Introduction
The office of the Ombudsperson for Children is the third National Human Rights Institution (NHRI) set up in Mauritius after the setting up of the Office of the Ombudsman in 1968, and that of the National Human Rights Commission in 2001. It is the first of its kind in Africa. The first such specialised office was set up in Norway in 1981. In fact, Mauritius has been inspired by the Norwegian model. Act No. 41 of 2003, the Ombudsperson for Children Act (OCA 2003) was voted on 21 October 2003. The assent of the President of the Republic was given on 10 November 2003. The Act came into force on 20 November 2003 on the occasion of the Universal Children's Day.
The first Ombudsperson for Children (OC), Ms Shirin Aumeeruddy-Cziffra, was nominated on 10 December 2003 on the occasion of Human Rights Day. Since that day all Mauritian children and all children who reside in Mauritius have their own defender and spokesperson.
Section 11(i) of the Ombudsperson for Children Act provides that "the Ombudsperson for Children shall, not later than 30 September in each year, submit a report on its activities during the preceding year, to the President."
The Ombudsperson for Children took the oath before the President of the Republic on 11 December 2003 as per Section 3(3) of the OCA 2003. The office was not fully operational for the first two months. On 7 January, 2004 an Assistant Secretary was nominated to act as head of the Office. In early February 2004, two officers have been seconded on duty to act as investigators. Other administrative staff were appointed gradually to provide supporting services. The Ministry of Women's Rights, Child Development and Family Welfare provided office space temporarily to the Ombudsperson for Children's Office until 2nd April 2004 when new accommodation was found at NPF Building., 1st Floor, Sholto Douglas Street, Beau Bassin.
Until June 2004, the Ombudsperson for Children's Office was attached administratively and financially to the Ministry of Women's Rights, Child Development and Family Welfare. But as it is an independent office, it was decided to place it on the same footing as all other independent institutions in Mauritius. This is also in line with the international principles known as the Paris Principles which relate to the independence of NHRIs. In the Budget 2004-2005, the OCO has its budget.
The present report covers a period of less than nine months. It is to be noted that 183 cases in all have been referred to the Ombudsperson for Children's Office from January 2004 to August 2004. Indeed the first complaints were lodged as early as January 2004. During the months of December-January, the Ombudsperson for Children visited shelters and other institutions and was mostly meeting stakeholders and children in order to present herself and explain her role and function.
The first part of the report is analytical. It purports to interpret the OCA 2003, with regard to the role, powers and functions of the Ombudsperson for Children to compare with what obtains in other countries, to explain how the OCA 2003 is translated in the day-to-day business of the OCO. It also deals with the thematic work of the office. The second part is factual. It gives precision on activities and deals with complaints covering both statistics, extract of cases and comments. The Ombudsperson for Children Act 2003 has been reproduced as annex 1.
The brochure on the OCO available to the public is also reproduced as annex 2.
Relevants documents concerning the 16 Days 16 Rights Campaign are reproduced as annex 3.

The Ombudsperson for Children can be contacted by phone or in writing, by post, fax, e-mail or SMS as follows:

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The Role, Powers and Functions of the Ombudsperson for Children
The Ombudsperson for Children Act 2003

The role, powers and functions of the Ombudsperson for Children are set out clearly in the Ombudsperson for Children Act 2003. The law is reproduced as annex 1. Section 5 of the law provides that "The Ombudsperson for Children shall -
(a) ensure that the rights, needs and interests of children are given full consideration by public bodies, private authorities, individuals and associations of individuals;
(b) promote the rights and best interests of children;
(c) promote compliance with the Convention.
Section 6 clearly defines the different functions of the Ombudsperson for Children. It can be summarised as follows: Subsection (a) is the general statement that the Ombudsperson for Children can "make proposals to the Minister on legislation, policies and practices regarding services to, or the right of children."
Subsections (b) to (e) concern the role and functions of the Ombudsperson for Children as regards placement facilities and shelters, institutions providing care and other services to children. In that respect, the Ombudsperson for Children must advise the Minister, public bodies and private institutions on the protection of the rights of children. She is also called upon to propose norms for placement facilities. However, in view of the fact that there is already a committee presided by the Permanent Secretary of the Ministry of Social Security, National Solidarity and Senior Citizen Welfare and Reform Institutions working on regulations under the Residential Care Home Act 2003 which has still not been proclaimed, the OCO has opted to liaise with this committee for any proposals in this field at least for the moment.

Subsection 6 (f) to (j) deal with the investigative role of the Ombudsperson for Children. Subsection 6 (k) relate to the advice to be tendered to the Minister on the establishment of mechanisms to allow children to exercise what is now termed as their participation Rights. Subsection 6 (l) concerns advice on the creation of partnerships with other stakeholders. Section 7 deals with the manner of carrying out investigations, the powers of the Ombudsperson for Children in that specific function and the action that can be taken following such investigation.

The Norwegian Model
Of course, laws can only set a legal framework and must be interpreted. As the legislator has said clearly that we were inspired by the Norwegian model, one way to understand the mission of the Ombudsperson for Children is to refer to what obtains in Norway.
In Norway in 1995, a Committee was set up to evaluate the Ombudsperson for Children and more particularly to assess the Ombudsperson for Children's function, role and expertise. The Committee came to the conclusion that the Ombudsperson for Children "primarily has had the functions of initiator and attention-generating player on the social stage." It pointed out that the role of the Ombudsperson for Children as "mouthpiece, advisory body and prime mover for the promotion of children's interest should be of greater importance in the future". It also said that he/she should concentrate his/her "efforts on general cases and questions of principle and work to a lesser extent on individual cases ...."
It is, of course, impossible to replicate the Norwegian experience here totally as the economic, social and cultural context is different. But it is an inspiration and the general principles can be followed.
It is interesting to note that Ombudspersons or Commissioners for Children are trying to harmonise their actions and share each others' experience, through a network which is at
present a European one [European Network of Ombudsmen for Children (ENOC)]. As many other countries outside Europe now have an Ombudsperson for Children, there is a movement for the creation of a Global network. Mauritius has the first independent office in Africa. In South Africa there is an office within the National Human Rights Commission and a proposal to set up an independent office is making its way.

No confusion of roles
As in all democratic countries, there are many bodies, both public and private, which promote the interests and rights of the child. It is very important to know in broad lines what are the specific missions of each one.

In our law, the Ombudsperson for Children's role is manifold. But it is not comparable to any other stakeholder in the same field. He/she is "au dessus de la mêlée" and can investigate matters which concern any other stakeholders.

It is important to avoid any confusion on the role of the Ombudsperson for Children. It is also essential that the Ombudsperson for Children's Office does not replicate what other authorities are doing and is not seen as just another service provider for children. The only way to do that is to concentrate on its investigative role. This involves alerting public opinion on major breaches of children's rights and advising the authorities on changes that will promote those rights, more specially in the field of the protection of children.

It is a matter of regret that the investigative role does not come out clearly in the Ombudsperson for Children Act 2003 and is lost in a list of 12 subsections of Section 6. Had it been placed in a section by itself, all the other functions would have followed naturally. At it is, one could have the impression that the Ombudsperson for Children is an adviser to the Minister. In fact, Ombudsmen, all over the world, are first and foremost appointed to investigate individual's complaints against public authorities, and now more and more even private bodies. They then mediate, find solutions and make recommendations.

The only other role which appears to be important to the OCO, and which can be shared with others, is its involvement in the promotion of rights. But again the office has a specificity even in that role. It does not engage in promotion of rights as a main activity. In so doing, it is important also to bring something specific which other partners may find hard to do, and to be inventive and propose new and dynamic approaches that will impact on target groups and the public at large.

Naturally the Ombudsperson for Children cannot remain in the office and must always be in contact with children and all stakeholders who work with children and uphold their rights and protect their interests.

Investigations: When? How?
The question "when" has its answer in Section 7(1) "Where the Ombudsperson for Children considers, either upon complaint made to him or on his own motion, that it is necessary to investigate a matter relating to the rights of a child, the Ombudsperson for Children shall investigate the complaint in such manner as he considers appropriate".

The question how also has its answer in the last part of that subsection "................ in such manner as he considers appropriate." The Ombudsperson for Children does not hold hearings and no one assists her except the personnel of the Office. Complainants are made to specify their request and expectation and to sign a complaint form. When respondents and other persons are interviewed, notes are taken but they are not made to sign anything except when an agreement is reached following a mediation or if they, in turn, formulate a complaint or request. Confidentiality is of the utmost importance and only parties involved in an investigation can know the facts of any complaint or the results of a mediation. Reports can contain no identification of parties.

Obtaining information
The powers specified in Section 7(2) also complement the manner in which the investigation can be done. The most important power is that of obtaining information by requesting "any person, including a public officer, to provide information" and these relate to a child "whose rights have been, are being or are likely to be violated."
In most cases that have been investigated up to now the Ombudsperson for Children or the investigators of the Ombudsperson for Children's Office have summoned complainants, respondents and even children concerned and questioned them, usually separately. People are asked to come for an appointment, sometimes by phone, sometimes by a letter with "avis de réception". In many cases, public officers, mostly those already dealing with a case, have been asked to provide general information and submit reports. In the case of officers of the CDU, sometimes they need to call personally. Moreover monthly meetings have been organised with the Ministry of Women's Rights, Child Development and Family Welfare to discuss a few delicate or intricate cases and general proposals are made in connection with individual cases.

