**Children’s Rights in relation to digital environment**

**1.0 Children’s Rights in digital environment in relation to Arts Leisure and Play**

In today’s automated world, digital and playful art projects contribute to debates on the design and implementation of interactive smart environments of risks and rights.Digital play is a persuasive and powerful tool. Invitation to play can bridge the gap from observation to participation thus giving playing spaces have a deeply social dimension. Some analysts have proposed that the light to culture involves non-interference.

Children’s use of the Internet through computers, tablets, mobile phones and TV has grown significantly in the last decade with increased availability of Internet-enabled mobile phones and personalised technology, the nature of children’s engagement with digital world has been transformed. This poses many questions for parents, carers and for the environments in which children develop including schools.However, the Internet can empower children to exercise their rights giving them the opportunities to:

1. To learn and explore the world around them
2. Socialize with their peers, gain and offer support and advice, have fun, and thus to the right of freedom of expression, rest and leisure.

Nevertheless, many children such as those living in poverty and disabled children face barriers in taking advantages of these opportunities.

The United Nations Convention of children’s right was ratified during the same period as Internet was introduced in 1989 in Switzerland. The UN Convention on the Rights of the Child is the most rapidly and widely ratified International Human Rights Treaty.

Today’s children are referred to as ‘digital natives’. Digitalization caters for every need. However, a closer look at the Children’s use of digital technology reveals a couplex/picture while the majority of children use Internet to play games and to do schoolwork, only around a quarter will engage in more complex activities such as visiting chatrooms, sharing music and videos, blogging and spending time in virtual world.

Article 13 of the United Nation’s Convention of the Rights of the Child (UNCRC) confers on children, the right to rest, leisure and participation in cultural life and the arts.It is in these areas that the opportunities of digital technology are most apparent enabling children to connect and communicate with other citizens around issues of interest and play and have fun.

Playing video games is among the top favourite online activities for children. The social networking site when used safely can support children’s creativity and self-expression, provide access to fun and games and give them the confidence to talk about issues they may avoid discussing face-to-face.

Children are often pioneers in the take up of digital innovations; posing a challenge to parents, carers and even schools, seeking to protect and educate them.The gap between parental perceptions and children’s levels of online activity may indicate a lack of parental engagement, supervision and communication with children.

However, there is currently no single framework or set of principles, agreed and implemented across sectors, political parties, governments and institutions for promoting children’s rights in digital age such frame could be adopted to guide policies and strategies to enable policy makers, service providers and the technology sector so that digital environment is guided by an understanding of a commitment to Children’s Rights.

For a better applicability of digital technologies in service delivery including the national social protection system, Government has undertaken the deletion of fingerprint information of citizens in all Civil Status databases, thereby, mitigating the risks of infringement to Data Protection and to Human Rights. As a trade-off between rights in the application of digital technologies in national social protection systems, personal information is used solely for the purpose for which it is meant in the service delivery.

Currently, there is no discrimination in the distribution of Internet connectivity
to citizens as both mobile and fibre coverage have already reached 100% across
the country.

**2.0 Legislations relating to children and the digital environment**

Existing laws and regulations which are most relevant in curbing the risks/impacts of digital technologies andlegislations on or relating to children and the digital environment in Mauritius are as follows:

**(a) Child Protection Act**

**Section 2. Interpretation**

“indecent photograph” includes an indecent film, a copy of an indecent photograph or film, and an indecent photograph comprised in a film;

“photograph” includes-

1. the negative as well as the positive version; and
2. data stored on a computer disc or by other electronic means which is capable of conversion into a photograph;

“pseudo-photograph” means an image, whether made by computer graphics or by any other means, which appears to be a photograph;

**Section 14.Sexual Offences**

1. Any person who causes, incites or allows any child to-
2. be sexually abused by him or by another person;
3. have access to a brothel;
4. engage in prostitution,

shall commit an offence.

1. For the purposes of subsection 1) a), a child shall be deemed to be sexually abusedwhere he has taken part whether as a willing or unwilling participant or observer in any act which is sexual in nature fir the purposes of-
2. another person’s gratification;
3. any activity of pornographic, obscene or indecent nature;
4. any other kind of exploitation by any persons (emphasis mine)

**Section 15. Indecent photographs of children**

(1) Any person who-

1. takes or permits to be taken or to make any indecent photograph or pseudo-photograph of a child;
2. distributes or shows such indecent photograph or pseudo-photograph;
3. has in his possession such indecent photograph or pseudo-photograph with a view to it being distributed or shown by himself or any other person; or
4. publishes or causes to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows such indecent photograph or pseudo-paragraph or intends to do so,

shall commit an offence.

(2) Where a person is charged with an offence under subsection (1) (b) or (c),
it shall be a defence for him to prove that-

 (a) he had reasonable grounds for distributing or showing the photograph or pseudo-photograph or having them in his possession; and

 (b) that he had not himself seen the photograph or pseudo-photograph and did not know, nor had any cause to suspect, it to be indecent.

(3) Where-

 (a) the impression conveyed by the pseudo-photograph is that the personshown is a child; or

(b) the predominant impression conveyed is that the person shown is
a child, notwithstanding that some of the physical characteristics
shown are those of an adult,

the pseudo-photograph shall be treated for all purposes of this Act as
showing a child.

