

QUESTIONNAIRE –**HUMAN RIGHTS COUNCIL RESOLUTION 27/24****PROMOTION, PROTECTION AND IMPLEMENTATION OF THE RIGHT TO PARTICIPATE IN PUBLIC AFFAIRS IN THE
CONTEXT OF EXISTING HUMAN RIGHTS LAW**

1. **Do the Constitution and/or other laws of your country provide for the right of individuals to participate in the conduct of public affairs? Please provide information on relevant legislation and constitutional provisions.**
 - The Constitution of Mauritius ("The Constitution") effectively provides for the right of individuals to participate in the conduct of public affairs. In fact, s44 of the Constitution provides for the right to vote at elections. Furthermore, s31 of the Constitution provides that there shall be a Parliament which shall consist of the President of a National Assembly and s31(2) of the Constitution states that the assembly shall consist of persons elected in accordance with the first schedule, which makes provision for the election of 70 members. Paragraph 1 of the First Schedule of the Constitution also provides that every member returned by a constituency shall be directly elected. The Representation of the People Act 1958 also makes provision for local government elections and Rodrigues Regional Assembly election.

2. **What is the scope and content of the right to political and public participation as provided in national law?**
 - The rights to political and public participation are provided in the Constitution which is the Supreme Law of the country and in various other Acts of Parliament. We have a system of free and fair elections, with universal suffrage. Generally any citizen of Mauritius may stand for elections and may vote.

3. **How does the State guarantee that all individuals take part in the conduct of public affairs? Which concrete measures (including legislation) does the State take in order to enable the full and equal political and public participation by members of all groups? How does the State monitor and enforce legislation adopted to enable the full and equal political and public participation by members of all groups?**
 - The State guarantees that all individuals take part in the conduct of public affairs by virtue of the provisions of the Constitution. S44 of the Constitution provides that any person who is registered as an elector in a constituency shall be entitled to vote. Furthermore s42 and s43 of the Constitution provides that any person is entitled to be registered as an elector unless he is under sentence of death imposed on him by a Court in any part of the Commonwealth, or is serving a sentence of imprisonment exceeding 12 months imposed on him by such a court or constituted by competent authority for some other sentence imposed on him by such a court, or is under a sentence of imprisonment the execution of which has been suspended; or is a person adjudged

to be of unsound mind or detained as a criminal lunatic under any law in force in Mauritius; or is disqualified for registration as an elector by any law in force in Mauritius relating to offences connected with elections.

- (a) Full and equal political and public participation by members of all groups are guaranteed by s38 of the Constitution which provides for an Electoral Supervisory Commission, s40 of the Constitution for an Electoral Commissioner and s41 of the Constitution for the functions of the Electoral Supervisory Commission and Electoral Commissioner.
- (b) The Electoral Supervisory Commission shall have general responsibility for and shall supervise, the registration of electors for the election of members of the Assembly and the conduct of elections of such members and the Commission shall have such powers and other functions relating to such registration and such elections as may be prescribed.
- (c) Paragraph 2 of the First Schedule of the Constitution also states that: "Every political party in Mauritius, being a lawful association, may within 14 days before the day appointed for the nomination of candidates for election at any general election of members of the Assembly, be registered as a party for the purpose of that general election and paragraph 5(7) by the Electoral Supervisory Commission upon making application in such manner as may be prescribed."

4. To what extent are all individuals consulted during the legislative and policy-making processes? Please describe best practices or experiences of representative structures, processes or any other means to encourage participation prior to reaching a political decision.

- The Constitution under s53 provides for voting procedures in the National Assembly in which it states that all questions proposed for decision in the Assembly shall be determined by a majority of the votes of the members present and voting, save where it is otherwise provided for.

➤ **At Cabinet Level**

- Members of National Assembly are elected by people and are representatives of the people
- Any policy decision – a motion is presented and debated at the National Assembly. The population are thus provided with the opportunity to follow the debates and to voice out their opinions through media.

5. Are there any outreach efforts in place to effectively involve women, indigenous peoples, persons with disabilities, members of minorities and other groups requiring special attention in the participatory processes?

- The Local Government Act, which was passed in 2011, provides that any group presenting more than 2 candidates in an electoral ward during Municipal Council and Village Council elections shall ensure that the candidates are not of the same sex. The Constitution was also amended in that regard. As a result, there was a significant increase in the number of women standing as candidates and elected at the recent Municipal Council and Village Council elections.

