

# GOVERNMENT OF THE REPUBLIC OF MAURITIUS

## **Submission of inputs for the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association.**

The State of Mauritius is committed to the upholding of principles of the United Nations of Human Rights (UDHR).

### **1. Existing legal framework**

#### **(a) The Constitution of Mauritius**

The Constitution of Mauritius provides for every citizen to be treated equally. The fundamental rights and freedoms of the individual are protected under sections 3 to 13 of the Constitution of Mauritius are as follows: -

- i. Fundamental rights and freedom of individual (Section 3)
- ii. Protection of right to life (Section 4)
- iii. Protection of right to personal liberty (Section 5)
- iv. Protection from slavery and forced labour (Section 6)
- v. Protection of inhuman treatment (Section 7)
- vi. Protection of deprivation of property (Section 8)
- vii. Protection of privacy of home and other property (Section 9)
- viii. Protection to secure protection of law (Section 10)
- ix. Protection of freedom of conscience (Section 11)
- x. Protection of freedom of expression (Section 12)
- xi. Protection of freedom of assembly and association (Section 13)

#### **(b) The Public Gatherings Act 1991**

The Public Gatherings Act 1991 provides the legislative framework for public gathering in Mauritius.

#### **(c) The Protection of Human Rights Act 1998**

The promotion and protection of human rights fall under the purview of the National Human Rights Commission, which is set up under the Protection of Human Rights Act.

#### **(d) Employment Relations Act 2008**

The Employment Relations Act 2008 provides for the protection of the fundamental rights of workers to freedom of association and protects their right to organise and engage in collective bargaining

#### **(e) Workers' Rights Act 2019**

The Workers' Rights Act 2019 protects the freedom of association of a worker. Section 64(1) (d) provides that an agreement shall not be terminated by an employer by reason of a worker becoming or being a member of a trade union, seeking or holding of trade union office, or participating in trade union activities outside working hours or, with the consent of the employer, within working hours.

## **2. Circumstances whereby restrictions are imposed**

The Commissioner of Police has the power, for the purpose of preventing public disorder, damage to property or disruption of the life of the community, to impose conditions on the holding of a gathering. The Commissioner also has the power to prohibit the gathering where he reasonably believes that imposing conditions would not be sufficient to prevent public disorder, damage to property or disruption of the life of the community.

## **3. Provisions reviewing assembly notification requests**

The Commissioner of Police must inform the organisers of his decision to prohibit the gathering within 48 hours of receiving the notice. Under section 4 of the Public Gatherings Act, any person who is aggrieved by the Commissioners' decision may refer the matter to a Judge in Chambers who shall hear the parties and make such order as he may deem fit in the circumstances. The Constitution also makes provision under section 17 for redress to be afforded to any individual whose rights under chapter II have been, are being or are likely to be contravened.

## **4. Promoting peaceful protests**

The Police adhere to the principles of minimum force, that is, whenever the Police are called upon to maintain law and order, they have recourse to empty-hand techniques and make use of restraining devices to effect arrest.

Besides operating within legal frameworks, there are also operational and administrative guidelines which regulate the use of force and firearms by Police and which are in conformity with the provision of the UN Basic Principles on the Use of Force and Firearms.

As per section 9 of the Police Act 1974, the Police Force shall take all lawful measures for preserving the public peace, preventing and detecting offences, apprehending persons who have committed or who are reasonably suspected of having committed offences, amongst others.

Section 13F of the Act provides that any police officer, who has reason to suspect that any person has committed or is about to commit an offence which will endanger public safety or public order, may arrest that person and use of such force as may necessary for that purpose.

## **5. Trainings**

The Police Training School (PTS) includes a comprehensive module on Human Rights in its training programs which is dispensed to every Police recruit during his/ her "foundation Training" and to "in service" Police Officers.

Police Officers are given training courses on the fundamental human rights principles and obligations under the humanitarian law and are lectured on the international norms for the protection of the vulnerable groups including persons with disabilities.

## **6. Measures to prevent unlawful arrests and detention**

Human rights violations and abuses against any person, including human rights defenders can be referred to at the Human Rights Division of the National Human Rights Commission.

By virtue of section 4 (1) (a) of the Protection of Human Rights Act 1998, the Human Rights Division enquires into any written complaint from any person alleging that if his human rights has been, is being or is likely to be violated by the act or omission of any other person acting in the performance of any public function conferred by any law or otherwise in the performance of the functions of any public office or any public body.

Human Rights violations and abuses committed by Police Officers can be referred to the Independent Police Complaints Commission (IPCC) which was set up under the Independent Police Complaints Commission Act 2016. The IPCC investigates into any complaint made by any person or on his behalf against any act, conduct or omission of a police officer in the discharge of his functions, other than a complaint of an act of corruption or a money laundering offence.

## **7. Safety, health and wellness of law enforcement officers in protests**

The Mauritius Police Force has a Police Medical Unit that offers medical support to police officers and their families.

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