Introduction

The Ombudsperson for Children’s Act 2003 (OCA 2003) provides that “the Ombudsperson for Children shall, not later than 30 September in each year, submit a report on its activities in the preceding year, to the President of the Republic”. It also states that “The President shall cause every report sent to him under this section to be laid before the Assembly within one month of its submission”.

This is the sixth report of the Ombudsperson for children (OC). As usual, it deals with the various issues which must be addressed according to the mandate of the OC. The OCA 2003 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.”

The Annual Report is the method by which the President and members of the National Assembly take cognizance of the various activities and projects which have been undertaken in a given year by the OC to fulfill her obligation. Throughout the Report, under different headings, the OC has referred to the different proposals made to different stakeholders and the way that these proposals have been taken up. The Report is also used to advocate on children’s rights. These rights are thoroughly discussed in different chapters.

There are two main chapters which capture the most important aspects of the OC’s work. The first is entitled Protection of Children – the Chain of Services. This type of analysis has been made in the five Reports. It looks at the various issues and topics related to protection but especially at mechanisms and services in place. It also relates to issues related to the law, and more specifically at amendments brought. It is a global assessment of the situation as regards protection. It highlights progress achieved and makes proposals to overcome obstacles and meet challenges in order to obtain tangible results. Unfortunately this year again the OC must stress on the important aspects which are still not up to the standard expected from a country like Mauritius. The OC is still concerned at the lack of training of carers in the Government shelter and the fact that the Ministry is not properly staffed which makes monitoring of individual cases extremely difficult. This year again the OC deplores the lack of coordination of various services. She commends the introduction of the mentoring scheme but regrets that it is not yet
working. She also analyses the situation of children who are placed in foster care and in alternative residential care. She looks at progress made regarding monitoring of such placement and possible return of children to their families.

Chapter II deals with the second important theme, **Prevention of Violence Against Children**. Under that heading, the Ombudsperson for Children looks more specifically at all aspects of violence to evaluate the efforts made by all stakeholders to address this very important issue. This year particular attention has been given on bullying at school. The chapter also covers the Shaken Baby Syndrome, Paedophilia and Child Trafficking. The OC has proposed to the Ministry of Health and Quality of Life to launch a campaign to sensitisie young parents on the dangers of shaking a baby even for play purposes. Regarding paedophilia the OC has had to investigate two cases which led to the formulation of several proposals to protect child victims during the police enquiry and the judicial process. As regards trafficking the OC relates the progress made by the government with regard to legislation, sensitisation and protection of victims.

Chapter III concerns progress made in the law regarding **Juvenile Justice**. The OC commends various reforms which have taken place in this field. The application of Community Service to minors over 16 is welcome but a proposal to also introduce a form of such service for those who are 14 has been made. The OC proposes that all children arrested must be assisted by a lawyer, soon after arrest, specially when parents refuse to support them. She also proposes a reform of the judicial system itself with dedicated judges.

Chapter IV deals with **Education**. In this chapter different reforms undertaken in that sector are analysed and the implications of these reforms as well as the proposals contained in the Education and Human Resources Strategy Plan 2008 – 2020 are discussed. The proposals of the OC regarding Human Rights Education, Positive Discipline, Sexuality Education and Education in Human Values are described. The OC also makes proposals concerning the future of ZEP schools, the language issue and the improvement of the prevocational sector.

Chapter V is exclusively related to **Child and the Internet**. The Chapter relates to the various forms of child abuse via the internet. There is an analysis of the legal provisions that are already in force with regard to this issue and reference is made to the forthcoming Child Online Bill. The main recommendations of the Safety Online Action Plan are fully explained. The OC proposes once again the ratification of the UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, Child Prostitution and Child Pornography.

Chapter VI concerns the **Health** sector, which for various reasons has been in the forefront of the work of the OC this year. There has been some interesting progress made specially regarding policies concerning the sale of tobacco and alcohol and more
specifically access to minors. The lack of proper information on sexual reproductive health among unempowered people and its impact on health and children’s well-being as well as the issue of teenage pregnancy are dealt with. On the other hand the OC has had to enquire on the issue of child abuse and the duty of medical staff to report the matter and take all precautions to prevent further abuse. And of course the virus A/H1N1 has been a matter of great concern for everyone. In mid August the OC had proposed the closing of all schools and more specifically of all of the pre-primary sector including crèches and day care centres.

Chapter VII relates to the **Convention on the Rights of the Child (CRC)**. The mechanism of the Compliance Committee is described. The celebration of Human Rights Day on 10 December 2008 is described as Children Rights are Human Rights. The efforts to celebrate the 20th anniversary of the CRC on 20 November 2009 are also explained.

Chapter VIII deals with Rodrigues. It analyses the prevailing child issues and reports on the various awareness campaigns and training sessions which took place during the reporting period.

Chapter IX is entitled **Communication, Sensitisation and Capacity Building**. It contains information on efforts made to fulfill the object of “promoting the rights and best interests of the child” through sensitisation campaigns and training of various categories of adults and children.

Chapter X relates to **Regional and International Exposure**. It provides details on the participation of the OC and investigators in international meetings and conferences. It also shows the extent of regional cooperation in the field of Child Rights and how the OCO has been involved in such cooperation.

Chapter XI contains an analysis on half of the cases dealt with during the past five years. This is followed by a series of **selected cases**.
Chapter I

Protection of the Child: The Chain of Services

In each Annual Report we have analysed the chain of services available in Mauritius regarding protection of the child. It is essential to identify the gaps and loopholes, propose new policies and strategies and closely follow up on the progress being made.

We are keeping a format to facilitate cross-referencing. Each time we highlight the progress made under each item as well as the challenges which remain.

Year after year we feel that the situation is getting worse, despite the constant efforts being made by government and several other stakeholders. Further as we are now facing an economic crisis, one can expect that the impact on the social situation will be even more negative. High profile cases are still numerous and shocking and it is probably press reports on these which give us this feeling of a never ending vicious cycle.

There have been many horrible homicides committed by parents and different forms of abuse resulting from a physical and human environment which leads to child neglect. There is an outcry from teachers that they cannot cope anymore with the growing violence at school. Child indiscipline is indeed on the rise. This is the result of a number of social situations. Few children who grow up in difficult conditions, which constitute a negative cycle, can get out of it by themselves without the help and intervention of the State and/or NGOs. Poverty, unemployment, poor housing, an unhealthy environment must be tackled seriously. The development of corporate social responsibility is one very positive element which brings hope in this respect.

New policies and new strategies are being devised. These will hopefully address some of the gaps that have been identified in the Protection Chain up to now and bring solutions in the short term and, more importantly, in the long term.

The Challenge

It is everyone’s duty to make an appraisal of the condition of children in Mauritius to assess how far their rights are being protected. The Convention on the Rights of the Child (CRC) is a good benchmark. The Concluding Observations and Recommendations of the CRC Committee is a tool which must be used to monitor progress made. In order to facilitate this exercise, the OC has set up a Committee on compliance with the CRC. This is dealt with in detail in Chapter VII.

The greatest challenge remains better coordination and a rationalisation of all services that are available. In his budget speech the Minister of Finance has touched upon the
need for the Ministry of Women’s Rights, Child Development and Family Welfare (MWRCDFW) and the Ministry of Social Security, National Solidarity and Senior Citizens Welfare & Reform Institutions (MSSNSSCW&RI) and NGOs to work closely together to address the issue of women and children in distress. A protocol has been signed several years ago on the close collaboration of these two ministries and others to ensure protection of the child. But the monitoring of this protocol has never been satisfactory and the MWRCDFW must review the mechanism which will ensure that all stakeholders are in fact playing their role properly. A high standing committee must meet regularly to follow up efficiently.

The law

The law is the most important tool for child protection. It sets the provisions under which the authorities can act to protect children in situations of emergency and thereafter. It also sets out the duties of different categories of persons. However, no law will protect a child if it is not properly implemented. It is in practice that we can seriously impact on the lives of children. The Child Protection Act 1994, as amended, sets out the main provisions regarding protection. One of its most recent amendments concerns a mentoring scheme which holds many promises.

Mentoring Orders

The Child Protection Act 1994 which provides for Emergency Protection Orders and Committal Orders to remove children at risk of harm and place them has been amended to introduce a Child Mentoring Order. This order will be sought by the Officers of the Child Development Unit in appropriate cases. New Sections 3A to 3F have been inserted in the principal Act.

Section 3D provides that “where the Permanent Secretary reasonably believes that—

(a) a child may require assistance under the Scheme;
(b) a child cannot adequately be dealt with under the Juvenile Offenders Act;
(c) the parents of a child are refusing to take or cannot take any measures to provide the child with the assistance and support that he needs;
(d) it is in the best interest of a child to be placed under the Scheme; and
(e) there is no alternative means of providing assistance and support to the child, he may, with or without the consent of the parents, apply to the District Magistrate, in such form as may be prescribed, for a mentoring order in order to have the child placed under the Scheme.”

The law also provides that an application for a mentoring order must be accompanied by a full report from the Permanent Secretary which will give reasons for the application and for the choice of the child mentor. A psychological report is also needed. The Scheme is not yet in application. When it is, and if it is done with the care and prudence that is
needed for such orders, it could go a long way to help in preventing abuse and neglect. Of course a lot will depend on the Child Mentors who will be screened and trained and who must be experienced in child development. Otherwise, other kinds of problems may crop up.

The OC views with concern the fact that, although the Committee has been set up, only one meeting has taken place since 1 June 2009. The Ministry has informed the OC that an advertisement was published to find would-be mentors. But no more information is available.

**The Children’s Act**

The Minister had informed the CRC Committee in January 2006 that she will be adopting a Children’s Act which is still on her agenda. The UNDP has identified several experts to help with this very huge task. It has been proposed that a request be made to the Ministry of Finance on the Programme Based Budgeting. What is important when embarking on such a comprehensive legislation is that all those who are front line officers and work closely with child issues are consulted throughout the process. Of course it is expected that all the provisions of the Convention on the Rights of the Child will be incorporated in this law.

In the meantime presumably the Child Protection Act 1994 will need to be amended again with new policies which are being designed. In due course these may form part of the Children’s Act.

**The Protection Chain**

The Ombudsperson for Children has been proposing for several years a protection chain which is based on the following:

1. Parental education and their rehabilitation and support,
2. Mentoring for children who are not removed from their parents,
3. Placement of children with next of kin or other member of the family,
4. Placement in foster family or institution with proper monitoring of these “places of safety”,
5. An adoption policy which would cater for abandoned children and cover local as well as inter-country adoptions,
6. A proper monitoring of international adoption,
7. An improvement of the procedure for tardy declaration,
8. Better coordination of all services to fully respect the best interests of the child.
**Child protection**

Child protection has many aspects to it. It is the CPA 1994 which sets the legal framework in which the MWRCDFW has to work. But the law merely sets out the duties of every one and the different orders that are available when there is an intervention of the State. In order to ensure that child protection policies are really respecting the rights and best interests of the child, it is important to refer to the CRC and to the general comments of the UN Committee on the Rights of the Child which are precious guidelines for the proper interpretation of the Convention. Other Human Rights Treaties ratified or acceded to by Mauritius are also important specially the Convention on the Elimination of all forms of Discrimination Against Women and the Convention Against Torture, Inhuman and Degrading Treatment. There are also innumerable guidelines of the United Nations which are relevant and other Conventions which relate to specific subjects like trafficking, adoption etc.

It is therefore important that policy makers and those responsible ensure that everyone involved in child protection are really doing everything possible to afford the child in need of protection the best attention that can be given.

**Reporting**

Last year we drew the attention of everyone to the fact that the duty to report is only legally imposed on “persons exercising a medical or paramedical profession or a member of the staff of a school”. Section 11 of the Child Protection Act provides that such a person “who has reason to suspect that a child he is examining or who is frequenting the school, as the case may be, has been ill treated, neglected, abandoned or otherwise exposed to harm, he shall immediately notify the Permanent Secretary”.

Nowadays, there is also the offence of culpable omission. According to section 39(A) of the Criminal Code, “(1) Any person who is able to take prompt action, without risk to himself or to a third party, so as to prevent the commission of a crime, or a misdemeanour which is an offence against persons and who wilfully fails to do so, shall be punished by a fine not exceeding 10,000 rupees and by imprisonment not exceeding 2 years.

