



PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED  
NATIONS AND OTHER INTERNATIONAL ORGANISATIONS

MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES  
ET DES AUTRES ORGANISATIONS INTERNATIONALES

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The Permanent Mission of the Republic of Mauritius to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to refer to the letter Ref UA MUS 2/2019 dated 3 May 2019 concerning a Joint Urgent Appeal from Special Procedures.

In this regard, the Permanent Mission wishes to forward hereunder the comments of the Government of Mauritius in relation to the alleged case about the physical and verbal attack against the two lesbian women and the two LGBT rights defenders from Collectif Arc-en-Ciel:

- a) Both the Police and the Independent Police Complaints Commission (IPCC) have informed that they are still investigating into the complaint made by the 2 LGBT rights defenders from Collectif Arc-en-Ciel. Consequently, the Government is not in a position to give a report on the outcome of the case at this stage;
- b) one of the alleged LGBT victim is a married woman; and
- c) none of the two alleged LGBT victims have filed any complaint so far to the Police nor to any of the different National Human Rights Institutions in Mauritius.

With regard to the legal perspective in respect of discrimination, incitement, hostility and violence against a citizen, including any member of the LGBT Community, the Government of Mauritius further informs as follows:

- a) there is a strong legal framework in place in Mauritius which ensures that legal protection is afforded to any person alleging a violation of his / her human rights including an alleged violation based on sexual orientation;
- b) Section 16 of the Constitution provides for protection from discrimination. Not only should a law not make any provision that is discriminatory either of itself or in its effect, subject to Subsections (4), (5) and (7), but furthermore Subsection (2) provides that "no person shall be treated in a discriminatory manner to any 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 authority". Under Subsection (3), the word 'discriminatory' is defined as "affording different treatment to different persons attributable wholly or mainly

to their respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected disabilities or restrictions to which persons of another description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such description.”

- c) Section 17 of the Constitution which provides specifically for a citizen who alleges that his right, under, inter alia, Section 16 of the Constitution is being or is likely to be contravened may apply to the Supreme Court for redress.
- d) In addition to seeking redress before the Courts, the National Human Rights Commission set up under the Protection of Human Rights Act is empowered to enquire into any written complaint from any person alleging that any of his human rights has been, is being or is likely to be violated by the act or omission of any 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.
- e) The Equal Opportunities Act covers the different grounds of discrimination referred to in section 3 and 16 of the Constitution and also specifically includes sexual orientation. The Equal Opportunities Commission set up under the Act is fully operational and may either on its own or following a complaint, inquire into any alleged case of discrimination as defined under the Act. In this respect, on completion of an investigation, the Commission may refer the matter to the Director of Public Prosecutions or refer any other matter to the Equal Opportunities Tribunal for non-compliance with this Act.

Moreover, as stated at the Human Rights Council during the last Universal Periodic Review exercise held on 7 November 2018, the State of Mauritius is fully conscious of the various recommendations pertaining to the protection and advancement of the LGBTI community, the combating and prohibition of discrimination based on sexual orientation and gender identity, and also for the repeal of Section 250 of the Mauritian Criminal Code that criminalizes same-sex relationship between consenting adults. Taking into consideration the social fabric of the country, the Government of Mauritius is proceeding in a holistic manner for the recognition of the rights of LGBTI community and will bring legislative reforms once there is general consensus on this subject matter.

With a view to achieving the said general consensus, the Ministry of Justice, Human Rights and Institutional Reforms of Mauritius has secured technical assistance from the Human Dignity Trust, a member of the Equality & Justice Alliance based in UK. The assistance provided includes the undertaking of sensitization activities, engaging with international networks of experts and champions, and support to develop resources, knowledge and capacity to draft and amend legislation with a view to promoting the human rights of the LGBTI community in Mauritius.

The Government of Mauritius also wishes to highlight that the Pride March on Equality of Rights organised by the LGBTI Community this year on 15 June 2019 has been held successfully with the assistance of the Police Department and no major incident has been witnessed during the activity.

Commissioner for Human Rights, of any development thereon including the outcome of the case after completion of the investigations.

The Permanent Mission of the Republic of Mauritius to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 27 June 2019

Office of the High Commissioner for Human Rights  
Geneva