**Annex I**

**Legal Provisions/Legislations aiming at protection of children**

* ***Child Protection Act***

Under the aforementioned Act, where the Permanent Secretary of the Ministry to whom responsibility for the subject of child development and family welfare is assigned has reasonable cause to suspect that a child is being exposed to harm and is in need of assistance, he may summon any person, with or without the child, to give evidence for the purpose of enquiring into the matter (section 3).

Also, the Act sets up a Child Monitoring Scheme that assist and protect children between the ages of 10 and 16 who are, inter alia, in distress. Children placed under the Scheme are assigned a child mentor who provides him/her with guidance, advice and such sense of stability as may be lacking in the life of the child (Section 3A). A mentoring order confers on the Permanent Secretary the power to cause the child to undergo such medical examination or treatment as may be necessary for his/her welfare. The Commissioner of Police has the legal obligation to provide such assistance as may be necessary to the Permanent Secretary for the effective exercise of his powers under a mentoring order (section 3D).

Furthermore, where a District Magistrate is satisfied that there is reasonable cause to believe that a child is suffering or likely to suffer significant harm, the District Magistrate can issue an emergency protection order. The latter confers on the Permanent Secretary, the authority to, inter alia,

* + 1. Enter a premise, where necessary by force, and search for the child, remove or return the child to, or prevent the child’s removal from, any place of safety;
    2. Where necessary for the welfare of the child, cause him/her to be submitted to medical examination or to urgent treatment; and
    3. Request police or medical assistance (section 4).

Where a child is placed in a place of safety, any person who knowingly and without lawful authority or reasonable excuse takes the child away shall commit an offence (section 9).

Any person who ill-treats a child or otherwise exposes a child to harm shall commit an offence. Any person who, in an advertisement, exploits a child by using him in such a way as is likely to cause in him or in any child watching him reactions which are contrary to morality or detrimental to psychological development shall be deemed to expose a child to harm (section 13).

The Act also makes child-trafficking illegal. As such, any person who willfully and unlawfully recruits, transports, transfers, harbours or receives a child, in or outside Mauritius, for the purpose of exploitation shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 30 years (section 13A).

The Act makes abandonment of a child, be it for pecuniary gain or by gifts, promises, threats or abuse of authority, illegal (section 13B).

Any person who, by force or fraud, without the consent of the legal custodian takes away a child shall be committing the offence of abducting under the Act, and shall, on convection, be liable to penal servitude for a term not exceeding 25 years (section 13C).

Any person who causes, incites or allows any child to be sexually abused by him or by another person, have access to a brothel, engage in prostitution, shall be committing an offence under the Act. A child shall be deemed to be sexually abused where he has taken part, whether as a willing or unwilling participant or observer, in any act which is sexual in nature for the purposes of:

1. Another person’s gratification;
2. Any activity of pornographic, obscene or indecent nature;
3. Any other kind of exploitation by any person (section 14).

Under the Act, any person who takes any indecent photograph or pseudo-photograph of a child, distributes or shows such indecent photograph or pseudo-photograph, has in his possession such indecent photograph or pseudo-photograph, with a view to it being distributed, published or shown by himself or any other person shall commit an offence (section 15).

Selling any liquor, rum or compounded spirits to a child is illegal under the Act (section16).

* ***The Child Sex Offender Register Act (not yet in operation)***

Under this Act, there shall be for the purpose of reducing and preventing the risk of sexual offences against children, a Child Sex Offender Register, to be known as the CSO Register. The CSO Register shall assist in monitoring and tracking persons in the community who have been found guilty of committing sexual offences against children as well as detecting and investigating sexual offences against children (section 3).

* ***The Children’s Act*** *(not yet in operation- will repeal the Child Protection Act and the Juvenile Offenders Act (section 72))*

The aforementioned Act puts a legal obligation on every person, every Court, every institution or any other body, in relation to any matter concerning a child, to, inter alia, respect, the inherent dignity of the child and protect the child from discrimination (section 4).

The Act makes discrimination against a child on the ground of the child’s, or the child’s parent’s, race, caste, place of origin, political opinion, colour, creed, sex, language, religion, property or disability illegal (section 11).