(2) Any person who wilfully omits to provide to a person in danger such assistance as he could, without any risk to himself or to a third party, provide to that person by his own intervention or by calling for help, shall be punished by a fine not exceeding 10,000 rupees and by imprisonment not exceeding two years.” This section applies to cases of child abuse and any form of harm being caused to a child.

The duty to report cases has therefore a very wide application. The problem remains the implementation of these sections of the law and the sensitisation of the public on the implications of their failure to exercise their own duty as citizens. Unless cases are reported, the authorities will not be able to protect children. One gets the feeling that
there are more and more cases being reported to the Ministry of WRCDFW, to the police and to the OCO. But there are still innumerable cases that go completely unreported and, unless the law is applied, most people will prefer to keep quiet and not get involved. One way to encourage reporting is to enquire into cases which are reported anonymously. The availability of green lines and hotlines are also a good way to encourage persons who need to speak in confidence. At the OCO, this is a current practice. Since the OC has the right to open own motion investigations, confidential information is very useful. The law also protects whoever makes a statement to the OC. But the OC is not mandated to protect a child who is at risk of harm. That is the duty of the MWRCDFW. The preliminary enquiry of the OC can often be used by the CDU to take action.

Child Protection Conferencing

One very important mechanism which needs to be further developed is child protection conferences.

In complex cases brought to the attention of those who must take a decision concerning a child, a child conference can be very helpful. This will give the child the best chances of being treated fairly and in his best interest.

Most cases would concern the Child Development Unit (CDU). But cases of children who are very violent at school can also be dealt with through this multi-stakeholders dialogue. NGOs are also having recourse to this practice when they are faced with problems.

However it may be time now to draw up regulations to ensure that everyone is respecting the same procedures, that the law is respected and that the best interests of the child will prevail over all other considerations. Further, there must be a duty on all officers attending that they will give their expert advice and not hide behind their superiors. The OC has made a proposal to the MWRCDFW to work on such regulations.

The OC has also organised a training session on the subject. This was attended by the investigators of the OCO and several front line workers from various departments (See Chapter IX on training).

A case conference must be well prepared and those who will participate in it must be carefully selected. Everyone must either know the facts of the case or be in a position to give expert advice. It must be chaired by someone who has experience and full knowledge of the facts of the case. Parents can either be consulted before or at the case conference itself. It is important also that the child concerned, if he is mature enough, be heard by those who will be able to provide information on his views.
In Mauritius, we do not yet provide for the notes of meeting to be available for any court proceedings. It is therefore a matter which is still to be discussed in the context of applications for an order under the CPA 1994. Ideally it would be proper for these notes to be available if all criteria and procedures are respected.

It is also important to ensure that once the case conference has taken place, a decision is taken and is followed up by those directly concerned. For example, if it has been decided that a child must be removed from school and be referred to a specialised centre, the officer of the Ministry of Education and a CDU officer must ensure that needful is done. The CDU must also do a follow up with the centre to ensure that the child is adapting properly. The officers must see if any further decisions are needed, for example regarding his health and further education.

Adoption

Though Mauritius has ratified the Hague Convention on inter-country adoption it is still not complying with the provisions of the said treaty. The Central Authority has been chosen. It is the National Adoption Council. But only a few cases are being processed. Worse still, Mauritius is still mentioned as a non compliant State on the website of the French agency responsible for adoption. The draft bill is still at the State Law Office (SLO) and is not being finalised for lack of several policy decisions.

The OC has met the French authorities during a visit to Paris and she has discussed in detail with them on the possibilities for Mauritius to improve its law and procedure. In fact some very simple decisions must be taken. The most important being to determine who or what agency will identify adoptable children so that applicants for an adoption are not forced to go shopping for a child thus taking the risk of committing child trafficking. Further abandoning a child is illegal and this must therefore also be addressed to provide for abandonment for the purposes of adoption.

Child Abduction

Mauritius has acceded to the Hague Convention on the Civil Aspects of International Child Abduction in March 1993. This is the only Convention which has been domesticated. Indeed the Convention on the Civil Aspects of International Child Abduction Act was adopted in 2000 (Act No. 19). The MWRCDFW has been declared as the Central Authority for the implementation of the Act and the Convention. The importance of such an Act is unfortunately not very well known. Usually when someone is confronted with the problem, he looks for help and finally realises that in fact Mauritius has technically the means to seek international cooperation for the return of a child illegally abducted.
But in order to engage any procedure to have a child returned to Mauritius, there must be reciprocity between our country and the State where the child has been taken. This means not only that the State must be a party to the Convention but also that it has recognised the accession of Mauritius and vice versa.

On 29 November 2006, the OC queried the Secretary for Foreign Affairs, Regional Integration and International Trade on the countries that Mauritius had recognised under the Convention. The reply was that 27 countries had accepted the accession of Mauritius to the Convention, Mauritius has recognised only South Africa. Indeed this was done only when there was a case of a Mauritian child who had been abducted to South Africa. The OC also drew the attention of the Ministry of Foreign Affairs, Regional Integration and International Trade and the Attorney General to the fact that the procedure was very lengthy whereas time was of the essence in such cases. Thereafter the OC drew the attention of the Minister for Women’s Rights, Child Development and Family Welfare on the need to ensure that Mauritius recognises the accession of countries with which Mauritius has a lot of interaction. This was seen as important in order to better protect Mauritian children. On 5 October 2007, the MWRCDFW sent a brief on the situation, in reply to a new request by the OC. The situation of each and every country was being examined before recognition. A questionnaire was to be sent to each contracting State to see if they are “apt”.

On 28 August 2008, the OC had facilitated a meeting between the Ministry of Foreign Affairs, Regional Integration and International Trade and the MWRCDFW to ensure that all procedures are followed to ensure that the Convention will be implemented when the need arises. Several meetings have taken place since then and, at the request of the OC, the MWRCDFW now reports:

“There are some countries that are member states to the Convention and have the capacity to declare their acceptance of the accession of Mauritius to the said Convention and automatically become contracting states to Mauritius. As such, the Mauritian Central Authority can work with them on cases of international child abduction. The advice of the SLO was sought on this issue and the Ministry was informed that these countries may be added to the Second Schedule of the Act by making regulations under Section 11(2) of the Act. The list of such countries is as follows: **Slovakia, Portugal, Hungary, China, Serbia, Croatia, Mexico, Belgium and Monaco**. A draft was worked out in collaboration with the SLO to amend by Regulations the Second Schedule of the Convention on the Civil Aspects of International Child Abduction Act 2000 to add to above list.

Over the years there have also been other non-member countries that have acceded to the Convention after March 1993, that is, the date when Mauritius acceded to the Convention. Their accession has to be accepted by Mauritius. But to date, these countries’ accessions have not yet been accepted by Mauritius. As such, the Mauritian Central Authority cannot work with the Central Authorities of these particular countries in cases of abduction.
Several meetings were held by the Ministry with officers of the Child Development Unit, the legal adviser together with representatives of Ministry of Foreign Affairs to work on a list of countries whose accession have to be accepted by Mauritius and also to brainstorm on the measures that need to be taken to accept their accession. It was decided that a committee to be chaired by the Principal Assistant Secretary, be set up comprising of officers of this Ministry, the Ministry of Foreign Affairs and the State Law Office that would go through the existing structures of the Central Authorities of these countries to decide whether Mauritius will accept their accession and thus become contracting states with them. A questionnaire has been devised to learn more about the countries and their existing structures as regards international child abduction.”

**Tardy declaration**

The question of declaration of newborn babies should remain as one of our top priorities. The Convention on the Rights of the Child states very clearly that the child has a right to a name and an identity.

Article 7 provides that:

“The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.”

An undeclared child has no identity and no existence and can therefore not be fully protected. As soon as a child is declared it means that he has a legal personality and becomes “visible”. Only then, can he exercise his rights under the convention and the law. If a child has been abandoned by his parent/s he must be declared by the Ministry responsible for child development and this within reasonable a time.

The Ministry reports to us that “a tardy declaration of birth scheme has been put in place at the level of the Ministry to re-establish speedily their identity.

The fast track system is operational since 2005 with the collaboration of the Attorney General’s Office, the police, the Civil Status Office and the Ministry of Health. Between August 2005 and April 2009, 521 births have been registered out of 729. A close monitoring is done to ensure that children’s right to have an identity is respected”.

**Alternative Residential Care**

Article 20 provides that “the State is obliged to provide special protection for a child deprived of a family.”

National laws must provide for alternative family care or institutional placement if available. In Mauritius children who are orphans or abandoned are placed in charitable institutions. Those who are removed by the CDU under the CPA 1994 are placed in a
government shelter temporarily and are later committed to an alternative residential institution like CEDEM, SOS Village, Terre de Paix or the Shelter for Children in Distress in Forest Side. Some are placed in foster families. The OC views with concern that children remain in the “shelter” for great lengths of time as the carers are neither trained nor able through experience or otherwise to rehabilitate these children. Further, children with different kinds of problems and having different needs are all placed together. This does more harm than good. Let alone the fact that the shelter continues to cater for battered women.

The OC has made a detailed report on the situation prevailing in that only Government shelter since 2005. She has proposed a better monitoring of the shelter and of all residential homes with little success whatsoever. It is the NCC which is now responsible for running the shelter as the Ministry has been unable to find an NGO which was willing and able to run this shelter. We find it odd that the NCC should be given that task as it does not seem to fall within any of the objects of the Council. But be that as it may, the NCC is responsible for the proper running of the shelter. When questioned for the purposes of the Annual Report the NCC gave us the following information:

<table>
<thead>
<tr>
<th>Age</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Babies 0 - 3 yrs</td>
<td>2</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>Age 3 years+ - 5 years</td>
<td>15</td>
<td>10</td>
<td>25</td>
</tr>
<tr>
<td>Age 6 years - 12 years</td>
<td>22</td>
<td>6</td>
<td>28</td>
</tr>
<tr>
<td>Age 13 years - 17 years</td>
<td>8</td>
<td>2</td>
<td>10</td>
</tr>
<tr>
<td>Age 17 years – 18 years</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>47</td>
<td>25</td>
<td>72</td>
</tr>
</tbody>
</table>

### Victims of Domestic Violence

<table>
<thead>
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<th>Age Range</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 3 years</td>
<td></td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>3 – 5 years</td>
<td>1</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>5 – 8 years</td>
<td></td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>8 – 13 years</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td><strong>Grand Total of Children</strong></td>
<td><strong>50</strong></td>
<td><strong>30</strong></td>
<td><strong>80</strong></td>
</tr>
</tbody>
</table>

| Mothers | 3 | 3 |

The Ministry reports as follows:

“Residential Care Institutions for Children (RCIs) are declared as places of safety as per the Child Protection Act 1994. According to the Residential Care Home Act, all institutions which operate on a residential basis need to be licensed from the board operating under the aegis of the Ministry of Social Security, National Solidarity and Senior Citizens Welfare and Reform Institutions. However, the criteria required for these licences are not appropriate for Residential Care Institutions for Children.

The norms and standards for the Residential Care Institutions for Children are being worked out:
• taking into account the realities of RCIs
• having in mind the provisions of the Residential Care Home Act

Difficulties

(i) The limited space available in Residential Care Institutions for Children. Presently, no institution is willing to welcome boys above 10 years of age.
(ii) The SOS Children’s Village accommodate children aged below ten (10) years.
(iii) Foyer Père Laval and Terre de Paix are not taking additional residents. Terre de Paix is willing to accommodate three more adolescents over 15.
(iv) Only one institution, namely Foyer Namasté, is willing to accommodate children with physical and mental disabilities. However, the institution has accepted to accommodate only five residents.”

There seems to be a small hope that change will come. But, in the meantime, those children who are in fact placed in the government shelter can often be victims of more harm than if they were immediately committed to a proper institution where there are carers who are trained and committed. Anyone who visits these institutions can see the difference. But if a child remains too long in the shelter, when he is finally committed, the rehabilitation becomes more difficult. To tackle this problem, more specialised institutions are needed. Recently a new NGO launched two homes to accommodate 4 boys and 4 girls. Further new institutions are being set up for handicapped children. What is now needed is more institutions like these. The State must also fund extension works for those institutions which already have the expertise in this field.

The CDU also reports on the periodic review of placement of children in RCIs as follows:

“In line with the concluding remarks of the Committee of the Convention on the Rights of the Child, this Ministry is laying emphasis on the review of placement of children in Residential Care Institutions.