- At the last general elections of 2014, out of the **eight** elected women candidates, **five** have been assigned higher responsibilities in different posts, namely, **three** as Ministers and **two** as Private Parliamentary Secretaries. For the first time in the history of Mauritius, **one** woman has been appointed as Speaker of the National Assembly.
- The Ministry of Gender Equality, Child Development and Family Welfare in collaboration with other stakeholders including NGOs have over the last two years organised a series of workshops/campaigns for women to enhance their leadership skills, self-assertiveness and communication skills amongst others.

RIGHT TO VOTE AND TO BE ELECTED

6. Is there universal and equal suffrage in your country? Are the rights of article 25 b) of ICCPR guaranteed by law? If yes, please make reference to such legislation.

- Universal suffrage has been granted in 1959. There is universal and equal suffrage in Mauritius and the rights of article 25(b) of ICCPR are guaranteed in the different legislations:
 - (a) The Constitution;
 - (b) The Representation of the People Act 1958; and
 - (c) The National Elections Regulations 2014
- Section 42 of the Constitution of the Republic of Mauritius provides that a person shall be entitled to be registered as an elector if he is a commonwealth citizen of not less than the age of 18 years and he has resided in Mauritius for a period of not less than 2 years immediately before such date as may be prescribed by Parliament or he is domiciled in Mauritius and is resident there on the prescribed date.

➤ Article 25(b) of the ICCPR – Right to Vote

- Section 44 of the Constitution provides that any person who is registered as an elector in a constituency shall be entitled to vote in such manner as may be prescribed at any election for that constituency.
- Section 57(2) of the Constitution provides that Parliament unless sooner dissolved, shall continue for 5 years from the date of the first sitting of the Assembly after any general election and shall then stand dissolved.
- Section 56(4) of the Constitution provides that Writs for a general election of members of the Assembly shall be issued within 60 days of the date of any dissolution of Parliament.
- Secret Ballot - Regulation 19(3) of the National Assembly Elections Regulations 2014 provides that every returning officer shall ensure that the booths in each voting room are so arranged as to allow the electors to mark their ballot papers in such manner as to ensure the secrecy of their votes, and Regulation 30(1) and (3) provide that an elector shall, on receiving his ballot paper, forthwith proceed to a booth within the voting room where he shall mark his ballot paper and after marking his ballot paper, the elector shall fold it up to ensure the secrecy of his vote, put the ballot paper so folded up, in the ballot box sealed in such a manner as to prevent it from being opened without breaking the seals.

7. Which obstacles have been identified as preventing individuals from exercising the right to vote and which measures have been adopted to overcome them?

- There are no legal obstacles which have been identified that prevent individuals from exercising their right to vote.

8. Is information on voter registration and on the electoral process (e.g. voting sheets) available in formats and languages, including minority languages, that render them accessible to all? Please provide examples.

- Yes. Press communiques, circular letter to every head of household, radio and tv spots and the website of the office are some of the means used to relay information to the public regarding the registration of electors. Languages used are English, French, Creole and Bhojpuri.
- Moreover, Section 26 of the Representation of the People Act 1958 provide for directions to voters. An example would be S20 of the Fourth Schedule of the Representation of the People Act 1958 which states that:

"For the guidance of electors in voting, notices in the Form 6 of the Appendix to these regulations shall be printed in conspicuous characters in English, French, Hindustani, Tamil, Telegu, Urdu, Gujerati, Marathi and Chinese and posted in various places outside and inside of each polling station."

➤ Information on electoral process

- Registers of electors contain the surname and names, the address, of each elector in alphabetical order, as well as a consecutive number. The same methods as described above are utilized for voter information and in each polling station directions to voters are posted up in English, French, Creole, Bhojpuri, Gujerati, Hindi, Marathi, Modern Chinese, Tamil, Telegu and Urdu.

9. If voter registration is required, how is it facilitated? Are education and registration campaigns organised prior to major elections?

- The Representation of the People Act provides for the compilation of registers every year, which comprises two stages:
 - (a) a house to house enquiry which is carried out in January/ February, leading to the preparation of electors' lists and;
 - (b) registration of claimants and corrections to electors' lists which are made available for inspection by the public in various registration centres in all constituencies and educational institutions in May.
- Each stage is accompanied by wide publicity as described above.

- Concerning the journalists: according to the Government programme of 2015, journalists and media reporters in the exercise of their functions will not be arrested or jailed.
- Concerning the human rights defenders: A number of domestic and international human rights groups have generally operated without any governmental restrictions, investigating and publishing their findings on cases pertaining to human rights. Government officials have often been cooperative and responsive to their views.