The majority of cases concern the Ministry of Women's Rights, Child Development and Family Welfare. Some cases concern the Ministry of Education and Scientific Research and the Ministry of Social Security, National Solidarity and Senior Citizen Welfare and Reform Institutions.

The OCO has chosen to have a very flexible approach and up to now there seems to be cooperation from Ministries. Some delay in replying should be curtailed.

As for respondents and members of the public, up to now they have been cooperative. There is however a need to ensure attendance and information sharing. The law will have to be amended in due course.

Power of entry

The other most important power is that of entry. Basically, the Ombudsperson for Children may enter any premises "where a child is present, either temporarily or permanently" and may "request the assistance of the Commissioner of Police and the Officer-in-Charge of any public body or institution .... to facilitate such entry and effect, where appropriate, any seizure".

The legislator has chosen to detail the premises where the Ombudsperson for Children can go. These include places where "a child may be in employment, where alcohol and tobacco may be handled, consumed and purchased by children".

But the most important qualification of such premises is at 7(2) b(iii) where "there is reasonable ground to believe that the moral and physical safety of a child may be in danger". These are very wide powers indeed and must be exercised with great care. If one is to be effective, these should be surprise visits. Up to now, such visits have been made to a primary school, a shelter, and the Rehabilitation Youth Centre. Other normal visits have been made to shelters, schools, etc..., sometimes at the invitation of those responsible for such institutions, sometimes not.

In cases where a child is exposed to harm, the Child Protection Act provides that "Where a district magistrate is satisfied by information on oath that the Permanent Secretary has reasonable cause to believe that a child is suffering or likely to suffer significant harm, the District Magistrate shall issue an emergency protection order." [Section 4(1)] and "Notwithstanding any other enactment, an emergency protection order shall, while it is in force, confer on the Permanent Secretary authority to - (a) summon any person with or without the child to give evidence for the purpose of verifying whether the child is suffering or likely to suffer significant harm; (b) enter any premises specified in the order, where necessary by force, and search for the child, provided that the order or a copy thereof shall be produced to the occupier of the premises on request; (c) remove or return the child to, or to prevent the child's removal from, any place of safety; (d) where necessary for the welfare of the child, cause him to be submitted to medical examination or to urgent treatment; (e) request police or medical assistance for the exercise of any power under the order." [Section 4(3)].

Further if there is a criminal case or the likelihood of such a case, it is for the Police to enquire. The Ombudsperson for Children will normally refer cases either to the Child Development Unit (CDU), the Child Protection Unit (CPU) or the Police. Since the establishment of the "Brigade de la Protection des Mineurs" (BPM) appropriate cases are now being referred to this special
unit of the Police as well. At this stage these concern mainly cases of "missing" children or parents or carers of such children. The Brigade is acting like an intervention squad but does not interview children nor take statements. Hopefully, with time, the BPM will develop.

**Cases referred**

When a case is referred, the role of the Ombudsperson for Children's Office is to ensure that these institutions are in fact playing their role fully. There is a monitoring of cases referred to ensure that there is proper enquiry and follow up.

The Ombudsperson for Children has not chosen, at least for the time being, to concentrate on "landings" as there is neither the time nor the other resources to do this. Apart from the Ombudsperson for Children herself, there are only two investigators who do everything. An office car has only been available since August 2004.

In that respect, as the office develops, more financial and other resources will be needed if the Ombudsperson for Children Act 2003 is to be fully implemented.

**Can the Ombudsperson for Children investigate any matter?**

Normally, the Ombudsperson for Children can investigate any case of violation of the rights of a child except those that are pending before any court. But according to Section 7(4) she "may refer any child involved in such a case to the Ministry for advice, assistance or counselling". However, members of the public are very tempted to come for legal advice, even when they already have attorney and/or counsel. Of course, it would be most improper to tender such specific advice. But at this stage, it is difficult to expect poor people to pay for any first hand advice. They are normally advised to go to the Magistrate in Chambers or seek legal aid. With the setting up of the Family Court the judges could, among other things, undertake all mediation concerning family matters, specially cases concerning custody, rights of visit and/or lodging. Our proposals on the setting up of a Family Court is developed later under the heading "Thematic Work".

The Ombudsperson for Children can investigate cases that concern Mauritian children in the whole of the Republic of Mauritius but also those who may be abroad at the time of the investigation. This clause is essential as parents often take children abroad legally or even illegally. Further, this guarantees to any child, who is a citizen of Mauritius, that he is protected by the law of his country and can exercise his rights fully like all other children, even though he may be abroad for whatever reason. Foreign children, who are residents in Mauritius, can also benefit from the protection of the OCO.

The Ombudsperson for Children investigates complaints that are made. But she is also entitled to open an investigation on her own motion if she becomes aware that there is, has been or is likely to be a violation of the rights of a child.

Investigations on own motions do take place but there are so many complaints that these get more attention. In fact, everyday there is a piece of news in the written press or on air that could give rise to the opening of an investigation. But no institution is really equipped to act on all these cases.

The criteria for starting own motion investigations is the gravity of the case and if no other institution can or has dealt with it. This gives rise to a pre-investigation sometimes and the matter is referred. For example, it has been decided to let the National Human Rights Commission deal with all cases of police brutality since the outcome of their investigation is different from that of the Ombudsperson for Children's Office. They can refer cases to the Director of Public Prosecutions. However, in due course, the Ombudsperson for Children's Office can obtain more data on such cases and could make specific proposals to the Minister of Women's Rights, Child Development and Family Welfare and the Prime Minister if it appears to be a huge phenomenon. The matter can be dealt with when dealing with the issue of violence against children, which is presently an issue being discussed in a special committee set up by the OCO. This question is also developed later in this report.

**The purpose of an investigation**
If an investigation is made following a complaint the purpose is generally to find a solution to
the specific problem which is the reason of the complaint. In order to find solutions the
Ombudsperson for Children can
- Mediate between persons;
- Mediate between persons and institutions;
- Refer to some more appropriate institution;
- Give general advice if need be.
If no solution is found, the complainant must be told that there are no solutions and an
explanation can be given. Then the Ombudsperson for Children has the duty to study the
matter from all angles to find out the flaws in the law or policy relating to the matter in
question. In most cases, a proposal changing the policy can be made to the institution
responsible.
Even if a satisfactory solution is found, the Ombudsperson for Children, specially after having
dealt with a number of similar problems, should make recommendations of a general nature
to the Ministry of Women’s Rights, Child Development and Family Welfare and any other
person or institution or organisation concerned. Often this involves legal issues and proposals
to amend the law can be made. The Ombudsperson for Children can also make proposals on
policy, strategy and practice.

First resort/Last resort
Ideally, the Ombudsperson for Children’s Office should be the last resort whenever there is a
problem for which no satisfactory solution has been found by other institutions. It is a first
resort only in exceptional cases. However, the motto of the Office is: Refuse no one. Often
cases cannot be tackled at this level but the complainants obtain general advice and are
referred to other services. Unlike what obtains in Europe, personal contact is the rule and not
the exception. This is inevitable in view of the size of the country and the culture of proximity
that prevails in Mauritius.
The Ombudsperson for Children’s Office, which is a young institution, is continually using the
media to explain its role and function. The Ombudsperson for Children herself and the
investigators also hold talks and participate in meetings which are excellent occasions to make
the mission of the Office widely known.
But, the most efficient way of communication with children is to be with them in an interactive
activity. The 16 Days 16 Rights Campaign, which took place from June 1 to June 16, has been
excellent for being close to youngsters in a positive educational and cultural activity.

THEMATIC WORK
In order to fulfill her mission to "promote the rights and best interests of children" and "make
proposals to the Minister on legislation, policies and practices regarding services to, or the
rights of, children," the Ombudsperson for Children has decided to study certain issues
thoroughly. Although the present situation in terms of staffing does not permit in-depth
research, the Ombudsperson for Children (OC) has decided to start working on a few major
issues that appear to be amongst the most important and urgent. She intends to seek
assistance to pursue this kind of thematic work further in the months to come.
At this stage, various stakeholders have been invited to brainstorming sessions. The following
issues which are in fact linked are presently the subject of research and brainstorming
sessions at the Ombudsperson for Children’s Office (OCO):
1. The loopholes in the service chain which is available in Mauritius for the protection of the child.
2. Violence against children.
3. Sexual abuse of minors.
The objective of the thematic work is to collect information and data and detect the
inadequacies of the laws, policies and practices in order to discuss the possibilities of bringing
change which would impact positively on children in Mauritius. There is a comparative study
with work done on the same or similar issues locally and internationally. Ultimately, the OCO
will make proposals to the Ministry of Women’s Rights, Child Development and Family Welfare
(MWRCDFW) or other stakeholders.
1. Protection of the Child: The Service Chain

The Ombudsperson for Children's Office is presently consulting the Ministry (WRCDFW) and NGOs on the various services and institutions that exist in Mauritius to protect children from harm. Other ministries will also be consulted, specially the Ministry of Social Security, National Solidarity, Senior Citizen Welfare and Reform Institutions.