The following actions are being taken:

(i) A Family Welfare Protection Officer has been identified to monitor the Residential Care Institutions for Children and the individual situation of all the residents placed in the institutions;

(ii) A close follow-up is being ensured of the children admitted in the institutions, specially the Shelter of Pointes aux Sables, whereby children are moved as rapidly as possible to other institutions or are returned to their biological families;

(iii) Norms and standards are being prepared in line with the realities of Residential Care Institutions and provisions of the CRC.”

Foster care
The CDU reports as follows: “As per Section 8 of the Child Protection Act and Section 23(a) of the Child Protection (Foster Care) Regulations 2002, the main objective of the Foster Care System is to give opportunity to children removed under a Court Order and placed in institutions to evolve in a substitute family environment.

Project Details:

<table>
<thead>
<tr>
<th>Year</th>
<th>Placed in Foster Families</th>
<th>Applicants granted Registration as Foster Parents</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>2003</td>
<td></td>
<td>25</td>
</tr>
<tr>
<td>2004</td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>2005</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>2006</td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>2007</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>2008</td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>2009</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>66</strong></td>
<td><strong>75</strong></td>
</tr>
</tbody>
</table>

Out of this number, 17 children have been adopted by their respective foster families; 6 children returned to institutions and one (1) has reached 18 years.

At present 41 children are in 38 foster families

A monthly allowance Rs. 1,500 per child is being paid to the foster parents.

7 applications are under consideration for registration.

6 registered foster parents are awaiting a child to be placed with them.”

Family support and education

It is important to study further the obvious disruption of the social fabric to understand the root causes of the disintegration of the family unit and its incapacity to hold its members together through thick or through thin. There have been several attempts at analysing various aspects. The Ministry itself, being responsible for Women’s Rights, Child Development and Family Welfare has undertaken several studies in the past.

The Child Development Unit reports as follows:

“Family Rehabilitation Programme

The Family Rehabilitation Programme, is, as indicated, a rehabilitative measure for those parents having either abused or had their children removed from their responsibility by the State. The programme ensures that through reconstructive seminars, these parents reap positive benefits from social and economical interaction thereby leading to the further passing on of positive upbringing towards children. A strong focus is placed on understanding the family and community system as well as
the provision of insight into how these adults’ creative abilities could be integrated into society thereby leading to their own empowerment.

The Ministry is also working towards a collaborative venture with the Eradication of Absolute Poverty Unit so as to allow families coming from vulnerable socio-economic backgrounds to be channelled towards resources, financial and otherwise, that would enable them to access essential services necessary for their own empowerment in society.”

Parental Empowerment Programme

Year in, year out, we stress the fact that children will only stop being abused if their parents are properly empowered. The most extraordinary is that several government agencies seem to be engaged in sensitisation and empowerment programmes. But some people remain completely marginalised. The MWRCDFW reports:

“Amongst other measures instilled in line with curbing the high incidence of child abuse that is relative to dysfunctional family interactions, the Parental Empowerment Programme was launched. The programme acts as a means of reaching out towards parents for educating and initiating them into other modes of child rearing and upbringing. It also leads to an enhancement of life coping skills that are beneficial to the family.

As of now:
The manual is being finalised and will be forwarded to the Government Printing by the end of August.”

The OC has written to the Ministry to draw its attention to the fact that the Convention provides clearly for the placement of children in their own immediate family if their parents cannot look after them. This, according to her should be a priority before placing a child either in foster care or in an institution. Although no amendments have been brought to the Child Protection Act 1994, it appears that this solution is sometimes applied.

The Ministry also informs us that:

“After hours educational programmes for adults in collaboration with independent regional social workers on alternative methods of child rearing and upbringing have enabled greater population outreach. The teaching is then relative to the day-to-day needs of the parents that ascertain a healthier lifestyle in return for their children. For example, by ensuring that these parents are aware that they have human rights and by channelling them towards the proper outlets for a fulfillment of these rights. These parents in turn learn to lead more satisfying, fulfilling lifestyles creating an openness to learning of new ways of respecting their children’s rights.”

The Community Child Protection Programme (CCPP)
According to the Ministry, “the CCPP was implemented as a means of raising community concern on capacity building and support for children coming from disadvantaged families. It also works as a professional training programme that trains children’s neighbourhood into being effective teachers, mentors, practitioners, volunteers for the identification of and creation of creative products (actual objects and craft or services).”

This is a very interesting programme but for it to be effective a dedicated staff should be responsible for its continuous follow up. It is a matter of concern that the same staff who are running the CDU are “occasionally” giving their time to promote community building which is THE hope for effective child protection. The question of human resources is in fact at the heart of the difficulty to improve the situation of children. The Ministry is now starting to build alliances with some NGOs to promote this programme.

**Human Resources and Coordination**

In order to meet the challenges, adequate resources must be available to all departments which are in the social field. In fact in times of economic crisis, there must be particular attention to ensure that the social fabric is reinforced in order to face up to difficulties. This does not necessarily mean an exaggerated budget but rather a rationalisation of what is already spent. The proposal of the OC for a social audit, which has now been communicated officially to the Ministry of Finance, seems to make its way slowly but surely. As explained above the budget speech has already set the tone. All services available to deal with the issue of poverty are also being consolidated. At paragraph 180 of the budget speech, the Minister of Finance states that “first, we are consolidating the various efforts of Government by bringing under one roof the different agencies involved in empowerment and the fight against poverty. We want to save on overhead so that more money can go directly to the needy.”

However there is still a need to ensure that we have enough fully trained social workers and psychologists to meet our needs. We have gathered information on the number of such workers in various social ministries. In the MWRCDFW there are now 13 Family Welfare Protection Officers and 5 clinical psychologists. In the Ministry of Education there are 11 psychologists who are mostly educational psychologists and 17 social workers. The Ministry of Health has 12 medical social workers and 14 Social Welfare Officers.

In the Ministry of Social Security, National Solidarity and Senior Citizens Welfare and Reform Institutions there are 27 probation officers who work in the field.

Surely this is not enough and a special effort must be made. It is important to encourage more young people to choose the humanities and prepare themselves for a career whereby they will be able to contribute to the betterment of society. The human factor must not be neglected in policy planning. Further it is important also to ensure that
specialised training is available for social work which cannot continue to remain a non professional activity. Carers in shelters and those in charge of institutions where children are placed either for their protection or for their rehabilitation, must be specifically trained. In fact it is important to ensure that this training is ongoing and refresher courses must be dispensed regularly. Moreover it is important for the Ministry to monitor closely all residential care institutions. It is unfortunate that up to now the Ministry has not been able to respond positively to the invitation of the OC to prepare norms and standards of such institutions other than those adopted for all institutions. The specificity of children calls for separate regulations.
Chapter II

Prevention of Violence Against Children

Every year we report on the issue of violence against children since our office has always paid particular attention to this ever-growing problem. In fact it would be difficult not to address the problem of violence which is omnipresent in our society to-day. We always refer to research undertaken at international level since violence is now recognised as a problem which must be dealt with through specific policies and strategies. The WHO Report on Violence and Health of 2002 and the UN World Report on Violence against Children of 2006 as well as the UN World Report on Violence against Women of 2006 shed an interesting light on the phenomenon which is now perceived as a developmental issue.

The World Bank has stated unambiguously that violence has a negative effect on development and needs to be addressed as an important issue. Ministers of Finance and their staff are being sensitised on the need to invest in preventive measures.

In Mauritius, there have been several efforts to empower the most vulnerable sections of the population. Women and children need to be specifically supported to get away from the cycle of violence which is causing them incalculable harm. This issue is one which concerns individuals who need to be helped as victims or potential victims. The adoption of the Child Protection Act and of the Domestic Violence Act are meant to afford legal protection to spouses and children who are victims of violence. But the issue is also one which impacts negatively on our society and constitutes one of the biggest obstacle to proper human development as well as economic development.

If the issue is not addressed efficiently and relatively urgently, we will slowly but surely become an unstable and insecure country. In the next chapter, we will look specifically at the issue of juvenile justice. We discuss which reforms need to be brought and present those which are already in process to address the problem of children who are in conflict with the law. We lay emphasis on how to ensure proper restorative justice and prevention of reoccurrence. In this chapter we analyse the issue of violence globally and place the emphasis on preventive measures.

The Women and Children’s Solidarity Programme (WCSP)

This year again the Minister of Finance and Economic Empowerment, who had launched the Women and Children’s Solidarity Programme, has made a provision of Rs 25 million for the present six months’ budget, which brings the total amount to Rs 100,000 since June 2007.
The objectives of the programme to:

(i) work on priority areas with the ultimate aim of diminishing all forms of violence against women and children;
(ii) provide relief and support to children who are victims of child abuse including neglect and violence against children;
(iii) educate the visually and hearing impaired; and,
(iv) assist children with debilitating disease and serious ailments.

Last year the Minister of Finance and Economic Empowerment has included support for children with a parent serving a prison sentence. The programme is meant to fund NGOs for projects which they can carry out with a second partner and which can be evaluated to show that their target groups are really benefiting directly or even indirectly.

Few projects were approved for the financial year 2007 – 2008 but now the WCSP has started to become interesting. A coordinator has been recruited to make more NGOs aware of the programme, its objectives and the criteria which they must respect in order to benefit from it.

The Ombudsperson for Children sits on the Steering Committee of the WCSP which is presided by representatives of the Prime Minister’s Office. Representatives of the Ministries of Finance and Economic Empowerment, of Women’s Rights Child Development and Family Welfare (WRCDFW) and of the Social Security, National Solidarity and Senior Citizens Welfare and Reform Institutions, also sit on the said Steering Committee.

In order to ensure that projects are viable, an evaluation committee has been set up to study the submissions of projects and make recommendations to the Steering Committee. Investigator Ismaïl Bawamia represents the OC on that Committee.

The specificity of the WCSP is that funds will have to benefit victims directly. NGOs are encouraged to work with at least one other partner, either another NGO or a local authority or an entity of the private sector. They need to put 15% of their own funds or contribution in kind in the project and some of the funds can be used for training, either for their own training or that of others who will be empowered to work on the project.

A minimum of Rs. 100,000 and up to Rs 1 million can be given and need to be properly managed. The Steering Committee has insisted on the need for transparency and accountability as public funds are involved. The evaluation and monitoring exercise has already started.

As at August 2009, 22 projects dealing with the protection of Child’s Rights are being implemented and represent a total cost of Rs 15,786,842 targeting 1550 children. The per
capita expenditure for the children entertained under this programme has been calculated at Rs 10,185.

The table and chart below gives an overview of the primary data concerning the obligations of the WCSP since its implementation:

<table>
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<tr>
<th>Category</th>
<th>Nos</th>
<th>Budget approved</th>
<th>No of beneficiaries</th>
<th>Per Capita Expenditure</th>
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<tr>
<td>Women in Distress</td>
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<td>3,649,120.00</td>
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<td>592.20</td>
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<tr>
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<td>5,828,007.00</td>
<td>633</td>
<td>9,206.96</td>
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<td>26</td>
<td>19,435,962.00</td>
<td>7,712</td>
<td>2,520.22</td>
</tr>
</tbody>
</table>

**Prevention of violence at school**

The Kit on the prevention of violence at school, launched in September 2007 has been used as a tool for the training of educational staff. As it was announced it was a kit which was to grow in time. Since 2007, the Kit has been enriched. It originally contained:

1) a document on the characteristics of a child friendly school, on the factors contributing to violence at school and the impact of such violence on the education setting both for pupils and teachers and other school staff;

2) an analysis of the negative impact of corporal punishment on children and the proposal of methods of positive and constructive discipline;

3) tips on how to recognise signs and symptoms of child abuse and how to respect the law which imposes a duty on teachers to report all cases of child abuse.

4) a brief on the Convention on the Rights of the Child.

Two posters to illustrate the above have been prepared with the collaboration of the Mauritius College of the Air and have been distributed to all primary schools. They are now in the Kit which is still being distributed in the course of training workshops organised with the teaching staff of primary schools.
Bullying

The last document which has been included in the kit deals with bullying. The document explains what is bullying, who are the perpetrators and who are the victims. It gives tips to teachers on the specific places where bullying exists and tells them they cannot feign not to see. The Kit already explains that teachers have a duty to report all cases of child abuse. They must at least put an end to bullying and then seek special help from the psychologists of their parent ministry or contact the Child Development Unit for both the authors and the victims.