➤ **Restrictions:**

The **Police Act 1974** legitimately embodies restrictions pertaining to the freedom of assembly and association, primarily concerned with the code and conduct of police officers.

Section 18 (2b) of the Police Act 1974 provides that:

- (2) No police officer shall act as a political activist, or engage in any political activity, or interfere in any manner with any electoral process.
- In addition, according to **Section 17 (1) of the Police Act 1974**:
- «(1) Subject to subsection (2), no police officer shall be a member of any trade union of employees, or of any association having for its objects the control or influence of the pay, pensions, or conditions of service of the Police Force.
- (2) Police officers may, for the purpose of bringing to the notice of Government all matters affecting their welfare and efficiency, establish a Police Federation.»

Section 17(5) states that: «Any police officer who contravenes subsection (1) shall commit an offence».

- Furthermore, there is a legitimate restriction to the right to freedom of expression, with regards to officers who are employed under the aegis of the Government.

According to the **Standards of correct conduct expected of public officers**:

1) **During a Pre-Election period Public Officers should:**

- not use government resources or their positions to support particular issues or parties during the election campaign;
- not become caught up in party political activities or be used for logistical support for political functions; and
- not wear political badges or display political matter.

18. The full enjoyment of the rights protected in article 25 of the ICCPR requires respect for the rights guaranteed in articles 19, 21 and 22 of the ICCPR. In this regard, what legislation is in place to ensure an independent and pluralistic media? Are journalists, human rights defenders and civil society organisations able to freely pursue their activities? Please provide information on restrictions to freedom of association, in particular the right to form and join associations concerned with political and public affairs? If there are any conditions to the exercise of the rights guaranteed in articles 19, 21 and 22 of ICCPR, are they prescribed by law, necessary and proportionate?

- Yes. The restrictions are prescribed by law (i.e. s13(2) of the Constitution) and necessary and proportionate in line with Articles 19, 21 and 22 of the ICCPR.
- There are different legislations which have been enacted in this relation to ensure an independent and pluralistic media; i.e. S12 of the Constitution provides for protection of freedom of expression, The Independent Broadcasting Authority Act 2000 and The Media Trust Act 1994.
- NGOs free to pursue their activities for the relevant authority to answer, Freedom of association is guaranteed by s13 of the Constitution. The only restrictions are those provided for in s13(2) of the Constitution which relate to public order, public safety, public morality or public health, for the purpose of protecting the rights or freedoms of other persons; or for the imposition of restrictions upon public officers, except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.
- Concerning the media: The **Independent Broadcasting Authority Act 2000** promotes the following objectives, that is, to provide independent and impartial broadcasting services of information, education, culture and entertainment in different languages taught or spoken in the country and ensure that the broadcasting services cater for the aspirations, needs and tastes of the population in the matters of information, education, culture and entertainment.
- In addition, liberalisation of broadcast media was initiated in 2002 leading to setting up of three private radios. Members of the public of Mauritius are now able to express their opinions, freely especially on political matters. Some debates are also organised and criticism of political actions is allowed.
- According to **Section 4 (f) of the Mauritius Broadcasting Corporation Act 1982**, one of the objects of the Mauritius Broadcasting Corporation (MBC) is to **strike a fair balance in the allocation of broadcasting hours among various educational, cultural, political and religious standpoints.**
- For the purpose of electoral campaigns, formal political broadcasts accessible through the MBC are well regulated and time allocations are provided in collaboration with stakeholders. Time regulated allocation is based on two criteria, namely the number of seats held in the outgoing parliament and the number of candidates fielded.
- The media in Mauritius reflects the democratic and pluralistic tradition of the Mauritian society. The right to freedom of expression is imperative to vindicate democracy and has been entrenched by the Constitution of Mauritius as one of the fundamental basis of egalitarian society. The written media is known to be free and independent.

- The State has provided in Section 88 of the Constitution for a Public Bodies Appeal Tribunal (PBAT). The PBAT shall hear and determine an appeal made by any public officer, or any local government officer, against any decision of the Public Service Commission or the Local Government Service Commission, as the case may be, pertaining to an appointment exercise or to a disciplinary action taken against that officer. Also, under the Training and Employment of Disabled Persons Act 1996, a Board has been established having as its functions to prevent, as provided under section 16 of the Constitution, discrimination against disabled persons resulting from or arising out of their disability; educate and sensitise employers on the importance of employing disabled persons and contribute to remove barriers or prejudices with regard to the employment of such persons; encourage the establishment of appropriate vocational centres and other institutions for the training of disabled persons; operate and encourage schemes and projects for the training and employment of disabled persons; improve generally the social and economic status and condition of disabled persons (s4 of the Employment of Disabled Persons Act 1996)

Other

17. Please state if there are restrictions imposed on the rights contained in article 25 of ICCPR in your country. If so, how does the State ensure that these restrictions are non-discriminatory, exceptional and based on reasonable and objective criteria?