1(i) Children in Vulnerable Families

The study concerns various categories of children. Those, who are in vulnerable families and who do not need to be removed, deserve some support. The Ministry is providing a "programme d'accompagnement familial" in collaboration with the Ministry of Social Security and the Trust Fund for Vulnerable Groups. Parenting education which had been available for parents with toddlers will now be available for other parents too. It is however obvious that with a restricted number of officers available for this programme, it is impossible to touch all those who deserve this support. Further the training of those who do in fact provide this kind of support needs to be reviewed.

Parenting is fairly new as a concept but several studies have been undertaken in different countries and on-line and distance learning should be available for the training of trainers so that parenting education becomes more professionalised. A lot of material can also be downloaded or obtained by post from specialised organisations.

In France, there are 35 Ecoles des Parents et des Educateurs (EPE) united in a national federation. They teach parents, youngsters and professionals and are on the web.

1(ii) Child-Mentoring

In that context, the Ombudsperson for Children has proposed to the Ministry the introduction of a network of child-mentors who would act as "parrains" "marraines" of children in families who are socially handicapped. These mentors would preferably be volunteers who would be identified, screened and trained by the Ministry. They would have to adhere to a strict Code of Conduct based on the principle of respect for the parents who would still exercise parental authority. The Mentors would act mainly to empower the latter. This would in fact also involve a form of "accompagnement familial". But the Mentor would be expected to guide the child, ensure that he enjoys his basic rights as defined in the Convention on the Rights of the Child (CRC), for example that he has been vaccinated, eats a balanced meal, knows how to look after his personal hygiene. He could keep an eye on his education, ensuring that he is making good progress at school, that he has a corner where to do his homework, gets tuition in exceptional cases. He would also ensure that he makes friends, can benefit from all the social, cultural and sports facilities that exist. In short, he would ensure that, despite the difficult situation prevailing in his family, he will be getting the maximum chances to develop. Of course, he would give the child moral support and do his best to cultivate the child's self esteem. However, he would not be expected or even allowed to give any financial support to the family. Any financial contribution he wants to make would have to be made to a fund to benefit children in general.

The proposal is being worked out in greater detail. Guidelines are being prepared and the law would have to be amended to set up the scheme and provide for its implementation.

1 (iii) The Prime Minister's Children's Fund

In view of the fact that the majority of cases that are referred to the OCO concern children from vulnerable families and those living in deprived regions, the OC had proposed to the Prime Minister to set up a special Children's Fund. This fund has now been set up with a sum of Rs 1 million allocated to it. Contributions to the fund are tax exempted. A committee under the aegis of the Prime Minister's Office is now working on the way to double or treble this sum and replenish it regularly. It is also discussing the way the fund will be managed and who the beneficiaries will be. The OCO has already made its proposals and is represented on the Committee by Mr. Teeloku, head of the OCO.

1 (iv) Children at risk

When a child is at risk, a Mentor will not be sufficient. The Ministry can remove him and place him by having recourse to an Emergency Protection Order (EPO) and a Committal Order. The
child can be placed in another family, preferably related to him, in a shelter or other institution or with a foster parent. The scheme for foster parents is new and was running on a pilot basis. It has just been perpetuated fully. A proper evaluation will be needed in due course.

It is obvious that the number of places available in shelters and other institutions are limited. One would need to tackle this problem from different angles. There is not much sense in multiplying buildings for short-term shelters or even children’s care institutions if there are not enough competent persons who can run them properly. Of course, it is more appropriate for NGOs to run shelters and care institutions rather than Government. The NGOs presently engaged in this field need to be better supported, specially as those who are doing a good job are known to all those who are committed to Child Rights. On the other hand, there are other ways of dealing with this problem than just focussing on institutions and foster families. It is high time to review the policy on adoption, as there is a demand. But, at this stage, adoption is done on a purely private basis with no intervention from Government whatsoever.

1(v) Adoption
A first recommendation on a new adoption policy has already been discussed with the Ministry of Women’s Rights, Child Development and Family Welfare.
The gist of the proposal is as follows:
• It is important to define a clear policy on adoption as one of the possible alternatives to the placement of children, as long as these children have been clearly abandoned.
• To do that the Ministry must:
  (i) define or redefine the concept of "abandonment";
  (ii) define criteria that would apply to prospective adoptive parents;
  (iii) insist that all applicants should get an "agrément" which is not the case presently for Mauritian applicants. Citizens who want to adopt merely retain the services of lawyers after having "found" a child, and apply to the judge in chambers;
  (iv) register all cases of children who are "abandoned" whatever be their age and whether they are in a shelter or institution;
  (v) ensure that children who are placed, pending an adoption, become Wards of Court (preferably a Family Court) and/or a guardian (tuteur) is nominated for them.
  (vi) work in close collaboration with the State Law Office which in its capacity as Ministère Public can apply for destitution of parental authority in proper cases; and
  (vii) create an independent institution which would be responsible for adoption cases including follow-up of all such cases.
It is important to stress that at present several children are, in fact, abandoned according to the present definition of the Civil Code, but their parents are never destituted of parental authority. This is specially the case of so-called "children beyond control". Some parents merely declare children beyond control as they are not able to exercise their parental authority fully.
Further, cases are being referred to us of teenagers who are pregnant and want their children to be adopted as they have no means to bring their baby up properly. At present it is impossible to refer them for adoption. They can only be placed in an institution by the Ministry. The Ombudsperson for Children is now preparing a discussion paper and consulting lawyers, magistrates, NGOs, etc… before finalising her recommendations on this subject.
1(vi) The setting up of a Family Court
In examining the service chain for the protection of the child any person working in this field will conclude that there must be a dedicated court for children or at least a family court to address issues that impact on the lives of many children. The idea of setting up a Family Court has been raised on and off for many years now. During its investigative work for the past eight months, the OCO has been several times confronted with complaints which could properly have been dealt with by a family judge equipped to look at the problem from different angles. Often complainants have sought legal advice, which the OCO is not competent to give. Our office has been doing mediation between parents which could also be more appropriate for a family court. The OC would then have more time to mediate on other matters involving children and institutions or children and persons other than members of their family. In view of the fact that the Attorney-General has asked the Law Reform Commission (LRC) to prepare a discussion paper to be available to the public in order to obtain proposals on the setting up of such a court, the OC made her proposals to the LRC. It is understood that the Attorney-General will make his proposals soon. The gist of the proposals is reproduced hereunder.

The rationale
The family is the basis of society. The proper management of domestic conflicts is of the utmost importance if we want to reduce the general tension that is so negative for individuals and society as a whole. Matrimonial matters must be dealt with in a more professional and scientific manner. Above all they must be completely detached from other kinds of court work as the issues involved are not best addressed by a mere legalistic approach. They need to be determined by a judge with a traditional legal training plus a special training. It is the approach which needs to be different.

The law also needs to be amended to respond to new situations and the evolution of society. There has been an evolution of the law pertaining to the family in general, especially with the adoption of the Domestic Violence Act, the Child Protection Act and the various amendments brought to the Criminal Code and other laws in 1998, without much having been done to accommodate these new laws.

As regards children, there is consensus that they deserve a special treatment, which would include a psychological preparation to face court proceedings and having their own legal representatives.

What kind of court?
The OC is in favour of one, two or at the most three family courts at the level of the Supreme Court, but separate physically. They would also be different in their mode of functioning. They would be family and child-friendly courts. One extremely important aspect is the delay for cases to be heard which must be reduced to diminish the anguish and unnecessary suffering of human beings who are not criminals. The status needs to remain high for due respect from the public. It would be a very bad signal to remove divorce and related matters from the Supreme Court as it would show a devaluation of such cases. At the same time, it is unsatisfactory to have two kinds of family court. One can even start with one model family court on a pilot basis. Later, when the exigencies of such a court is obvious, and when funds are available, one can have up three courts here and one in Rodrigues. If this is not done, we will be debating for another generation.

The judge of a Family Court needs to be a dedicated judge with an attractive salary package and not do this work on a part time basis. He must choose this as his career path. He probably needs to be assisted by persons who have a wide experience in human matters. These can either be assessors, which is what obtains in some foreign countries already. They will in fact sit along with the family judge and they can be paralegals with some training but they could be chosen on the basis of their wide personal experience in this field. Or he can be helped by experts who would have to be consulted by him and provide him with professional reports after a careful study of the cases he has to deal with. One could also have both.
Mediation
There is a wide consensus on the need for more emphasis to be put on mediation, conciliation and counselling. It is more and more accepted that there must be mediators who are trained. We cannot just conclude that such mediators do not exist in Mauritius and therefore rule this possibility out. People are training more and more in these fields nowadays. The University of Mauritius can certainly create modules and courses for such important and modern matters.