“Bullying among children is a deliberate act whereby a child who feels that he is stronger and more powerful coerces other children by fear, persecutes or oppresses them by force and threats. It involves repeated acts of physical, emotional or social behaviour that are intentional, controlling and hurtful. Bullying is a learned behaviour. Children learn to bully others by observing adults or older children behaving in such violent ways.”

The document explains that there is direct bullying and indirect bullying. Everyone knows direct bullying which is visible. It refers to being hit, pushed, spitted on, pinched or kicked. It can include racketeering i.e. being forced to hand over one’s possession. It can also mean being forced to do things that one does not want to do.

Indirect bullying, on the other hand, cannot be easily identified. It would amount to verbal, emotional and psychological aggression. For example being called names, being teased, being ignored or left out, being discriminated against for innumerable reasons. It also includes being the target of gossiping. The first type of bullying is more the doing of boys, while girls are more inclined to use verbal and emotional abuse.

Nowadays, one also hears about cyber-bullying. It is just the means that changes. This will be done through technological means like sending cruel emails, text messages, picture messages, with the objective of hurting the target. Insults are sometimes posted on websites. Children are also lured in chat rooms and then are victimised.

The document explains why children bully others and also draws a profile of those who become bullies. One of the most important messages is that the bully may come from a family where harsh discipline is used and may have been the victim of child abuse. He may also have one parent who is a bully. By attacking others he expresses his own frustration and anger and reproduces the learnt behaviour.

Bullying happens when there is a power imbalance between the children concerned. This power may be derived from physical size, strength, verbal skill, popularity or gender.

Bullying takes place in unsupervised areas like toilets or corridors, or isolated alleys or in some parts of the school playground. Sometimes it is carried out in cliques. Some kids will just be bystanders but either take sides or just remain silent and not help the victims.
When an adult sees such bullying it is his duty to intervene, the more so if he is a member of a school staff. Apart from the duty to report imposed by the Child Protection Act, there is also the offence of culpable omission which is fully explained in the kit. This duty to save a person in danger is placed on every citizen who remains silent.

Bullying has many consequences. Apart from physical trauma, there is also the risk of academic failure, juvenile delinquency, adult criminality. All this is linked with psychological trauma which may include depression, development of low self esteem, low self confidence, frustration, lack of concentration, social withdrawal, increased anxiety, disturbed sleep patterns, difficulties in creating and maintaining relationships or self mutilation and even attempt at committing suicide.

The document lays emphasis on the need for teachers to seek expert advice and not conclude too hastily that a child is a bully. This means that it is important to understand the phenomenon and to put an end to it. In the long term, only experts can act not only to end the act of bullying but also to seek the roots of the problem and address it in a sustainable way.

Of course the main responsibility to protect children from any form of violence rests with parents. They have the duty to bring up their child to live in an environment of love, understanding and trust. They must be able to talk to their child and invite him to confide in them. They must teach him to identify all forms of violence, even if it is subtle, and teach him to stand up for his rights.

But the school also has a responsibility to keep children safe. In fact there is a need to devise whole school anti-bullying policies and practices. Children must know what are the rules and the sanctions provided for breach of these rules. In fact they can themselves participate in devising the rules and regulations. Schools can provide training in conflict resolution and social skills. Supervision of isolated places is also important. There must also be reporting systems and parents must be involved in the maintenance of discipline at school and be made aware of problems that exist. Ideally parents must be involved even when there are no specific problems so that school is their concern and they contribute in fostering good relations between all concerned. Many different methods have been used in schools dealing with violence in the world. In Mauritius, the adoption of the Zippy’s friends method by the schools run by the Bureau de l’éducation catholique (BEC) is to be commended.

The OC had launched a group since 2004, called Budi’s friends to encourage youngsters to deal themselves with violence at school or in their environment. They have been sensitized on the CRC and on the issue of violence. They relate with younger children to help them or protect them or counteract negative peer pressure. They have now joined other youngster’s groups to form the National Children’s Forum which is at present involved in the preparation of a dramatic show on the Convention. See more on this in Chapter IX on Communication, Sensitisation and Capacity Building.
Class management and positive discipline

At the last workshop organised for teachers of the Zone 3, the OC and Investigator Ismail Bawamia introduced for the first time the concept of class management and positive discipline

“Successful teachers know that behaviour problems are far less common in classrooms where children are actively involved and interested. Particularly when they are understood and appreciated for who they are irrespective of where they come from and what they are able to contribute.

If teachers are committed to teaching, they know that they need to understand their pupils, be aware of their background. They must treat them without discrimination and with respect. In return their pupils will also respect them and trust them.”

All children are not able to participate fully in class and there are some who will have learning difficulties. But more importantly children will get bored easily and it is therefore important to rouse their interest with enjoyable methods of learning. Those who act Shakespeare and Molière will be more involved than those who must tediously read the masterpieces of these writers. Those who go on outings to discover the wonders of nature will be more alert during the biology class than those who, day in day out, sit in class and hear the teacher speak about plants.

The paper basically shows that classroom management is an integral part of effective learning which aims at maximizing student’s involvement and cooperation in learning. It also reminds everyone about the fact that the teacher acts like a role model and he can promote good behaviour.

It is always important to look at article 29 (1) a of the CRC which provides that “the education of the child shall be directed to the development of the child’s personality, talents and mental and physical abilities to their fullest potential.”

In presenting the paper, the OC always explains how the physical environment can play a role on the morale of both children and teachers. She gives concrete examples of the improvement of a well known State College for boys where a new approach and the general uplifting of the school environment have given concrete results in terms of discipline at school. Children are now involved and happier.

This paper has now been sent to the Minister of Education, Culture and Human Resources as it is important that these principles are integrated at the highest level, even though schools can adopt them and see results in a few months. It will now form part of the Kit and become one of the main tools for training.
Violence in other settings

Violence against children may occur in many settings. The UN global Report mentions five settings: home, schools, community, work and institutions. Regarding institutions, in the past, the OC has investigated in violence occurring at the Correctional Youth Centre as well as in the Rehabilitation Youth Centre. Proposals have been made to the Prime Minister and relevant ministers and this is discussed at length in the next chapter on Juvenile Justice.

Hospitals seem to be more and more in the limelight in terms of violence. This is mostly verbal and moral. But there have been cases of physical violence reported. Since the advent of private radios, people make their complaints directly on the waves. In exceptional cases, when the OC considers that the complaint is serious and warrants a full investigation, she will either seek a report from the Ministry of Health or carry out an investigation herself.

During this reporting year she had to investigate two cases. One concerns the case of a young child of two months who had been admitted for five days and was then returned to her parents despite suspicion of the shaken baby syndrome. The other concerned an adolescent who had an epileptic fit and was allegedly insulted and battered by hospital personnel. See more on these cases later in the Report.

The Shaken Baby Syndrome

Sometimes children die in accidents which cannot be prevented. But there are cases of negligence or ignorance which may be fatal to a child. It is the duty of the State to do everything possible to sensitisise parents and guardians on the risks which exist and how they can be avoided.

The battered child is the one who presents with injuries which are the result of non accidental violence inflicted by a parent or guardian. The Shaken Baby Syndrome is more specific. It is the fact of shaking a baby less than two years old either to stop him crying or just to play with him. Unfortunately parents and baby carers do not always know how dangerous it is to shake a very small baby. Sometimes parents see that a baby is not breathing properly and they shake him. Or they swing him like an aeroplane.

A baby’s head is big and heavy as compared to the rest of his body. Unless supported, the head flops around because the neck muscles aren’t strong enough to hold it still. Shaking makes the head move back and forth very quickly and with great force. Then tiny blood vessels can tear and bleed inside the baby’s brain, causing harm. This can result in blindness, deafness, fits, learning difficulties, brain damage, falling in a coma or
even death. The younger the baby is the greater the risk of damage. But even older toddlers should not be shaken.

Even the most friendly game can hurt a baby, for example bouncing the baby on a knee.

On 8 June 2004, the OC proposed to the Ministry of Health and Quality of Life to launch a campaign on the shaken baby syndrome, but the only reaction was to ask a paediatrician to send her a brochure on the problem. In fact there is no data on cases of shaken baby available. But this is known to be a common occurrence and it would be easy for the Ministry concerned to prepare a small brochure on the dangers of shaking a baby and on how to cope if a baby does not stop crying for long hours. This could form part of the sensitisation which is carried out at the antenatal centres or other units like the maternity wards or paediatric wards. The OC has just reiterated her proposal to the Ministry of Health and Quality of Life.

However NGOs seem to be keen on including this in their campaigns on violence against children. The Mouvement d’aide à la maternité (MAM) have already addressed the issue in their recent publication which targets would-be mothers.

In the case which is being investigated, there were no signs of injury detected after a CT scan of the head. But it appears that a shaken baby may suffer injury to the liver, cervical spine and brain without any evidence of injury to the head. This is why the OC has insisted on a proper protocol to be signed by all those concerned. One must agree on the kinds of investigation which should be carried out when there is suspicion of a shaken baby syndrome. The protocol must also deal with the need to seek a social report and to involve the Child Development Unit.

**Sexual violence**

According to the last compilation of statistics of the Central Statistics Office there is an increase of 7.6% of sexual offences for 2008 as compared to 2007. This of course concerns only reported cases.

Sexual violence is one of the most pernicious forms of violence. It unfortunately concerns everyone and it is perpetrated by all sorts of persons, both adults and children, on all categories of persons. The most vulnerable are very young children, even babies who cannot speak and reveal it to anyone. Teenagers, and even children in their pre-teen years, are also vulnerable since they are often trapped because they are curious about sex and want to learn more. But their first experience can be immoral and illegal. In most instances it is traumatizing.
Even though the trauma may not be visible, the long term effect is often perverse. The grooming of very young persons, both boys and girls, is a long process and will definitely condition the sexuality of the victim for his future life.

**Paedophilia**

The Ombudsperson for Children has investigated two cases of paedophilia, which are now before the courts. In the first case the perpetrator is a very close member of the family. In the second case the perpetrator is a school inspector. Without going into the details of the cases which are now *sub-judice*, it is important to draw the attention of the authorities and all concerned on the need to be more proactive to prevent all forms of violence including sexual violence. One of the most important tools is sex-education to be imparted at school, in community centres and even through the media. Today children are exposed to all sorts of harmful information, including pornographic material. To counteract the negative effect of such information, apart from the several efforts made regarding online child protection, one MUST educate children and parents alike.

Apart from education and information little can in fact be done to prevent paedophilia. Often the perpetrator is a close member of the family, the father, stepfather or grandfather. Or he can be some close friend of the family or a person working with children. Perpetrators are mostly males but there are cases when women are perpetrators. Cases have not been reported as such to the office though mention has been made of female touching in the course of investigations in two cases.

Paedophiles are those who have an irresistible sexual attraction to prepubescent or early pubescent youth. It can be a primary or exclusive attraction. Some paedophiles do not act but merely dwell in fantasies. Those who do act can be “affectional” or “sadistic”. In cases where the paedophile shows affection to the child, it is more complex as the child may not want to denounce him, specially if he is a person who is already closely related to him.

Child sexual abuse alone may or may not be an indicator that its perpetrator is a paedophile. But more and more the term is being used, specially by the media, regarding all cases of child sex offenders which creates great confusion specially in terms of rehabilitation.

Since the last cases mentioned above there is in Mauritius a great interest on the issue. Many persons have been questioning the fact that there is no specific law on the offence of paedophilia. True it is that the term is not defined in our laws and there is no specific offence relating to paedophiles. But there are several offences under which the perpetrators can be prosecuted, namely under the Criminal Code and the Child Protection Act. The two most appropriate offences would be “sexual intercourse with minor under 16” carrying a term of 10 years of penal servitude, or when there has been no
penetration, the offence of “attentat à la pudeur” (penal servitude of 5 years). This concerns minors under 12 even if there is consent and no violence. Cases can also be prosecuted under section 14 of the Child Protection Act which provides for sexual offences as follows:

“(1) Any person who causes, incites or allows any child –
(a) to be sexually abused by him or by another person;
(b) to have access to a brothel;
(c) to engage in prostitution,
shall commit an offence.

(2) For the purposes of subsection (1)(a), a child shall be deemed to be sexually abused where he has taken part whether as a willing or unwilling participant or observer in any act which is sexual in nature for the purposes of –
(a) another person’s gratification;
(b) any activity of pornographic, obscene or indecent nature;
(c) any other kind of exploitation by any person.”