- S31 (2) of the Constitution provides that "The Assembly shall consist of persons elected in accordance with the first schedule, which makes provision for the election of 70 members. Para 1(2) of the First Schedule of the Constitution provides that every member returned by a constituency shall be directly elected in accordance with the Constitution at general election or by-election.
- In the case of the complaint submitted by D Narrain to the United Nations Human Rights Committee: Communication NO 1744/2007, the Committee, being of the view that the facts disclose a violation of article 25(b) of the Covenant, stated that Mauritius is under an obligation to –

(a) Provide the authors with an effective remedy , including "compensation in the form (of) reimbursement of any legal expenses incurred in the litigation of the case";

(b) Update the 1972 census with regard to community affiliation; and

(c) Reconsider whether the community-based electoral system is still necessary.

In light of the above, Mauritius has promulgated the Constitution (Declaration of Community) (Temporary Provisions) Act 2014.

Equal access to public service

15. What are the conditions for access to public service in your country? Do any restrictions apply? How is the requirement for equal access met?

- The Access to public service is open to the general public and officers already in the public service in the event of a vacancy. The only conditions would be that of fulfilling the requirements for the post. The provisions are found in the Public Service Commission Regulations. The requirement for equal access is met by the public advertisement of post as provided for in the Public Service Commission Regulations.
- Government services are being provided to each and every citizens without any restrictions. On the contrary, the Ministry of Civil Service and Administrative Reforms (MCS & AR) has put in place a series of measures and initiatives which are geared towards the improvement of Public Service Delivery. Such initiatives include, *Inter-alia*:
 1. the ISO certification of Ministries/Depts;
 2. Improvement of counter services;
 3. Participation in motivating programmes such as the Public Service Excellence Award;
 4. Evaluation of public services being offered through appropriate customer surveys; and
 5. Encourage Public organisations to develop their Customer Charters.
- Every Mauritian citizen has an equal right for access to the Public Service as long as he meets the prescribed requirements.
- There is an age limit for joining the Public Service namely 40 years and 48 years for non-manual and manual workers respectively.

16. How does the State ensure that recruitment processes used by government authorities and political associations are transparent, objective and reasonable? Which measures (e.g. temporary special measures, quotas, etc.) are in place to ensure the equal recruitment of women, minorities, persons with disabilities and members of other disadvantaged groups?

- There is a selection exercise which is carried out by the Public Service Commission. As regards, selection for promotion from among serving public officers, aggrieved public officers may appeal to the Public Bodies Appeal Tribunal.
- There is no quota system for recruitment in the Public Service.

12. What positive measures have been taken to ensure that women, members of minorities, indigenous peoples, persons with disabilities and members of other disadvantaged groups are able to stand for elective office?

- There is no restriction on any women, members of minorities, indigenous peoples, persons with disabilities and members of other disadvantaged groups, save for the ones provided in s33 and 34 of the Constitution. (see Answer to Q11 above). There is an Equal Opportunities Commission, established under the Equal Opportunity Act 2008, which work towards the elimination of discrimination, and the promotion of equality of opportunity and good relations between persons of different status and conduct and foster research and educational and other programmes amongst others as provided for in s27 of the Equal Opportunity Act 2008. Furthermore, the Local Government Act, which was passed in 2011, provides that any group presenting more than 2 candidates in an electoral ward during Municipal Council and Village Council elections shall ensure that the candidates are not of the same sex. The Constitution was also amended in that regard. As a result, there was a significant increase in the number of women standing as candidates and elected at the recent Municipal Council and Village Council elections.

13. What measures (including legislative measures) are in place to ensure that candidates for elective office are not faced with discrimination, harassment, and violations of their rights to freedom of opinion, expression, assembly and association?