What types of cases should be treated by a Family Court?
• A Civil Division to deal with all matters concerning marriage, separation, divorce and all matters pertaining to children: parental authority, custody, rights of visit and or lodging, guardianship, alimony, abandonment, neglect and abuse which may result in “déchéance de l’autorité parentale”; and a Criminal Division to take over the criminal cases that involve children as authors or victims as well as domestic violence and other criminal cases that relate to family matters, for example: change of domicile, failure to pay alimony, etc... (Penal Code). Of course, all measures for Child Protection under the Child Protection Act, namely Emergency Protection and Committal Orders would be under the natural jurisdiction of such a court.
Expert reports
Expert reports in Mauritius are not quite at the level that one would wish to see in this day and age when there are innumerable possibilities of training and examples exist abroad that can be easily adapted to our local context. In the meantime, Judges should listen to officers of the Child Development Unit, specially in Chambers. It is imperative that the Child Welfare Officer or Probation Officer, who actually dealt with the case, should depone but, of course, they need to be properly trained.
It is important that the new Family Court works closely with the Ministry of Women’s Rights, Child Development and Family Welfare which is THE Ministry responsible for all family matters and which defines all policies and strategies in this field.
A good working relationship must be devised. The Ministry would have to rethink its strategy in view of the new role that it may be called upon to play.
It is interesting to note that in France there is a Parquet des Mineurs. Here, apart from its role as Ministère Public, the Parquet is not equipped to concentrate on matters relating to children. A first step would be to have a special unit at the State Law Office to deal with family matters, with dedicated lawyers who would specialise in this field. In many countries, childhood studies are included in University modules. The University of Mauritius could certainly propose a few courses for lawyers who want to improve their knowledge. In any case, with the Internet, it is easy to access the latest sites that can provide precious knowledge on the various aspects of the issues that relate to children: child abuse, parenting, child psychology, problems related to pre-adolescence and adolescence or to children from broken families and, of course, on child rights.

2. Violence against Children
The Ombudsperson for Children (OC) has set up a Brainstorming Committee on the issue of "Violence against Children". This Committee is composed of representatives of several ministries namely: Ministry of Women’s Rights, Child Development and Family Welfare; Ministry of Education and Scientific Research; Ministry of Youth & Sports; Ministry of Social Security, National Solidarity and Senior Citizen Welfare and Reform Institutions; and Ministry of Health.
It has been decided to invite representatives of the Ministry of Tourism, Ministry of Information Technology, Prime Minister's Office, the Private Secondary Schools Authority and the Mauritius Broadcasting Corporation to participate in this exercise which needs to be carried out over several months. Discussions will also take place with NGOs and some professionals (Sociologists, Psychologists, Social Anthropologists, etc. .......) The purpose of the Committee is to:
- Bring partners involved in child protection and child development together around this social issue, which is most difficult and sensitive.
- Brainstorm on new ways of addressing the issue and share/pool information on the subject.
- Learn about laws and policies that are already in practice in Mauritius, those that have been drafted but have remained in drawers for lack of means or otherwise.
- Discuss the need for and the possibility of working on a discussion paper and later a national policy and action plan.
- Discuss the need for an awareness campaign: general or specific.

The issue of violence against children imposed itself to the Ombudsperson for Children (OCO). Soon, after the setting up of the Ombudsperson for Children's Office (OCO), cases of violence against children started being reported. At first cases concerned mainly violence within the family. Then cases of corporal punishment at school as well as cases of harassment, bullying, humiliation (naming, shaming, nicknames) were reported. The OCO also particularly noted cases of negligence reported in the press and which concerned infants (domestic accidents, shaken baby syndrome, cot death). Recently, a case of violence in the RYC was reported.

The Marilyn Manson Phenomenon

In May 2004, suddenly fourteen youngsters from a private secondary school were reported to have been dismissed as they had practiced self infliction. The OCO enquired from the Ministry of Education and Scientific Research and the Private Secondary Schools Authority. The latter reported that, according to the school, the youngsters had "voluntarily opened their arms with a cutter to prove themselves". Upon investigation, it appeared that some students of Mauritius and Rodrigues were fervent followers of a rock star, Marilyn Manson, and they were putting in practice what they saw on his clips. This phenomenon was the subject of various articles in the written press. Some people expressed a very harsh opinion on the so-called "satanic" rituals performed. Others saw this as just another form of rebellion against authority, which is a very common phase of development of youngsters in general. During a public debate with youth of Beau Bassin/Rose Hill during the 16 Days 16 Rights Campaign, one young female student brought the subject up in the open, condemning the phenomenon. Clearly most of the young girls present did not agree whereas some boys booted to express their disapproval of her opinion.

It is certainly important to assess how far this phenomenon is really dangerous for the youngsters concerned and whether others are influenced negatively. Obviously, it is disturbing in every sense of the term for parents, teachers and persons in authority. Understandably, discipline in school must be respected. In the specific case mentioned, most of the youngsters were reintegrated. Three of them were admitted in different schools. Some of them are being counselled by psychologists.

One of the teachers concerned also drew our attention to the fact that those clips were being broadcast on MBC. The MBC was questioned and confirmed that this was not the case. We suspect however that these clips may be seen on satellite TV.

The OCO is not equipped, at this stage, to deal with such a phenomenon. It can neither condemn nor approve the behaviour of the youngsters as it is not in presence of all the information needed to take a stand. However, it seems important to study the question further and investigation will have to delve deeper before any conclusion is reached. The OCO will gladly listen to all those who can contribute to such a study and will be collecting information from other countries too.

Studies and Campaigns on Violence on the International Scene

1. On 18 December 2002, the General Assembly of the United Nations (UN) encouraged the Secretary-General to appoint an independent expert to direct a study on Violence against Children in collaboration with the Office of the United Nations High Commission for Human Rights (UNHCR), the United Nation Children's Fund (UNICEF) and the World Health Organisation (WHO).
Mr. Paulo Sergio Pinharo has forwarded a questionnaire to all member States.

The Ministry (WRCDFW) has responded to this questionnaire and shared it with our office. It will be one of the most important documents for our Committee.

2. The WHO is engaged for its part in the Global Campaign for Violence Prevention and has produced a World Report on Violence and Health which is an essential tool for the campaign. This document has been made available to members of the Brainstorming Committee.

3. The whole UN SYSTEM is engaged in a collaboration for the Prevention of Interpersonal Violence and many events are due to take place in 2004-2005 in this context.

4. 2005 has been proclaimed African Year of Violence Prevention. Presumably the African Union (AU) will also be very active in this field in the coming months.

5. At the next meeting of the European Network of Ombudspersons for Children (ENOC) taking place in Cardiff, Wales, the subject of Violence against Children will be on the agenda. The members of ENOC will discuss how, as Ombudspersons for Children, they can best contribute in this campaign.

The Mauritian Approach

The OCO is very much aware of the great opportunity that is available on the international scene to combat violence and promote a safer and more secure world. Many countries have already engaged in the UN Global Campaign for Violence Prevention. It is with this background in mind that the OCO hopes to be able to bring its modest contribution to promote awareness on the various forms of violence that need to be addressed by State and Non-State actors and to trigger a concerted action in this field in Mauritius.

Accent will be put on the education of children themselves so that they learn as early as possible that violence is negative and destructive. The OCO will seize every opportunity to involve them in campaigns against violence.

3. Sexual Abuse of Minors

The OC started an investigation on Sexual Abuse of Minors soon after being nominated. This is an on-going investigation which was triggered by the case of an alleged rape of a minor as reported in the press in late December 2003. The purpose of the investigation was not to establish whether there had been sexual intercourse with the minor in question or even any form of sexual abuse, and who was the accused. That is the responsibility of the police. The OC is concerned with the way in which the authorities dealt with the alleged victim from the moment that she reported the case. Following that case, other cases were studied in order to see the pattern of behaviour of all those concerned, specially those who enquire as well as those who have a duty to assist the alleged victim immediately after the alleged abuse in the following days, weeks or months.

The investigation looks at the issue from a legal, medical and ethical point of view. It is meant to determine how the victim is treated by the police, the police medical officers, the health authorities, the officers of the Ministry of Women's Rights, Child Development and Family Welfare (MWRCDFW) including the Child Welfare Officers (CWOs), the personnel of the Child Protection Unit (CPU) and those of the Child Development Unit (CDU). The OC also studied the attitude of parents, friends, neighbours, school personnel, etc... as well as press reports. In order to have a true picture of the situation, the OC has met several victims of sexual abuse. Then she discussed with police officers, police medical officers, CWOs, NGOs, lawyers, psychologists. She visited the Child Protection Unit and the Drop-in Centre of Bell Village. She also discussed with some specialised journalists and chief editors on the need to protect the image of children and their identity when reporting on such cases.