A person who commits an offence under this section may be liable to a maximum term of imprisonment of 10 years. If the victim is handicapped the sentence is 15 years.

Unfortunately the Sexual Offences Bill is still before the Select Committee of the National Assembly. Its original version did address some aspects of child sexual abuse.

**Child friendly procedures**

Proposals have been made to the Government to review the law on evidence as well as the procedures concerning the interrogation of child victims of abuse in general and particularly of child sexual abuse. The Prime Minister has declared that the Commissioner of Police has agreed to the setting up in Mauritius of video evidence. The police have identified three appropriate interrogation rooms, one at Piton, one in Rose Hill and one in Port Louis.

This information has been obtained from the reply of the Prime Minister to Parliamentary question B/179. It seems that the procedure to equip these interview rooms with the video recording system is under way. The Prime Minister also stated: “I am also informed that the Commissioner of Police will shortly convene further working sessions with the relevant stakeholders namely, the Ministry of Women’s Rights, Child Development and Family Welfare; the Solicitor General’s Office; the Master and Registrar; the Supreme Court; the Office of the Director of Public Prosecutions and the
This exercise is absolutely crucial as the judiciary must first of all pronounce itself on the introduction of this system. The laws on evidence will also have to be amended. Personnel must be trained. In this context, the Ombudsperson for Children has already organised a training session on this subject to prepare all those concerned on the importance of such a reform and on its implications (see Chapter IX on Training).

In the meantime some progress is already being made to protect child victims. For example when there is a need for identification of the perpetrator, the child needs no longer confront the latter. At the line barracks there is an identification room with a special screen whereby the victim sees the perpetrator but is not seen by him.

The same principle governs the use of video evidence because the victim does not even appear in court and is not in direct contact with the perpetrator. Even during cross examination, the victim is in a different room and is seen by the judge but the questions of counsel for the defence are put to him in a child friendly form by a trained officer. The whole procedure is by close circuit television. This implies equipping the court house properly.

Another good practice which already obtains in Mauritius is that, before a child victim is interrogated, he is seen by a psychologist of the CDU who gives the green light for his statement to be taken. It is a trained officer of the CDU who does the interrogation in a place where the child is safe and feels comfortable. The enquiring officer merely notes the questions and answers.

As regards the protection of child victims, recently the press has respected the rules regarding the protection of the child’s identity. No photographs have been published and there has been no reference made to the victim’s name, those of his parents, the name of his school or even the locality where he resides. This is the result of a long and patient awareness campaign made by the OC on the subject matter. The OC has written several times to Editors in Chief of newspapers and Directors of radio stations as well as the national television station. Copies of important guidelines from UNICEF, WHO, Save the Children International, the BBC and the International Federation of Journalists as well as the Oslo Challenge which deal with the relationship between children and media have been sent to all concerned.

**Sexuality education**

In this respect, it is a matter of concern that the Ministry of Education, Culture and Human Resources has refused to include the question on sex education in the questionnaire of the World Health Organisation on the health of youngsters aged 13 to 15
years. This would have provided all those concerned with some vital information on the
habits of adolescents and would have formed a good basis for the formulation of
appropriate policies. Several countries have designed appropriate teaching material for
children of different ages. But in Mauritius any information related to sex is taboo. The
excellent guide of PILS unfortunately was rejected for these same false or misplaced
prudishness.

UNESCO has prepared guidelines on sexuality education for member States. This is
discussed in Chapter 4 on Education.

Child Trafficking

Since Mauritius had been criticised by the US Trafficking in Persons Report for several
years, the Government has decided to take up the challenge of meeting the criteria in
order to be more compliant with international standards on Trafficking. The result is that
the US Report now places Mauritius in TIER I whereas previously we had been in Tier II
watchlist.

According to the Report “The Government of Mauritius fully complies with the minimum
standards for the elimination of trafficking. Mauritius sustained its strong efforts to
identify, address, and prevent incidences of trafficking during the reporting period.
Government officials demonstrated an increasing level of awareness of human
trafficking and commitment to addressing the problem. Public awareness projects,
particularly those convened for school students by police officers and the National
Children’s Council, were frequently conducted and broad-reaching. Mauritius’
parliament passed a comprehensive human trafficking law in April 2009.”

First the Child Protection Act (CPA) was amended in 2005 to include the offence of
Child Trafficking but that was not considered to be sufficient. The Combating of
Trafficking in Persons Act 2009 was adopted in May this year. It is in addition to the
CPA. It has however gone further than the provisions of the CPA amendment of 2005. It
gives the Court the power to suspend parental responsibilities and rights where those who
are responsible for a minor has committed an offence of child trafficking. The Court can
also order the minor to be admitted to a place of safety.

The new Act defines trafficking as:

“(a) the recruitment, sale, supply, procurement, capture, removal,
transportation, transfer, harbouring or receipt of a person –

(i) by the use of threat, force, intimidation, coercion, abduction, fraud,
deception, abuse of power or abuse of a position of vulnerability; or
(ii) by the giving or receiving of payments or benefits to obtain the consent of a person having control or authority over another person; or

(b) the adoption of a person facilitated or secured through illegal means, for the purpose of exploitation;”

“Exploitation” includes “sexual exploitation”

Sexual exploitation means “obtaining financial or other benefits through the involvement of another person in prostitution or in other kinds of sexual services, including pornographic acts or the production of pornographic materials, as a result of subjecting another person to one of the means listed in paragraph (a) of the definition of “trafficking”.

It must also be noted that the Judicial Provisions Act 2008 provides for increased penalties for various offences. For child trafficking a maximum of 30 years imprisonment is provided for.

The US Report recommends that Mauritius should “utilize newly passed anti-trafficking legislation to investigate and prosecute trafficking offenses and convict and punish trafficking offenders; designate an official coordinating body or mechanism to facilitate improved anti-trafficking communication and coordination among the relevant ministries, law enforcement entities, working groups, and NGOs; and increase protective services available to victims of child commercial sexual exploitation, particularly in regard to safe shelter and educational opportunities.”

The Report highlights the notable efforts made by the Government to prevent child trafficking. In particular it notes that “in 2008, the Ministry of Tourism, Leisure, and External Communications published and distributed to hotels and tour operators 3,000 pamphlets regarding the responsibility of the tourism sector to combat child sex trafficking.”

When questioned on the prevention and rehabilitation of minors victims of commercial/sexual exploitation, the Ministry of Women’s Rights, Child Development and Family Welfare states:

“The Ministry has adopted the following strategies for educating children about their human rights:

• Group therapy for victims of rape using play and theatrical techniques. 20 inmates from the Shelter La Colombe have already been on board and benefited greatly from the sessions.

• Campaigning strongly in favour of gender equality through awareness sessions held in day care and educational institutions so as to make children and adults alike aware of the rights and responsibilities of children as well as gender
specific human rights abuses. In line with the need to mainstream gender in our child sector, the concept of boy and girl child have also been introduced for PBB purposes.

• Preventive measures have involved working in collaboration with NGO’s so as to detect and work with those families with a lower socio-economic background who are likely to place their children at a higher risk of sexual exploitation or sex tourism. The La Case A project, for example, is currently working with the development and skills reinforcement of 40 adolescents by providing them with a mentoring scheme and educating them into the programmes available at grassroots level for their own development.

• Sessions have also been held in collaboration of the Mauritius Family Planning & Welfare Association so as to educate teenage mothers on the importance of responsible adult sexual behaviour.

• Owing to a trend of girl children from lower socio economic backgrounds growing outside a circle of formal schooling system, a study on teenage pregnancy has been launched by the Ministry as a means of reaching out to these children who lack information and as a result are unaware of services offered to them.

• The launching of the Community Child Development Programme in several key areas of the island have also enabled the Ministry to liaise with various other social workers and stakeholders so as to have a greater outreach towards the population leading to better sensitization workshops.

• Workshops are being held with educators and students alike so as to detect, sensitise and eliminate the risk of child pornography.

• Talk sessions have also been scheduled in various community centres so as to inform and educate society on the laws and legislations regarding child sexual trafficking and the various forms it takes such as internet child pornography.

• Measures are currently being undertaken so as to ensure that the approaches employed for combating trafficking are much more preventive than they were previously. Our collaborative venture with the community child watch programme and the Brigade pour la protection des mineurs, has lead to positive changes in the matter.

• Information has also been regularly distributed so as to educate the public about the situation of the victims of child trafficking as well as violence perpetrated on them.”
Chapter III

Juvenile Justice

The Ombudsperson for Children (OC) has been advocating for several years for a full reform of the administration of juvenile justice in order to protect the rights of children who are in conflict with the law. During the reporting period government has come forward with several laws to engage in that reform. The Community Service Order Act was passed on 12 May 2009. In the meantime the Juvenile Offenders Bill is being finalised. The Reform Institutions Act 1988 is also in the process of being amended.

Article 40 of the Convention on the Rights of the Child provides that:

“1) States Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child assuming a constructive role in society.”

On 25 April 2007, the OC had sent a Report to the Prime Minister on the Correctional Youth Centre (CYC). Following an enquiry on the way that inmates were being treated, and more particularly on allegations of torture, inhuman and degrading treatment on a young inmate, she made proposals on immediate reform needed to make this centre more humane and more compliant with international guidelines. She also made recommendations on the need to engage in a general reform of the administration of juvenile justice. The OC referred the Prime Minister to the Mackay Report and to the Report of judge Ahnee dated 26 May 1999. She also drew his attention to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty of 1990.

She drew the attention of the Prime Minister to the recommendations made by the CRC Committee after Mauritius had submitted its second report in 2006.

“The Committee welcomes the information that the juvenile justice system will be reviewed, but remains concerned about the lack of a clear legal provision for the minimum age of criminal responsibility. The Committee is furthermore concerned about the limited use of alternative socio-educational measures and the frequent use of deprivation of liberty.”
The Committee recommended that the State Party:

“(a) Establish by law a minimum age of criminal responsibility set out at an internationally acceptable level;
(b) Increase availability and accessibility of alternative measures for child offenders using probation services;
(c) Take all necessary measures, in addition to the ones listed in (b), to limit the de facto use of deprivation of liberty, and ensure that it is genuinely used only as a last resort; and
(d) Regularly conduct training programmes concerning relevant international standards for all professionals involved with the system of juvenile justice.”

The Community Service Order (Amendment) Act 2009

The Act provides that a Court may make a Community Service Order (CSO) in the case of a minor between the ages of 16 and 18 who is sentenced to imprisonment. The duration of the CSO is predetermined and the Second Schedule of the Act provides for the number of hours to be performed. The minimum number of hours is 60, corresponding to less than one month imprisonment.

The OC has had the occasion to propose that even younger children could be enlisted either under this scheme or a similar scheme which would however not correspond to actual unpaid “work” because the minimum age for work is 16 years. The OC has proposed that younger offenders could do handicraft, art, or help NGOs with what would otherwise be voluntary work. As it is, several institutions caring for women, children, the handicapped and the elderly are already registered to receive those who will be performing a CSO.

The Probation of Offenders (Amendment) Act 2009

Article 40(4) of the CRC provides that “a variety of dispositions, such as care, guidance, supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well being and proportionate to their circumstances and the offence.”

The Probation of Offenders (Amendment) Act goes a long way towards achieving the objectives set out in the CRC. Its objective, as set out in the explanatory memorandum of the Bill, is to amend the law to allow a court to deal more efficiently with probationers, namely by imposing an attendance centre requirement (that the probationer should attend a centre which is designated by the Commissioner of the Mauritius Probation and Aftercare Service) (MPAS), a drug or alcohol treatment requirement, a curfew requirement (that the probationer should remain indoors, at a place designated by the
Commissioner excluding an institution, on specified days and hours to be designated), and a residence requirement (to reside for a period of not more than 12 months inside an institution run by the MPAS which includes the Probation Hostel for Boys and the Probation Home for Girls). The last two orders apply to minors only.

These new provisions will certainly help to diminish custodial sentences. In all these cases, the probationer is placed under the supervision of a probation officer. This necessarily implies that there must be more probation officers and that new recruits must be properly screened and trained.

