**Ministry of Foreign Affairs, Regional Integration and International Trade**

**(Human Rights Division)**

**Human Rights Council Resolution 45/30 - The rights of the child**

1. The State of Mauritius is committed to, and is continuously progressing towards, a society where the rights and the best interests of children are amongst the primary concerns.

2. The State of Mauritius is party to the various international instruments which safeguard the human rights of children, namely:

1. the Convention on the Rights of the Child;
2. the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography;
3. the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. However, the concerns addressed by this instrument do not apply to the country;
4. the International Convention on the Elimination of All Forms of Racial Discrimination;
5. the African Charter on the Rights and Welfare of the Child;
6. the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa; and
7. the Hague Convention on the Civil Aspects of International Child Abduction.

3. Moreover, there is a wide array of general legal provisions/legislations in Mauritius aiming at protecting the Mauritian Child from harm and include, inter alia:

1. the Child Protection Act;
2. the Criminal Code;
3. the Ombudsperson for Children Act;
4. the Convention on the Civil Aspects of International Child Abduction Act;
5. the Early Childhood care and Education Authority Act;
6. the Protection from Domestic Violence Act; and
7. the Combating of Trafficking in Persons Act.

Since 15 December 2020, the Children’s Act which will repeal the Child Protection Act and the Juvenile Offenders Act (Section 72); the Children’s Court Act and the Child Sex Offender Register Act have been passed at the National Assembly with a view to providing a more inclusive and child friendly judicial framework and can be accessed on the following link for ease of reference <https://mauritiusassembly.govmu.org/Pages/Acts/Acts2020.aspx> .

The main objects of the three legislations are as follows:-

1. the Children’s Act aims to provide for a more comprehensive and modern legislative framework with a view to addressing the shortcomings of the existing Child Protection Act and to give better effect to the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child;
2. the Children’s Court Act aims to provide for the establishment of a Children’s Court which will have jurisdiction to hear and determine cases involving children and ensure that the best interests of children during Court proceedings are safeguarded in a child-friendly environment; and
3. the Child Sex Offender Register Act aims to establish a Child Sex Offender Register, to be known in short as the CSO Register, which would monitor and keep track of persons in the community who have been found guilty of committing sexual offences against our children. It would also help in detecting and investigating sexual offences against children.

However, the above mentioned legislations are yet to be proclaimed.

4. Measures undertaken by the State of Mauritius with regards to children include; *inter-alia*:

I. The Child Development Unit

The setting of a Child Development Unit (CDU) under the aegis of the Ministry of Gender Equality and Family Welfare, with a view to ensuring survival, protection, development and participation rights of the Mauritian child are upheld in accordance with the Convention on the Rights of the Child (CCRC).

In order to ensure accessibility and proximity service delivery, the CDU operates through a   
network of 6 Outstations and provides immediate assistance, protection and follow up, as   
appropriate to children victims of violence, and children victims of abuse, especially sexual   
abuse. The unit has developed robust networking with all stakeholders to facilitate and sustain prompt and multi-disciplinary actions in reported cases of violence which include, inter alia:

1. long term counseling and therapy;
2. monthly medical sessions;
3. parental Counselling;
4. monthly home visits to clients;
5. prevention and sensitization of adolescents/public on sexual abuse and teenage pregnancy;
6. opportunities for education as well as family mediation; and
7. medical and psychological care in coordination with national health and social services.

II.Children Victims of Abuse

Children victims of abuse are often separated from their families. Similarly, children with utterly non-stable families are placed in Shelters. These children are provided with permanent residential care facilities following the issue of Committal Orders. These institutions are Governmental and Non-Governmental Organisations which work in collaboration with the Ministry of Gender Equality and Family Welfare. There are currently 22 shelters in Mauritius, namely 04 Government-owned shelters and 18 Non-Governmental-owned Shelters.

Assistance provided to children victims of abuse includes:-

1. Back-to-Home Programme

This programme was initiated in October 2018 and facilitates the reintegration of minors into the family settings. Its main objective is to provide children in Shelters with the opportunity to live and evolve among their kins and relatives through appropriate rehabilitation of the minor, the parents and their relatives.

In cases where it is noted that residents of those institutions cannot be reinserted into their biological environment owing to reasons like, incest where the child is in immediate danger or also in cases where parents are in prisons, including in prostitution, drug addicts or in cases of abandonment, then the option for Foster Care system is explored.