The OC had noticed that one newspaper was publishing "fait divers" with gory details. As these often concerned children, she requested the Commissioner of Police to open an enquiry
to see if these were "real" cases or "invented" ones. The enquiry started and this kind of reporting has ceased. The OC is however still awaiting a report on this matter from the police. It was also during the course of this investigation that the OC met the Commissioner of Police (CP) in January 2004 and apprised him of her fear that sexually abused minors were not always being treated with the care and attention that these kinds of victims deserve. Often police attitude did not match the needs of the victims. The CP took note. He stressed, however, the importance of ensuring that material proof is not lost and that the enquiry be carried in such a way as to meet the ends of justice. He informed the OC that he was going to set up a Brigade des Mineurs (BPM) and sought her support as the Brigade was going to assist her in "the discharge of her duties under the OCA 2003". The OC, in fact, participated in the training of some 20 police officers. The BPM is now operational but unfortunately it is not yet dealing with cases of sexual abuse. It is mostly dealing with cases of missing children, mendicity and some urgent cases. Some enquiries in cases of sexual abuse still take place at the level of the local police. However, the CPU of Floreal and Bell Village also record statements from minors victims of abuse. But they only cover part of Mauritius. Rodrigues is not covered at all. There is one WPC who is trained in child protection there. Further, when the victim is a girl, a Woman Police Officer (WPO) is normally called to attend the case. It is to be regretted that WPOs are not working on night shift but are on call and sometimes they take time to attend. It appears that there is a scarcity of WPOs. Another WPO could still be on call as there may be a second case in the same district specially during the festive period (December-January) for obvious reasons.

As regards the medical aspect, the OC had been particularly surprised that victims were not examined immediately but were rather referred to see the medical police officers several hours later (up to 16 hours). Yet, it is obvious that the sooner there is a medical examination, the better are the chances to collect evidence specially biological evidence. Experts have explained to us the risk of body drainage and of contamination, including by investigators themselves. The Police Medical Officer (PMO) delegated to discuss with the OC explained that for the safe custody of evidence, victims must be examined at Victoria Hospital or at the examination centre of Line Barracks which are the only places fully equipped to deal with such cases. We have learnt that there were two beds which were kept in Victoria and Jeetoo hospitals respectively but that this system is not working in reality. We also learnt that a forensic nurse can deal with both normal and forensic work. He however agreed that if the victim needs medical care he must first be treated at the hospital nearer his residence. Ideally, a PMO should be called. Fortunately some PMOs attend cases at whatever time of day and night. It is obvious that this should be the standard practice in "urgent" cases, specially as it is understood that there is one PMO on call everyday for 24 hours. When a minor is the victim of incest, of course the practice of recording his/her statement in presence of one of his parents may have to be disregarded. In such cases, according to the Child Protection Act, a CWO of the MWRCDFW has to be present. There too it is important that the CDU ensures that a CWO, who is normally on call, can attend urgently. Proposals have been made to the Commissioner of Police to ensure the following:

1. That all minors victims of any form of physical or sexual abuse be treated with due care and diligence by persons who have been specifically trained to interrogate them.
2. That they are given medical treatment first if that is needed, in order to save their lives or at least reduce their pain and suffering.
3. That they be properly counselled by trained psychologists: first order counselling and long-term counselling (to follow present practice with help of CPU/CDU).
4. That a PMO be able to attend to the case as soon after the case is referred, unless the occurrence allegedly took place more that 72 hours before.
5. That blood samples should be taken at one go and be dished out for all different tests which have to be done including HIV/AIDS and that the victim and his/her parents should be apprised of every test which is done.
6. That the dedicated rooms of Victoria and Jeetoo hospital should be really used and if possible two more such rooms should be reserved in Rose Belle and Flacq hospital respectively.
7. That police officers and PMOs should refrain from questioning the child-victim on whether or not he/she consented to the act, or any question to that effect, unless it is a case of rape and he/she is over 16 or it is a case of attempt upon chastity and he/she is over 12.
8. That more Women Police Officers should be recruited and trained to attend to cases of sexual abuse of minors of whichever sex and that they should, as far as possible, also work on night shift at least in Class A stations.
9. That all police officers specially station orderlies and new recruits of the Police Force should also receive a special training (Child Protection Course) on how to deal with minors who are victims of crime, specially sexual crime.
10. That a special attention be given to Rodrigues.
11. That a Code of Conduct should be drafted for all officers and, pending this, that each station should be provided with a handbook or practice code.
   The OC is also studying the law and will be making proposals for amendments regarding sexual offences in general and specially with regard to minors under 16. However, with regard to court evidence, it is important to reiterate a proposal which has been made time and again by experts for at least one decade that video evidence, like the Méthode Melanie, should be introduced and that in-camera proceedings should be the rule and not the exception and an absolute ban should be imposed on press reports of such cases.

**PROMOTION OF RIGHTS**

**1. 16 Days 16 Rights Campaign**

In furtherance of the objects of the Ombudsperson for Children's Office, more particularly the one relating to the promotion of compliance with the Convention on the Rights of the Children (CRC), the Ombudsperson for Children's Office proposed a national awareness campaign, now known as 16 Days 16 Rights.
Hereunder the original proposal as it was made:
CONVENTION ON THE RIGHTS OF THE CHILD

**16 days activism in favour of Children's Rights**

**PROPOSAL FROM THE OMBUDSPERSON FOR CHILDREN FOR AN AWARENESS CAMPAIGN AND THE PROMOTION OF THE PARTICIPATION RIGHTS OF THE CHILD**

**The idea:** Exhibition of giant patchworks on Children's Rights

The children would participate in an island-wide open-air exhibition of giant tapestries which would be in the form of patchworks depicting those rights on standard size canvas made of off-white denim or similar textile. These would be sewn together to make either long "kakemonos" which would be fixed in specific places or squares or rectangles which could fall from public walls or be tied around the Champ de Mars and public buildings or wherever appropriate. They will paint, embroider or use other forms of visual expression to highlight one right which seems important to them.

**The rationale and the objective**

To involve as many children from the Republic of Mauritius as possible on a single project which will mobilise them on the issue of children's rights and on the Plan of Action for creating a "World fit for Children". It will make them participate actively on the dissemination of information on those rights. It will also develop a sense of solidarity and of belonging amongst them, give value to their creativity, make them think about their rights and duties and bring them in the limelight. It would further sensitise the public at large.

**The participants:**

1) School children who would preferably work in group, including those from Rodrigues and Agalega.
2) Children from Kites club and other associations can also participate through the National Children's Council (NCC).
3) Children in specialised schools, the Scout’s and Girl Guide’s movement etc. can also participate.

4) Those in shelters, street children must also be encouraged to join in the movement with the support of the ministries working with them.

The support groups:
Children would be helped by their art teachers, artists, or whoever would want to join in the project and who would form an artistic support group. This should remain flexible.

The motivating committee:
The Ombudsperson’s Office would, as initiator, concentrate on the awareness campaign to sensitise the children and their parents and teachers on the Convention and the Plan of Action. That is an ongoing process. But it would set up a motivating committee with the participation of the NCC, NGOs and members of the written and electronic press in order to motivate the participants and ensure a full adherence of the greatest number of children possible.

The coordinating committee and local committees:
A coordinating committee must be set up with the representatives of several ministries, local authorities, NGOs, the Rodrigues Council, the police, other stakeholders, as well as with a group of children. At the start of the project, the coordinating committee and the motivating committee will be the think-tank to discuss the project and improve it so that it becomes everybody’s project and not that of one single institution or organisation.

Its role would be to ensure that all participants have grasped the method, to find sponsors, help those in need of material or advice, find partners who will accept to put their space at the disposal of children either for the preparatory phase or for the actual exhibition from the 1-16 June 2004. It will also liaise with local committees to ensure that everyone is following the pattern and the method and promote harmonisation. It will supervise the installation and removal of the patchwork, and ensure safety.

The dates:
The 1st of June is the International Children’s Day and the 16th June is the Day of the African Child. During that period the exhibition would take place and Ministries, NGOs and the Press should be encouraged to organise different activities to reinforce the awareness campaign. It can be organised in two phases (2004-2005) and it can be a roaming exhibition between the two phases.

The project was presented to the Ministry of Women’s Rights, Child Development and Family Welfare. The proposal was developed as planned in a National Coordinating Committee which met under the co-chairmanship of the Minister and of the Ombudsperson for Children. Local Committees were not set up. Instead subcommittees were set up as follows:

- A Monitoring Committee to follow up decisions taken on a day-to-day basis.
- A technical Committee to concentrate on the installation of the artwork in public places and ensure security.

It had been decided to choose only some of the rights of the CRC for this year. 16 rights from the Convention were chosen mainly to promote the concept easily and have a catching title. Many stakeholders responded favorably to the invitation to participate. Their involvement was uneven but it is obvious that, with time, they will develop their own activities for this campaign which is now going to be an annual event.

The Campaign was organised by the Ministry of Women’s Rights, Child Development & Family Welfare, the Ombudsperson for Children’s Office and the National Children’s Council (NCC) in collaboration with several Ministries and government departments as well as the MBC. It was officially launched on the 1st June by Honourable Arianne Navarre-Marie, Minister of Women’s Rights, Child Development and Family Welfare on the Esplanade of the Municipality of Port Louis.