As regards officers who have been in the service for a while, they must be regularly evaluated, including psychologically in order to ensure that they are fit for this sensitive work that they have to perform. This of course is a must for many other categories of officers specially those employed to interact with children and young persons who are either victims or authors of crimes and violence. A sad event recently came to light about a probation officer who had disappeared for a while and who had been found in a very bad state wandering without any specific purpose. The OC appealed to the MPAS not to allow that officer to continue working in the Probation Home for Girls. The officer has been transferred to the head office.

**Court procedures**

Article 40 (2) b provides that States Parties shall ensure that all children accused under the penal law have certain guarantees.

(i) “to be presumed innocent until proved guilty according to law.” That is the case in all trials in Mauritius.

(ii) “to be informed promptly and directly of the charges against him or her and, if appropriate through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation of his or her defence.” This is not always respected. There have been cases when minors are interrogated in the absence of their legal guardians. The latter are then called later to sign the statement sheet as if they had witnessed the actual giving of the statement. The attention of the Commissioner of Police has been drawn to this practice. Further there is a problem if parents refuse to assist the depositions of their children. There have been cases recently when the CDU have explained that they cannot provide this service, especially as they assist the victims, sometimes in the same cases. The OC has written to the Minister of Women’s Rights, Child Development and Family Welfare to request her to find a solution to this problem by approaching her colleagues the Attorney General and the Minister of Social Security, National Solidarity and Senior Citizens Welfare and Reform Institutions.

As concerns lawyers, legal aid is available if the minor asks the court for same but no lawyer is available when he is arrested unless his family have the means to retain the services of a lawyer. Often they are poor and totally ignorant of their
child’s rights. Further the Ministry of WRCDFW does not provide for this kind of service as they only employ lawyers to give legal advice.

(iii) “to have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal and other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians.” Unfortunately, despite promises to shorten the delay for trials and many reforms which would make this possible, the delay is still sometimes too long.

(iv) “Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality.” Fortunately if a confession has been made under threat or duress, and without the presence of a responsible party, the minor’s lawyer can successfully challenge the production of such a confession before court. If the minor or his parents complain to the Ombudsperson for Children, it is possible to investigate the matter to see whether the rights of the minor has been respected or not and make recommendations to the Commissioner of Police.

(v) “If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law.” Appeal is possible.

(vi) “To have the free assistance of an interpreter if the child cannot understand the language used”. Interpreters are available.

(vii) “To have his or her privacy fully respected at all stages of the proceedings.” Logically this should be the case as the Magistrates sit in chambers as magistrates of the Juvenile Court. But the privacy of minors are hardly respected as they are made to wait in inappropriate places and can be seen by one and all, before and after proceedings. Further though the press respect the right to privacy of victims, they do not apply the same ethical rules with regard to minors who are in conflict with the law.

The OC also specifically placed emphasis on the need to have trained personnel to deal efficiently with a proper and swift administration of juvenile justice; to recruit judges who are specifically trained in the delivery of juvenile justice; to ensure that the courts also monitor their own orders by working with other services. This is important so that there is some follow up after judgement. These matters have been discussed with all concerned.

The proposal to introduce proper community reintegration of minors seems to be making its way at least in the Rehabilitation Youth Centre (RYC).
The Juvenile Offenders Act

In the reform which is forthcoming, there must be provision for a proper Juvenile Court and for the respect of all the provisions of the CRC and of the rules and guidelines of the United Nations as explained above.

The Juvenile Offenders Act 1982 has been amended several times. But it still needs to be revised in the context of new developments. The forthcoming amendments provide for the following diversionary measures:

- juveniles apologising to the victims;
- juveniles to be under the supervision of a probation officer for a certain duration; (as explained above)
- juveniles to attend programmes on social skills;
- physical or monetary reparation by the juvenile to the victim;
- juveniles to effect unpaid work for the community. (already provided for those under 16 by the Community Service Order Amendment Act as explained above).

The Act will also introduce the supervision of juveniles pending their trial. As the UN Committee drew the attention of government to the issue of uncontrollable children, the amendment will address this issue by proposing intermediate measures in order to avoid institutionalising them on a first application by parents.

This is a very important reform as it will reduce the prison population of youth to its bare minimum. Children having committed minor crimes will get a chance to make amends and avoid the vicious cycle of being put behind bars again and becoming hardened criminals. The positive impact on the law and order situation will be considerable.

The Reform Institutions Act

The Reform Institutions Act 1988 is also being amended to provide for a through care system for juveniles in the custody of the Rehabilitation Youth Centre (RYC). This means that the youngster will be receiving care on a continuous basis from a probation officer from his date of placement at the RYC or CYC.

The Ombudsperson for Children is also looking forward to the proposals of the prison expert, Dr. Shane Bryans, who has been put at the disposal of the authorities by the UNDP for the purpose of drafting up-to-date Human Rights-compliant Standing Orders for the Prison service. These will of course also concern the CYC.
Children beyond control

The practice of placing children declared to be beyond control in government institutions has been criticised for a long time. In 2006, the UN Committee (UNCRC) has recommended that Mauritius should abolish such placement which was done on the basis of an affidavit sworn by the parents and presented to a Juvenile Court. The Committee called on our country to provide families who have difficulties in the upbringing of their children with necessary support and counselling services.

In her Report to the Prime Minister, the OC appealed once more for a review of this practice. It appears that there are already cases of mediation of the Probation Service with parents which have given results with regard to so called uncontrollable minors. The children are not placed the very first time that parents apply. In this respect however, it is important to invest in preventive measures. It is important to be creative in finding solutions that will be appropriate to keep such children busy so that they do not go astray.

Civic Service

The proposal to introduce a civic service in Mauritius seems to be making its way. This would be the best preventive measure that our country can introduce. There have already been several meetings at the Ministry of Finance and Economic Empowerment. As a first step, the Ministry of Youth and Sports has been invited to expand the Second Chance programme as a building block. But no information was made available from that Ministry nor the Ministry of Education, Culture and Human Resources on progress made. In the meantime the country had to face the A/H1N1 virus and all other issues have become secondary.

In answer to parliamentary question B 719, the Prime Minister declared on 7 July 2009 in the National Assembly that there had been brainstorming on several possibilities “with a view to further consolidating the process of nation-building ...in response to ... the whittling down of moral, social and spiritual values in our society and...concurrent rise in anti-social behaviour and also lack of discipline among some of our youth, even grown-ups...” The Prime Minister enumerated the various initiatives that exist at the level of different ministries in terms of community involvement of youth. He declared that he was in favour of such a service and discussed the need to start with a voluntary service in the initial stage, at least. He mentioned that preliminary discussion had already started at the level of the Ministry of Finance.
The Rehabilitation Youth Centre (RYC)

Some progress has also been made at the level of the RYC. The situation was very bad to the point that there was a mutiny in 2005 at the institution for girls. The RYC for girls caters for several categories of children including those who are on remand or have committed important offences, whereas, for boys, there are two separate institutions, the RYC and the CYC. Unfortunately, at this stage this has not changed but one can hope that, with the adoption and promulgation of the new laws mentioned above, the situation will change.

The population has diminished by about 10 inmates. Normally at the RYC girls there was an average of 30 and now it is more an average of 18 to 20.

There are some inmates who are taking CPE exams and all of them are receiving some form of education or training. Girls are specialising in beauty care and hairdressing. Boys are doing electricity and gardening. They have the possibility to take the IVTB foundation course and choose their specialisation for the second year. Some of them are enrolled in the IVTB second chance programme which gives them proficiency in literacy and numeracy and also help them to gain self confidence. Some of these adolescents are interacting with the community through debates, or sports competition. They also have art, drama and music classes.

The OC commends the efforts being made overall to deal with the issue of children in conflict with the law. There has obviously been a change of mindset. The time when the cases of such children was considered to be desperate and all that could be envisaged was to keep them away from society is now behind us. Our decision-makers seem to have understood what reform and rehabilitation really mean. They also seem to have adhered to the general UN principles in this respect. It is however important that the full reform takes place including reform of the judicial aspects of the question.
Chapter IV

Education

Education is a fundamental human right. It is a key factor to reducing poverty, child labour, and to combating various scourges of society. It promotes a holistic development of children. It also contributes to the promotion of democracy, peace, tolerance and development. The right to education was recognised as from 1948 in the Universal Declaration of Human Rights. Article 26 of the Declaration reads as follows:

1. *Everyone has the right to education.* Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. *Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.* It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. *Parents have a prior right to choose the kind of education that shall be given to their children.*

The right to education has been recognised in all major Human Rights Conventions like the Convention on the Elimination of all forms of discrimination against Women (CEDAW), the Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child (CRC) among others. Article 28 and 29 of the CRC read as follows:

**Article 28**

1. *States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:*

   (a) *Make primary education compulsory and available free to all;*

   (b) *Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;*
(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Made educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention.

Article 29

1. States Parties agree that the education of the child shall be directed to:

   (a) The development of the child’s personality, talents and mental and physical abilities to their fullest potential;

   (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

   (c) The development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

   (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

   (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

The importance of Article 29 of the CRC is far reaching as it sets out the goals of education, as agreed by all States Parties, which are the holistic development of the full potential of the child including development of respect for human rights, and an enhanced sense of identity and affiliation. It also aims at promoting his or her socialisation and
interaction with others and with the environment. It also adds a qualitative dimension to the right to education recognised in article 28. It insists upon the need for education to be child-centered, child friendly and empowering. Furthermore it promotes the participation of children in school life, the creation of school communities and student councils, peer education and peer counselling and the involvement of pupils in school disciplinary proceedings as part of the process of learning and experiencing the realisation of rights.

In Mauritius, the education sector is governed by the Education Regulations of 1957 and the Education Act of 1982 and their various amendments. In the 1940’s, government provided free primary education for all children, but it was not compulsory. It is in 1982 that primary education was made compulsory. In 1976, it was decided to provide free secondary education. However, regarding primary education, despite the fact that we have attained an almost universal enrolment, we have not yet reached the Jomtien/Dakar target regarding the number of learners attaining the minimum learning competencies level at the end of the primary cycle. In Mauritius this is understood as meaning passing the CPE exams. The target being 80% of passes and the present pass rate being around 65%. The ADEA report of 2006 made the following observation on the access and delivery of primary education in Mauritius.

*Mauritius has achieved commendable success in providing universal access to basic opportunities through its well-established education system. However, the differences in achievement scores, for children attending the same level of education suggest that our system may not be addressing learning difficulties. Certainly, many sources of education inequalities exist. When questions about equal education inputs, processes and outcomes are raised in view of the Jomtien and Dakar objectives, we find that we are not yet meeting basic learning needs and ensuring a minimum level of competencies for all. Reforms in the primary education system must be geared towards reducing the differences in pupils’ achievements as they progress in school.*

During the past two decades, four attempts to reform education were made, namely through:

1. The Master Plan of Education of 1991
3. The Education Reforms 2001-2005 presented in the following documents:
   - Ending the Rat race in Primary Education and Breaking the Admission Bottleneck at Secondary Level – The Way Forward (2001)
   - Curriculum Renewal in the Primary Sector (2001)
   - Quality Education for All (2003)
4. The strategy for Reform: Towards a Quality Curriculum of 2006

All of these have brought some major changes in the education system like:
• Changes in the school textbooks
• Extension of school hours
• Introduction of the ZEP project in the primary sector
• Introduction of the numeracy and literacy project
• Abolition of ranking for the CPE
• Construction of new State Secondary Schools (SSS)
• Compulsory education up to the age of 16
• Introduction of the Pre-vocational cycle for children having failed the CPE twice
• Introduction of ICT as a subject at primary level
• Reintroduction of competition at the CPE with the labelling of some schools as National Colleges admitting only those who attain 4A+
• The setting up of the Early Childhood Care and Education Authority (ECCEA)

However, it is very unfortunate that none of these reforms have been fully implemented. There are many reasons for this. First there has been resistance from different stakeholders. Second no specific evaluation been made to assess the impact of these changes on the Mauritian society. Third, every change of government brings a change in strategy and the period of five years has been too short a period to see the fruit of any one strategy.