1. Foster Care Programme

The main objective of this programme is to provide opportunities to the child to evolve in a substitute family environment. The role of the Foster Parents is to provide financial, emotional, social and spiritual support to the child. The Foster Care System has been legally initiated as a Programme under the Child Protection Act and Section 23 (a) of the Child Protection (Foster Care) Regulations 2002 and amended in 2005.

1. Bonding and Maintaining family ties

The Rebonding Section was set up in September 2020 and officers of this section ensure that children in shelters are exposed to regular supervised visits with their biological parents and relatives. The visits are effected to encourage bonding and maintain family ties between parents and children and eventually leading to their reinsertion in their familial environment. The parental visit is a preliminary essential step towards the reintegration process which enables to create an affinity between the parents/relatives and minors, thereby facilitating their reinsertion within their family setting.

Parents willing to take the responsibility of their wards can either sign a consent form or make their motion to their respective court and thereafter the case is referred to the Back-to-Home Section for expedition. Children whose relatives/parents, post enquiry reveal that they are not in a position to take back their wards are also provided supervised parental visits so as not to sever the ties between parents and minors.

The Parental Visits are organised by the Ministry of Gender Equality and Family Welfare to enable and encourage biological parents to visit their children, promoting proper bonding and preparing both parties for re-insertion in the family.

III. Children in Detention

The main provisions of the Children’s Act are:-

1. Section 49 provides that a child under the age of 14 will not be held criminally responsible for any act or omission;
2. Section 57(1) states that “*Subject to any other enactment, the detention of a juvenile who has been arrested upon reasonable suspicion of having committed a criminal offence shall, as far as possible, be imposed only as a measure of last resort*.”;
3. under section 51, every child who is alleged to have committed an offence shall be assessed by a probation officer. The purpose of such assessment is set out under subsection (4), and consists inter alia of formulating recommendations regarding the release or detention and placement of the child, where appropriate and establishing the prospects of the child to be enrolled into a diversion programme.
4. Section 56 makes provision for ‘diversion programme’, which is an individualised non-residential supervision and rehabilitation scheme implemented by the Ministry (which is responsible for the subject of probation and aftercare service) for the purpose of rehabilitating the juvenile without resorting to formal criminal proceedings.  A diversion programme shall be an individualised programme to meet the specific needs of the juvenile and shall be conducted based on an individual diversion plan.  A diversion programme shall be for a defined period of time and shall not exceed 3 years in duration;
5. under Section 55, where the Director of Public Prosecutions (DPP) considers that in lieu of prosecuting a juvenile for an offence, or that criminal proceedings instituted against a juvenile shall be discontinued, he shall request a probation officer to assess whether it would be in the best interests of the juvenile to be enrolled in a diversion programme rather than being prosecuted or criminal proceedings being continued against him. The DPP may then offer the juvenile to enroll in such programme.

Moreover, the Children’s Court Act also provides for the establishment of a dedicated and specialised Court which will ensure, in a child-friendly environment, the best interests of children during Court proceedings.

IV. International Child Abductions

As mentioned above, the State of Mauritius adhered to the Hague Convention on the Civil Aspects of International Child Abduction, following which, the Ministry of Gender Equality and Family Welfare set up a Child Abduction Unit within the CDU. The officers of the aforementioned Ministry enforce the Hague Convention on the Civil Aspects of International Child Abduction Act 2000 and cater for international child abduction cases.

The CDU is delegated as the Central Authority for Mauritius and is tasked to secure the prompt return of children aged less than 16 years, wrongfully retained in Mauritius or in any other States to their country of habitual residence and to ensure that the rights of custody and of access under the law of one Contracting State are effectively respected in another State.

The duties of the CDU, in respect of international child abductions, include:

1. providing information on the whereabouts and the social background of the child;
2. applying to Court for the return of the child as well as securing the effective exercise of the right of the child. It is to be noted that in this exercise there is a need to constantly liaise with the Central Authority of countries involved under the Hague Convention; and
3. acceptance of accession of contracting parties by member states which necessitates amendments of schedules of the Act and this is a regular feature and demands resources. A high-level Steering Committee to monitor the acceptance of accession of contracting states has been set up.

5. The Ombudsperson for Children’s Office, set up under the Ombudsperson for Children Act, assists authorities in the promotion and protection of human rights. The Ombudsperson for Children represents and defends the rights of children in Mauritius, Rodrigues and Agalega, children of Mauritian origin who live abroad and children of any other nationalities who reside in the Republic of Mauritius.

**29.10.2021**