A motivating committee chaired by the Ombudsperson for Children had also been set up to ensure that a maximum of stakeholders would participate and that there is concerted and coordinated action with NGOs and the Private Sector as well as full participation of children in all activities organised.
Prior to the event itself, several workshops were organised by the OCO, the National Children's Council, the Mauritius Scouts Association and the Mauritius Girls Guide Association with the help of professional artists to discuss the 16 Rights with Children and help them to make their tapestries. Materials and paint received from sponsors by the NCC were also distributed to participating organisations by the OCO and the NCC.

The Ombudsperson for Children also had special meetings with art teachers to motivate them. These were organised with the collaboration of the Ministry of Education and Scientific Research.

More than 400 artworks/tapestries were received. They were displayed in strategic places throughout the island including the premises of government buildings i.e. police stations and primary schools, etc. Several exhibitions of the artworks executed on paper, hardboard and other supports were also organised. The Ministry of Women’s Rights, Child Development and Family Welfare held an exhibition in the Galerie Max Boullé, Rose Hill. The Ombudsperson for Children’s Office exhibited artwork in the lobby of the NPF Building, Beau Bassin. The Pre-School Trust Fund organised a special event in its new headquarters at Curepipe on the 16 Rights to sensitize children, parents, teachers and all those who work in that sector. The Centre Culturel Charles Baudelaire also exhibited several artworks in their children's library and the Ombudsperson for Children was invited to launch the exhibition and, on that occasion, to discuss with school children of Rose Hill on their rights.

On the 9th June 2004 a Dalle on children's rights was unveiled in the gardens of the Municipality of Beau Bassin-Rose Hill and a Solemn Declaration in favour of children was made by (i) Mrs. A. Navarre-Marie, Minister of Women's Rights, Child Development and Family Welfare, (ii) Mrs. M. Narainsamy, Chairman of the National Children’s Council and (iii) Mrs. S. Aumereuddy-Czifra, Ombudsperson for Children in English, French and Creole respectively. On the 14 June 2004 a 'Forum des Jeunes' was organised by the Ombudsperson for Children's Office and the Municipality of Beau Bassin/Rose Hill. Some 700 children of secondary schools of Beau Bassin and Rose Hill and the immediate neighbourhood participated and expressed themselves on Children's Rights in general. Much emphasis was laid on their Participation Right.

The whole campaign culminated with the celebration of the Day of the African Child - 16th June by the Ministry, the Ombudsperson for Children’s Office, the NCC and in collaboration with the Nelson Mandela Centre for African culture at the Sate House, Le Réduit. The Campaign got the full support both from the written and spoken press. Some newspapers decided not just to cover the event but to become active participants themselves. Children were interviewed on each right, NGOs were asked to elaborate on the rights. The MBC-TV broadcast a series of 5 minute productions entitled "Clin d'Oeil", one on each right during the 16 days period (1 - 16 June).

This campaign was the first national event of its kind in Mauritius in the field of Children's Rights. It saw participation of children themselves in a striking way. It is assessed that more than 5000 youngsters of all ages participated in the preparation of the artwork and many more joined in the other activities. Partners from everywhere showed that they can work together in the best interest of children. A certificate of participation was issued to each participant who has contributed in producing the artworks.

Of course there is plenty of room for improvement. The Ministry of Women’s Rights, Child Development and Family Welfare and the Ombudsperson for Children's Office have debriefed separately on the campaign and a meeting of the organising committee is due end of August to take stock of the positive and negative aspects of this first campaign. It has already been decided this will be an annual event and that next year the green light to start preparation of the campaign will be given early in January.

2. Conference on 'La Justice et les Mineurs en France'

Apart from the 16 Days 16 Rights Campaign initiated by the OCO, one important awareness activity organised by the OCO was the conference given by judges Christian and Anna
Chomienne, two French judges des enfants on 'La Justice et les Mineurs en France'. The conference was organised under the patronage of the Minister of Women's Rights, Child Development and Family Welfare, the French Ambassador and the Vice Chancellor of the University of Mauritius. The conference targeted professionals who are directly concerned with the justice of minors as well as policy makers. The attendance was exceptionally high and varied. Representatives of Non-Governmental Organisations, of Ministries, lawyers, judges, members of the State Law Office and trainees of the Brigade pour la protection des mineurs were not only present but participated actively in the conference which was highly pedagogical and interactive. The way the judges des enfants functions is interesting in that they act as counsellors to child authors of crime, specially petty crime and they give them the chance to rehabilitate by imposing "mesures éducatives" and other smooth corrective measures before deciding to put them behind bars which is used only as a last resort. As they explained clearly, when a minor is brought before them their commitment towards him starts rather than ends with a sentence. They do close follow-up of the minors. They are assisted by lay assessors when sitting as a tribunal. They also have recourse to educators and expert personnel. Their hours of work, of course, are very long. But in view of the impact the system has on the recidivism, it is most appealing. It is proposed that even though we need not copy the system, we could take inspiration from it.

3. Other Conferences Meetings - Seminars, Talks
The OC and the investigators have also attended several meetings, talks, seminars at the invitation of various institutions and organisations who are also involved with children. At all these meetings emphasis is put on the role, powers and functions of the OC and the way that the OCO works on a daily basis. The intervenors generally speak on various aspects of child abuse including sexual abuse and family violence.
The OC was personally invited to the following meetings; where she made a speech.
1. The Mauritius Girls Guides Association on Thinking Day.
2. The Mauritius Scout Association
   (i) on the occasion of Founder's Day.
   (ii) to a debate on "The relevance of Scouting as a Youth Movement in the 21st Century Mauritius".
   (iii) to the Third Africa Scout Youth Forum to introduce the theme "Challenges of the African Youth".
3. The Headteacher of the Rev. Espitalier Noel Government School, the Parent Teachers Association and the School Development Unit on the occasion of the launching of the first Amnesty Club in a primary school.
4. The Mauritius Council of Social Services (MACOSS)
   (i) to a meeting with parents and members of PTA to speak on Rights and responsibilities of the child.
   (ii) to a seminar on "Child Labour".
5. (i) Soroptimist International of Rose Hill at their monthly meeting.
   (ii) Soroptimist International of Port Louis (specially on sexual abuse).
   (iii) Soroptimist International of Port Louis and Rose Hill, Jeune Chambre Economique at a debate on "Les Femmes au Pouvoir" (where she discussed amongst other things on the illusion of power and the abuse perpetrated by those who use their physical force and power negatively, including on children).
6. The Association de Parents d'Enfants Inadaptés de l'Ile Maurice (APEIM) General Assembly (specially on support to handicapped children).
7. The Municipality of Beau Bassin/Rose Hill on the occasion of Family Day on "L'importance de la famille dans une société industrialisée".
8. The National Agency for the Treatment and Rehabilitation of Substance Abusers (NATReSA) at the Closing Ceremony of the "Diboute pour nou l’endroit" campaign on Prevention of Drug Abuse and Aids in Cassis.

9. The International Preparatory School on Speech Day.
10. The Comité Bien-Être of Camp Levieux at the closing ceremony of the "Camp de Vacances" for ZEP schools of Rose Hill.
11. The Loreto Convent Quatre Bornes on Independence Day.

She also participated in the following conferences:

1. Organised by the Ministry of Foreign Affairs, International Trade and Regional Cooperation (MOFA, IT&RC) and the British High Commission on the theme "Building a Commonwealth of Freedom). She spoke on Human Rights in general but more specially on National Human Rights Institutions (NHRI) including the OCO. She made a comparison of the role, powers and functions of the National Human Rights Commission, those of the Ombudsman and those of the OCO. She stressed the need for the Commonwealth to support these NHRIs.

2. Organised by the Southern Africa Human Rights NGO Network, Mauritius (SAHRINGON) on "Monitoring, Reporting and Documentation on Torture & Police Brutality" where the OCO opened the regional workshop and spoke on the need to struggle against violence in society in general. She explained that one of the most efficient way to struggle against violence was to work with children and promote a culture of peace.

The investigators of the Office also participated in certain talks and seminars as follows:

Mrs. Thomas was invited by the Institute for Child’s Rights. The objective of these seminars was to sensitize and empower parents from deprived areas of the island to create the best possible conditions at home and at school for the protection, development and education of their children. Protective and safety techniques in relation to the protection of their children were taught to participants.

The list of regions reached are: Black River, Tamarin, Petite Rivière, Richelieu, Roche Bois, Baie du Cap, Grand Sable and Cité La Cure.

Talks were also delivered to students of Marion Hair Club and parents of Communauté Fiat of Petite Rivière.

Mr. Bawamia, on his part, delivered a talk to HSC students from several secondary schools in the North on "The Dangers and Risks facing the Youth". The activity was organised by the Petit Raffray Social Welfare Centre.