We shall now examine sector by sector.
1. **The EARLY CHILDHOOD CARE AND EDUCATION (ECCE)**

The proposals of government in the strategy plan are reproduced below:

### 3.1.3. **Critical Challenges**

1. Address the problem of out-of-school children in the age group due to absolute poverty
2. Ensure that a proper regulatory framework is in place with suitable norms and standards to overcome disparity in pre-schools.
3. Adopt pro-active measures for the early detection of children with special needs and addressing these.
4. Adapt the Curriculum to ensure readiness for primary school
5. Ensure professional development at all levels

### 3.1.4. **Strategic Goals**

1. Review legislative and regulatory framework for the provision of ECCE
2. Ensure access of all children aged 3 to 5 years to pre-primary education
3. Establish a network for a holistic approach to ECCE
4. Improve the quality of learning environments
5. Embed technology in the system
6. Undertake regular review of curricula
7. Ensure that all pre-primary educators are fully trained and qualified
8. Encourage and support the inclusion of children with special needs and those from disadvantaged socio-economic backgrounds
9. Foster research and development in ECCE
10. Enhance professional development for the general improvement for early childhood education

*Source: Education & Human Resources Strategy Plan 2008-2020*
The Ombudsperson for Children’s Office has been collaborating with the Ministry of Education, Culture and Human Resources and the Mauritius Institute of Education in the promotion and the pedagogical review of the ECCE for the past years.

During the period September 2008 to July 2009, Mr. Bawamia, Investigator contributed in the review of curriculum guidelines carried out by the Mauritius Institute of Education.

Last year the Ombudsperson for Children also made recommendations to the Deputy Prime Minister and Minister of Finance and Economic Empowerment to have a special consideration for deprived children to access pre-primary school. The latter has agreed to the recommendations and provided Rs. 395 M. in the 2008/09 budget to ensure that:

(i). all poor children of pre-primary school-going age attend school,

(ii). these children are provided with a decent lunch,

(iii). parents are trained to get a decent job with sustainable income,

(iv). social problems are dealt with.

The Ombudsperson for Children, welcomes the setting up of the ECCEA as well as the project of making Mauritius a ‘centre d’excellence’ in the region in the field of ECCE. The OC reported very extensively on Early Childhood Care and Education in her Fourth Annual Report (September 2006 – 2007) which can be accessed on the website.
2. The Primary Education Sector

In the strategy plan 2008-2020, the Ministry of Education, Culture and Human Resources (MOEHR) made the following proposals for the primary sector.

<table>
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<tr>
<th>Overall Goal</th>
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<tr>
<td>The overall goal of MOEHR for primary education is to sustain equitable access to quality education, ensuring that all learners attain high levels of achievement in literary, numeracy, information and communications technology and essential life skills as the basis for lifelong learning.</td>
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<th>Critical Challenges</th>
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<td>1. address the problem of high failure rate at the end of the primary cycle and make public spending on education become more core-efficient</td>
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<td>2. review the purpose of CPE examinations</td>
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<td>3. move towards the elimination of the necessity of and reliance on private tuition</td>
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<td>4. integrate a remedial education programme in the curriculum</td>
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<td>5. support the integration of children with special education needs in the regular school system</td>
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<td>6. gradually phase out ZEP schools with integration of ZEP best practices in all primary schools</td>
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<td>7. empowering heads of schools, giving them more autonomy and increasing at the same time their accountability to produce results through the setting up of performance indicators</td>
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<tr>
<th>Strategic Goals</th>
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<tr>
<td>1. Improve equity of access to education</td>
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<td>2. Provision of quality education to all</td>
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<tr>
<td>3. Achieve gender equality</td>
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<td>4. Improve efficiency of school system</td>
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Source: Education & Human Resources Strategy Plan 2008-2020
1. **Private tuition and the CPE**

The Ombudsperson for Children welcomes the decision of the Ministry of Education, Culture and Human Resources to prohibit private tuition in Standard IV. However, she believes that this is not enough. Our children are being deprived of many rights like the right to rest and leisure, to be a member of an association or the right to engage in play and recreational activities appropriate for their age. They cannot find time to participate freely in cultural life and the arts as so much of their time is spent in private tuition and other academic activities. The development, growth and socialisation of these children are thus negatively affected.

Private tuition also creates a situation of inequality among children as children who are financially better off can pay to have extra coaching leaving children from middle class or poor families behind. Children having learning difficulties, or who are slow learners, are also neglected as the system is too competitive. The Ombudsperson for Children is of the opinion that private tuition should be given to pupils individually to respond to specific problems faced by each child. To enable this, she recommends that competition, in any form, be removed from the system and that children should be admitted in secondary schools nearer to their place of residence and not based on their performance as is now the case. This system defeats the so-called regionalisation.

Point 3.2.3 (2) above provides for the review of the purpose of CPE examinations. However, on page 61 of the strategy plan document it is recommended that “The CPE examination in its present form will consequently remain in place until such time that, in the light of the various measures proposed and the determination of their impact, consideration be given to its overall review”. This means that in the meantime our young children will continue to be abused by this unjust system.

The Ombudsperson for Children would like to draw the attention of everyone to the fact that the current system, as it is being implemented, is in contradiction with Article 29 of the CRC. The UN Committee on the Rights of the Child’s General Comment No. 1 on the aims of education which explains in detail the meaning of article 29 of the CRC and its underlying principles, is reproduced as annex II in this report.

During the reporting period, the Ombudsperson for Children requested the Ministry of Education, Culture and Human Resources to allocate another school to four children whom she considered as having valid reasons to be transferred. Two of them were separated from their identical twin brothers, and the two other were asthmatic. However, the Ministry did not accede to her request. The reasons given to her were that these children had a lower aggregate and could not be admitted in the requested regional SSS. These reasons showed that there is still a ranking system even for the admission in regional colleges. The Ministry also stated that residence as criteria to be admitted in a regional SSS is considered only in cases where there is a tie. These cases clearly show that this system is in violation of the CRC. It is not in the best interest of children
because it does not take into account specific needs of children having certain psychological or medical problems.

The Ombudsperson for Children is of the opinion that the Mauritius Examination Syndicate and the Ministry of Education, Culture and Human Resources should give a special consideration to children having specific problems like being twins or suffering from certain illnesses.

2. The language issue

In 2006, the UN Committee on the Rights of the Child made the following comment regarding the language of instruction: “It (the UNCRC) is also concerned that English as the official language of instruction in schools is not supplemented by educational materials in Creole and recommended that the State Party (i.e Mauritius) should ‘develop a policy regarding the use of Creole in the Early Childhood Development (ECD) stage and at primary levels’.

In the strategy plan 2008-2020, the following proposal was made regarding the language of instruction:

“The language of instruction in schools is different from the language commonly spoken at home or in the immediate environment of the child. Mauritius faces a situation where the ‘official’ languages used at school (English and French) are substantially different from the language(s) of the environment from which the learners come. It is recognized that better learning outcomes in the ‘official’ language become a reality only after gradual exposure to it. In other words, there cannot be a ‘total immersion’ in the ‘official’ language at the very early stages: keeping the timing in view is paramount.

But this also necessitates a conceptual understanding on the part of the teacher regarding multilingualism and/or second language acquisition/learning. Teachers shall accordingly be trained on the impacts of multilingualism and accompanying teaching methodologies in order to take advantage of this great resource of Mauritian children, rather than allow it to serve as an obstacle to their learning”.

The OC commends the Ministry for addressing this issue which is considered as one of the major issues which leads to a high percentage of failure at CPE as well as a poor mastery of both English and French even by those who succeed.

In the above proposal however, at no time does the Ministry of Education, Culture and Human Resources refer to the production of handbooks in Creole. The proposal itself is not clear as the final outcome is not mentioned.

The OC expresses her appreciation to the Bureau d’Education Catholique for introducing written and spoken Creole in its schools

3. The ZEP school project
Point 3.2.3 (6) of the strategy plan reads: “gradually phase out ZEP schools with integration of ZEP best practices in all primary schools”.

The Ombudsman for Children welcomes the idea of integrating the best practices of ZEP schools in all primary schools as she believes that all schools have certain problems similar to those experienced in ZEP schools. However, she does not agree with the phasing out of ZEP schools. These schools should be considered beyond the performance at CPE level as they are located in deprived areas. According to the ‘Project Document to improve the Level of Educational Achievement in Primary Schools in Deprived Areas’ signed by the Hon. Minister D. Gokhool, the Ag. Director-General at the Ministry of Finance and Economic Empowerment and the Resident Representative of the UNDP on 24 March 2006, it is stated that the ZEP project is related to the UN Millenium Development Goals 1 and 2 which are:

**MDG 1: Eradicate extreme poverty and hunger**
- Reduce by half the proportion of people living on less than a dollar a day
- Reduce by half the proportion of people who suffer from hunger

**MDG 2: Achieve universal primary education**
- Ensure that all boys and girls complete a full course of primary schooling

The overall objective of the project and the main fields of action as set in the project document are reproduced below:

*The overall objective of this project is to support the Ministry of Education and Human Resources to fulfil its commitment to achieve the education related UN Millennium Development Goals 1 and 2 as well as the EFA goals by 2015. The actions identified to meet the above has been assessed to be:

- Reducing school failure in deprived areas, as this is a major determinant of poverty. This will be addressed by strengthening the leadership and management skills of staff at different levels in ZEP schools; and by better integrating ZEP schools in their socio-economic environment.

- Developing a child centred inclusive pedagogy and providing relevant training programmes to the teachers/ senior teachers in order to address their performance weaknesses. Hence, ensuring enhanced quality in the teaching and learning processes.

- Empowering the parents of the pupils by organizing them in fora and providing them with appropriate skills, knowledge and attitude to enable them to participate more proactively and effectively in community development programmes.

- Building partnerships and collaborative relationships through both structured and informal networking activities to ensure a well co-ordinated action between all the
school services and the relevant Government agencies and ministries, with the final objective of promoting learning communities that nurture the interests of children.

- Monitoring, evaluating and documenting the implementation and the progress of the ZEP project, through the development of a key performance indicators system, whose results are disseminated among key stakeholders.

The Ombudsperson for Children proposes that the ZEP project in its present form be extended to schools located in regions having the same profile as those where the ZEP schools are located whether or not their performance rate is above 40% at the CPE. A social index, based of the Human Development Index of the United Nations, could be established to select the schools which need to be added to the ZEP school list. The Ombudsperson for Children firmly believes that the ZEP project is the last hope for thousands of children from deprived areas. And of course it will, in time, benefit the whole community by impacting positively on the overall development of greater sections of the population, lowering different social scourges and even improving the law and order situation.

3. **The Secondary Education Sector**

The following proposals for the secondary education sector were made by the Ministry of Education, Culture and Human Resources in the document ‘Education and Human Resources Strategy Plan 2008-2020’.
3.3.1. **Overall Goal**  
To ensure that all students are given the opportunity to successfully complete higher secondary education and embark on higher and further education and training for employability with the required maturity and confidence.

3.3.2. **Critical Challenges**
1. Address the issue of quality in the educational provision and delivery  
2. Provision of opportunity for continuous professional development of all school personnel  
3. Improvement of modes of assessment, remediation and control.  
4. Ensure greater accountability and transparency in publicly funded institutions  
5. Revisiting prevocational education to be an integral part of secondary schooling  
6. Address the problem of absenteeism and private tuition at all levels  
7. Empowering heads of schools through the provision of more autonomy and increasing accountability in the system of secondary schooling

3.3.3. **Strategic Goals**
1. Improve completion rate at upper secondary level and minimize wastage at secondary education level  
2. Improve all aspects of quality education through measurable learning outcomes  
3. Undertake regular review of curricula to respond to emerging needs of the economy and society  
4. Ensure that students obtain optimal opportunity for academic and self-development  
5. Introduce support technology in the system  
6. Continuous in-service training of school personnel at all levels  
7. Increase access to secondary education to children with special education needs  
8. Improve effectiveness of secondary school management system  
9. Ensure equity among publicly-funded schools  
10. Create a strong Quality Assurance system to secure internal efficiency and quality teaching and learning  
11. Develop a decentralized management and delivery system that supports greater community participation
1. **Pre-Vocational Education (PVE)**

The OC notes with concern that the PVE has not been considered separately from mainstream secondary education. PVE caters for pupils who have failed twice the CPE and who have not been able to adapt to mainstream education due to several reasons which include social/cultural inadaptability, financial constraints, family problems or emotional problems. PVE is a second chance to these children. A differentiated curriculum, with a participatory approach to teaching and learning and some co-curricular activities like music, drama, arts, handicrafts, agriculture need to be developed to motivate these children and boost up their self-esteem. PVE should also have a well prepared life skills education component as well as sexuality education.

