius to make an assessment of the Forensic Science Laboratory with a view to developing a long term strategy for the use and development of Forensic Science in Mauritius. Besides, focus is put on capacity-building at the laboratory with the assistance of friendly countries and institutions. A training programme was run by a team of experts from Staffordshire University (UK) from 26 August to 05 September 2008, for the benefit of officers of the Forensic Science Laboratory and the Police, and pertaining to Forensic Awareness, Expert Witness Training and Forensic Science Training.

103. In addition, a DNA Identification Bill is currently being fine-tuned in consultation with all stakeholders. With the enactment of this legislation, criminal investigation will be operationally driven with intelligence generated by a DNA Database. The impending DNA Bill will allow the instant search for a match to the DNA fingerprint of each and every known criminal in the land. Appropriate safeguard measures will be taken in the drafting of the legislation to ensure an appropriate balance between the enhancement of security and the need to protect individual liberties

104. In order to address the problem of overcrowding in prisons, additional accommodation has been created for 377 detainees in various prisons. The infrastructure is being improved wherever possible.¹⁴ Segregation and Protection Units have been created to cater for 137 detainees. The Women's Prison will be extended. A new and modern high- security prison providing accommodation to some 750 detainees who will be serving long sentences will be constructed. The tenders for the construction of the new prison are expected to be launched around August 2009.

105. A Sexual Offences Bill was referred to a Select Committee in 2007 for further study and consultation. The object of the Bill is to make further and better provision for sexual offences. In that context, a new definition of the offence of rape is provided, new categories of offences of sexual assaults and provision is made for decriminalizing of sexual activities among consenting adults are created in order to cover various acts of sexual perversions committed by offenders

106. It is proposed to review the Data Protection Act 2004 to harmonise it with the EU Directives on data protection. The Government proposes to hold consultative meetings with stakeholders to consider amendments to the Act.

107. Following a brainstorming session with stakeholders last year, a Working Committee has produced a Green Paper on the new concept of legal aid, applications for legal aid, the eligibility test, the expanding and extension of legal aid services and the establishment of a Legal Aid Board. The possibility of providing for legal aid at

enquiry stage is being seriously looked into. Members of the legal professions will also be encouraged to do more *pro bono* work.

108. With a view to providing better protection to children as well as adults, a holistic approach is being considered in relation to human trafficking. In that respect, a draft Combating of Trafficking in Persons Bill has been prepared with the assistance of the United Nations Office for Drugs and Crime (UNODC).

109. Government has facilitated access to low cost housing and decent homes for low income earners through a number of subsidy schemes, comprising, *inter alia*, cash grants for the casting of roof slabs, infrastructure subsidies, leases to the lower middle income families and financial assistance through the Trust Fund for the Social Integration of Vulnerable Groups for the purchase of building materials. The Trust Fund will also soon finance the construction of several housing units in the 229 pockets of poverty identified throughout the country, while the Empowerment Programme is undertaking a pilot integrated housing project, inclusive of educational/training opportunities and other community facilities, for the benefit of some 200 vulnerable families, and which would serve as a model that could be replicated in other pockets of poverty. The 2008-09 Budget has provided for a Social Housing Development Fund of Rs 500 million to develop new models of housing to meet the needs of all income segments of the population. This Fund will look into and oversee a new programme for the setting up of mixed housing communities on a Public Private Partnership basis

110. Further to the latest recommendations of the Committee on the Rights of the Child, action has been initiated for the drafting of a Children's Bill to consolidate the various pieces of legislation covering all aspects of children's rights. Opportunity will be taken to, *inter alia*, review the law on juvenile justice and prosecution and detention of juveniles.

F: Expectations of Mauritius in terms of capacity-building and Requests for Technical Assistance

111. The Government of Mauritius is pleased to acknowledge ongoing assistance from the United Nations Development Programme and the Commonwealth Secretariat in its efforts to discharge its human rights obligations towards its citizens and other States. Assistance from other States and donor institutions will be required in terms of capacity-building when the Equal Opportunities Commission and Police Complaints Commission are set up.