He also attended the workshop on 'Promoting/Consolidating NGO Network in Mauritius/Rodrigues' organised by Victim Support Mauritius. In his speech he urged the NGO leaders present to think about how networking among NGOs could help amongst other things in detecting and preventing child abuse.

Mr. Bawamia also attended the 5th Anniversary Celebration of the Fondation Esperol et Développement at Casella.

### 4. Awareness through the Press

Apart from several articles/interviews in the written press, specially during the 16 Days 16 Rights Campaign, the OCO also communicated through radio and television programmes namely:

- MBC radio - the OC on her role, powers and functions
- Radio 1
- Radio Plus
- MBCTV - Téléobjectif on Child Rights (along with other stakeholders)

The investigators on:

- MBC radio - on the role, powers and functions of the OC and Child Rights in general.

In the programme Nu Zanfan Soleil on 16 Days 16 Rights (six children were also present).
Radio 1 - Mrs. Thomas on the "shaken baby syndrome".

VISIT TO RODRIGUES
The Ombudsperson for Children Act 2003 states clearly that the OC's mission covers the whole Mauritian territory not just the island of Mauritius. In this context the Ombudsperson for Children and Mrs. Michele Thomas, Investigator of this office, proceeded to Rodrigues on an official visit from 28 June to 30 June 2004. The aim of the visit was to take stock of the situation of children in Rodrigues, to participate in workshops with different stakeholders working for the welfare of children and to meet the public respecting complaints on violations against children. Courtesy calls were paid on the Chief Commissioner and the Commissioner for Arts and Culture, Child Development and Family Welfare & Community Development. A half-day seminar on child issues was organised by the latter at Passenger's Terminal Building, Port Mathurin. During her intervention, the Commissioner spoke of the collaboration with the Ombudsperson for Children's Office. She spoke of the strategic plan for Child Protection in Rodrigues and the Participation Rights of the child who should not be considered 'too small' to bring their contribution in the development of their country. Emphasis was laid on the non-existence of child services in Rodrigues. The Child Development Unit had closed. There was a need for a Family Counselling Service and for shelters. The Ombudsperson explained her role and the function of the Ombudsperson for Children's Office. She laid emphasis on the fact that the OCO was entitled to investigate cases of all Mauritian children whether they are in the Republic of Mauritius or abroad as well as cases of foreign children who are resident on Mauritian territory. She also mentioned the different types of complaints, received since the setting up of the Office. A few had been received from Rodrigues. There was a good interaction with the participants. The question of accommodating children who run away from home for one night or two was raised. The idea behind was to help a minor rather than leave him to be on the streets as there are no street educators in Rodrigues. It is clear that problems such as teenage pregnancy, incest as well as domestic violence is on the rise in Rodrigues. The intervention of a student from Le Chou College on the relationship between parents and adolescents, about positive peer pressure in sensitizing the youth about the consequences of teenage pregnancy showed that some young Rodriguans were very much aware of their rights and could exercise their Participation Rights freely.

Meeting with Staff of the Commission for Education
Proposal for child-mentoring (parrainage) was raised during a meeting with the Staff of the Commission for Education and Rectors of Colleges at Malabar. A new system of mentoring was proposed by the Rodriguans: teacher inviting children at their place for a week-end and the OC took note.
As regards adoption it was proposed that people from Rodrigues could adopt children to give them a family environment and prevent them from loitering in the streets. Financial aid could be granted to those parents accommodating children as foster parents. During this meeting it was confirmed that absenteeism and alcoholism are problems which prevail among students in several colleges. The OC proposed to make recommendations to the Commissioner for Arts and Culture, Child Development and Family Welfare & Community Development and to the Honourable Minister, (WRCDFW) specially as there is a 'foster parent' scheme, presently in practice in Mauritius.

Complaints
Two half-days were spent in meetings with complainants. The OC seized this opportunity to meet those who had reported their grievances to her in Mauritius either through phone or in writing. Mediation was also attempted in several cases as per the OCA 2003. An interesting case caught the attention of the OC on the need to investigate and screen those who apply for licences to run a school bus. The complainants were assured of a close follow-up by the Office.
During that visit, the problem of reporting cases was also raised. Rodrigues being such a small island, there was a fear of reprisals if ever anyone reports a case or refers children with problems to institutions. There was a lot of emphasis about the need for ‘confidentiality’ when cases are referred. The OC reassured Rodriguans on reporting to her office which is totally confidential.

Other cases have been referred to the OCO since the visit. Follow-up of many cases referred can be done directly from Mauritius. However, sometimes the investigation must take place in Rodrigues itself. It has been agreed that the OC will visit Rodrigues, as and when needed, two to three times a year. Concerning the services for children, this matter must be discussed at the highest level between the Government of Mauritius and the Chief Commissioner of the Rodrigues Regional Assembly.

The OC has, however, made proposals to the MWRCDFW.

**INTERNATIONAL CONTACTS**

As the Ombudsperson for Children is a new post in Mauritius and in the African region, the contact with countries that have experience in this field is of utmost importance. The OC has had the opportunity to discuss with the Norwegian Ombudsman for Children, Mr. Trong Wagge who visited Mauritius, and to visit Norway to see him at work. Since her nomination, she has been invited by the French Government and the British Council to visit France and the United Kingdom respectively to acquire more information on the work of her counterparts.

**Visit to France**

In France, she met Ms Claire Brisset, "Défenseur des Enfants" as well as her representative in Réunion Island, Mr. Michel Chane San. She even observed a pre-investigation meeting. She also had the opportunity to see how the different services in Paris work in order to respond to the ever growing demand in terms of child protection. She visited and studied the functioning of the following institutions:
- **Bureau Enfance Famille à la Direction Générale de l'Action Sociale.**
- **Foyer Concorde à Monfermeil. [Accueil des mineurs confiés par la justice et accueil des mineurs étrangers].**
- **Brigade de la Protection des Mineurs de Paris. [The special police service for minors].**
- **SNATEM, le service téléphonique d'assistance pour enfants maltraités - "Allo Enfance**

*Maltraité*, the Hotline 119 which works 24 hours a day including Sundays and Public holidays to help children in distress directly or refer them to appropriate services.
- **Protection Judiciaire de la Jeunesse (PJJ) à Pontoise. [Application de l'ordonnance de 1945, justice des mineurs, prise en charge des mineurs auteurs.]** She saw Judge Christian Chomienne at work with a minor. Later he came to Mauritius with his wife who is also a judge, to give a conference on the role of the Juge des enfants in France.
- **Direction de l'Action Sociale de l'Enfance et de la Santé (DASES) 94-96. [Actions menées par les services de protection de l'enfance du département de Paris].**

During her visit in France, Ms Shirin Aumeeruddy-Cziffra pronounced a speech at the ceremony organised by the University of Paris 1 (Sorbonne/Panthéon) which had conferred the title of Doctor Honoris Causa upon her. She spoke of Human Rights and particularly explained the role, powers and functions of the Office of Ombudsperson for Children in Mauritius.

**Visit to the United Kingdom**

In the United Kingdom, the Ombudsperson for Children visited the Office of the Children's Commissioner for Wales. She has now been invited to the meeting of the European Network of Ombudsperson for Children (ENOC) in Cardiff in mid October, when the Welsh Commissioner will take over the presidency of the network. She intends to raise the question
of enlarging ENOC so that it becomes a global network for Ombudspersons for Children from all continents.

During her visit to London, she visited the following institutions:
- The National Society for the Prevention of Cruelty to Children. [Now celebrating its 120th birthday and still struggling against all forms of violence against children. Its "full-stop campaign against cruelty to children" was very inspiring].
- The Valleys Kids. [A community based organisation in Wales].
- The Youth Justice Board. [An independent institution whose objective is to prevent offending by children and who have succeeded to reduce reoffending by 14.6% between 1997 and 2000].
- The Children's Rights Alliance for England [A federation which raises awareness and which led a campaign in favour of the setting up of an office of Children's Commissioner for England. A Childen's Bill to set up the office is being debated in the House of Lords. Wales, Scotland and Ireland already have their Children's Commissioner].
- The Children Legal Centre [An independent organisation which provides legal advice and assistance to children and represents them at all levels of hearing in court].
- The Consortium for Street Children. [An international NGO based in London which specialises on the phenomenon of street children. Information gathered has been shared with street educators in Mauritius].

COMPLAINTS
The central mission of the OCO is investigation following complaints concerning violation of children's rights as well as own-motion investigation. The presentation of this fundamental activity of the OCO is two-fold. A table of cases and extracts of selected cases. Cases have been presented in chronological order in a synthetic way, giving the nature of the complaints, the action taken by the Office itself and the result of the action. Often, of course, this means that action is being taken by another institution but final results may not yet be known. Cases are only explained briefly and full confidentiality is respected with regard to the identity of Informants, Complainants, Respondents and Witnesses.

Cases, which have been referred but where the OCO is still awaiting a report, have not been included. These will be followed up closely and come in next year's report. As explained in the introduction, the OCO now only does pre-investigation, unless a solution can be found easily or unless the OC can attempt a mediation. But any action taken by the institution or organisation to whom we refer complaints is closely monitored.