The Act makes the marriage of, be it civil or religious, or cohabitation with, a child, where a child is defined as person below the age of 18, illegal (section 12).

The Act makes the following illegal: ill-treatment of a child so that the child suffers harm (section 13), the abandonment of a child, including, inert alai, for pecuniary gains or other gain, or by gifts, promises, threats or abuse of authority (section 15), abduction of a child (section 16 and 17), removal of a child from a place of safety (section 18), causing, inciting or allowing a child under 16 to be sexually abused (section 19), child prostitution and access to a brothel 9section 20), child pornography (section 21), child grooming. i.e meeting the child with the intention to engage in an unlawful sexual activity with the child or in the presence of the child during or after the meeting (section 22), and the sale of alcohol to a child (section 23). A child shall be deemed to be sexually abused where the child has taken part, whether as a willing, or an unwilling, participant or observer, in any act which is sexual in nature,

1. for any gratification;
2. in any activity of pornographic, obscene or indecent nature; or
3. for any other kind of exploitation (section 19)

Offering, obtaining, procuring or providing a child for prostitution, causing, coercing or forcing a child to participate in prostitution, profiting from, or otherwise exploiting, a child’s participation in prostitution or having recourse to child prostitution are all offences under the Act. Where the child is physically or mentally handicapped, the penal servitude is more stringent (sections 20, 21 and 22).

Where a child is likely to suffer harm, an emergency protection order can be issued. The emergency protection order can also provide for the child to be subjected to medical examination or urgent treatment (section 36). Where the need for protection is reasonably likely to continue beyond the expiry of an emergency protection order, a placement order can be issued for the child to be placed in a place of safety (section 37).

The Act provides for a Child mentoring Scheme to assist children, who are, inter alia, in distress (section 43).

* ***Criminal Code***

Under section 249 of the Criminal Code, any person who commits an indecent act, even without violence and with consent, upon a child of either sex under the age of 12 shall be liable to penal servitude for a term not exceeding 10 years. Where such prostitution or corruption has been excited, encouraged or facilitated by the father, mother, guardian or other person entrusted with the care of youth so debauched, the punishment shall be imprisonment for a term not exceeding 15 years.

* ***The Ombudsperson for Child Act***

The Act establishes the Office of Ombudsperson for Children (section 3). For the purposes of an investigation under this Act, the Ombudsperson for children may, inter alia, enter premises where there is reasonable ground to believe that the moral and physical safety of a child may be in danger and enter any licensed premises where it suspects that alcohol and tobacco may be handled, consumed or purchased by children (section 7).

* ***The Convention on the Civil Aspects of International Child Abduction Act***

The aforementioned Act domesticates the Convention on the Civil Aspects of International Child abduction whose objectives is, inert alia, securing the prompt return of children wrongfully removed to or retained in any contracting state.

* ***Early Childhood care and Education Authority Act***

There is established for the purposes of this Act the Early Childhood Care and Education Authority (section 3). One of the functions of the Authority is to take such action as may be appropriate, in collaboration with relevant line Ministries and authorities, to prevent any form of violence, including sexual abuse, negligent treatment, maltreatment or exploitation, on young children (section 5).

* ***Protection from Domestic Violence Act***

‘Domestic violence’ in the aforementioned Act is defined under section 2 as including, inter alia, compelling the spouse’s child living under the same roof, by force or threat, to engage in any sexual conduct or act and/or harming or attempting to harm the spouse’s child. Under the Act, the court can issue a Protection Order (section 3), Occupation Order (section 4) or a Tenancy Order (section 5) for the protection of the victim, including the child, of the act of domestic violence.

* ***Combating of Trafficking in Persons Act***

This Act is in addition to, and not in derogation from, the Child Protection Act (section 3). The Act puts a legal obligation on the Minister, to whom responsibility for the subject of Home Affairs is assigned, to facilitate and accept the return of the victim of trafficking who is a Mauritian citizen back to Mauritius. Where the victim of trafficking is a minor, he/she shall be referred to the Child Development Unit (Section 9). Under the Act, any person who trafficks another person or allows another person to be trafficked shall commit an offence (section 11).