**(b) Combating Trafficking in Persons Act**

**Section 11. Trafficking in persons**

(1)(a)Any person who trafficks another person or allows another person to
be trafficked shall commit an offence.

(b) It shall not be a defence to a charge under paragraph (a) that a person
who is a victim of trafficking or a person having control or authority over a minor who is a victim of trafficking, has consented to the act which was intended to constitute trafficking.

(2) Any person who knowingly-

(a) leases a room, house, building or establishment or subleases or allows it to beused, for the purpose of harbouring a victim of trafficking; or

(b) advertises, publishes, prints, broadcasts, distributes, or causes theadvertisement, publication, broadcast or distribution of, information which suggests or alludes to trafficking by any means, including the use of the internet or other information technology,

shall commit an offence.

(3) (a) Every internet service provider operating in Mauritius shall be
under a duty to report to the Police forthwith any site on its server
which contains information in contravention of subsection (2) (b).

(b) Any internet service provider who fails to comply with paragraph (a) shall commit an offence.

(4)Any person who knowingly benefits, financially or otherwise, from the services of a victim of trafficking or uses, or enables another person’susage of, the services of a victim of trafficking shall commit an offence.

**(c) Information and Communication Technologies Act**

**Section 46. Offences**

Any person who-

 (h) uses an information and communication service, includingtelecommunication service-

(i)for the transmission or reception of a message which isgrosslyoffensive,or of an indecent, obscene or menacing character; or

(ii) for the purpose of causing annoyance, inconvenience or needless anxiety to any person;

 (iii) for the transmission of a message which is of a nature likely toendanger

or compromise State defence, public safety or public order;

shall commit an offence.

**(d) Computer Misuse and Cybercrime Act**

**Section 4. Access with intent to commit offences**

(1) Any person who causes a computer system to perform any function for the purpose of securing access to any program or data held in any computer system with intent to commit an offence under any other enactment, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to penal servitude

for a term not exceeding 20 years.

(2) For the purposes of this section, it is immaterial that-

(a) the access referred to in subsection (1) is authorised or unauthorised;

(b) the further offence to which this section applies is committed at the same time when the access is secured or at any other time.

The Ministry of Gender Equality, Child Development and Family Welfare has already held a meeting on the Protection of the Child from Sexual Abuse. It has also discussed the 2018 report of the International Centre for Missing and Exploited Children. Some criminal offences relating to child pornography are expected to be included in the Draft Children’s Bill.

**(e) Data Protection Act**

Mauritius enacted a new Data Protection Act in 2017, which incorporates international best practices in data protection and is aligned with the European Union's General Data Protection Regulations (GDPR). Following the coming into force of the Data Protection Act 2017, digital systems are required to comply with this data protection regime to safeguard the rights of citizens, including children.

**(f) Other Measures**

1. **Family WelfareMobile App**

Government has released a number of mobile apps, of which the **Family Welfare Mobile App** allows anyone to report cases of child or domestic abuse. The app features a prominent **"Help Me Now" panic button** when someone needs urgent assistance. As soon as this button is pressed, the victim is immediately localised by GPS and action is immediately taken by a group of first responders at the Ministry of Gender Equality, Child Development and Family Welfare.

1. **Mauritian Cybercrime Online Reporting System**

The Mauritian CERT (CERT-MU) has, since March 2018, put in place the
Mauritian Cybercrime Online Reporting System (MAUCORS) which allows the
reporting of incidents by citizens, including women and children, to a centralized
system. This system is also connected to other stakeholders namely the Data
Protection Office, the Cybercrime Unit and the Information and Communication
Technologies Authority. MAUCORS can be accessed on:
[*http://maucors.govmu.org*](http://maucors.govmu.org)

1. **e-Social Security**

The Ministry of Social Security, National Solidarity and Environment and Sustainable Development is currently inthe process of revamping its social assistance system. The new Integrated Social Assistance System (e-Social Security**)** will be operated on an electronic platform where citizens will be able to interact with officers of the Ministry of Social Security using an online interface. E-Social Security allows for great savings intime and resources, as
well as increased transparency and accountability.

1. **Citizen Support Portal**

Since April 2017, a harmonized and transparent Complaints Management System through the Citizen Support Portal, (www.csu.mu) has been set up to enable citizens to register complaints online through a unique reference number on a 24/7 basis, wherever they are. The citizen will be able to register, transmit, monitor and track his complaint on the portal through the unique reference number at any time. The portal has been developed by Mauritius Telecom under its Corporate Social Responsibility Programme and is managed by the Citizen Support Unit of the Prime Minister's Office.

The objectives of this new complaint registration procedure are to:-

1. Promote transparency and confidence as the citizen would be able to track the status of his complaint at any point in time;
2. Render Ministries, Local Authorities and Parastatal Bodies more responsive and accountable;
3. Harmonise and streamline the various procedures implemented by all Ministries, Local Authorities and Parastatal Bodies in handling of complaints as some are very effective whilst others lag behind;
4. Empower citizens through this paperless and timesaving method to register their complaints online or through their mobile devices on a 24/7 basis; and
5. Enable Government to take/ review policy decisions based on analysis of the complaints where no solutions are found/readily available.