Further all cases referred to the OCO and which concern foreign authorities have also not been included as the OCO has no power to influence these authorities. These relate to questions of visa mostly. The OC sometimes gives advice on the best way to approach the authorities concerned.

One case of a minor, who is in difficulty in France, has been referred to the French Défenseur des enfants, Ms Claire Brisset.

Complainants, who are abroad, are also sometimes referred to NGOs or Institutions that can help them in their country of residence.

Extracts of some of the most interesting cases are highlighted and the lessons learnt are included. These selected complaints give a better idea of how the OCO actually works and shows the scope of its intervention. It also gives an idea of the constraints and obstacles that impact negatively on the rights and interests of the child.

Often one will see that the difficulties are not merely maladministration, loopholes in the law or policy. They rest on negative mentalities that need to be changed. Of course, policies can be formulated to promote attitude-changing. These need to be encouraged even though it is a long term effort.

No statistics have been presented as it is too early to draw any meaningful trend.
SELECTED COMPLAINTS
All complaints referred to the OCO are presented in brief note form. Some complaints are however so complex or they reveal such important issues that they deserve to be explained in greater detail. In some cases we also draw the attention on some lessons learnt.

Case OCO/Comp/11/1
An aunt informed us that her niece had fuged from her father's place and that she was giving a declaration to the police and contacting the CDU. The father contacted us the same day to say that his daughter had been placed in a shelter by the CDU. He already had provisional custody of both children aged 9 (son) and 11 (daughter) respectively.

Upon enquiry we found out the following:
1. The minor had indeed sought refuge at her maternal aunt's place as she was allegedly being ill-treated by her father and stepmother.
2. The aunt having informed the CDU, that night the child was placed in a shelter.
3. The next day the CDU had obtained an Emergency Protection Order (EPO) from a district magistrate.
4. However there was in fact an order from the Judge in Chambers granting provisional custody to the father.
5. The Ombudsperson for Children questioned the CDU and requested them to bring the minor for an interview with her. The minor was very clear in the way she told the story. She was obviously ill-treated. So was her brother. Both lived in absolute terror of their father. She obviously had more courage and had reached a certain limit. Yet she stated that, in front of her father she would "deny" her true story as she was scared of him. She wanted to stay at the shelter.

It is important to note that as per section 7(4) of Ombudsperson for Children Act 2003 the OC cannot "investigate any case which is pending before any court but may refer any child involved in such a case to the ministry for advice, assistance or counselling.

The CDU can act under the Child Protection Act 1994 to seek an Emergency Protection Order and even a committal order (s. 4 and s. 8).

The case was being called again before the judge in chambers. The OC proposed that the CDU should prepare a report and seek help from the State Law Office (SLO) to present same to the judge in chambers.

This was done within 48 hours. Unfortunately it became obvious that the SLO had not been given sufficient time to prepare its intervention. The CDU had no right of hearing before the judge in chambers. The only way for the CDU to intervene in fact would have been by way of affidavit if one of the parties had asked them to report.

The judge therefore did not receive the report and confirmed his original judgement without taking cognizance of any "social" report. The minor had to return to her father's place. Some time later the mother complained to the OCO that her minor daughter had stopped attending school and that she was unable to visit her children though she had been given a right of visit and lodging. In fact, the father was refusing her access to her children. He even went so far as to change domicile without informing her of his new address. As this in an offence under section 262 of the Criminal Code, the OC basing herself on section 7(2)C of the OCA 2003 referred the case to the Commissioner of Police to open an enquiry. The father was arrested and released on bail. He thereafter agreed to allow the children to go and stay with their mother on alternate week-ends as provided for in the judgement.

In this case, a letter had also been sent to the Ministry of Education and Scientific Research to find out if the minors had been transferred to other schools as they were no longer attending their schools. The reply came two and a half months later and were completely outdated as the situation had evolved in the meantime. Further the gist of the reply did not really refer to questions put.

The main custody case is still pending before the Supreme Court of Mauritius and hopefully the CDU will be able to give a full report and play a decisive role this time. From reports of
the CDU it would appear that the minors, specially the girl, are still very much abused by their father and perhaps to some extent they were manipulated by both parents.

Proposals made to the MWRCDFW

A series of proposals were made following the investigation:

(i) Attention was drawn to the conflicting orders of the two courts and the need for the Child Welfare Officers to mention the previous order in their affidavit seeking an EPO.

(ii) The need for children to have their own legal representatives and the Ministry to have recourse to a pool of lawyers to assist them.

(iii) The need for the relationship between the CDU and the SLO to be improved.

(iv) The need to pursue the efforts to set up a Family Court was stressed.

**Case OCO/Comp/11/3**

A father of two adolescent daughters lodged a complaint about the eldest one (16 years) who had been placed in a shelter by the CDU. The OC discussed with him and requested him to put his complaint in writing as he was rather confused and incoherent. It seems that the two daughters were very difficult, fought each other very violently, and that they made his life absolutely "impossible". He had therefore sought help from the CDU and even managed to convince his daughters to attend a meeting there, where they were both interviewed by a police officer of the CPU. He stated that matters got worse after these meetings. He in fact got into trouble with the police and finally had to face charges of child abandonment. He alleged that he had brought up his daughters since the age of nine months and two years respectively (i.e. for 14 years) but that he had now lost all authority over them. He also complained about the way the CPU had dealt with the matter.

The OCO convened the two minors and discussed with the officers who dealt with the case. It was difficult to form an opinion as the personality of the complainant and his daughters were very complex. The daughters both admitted making life difficult for him but the youngest one wanted to stay with him whereas the eldest chose to remain in a shelter. The mother who had emigrated wrote to say that she wanted the minor of 17 years to join her as it would have been better for her to pursue her studies in Europe. The daughter is very intelligent. She resumed school and does well in her studies. She is quite integrated at the shelter where the OC and an investigator visited her. She was not keen to go to her mother's place. She had obviously found some form of serenity and was regularly meeting her father who seemed to cope better with one daughter at a time. He paid for her books and helped her to resume school.

The CDU has been requested to keep an eye on the younger daughter. Matters are resting for now. The question remains: What will happen to the elder daughter when she turns 18 years. It appears that the Institution where she has been placed wants to keep her for as long as she cannot fare for herself.

This is exceptional but is probably due to her strong personality and her obvious leadership qualities, which seem to be an asset to the institution.

The CDU has been requested to follow up the situation of both adolescents.

The lessons drawn:

The psychological service offered by CDU is inappropriate, inadequate and young adolescents in such circumstances cannot hope to get regular appointments to be seriously counselled. The father too obviously needed counselling. This is an observation that our office made constantly throughout the past eight months. The matter has been raised on several occasions with the Ministry of Women's Rights, Child Development and Family Welfare. The budgetary constraints are there. Perhaps it is time to think of other solutions like having recourse to a specialised institution which would be offering such services on a contractual basis. Psychologists would be professionals screened by their peers and working without the constraints of the public service.
In any case, one psychologist on the establishment of the Ministry is hardly able to attend to anyone in a professional way. Three more psychologists have recently been recruited on contract, but they have to deal with domestic violence and family conflicts too. Cases relating to children deserve a different and more specialised treatment.

**Case OCO/Comp/11/14**  
A young boy of 18 years old from a split and very poor family was referred to the OCO by his ex head-teacher as he wanted to pursue his studies but was facing great hardship. She stressed that he had worked very hard at school and had had excellent results. He was called and interviewed by the Ombudsperson for Children (OC). He explained that he wanted to sit for his 'A' levels examination but could not find a suitable college to study the subjects of his choice: English and French. He was also very concerned about the situation of his brothers and sisters and had been working as vegetable seller to help educate them. Unfortunately for him, both parents had literally disappeared and did not play any part in his life at all. He grew up with an aunt. He was prepared to work outside school hours to help her to meet the costs of his upbringing, tuition, travelling, etc....

The OC contacted the PSSA, but the schools proposed did not accept students in languages. She also contacted several schools. Fortunately one responded favourably and agreed to admit him. The OC also looked for financial support for him and MACOSS agreed to sponsor him through one of its NGOs. Further some of his teachers agreed to give him free private tuition so that he in fact did not need to work.

The school later reported that he was doing very well and was completely integrated in his school environment. He himself sent an SMS to the OC to thank her and keep her informed of the situation.

Though the young boy was already 18, the OC intervened as younger brothers and sisters were involved. Their future somehow lies in the hands of their elder brother whose dream is to become a teacher of French.

**Lessons drawn**

1. "Where there is a will there is a way". The perseverance of the young boy and his personality played in his favour.
2. Sometimes a "petit coup de pouce" can change someone's future.
3. There are still generous people around. They need to be identified. This is encouraging for our proposed mentoring scheme.
4. It is sad that the race for technological subjects have almost ousted the need to study languages. Yet, there can be no development without cultural development and languages are essential for structuring one's thoughts, for communication, and overall personality development.
5. During the setting up of the cybercity and with the advent of call centres the importance of being really bilingual and articulate has been recognised.