- The Constitution of the Republic of Mauritius guarantees the fundamental rights of any individual in regard to freedom of opinion, expression, assembly and association as stipulated in Chapter 2 by sections (3), (12), (13) and (16). Any breach of the Constitution are actionable in the courts established by statute.
- Furthermore, the Equal Opportunities Act of 2012 prohibits any form of discrimination in a direct or indirect manner in the public service or the private sector. It also ensures that *"every person has an equal opportunity to attain his/her objectives in various spheres of activities and that no person is placed, or finds himself or herself, at a disadvantage, by reason of his/her race, colour, origin, age, caste, creed, sex, marital status, physical appearance or disability, in relation to other persons of the same status"*.
- With the enactment of the Equal Opportunities Act, an Equal Opportunities Commission and an Equal Opportunities Tribunal have been set up in 2012. These two instances are responsible to address cases of discrimination made on the basis of race, religion, status and sex, amongst others, so as to ensure greater equality in term of access to opportunities and life chances to all citizens.

14. Please explain how possible interferences with the electors' will and with voter or candidate registration are avoided. Is undue interference prohibited by law? How does the State ensure effective access to judicial and other remedies in case of violations?

- The Representation of the People Act contains provisions for the objection and consideration of any such objection regarding entries in electors' lists as well as for election offences.

- After compilation the registers of electors come into force on 16 August in that year and remain in force until the next compiled registers come into force.
- 10. With respect to the right to vote and to be elected, how are the rights and needs of members of specific groups (women, persons with disabilities, minorities, Indigenous peoples, first-time voters, etc.) taken into account?**
- The Constitution makes provision for protection against discrimination and in any event there is an Electoral Supervisory Commission as established by the Constitution.
 - All electors and candidates have the same rights. Additional measures have been put in place to cater for electors needing assistance to vote. They can either vote with the assistance of a companion or an election officer.
 - Persons with disabilities or those who are unable to climb stairs are provided with a voting room dedicated to them, with ramps and specially designed booths to accommodate wheelchairs.
- 11. What are the legal restrictions to the right to stand for election in your country, if any? Which practical obstacles have been identified in relation to the right to be elected? Which measures have been put in place to overcome these obstacles?**
- There are no legal restrictions. Once a person satisfies the requirements set out in Section 33 of the Constitution and is not disqualified under Section 34.
 - The legal restrictions are those relating to residence and citizenship as provided for in s33 of the Constitution; i.e. that a person shall be qualified to be elected as a member of the Assembly if, and shall not be so qualified unless, he –
 - (a) is a Commonwealth citizen of not less than the age of 18 years;
 - (b) has resided in Mauritius for a period of, or periods amounting in the aggregate to, not less than 2 years before the date of his nomination for election; and
 - (c) has resided in Mauritius for a period of not less, than 6 months immediately before that date; and
 - (d) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Assembly.
 - Section 34 of the Constitution deals with disqualifications for membership and lists out the circumstances in which a member may not be qualified to be a member of the National Assembly, e.g if he is a public officer, he is of unsound mind or under a sentence of death imposed on him by a court amongst others as provided therein. The practical obstacles would be for the relevant authority to answer.

2) Whatever be their own political beliefs, Public Officers owe loyalty to the Government of the day. They should always serve the Government of the day. Public Officers should observe political neutrality in their day-to-day functions and avoid activities likely to impair, or seen to impair, their political impartiality or the political impartiality of the Civil Service. They should not, therefore, act in a way that is determined by party political considerations or use official resources for party purposes.

19. Please provide information on measures taken to ensure that information and education materials on human rights, in particular on rights and opportunities relating to participation in public and political affairs, are available and accessible to all.

- The information is usually contained in the Acts of Parliament and Constitution which are published and freely available to the public on the internet and Supreme Court website. Also, the National Human Rights Commission which is established under the Protection of Human Rights Act 1998 has as one of its functions to assist in the formulation of programmes for the teaching of, and research into, human rights and take part in their execution in schools, universities and professional circles and also to publicise human rights and efforts to combat all forms of discrimination by increasing public awareness, especially through information and education and by making use of all press organs.
- Sensitization campaigns on human rights are conducted in Citizens Advice Bureau offices and Youth Centres by the National Human Rights Commission, with the view of building awareness and understanding of human rights which aim at the better promotion and protection of those fundamental rights at all levels within the country.
- In addition, programmes on Human rights have been broadcast on MBC channels, thereby promoting and raising awareness on fundamental rights.

20. Please provide information on how your country ensures that its public institutions are accountable for their policies on public and political participation.

- Ministries/Departments are accountable for their policies through the National Assembly. Policy decisions are taken and debates are carried out among all the members during the sittings of the National Assembly.
- Parastatal organisations also have to submit their annual reports every year to be tabled in the National Assembly. The annual reports normally include their mission, vision, achievements and their audited financial statements for the respective financial year.