The OC proposes that the special attention given to children in Pre-voc schools should be improved and consolidated. Services provided by parent mediators, liaison officers in ZEP schools could be extended to Pre-vocational institutions to support these children to rebuild themselves and perform better academically.

2. **Sexuality Education**

On several occasions during the past years, the OC made recommendations to the Ministry of Education, Culture and Human Resources on sex education. She regrets to note that this issue has not been considered at all in the strategy plan.

UNESCO has prepared guidelines for member states on this issue. These international guidelines aim at assisting education, health and other relevant authorities in the development of sexuality education programmes and material. This is an important tool for the Ministry of Education, Culture and Human Resources.

Of course any such programmes must be culturally-relevant and age-appropriate. And since parents are often uneasy about sexuality education, it is important to explain the objective from the outset and build support at community level. To start with some modules can be introduced in other classes like English, French, Biology etc…

Just merely rejecting any form of sexuality education would be irresponsible, specially in view of the increasing rate of sexual violence, of unwanted teenage pregnancies and of the increase in HIV/AIDS.

The goals of sexuality education are described as follows:

“The primary goal of sexuality education is that children and young people are equipped with the knowledge, skills and values to make responsible choices about their sexual and social relationships in a world effected by HIV and AIDS.

Sexuality education programmes usually have several mutually reinforcing objectives:
• To increase knowledge and understanding;
• To explain and clarify feelings, values and attitudes;
• To develop or strengthen skills; and
• To promote and sustain risk-reducing behaviour.

In a context where ignorance and misinformation can be life-threatening, sexuality education is part of the duty of care of education and health authorities and institutions. In its simplest interpretation, teachers in the classroom have a responsibility to act in the place of parents, contributing towards ensuring the protection and well-being of children and young people. At another level, the International Guidelines call for political and social leadership from education and health authorities to respond to the challenge of giving children and young people access to the knowledge and skills they need in their personal, social and sexual lives."

Human Rights Education (HRE)

The OC also notes with concern the absence of Human Rights Education in the strategy plan 2008-2020. In 2007, Mr. Ismaïl Bawamia, Investigator at OCO participated actively in the Task Force in Human Rights Education set up by the Ministry of Education, Culture and Human Resources. An International Consultant, Mrs. Dakmara Gorgescu of the International Bureau of Education/UNESCO visited Mauritius in August 2007 to facilitate the integration of HRE in the school curriculum. However, in 2008 and 2009, the task force did not meet at all and the OC is still waiting to be informed about the future actions to implement HRE in the curriculum.

In its Concluding Observations in 2006, the UNCRC, made the following comment: “the Committee expresses its concern at the lack of human rights education in the school curriculum” and recommended that the State Party should ‘introduce human rights education, including the principles and provisions of the Convention on the Rights of the Child, in the school curriculum’.

Indiscipline at School

Last year the Ministry of Education, Culture and Human Resources came forward with a proposal of having a ‘code of conduct for pupils’. The OC supported this effort and proposed to have a ‘Student Charter’ instead as the charter is a wider concept addressing both the rights and responsibilities of pupils. She also proposed her help and that of her Investigators in the preparation of the charter. One year later she regrets to note that no follow up was given to her proposal nor to the code of conduct.
In July 2009, the Ministry of Education, Culture and Human Resources informed the OC that a Self Defence Project has been introduced in secondary schools to curb the problem of indiscipline. 125 Educators have already been trained. The OC examined the project and concluded that it is not an educational programme which will reduce violence and indiscipline at school. It is difficult to understand how self defence techniques will be used by the educators and how children will benefit from such a programme. She proposed that a well prepared educational programme be set up comprising of martial arts, life skills education, Human Rights Education and Education in Human Values. She recommended that any programme should be based on sections 20 to 31 of the UN Guidelines for the Prevention of Juvenile Delinquency also known as the ‘Riyadh Guidelines’. These sections are reproduced below.

20. Governments are under an obligation to make public education accessible to all young persons.

21. Education systems should, in addition to their academic and vocational training activities, devote particular attention to the following:

(a) Teaching of basic values and developing respect for the child’s own cultural identity and patterns, for the social values of the country in which the child is living, for civilizations different from the child’s own and for human rights and fundamental freedoms;

(b) Promotion and development of the personality, talents and mental and physical abilities of young people to their fullest potential;

(c) Involvement of young persons as active and effective participants in, rather than mere objects of, the educational process;

(d) Undertaking activities that foster a sense of identity with and of belonging to the school and the community;

(e) Encouragement of young persons to understand and respect diverse views and opinions, as well as cultural and other differences;

(f) Provision of information and guidance regarding vocational training, employment opportunities and career development;

(g) Provision of positive emotional support to young persons and the avoidance of psychological maltreatment;

(h) Avoidance of harsh disciplinary measures, particularly corporal punishment.

22. Educational systems should seek to work together with parents, community organizations and agencies concerned with the activities of young persons.
23. Young persons and their families should be informed about the law and their rights and responsibilities under the law, as well as the universal value system, including United Nations instruments.

24. Educational systems should extend particular care and attention to young persons who are at social risk. Specialized prevention programmes and educational materials, curricula, approaches and tools should be developed and fully utilized.

25. Special attention should be given to comprehensive policies and strategies for the prevention of alcohol, drug and other substance abuse by young persons. Teachers and other professionals should be equipped and trained to prevent and deal with these problems. Information on the use and abuse of drugs, including alcohol, should be made available to the student body.

26. Schools should serve as resource and referral centres for the provision of medical, counselling and other services to young persons, particularly those with special needs and suffering from abuse, neglect, victimization and exploitation.

27. Through a variety of educational programmes, teachers and other adults and the student body should be sensitized to the problems, needs and perceptions of young persons, particularly those belonging to underprivileged, disadvantaged, ethnic or other minority and low-income groups.

28. School systems should attempt to meet and promote the highest professional and educational standards with respect to curricula, teaching and learning methods and approaches, and the recruitment and training of qualified teachers. Regular monitoring and assessment of performance by the appropriate professional organizations and authorities should be ensured.

29. School systems should plan, develop and implement extracurricular activities of interest to young persons, in co-operation with community groups.

30. Special assistance should be given to children and young persons who find it difficult to comply with attendance codes, and to "drop-outs".

31. Schools should promote policies and rules that are fair and just; students should be represented in bodies formulating school policy, including policy on discipline, and decision-making.
4. **Technical and Vocational Education and Training (TVET)**

The following proposals were made for the TVET sector in the strategy plan 2008-2020

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**3.5.1. Overall Goal**

An efficient and effective TVET system responsive to the present and future needs by providing a skilled and flexible workforce for sustainable development.

**3.5.2. Critical Challenges**

In the wake of globalization and the development of a knowledge-based economy, the TVET sector is facing serious challenges which call for reforms aimed at improving governance, access, financing, quality and relevance, role of the private sector (private training institutions and employers) and the acquisition of skills in a non-formal or informal environment. The critical challenges facing TVET may be highlighted as follows:

1. Improving the perception of TVET which suffers from the stigma of a track fit only for the academically less endowed and representing a ‘dead end’
2. Ensuring a balance between the objective of developing employable skills to help alleviate poverty and acquisition of knowledge and skills for global competitiveness.
3. Ensuring greater and more effective responsiveness of TVET to existing and emerging labour market needs.
4. Creating articulation pathways between TVET and general education
5. Developing a lifelong learning culture
6. Assuring greater and more active participation of key stakeholders, particularly employers, in the development of TVET.
7. Rationalisation and optimum use of resources

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**3.5.3. Strategic Goals**

1. Increased access and improved equity in TVET
2. Improved articulation between TVET and mainstream education
3. Enhance the quality and relevance of TVET
4. Strengthen management of the TVET system
5. Sustained funding of TVET
6. Make Mauritius a Regional Hub for TVET

*Source: Education & Human Resources Strategy Plan 2008-2009*
The OC welcomes the proposals made by government for this sector as they offer opportunities for children who do not do well academically to grow and progress in life. At the same time it will take into consideration the need to demarginalise the system and improve its image.

Furthermore she recommends that a special effort should be made to make these courses accessible to children placed in shelters, or committed to the Rehabilitation Youth Centres, the Correctional Youth Centre and to children who are marginalised including street children. These children should not be sent to specialised schools but to public institutions as recommended in the UN documents like the UN Rules for the Protection of Juveniles deprived of their Liberty (the JDLs). Section 38, 39 and 40 of the LDLs read as follows:

38. *Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.*

39. *Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.*

40. *Diplomas or educational certificates awarded to juveniles while in detention should not indicate in any way that the juvenile has been institutionalized.*

5. **Other Recommendations made to the Ministry of Education, Culture and Human Resources**

1. **Natural disasters and other hazards**

In 2008 the OC made the following proposal on the abovementioned topic to the Prime Minister and to the Minister of Education, Culture and Human Resources.

**Proposals from the Ombudsperson for Children**

1. In the best interest of the child, the Ministry of Education, Culture and Human Resources should declare all schools closed whenever an Act of God or
unforeseen event e.g. rioting, social unrest is likely to happen or occur, whatever may be the risk, and **irrespective of the time it may happen or occur**.

2. Each school (pre-primary, primary, and secondary)/training institution has its own environmental, geographical, topographic and other specificities. **Heads of schools/training institutions should be delegated power to act and use their discretion in the light of the prevailing circumstances and situation. They should use their judgement to assess to potential risks that exist or may arise and take initiative either to retain or release children.** They must bear in mind the possibility that they may be liable of “culpable omission” under the Criminal Code.

3. In case of the sudden happening of an Act of God (**force majeure**) (e.g. flood) or an unforeseen event (e.g. rioting, social unrest) during school hours, Heads of schools/training institutions should continue to keep the children in their custody, until they feel it is reasonably practicable, safe, and secure to release them. The latter should be released and placed in secure and safe hands e.g. parents, responsible parties, and accredited drivers of school vans/buses.

4. Whenever an Act of God is anticipated during school hours, parents should be released from work (public/private), 3 hrs prior to that happening to enable them to have ample time to fetch their children. Heads of schools/training institutions should inform the public by media (radio, TV, etc…) and phone parents, responsible parties and drivers of school vans/buses. They should ensure that children are released in secure and safe hands.

5. Children should be sensitised on the precautionary measures to be taken in case of natural disasters and unforeseen events. They should be made aware of the risks and dangers that they may expose themselves to. This sensitisation should be done in a systematic way at school by specially trained teachers, youth leaders or other resource persons, on a quarterly basis. This should be the responsibility of the Ministry of Education, Culture and Human Resources.

6. Parents should be educated about their responsibilities in cases of natural disasters and unforeseen events. This sensitisation should be done through the mass media and at the workplace involving the employers. It should be prepared and delivered by qualified persons/social workers and be coordinated by the Ministry of Women’s Rights, Child Development and Consumer Protection as part of its Parental Empowerment Programme. Other Ministries may also participate.
2. **A/H1N1 Virus**

In the same spirit as the above recommendations. When the risk of spreading of the A/H1N1 virus became obvious, the OC recommended that in the best interests of children schools should be closed for two weeks to diminish the risk of spreading the disease. The more so as health experts had declared that young children were the vectors of the virus. At that time more than 30% of pupils were no longer attending school. The OC received information to the effect that, in some schools, up to fifty pupils were sick and had to be returned home. A few days later the Government took the decision to close all schools for 10 – 11 days.

The OC realises that this was a hard decision to take because of its impact not only on children’s studies but also on the fact that one parent at least may have to take leave from work in order to look after their small children.

The OC therefore proposed to the MBC to increase its educational programmes for different age groups. The Director of the MBC reassured the OC and informed her that a Committee consisting of the Mauritius College of the Air and the parent Ministry had already been set up to prepare for such programmes. Children who are keen on their studies adapted to this new reality.

The MWRCDFW, the BPM and the NCC organised for a series of “crackdown” operations to ensure that children were not roaming the streets or in places of amusement during this difficult period. This was a commendable decision.

**Corporal punishment**

In her past reports, the OC made the following recommendations with regards to Corporal punishment.

1. To amend existing laws and regulations so as to include a clear definition of corporal punishment and to explicitly prohibit such punishment in the family, at school and in all other settings. She proposed to define corporal punishment as ‘any form pf physical abuse administered to a child in a context of punishment or control’.

2. To sensitise parents and future parents, teachers and future teachers, carers and future carers and any other person working with children about the negative effects of corporal punishment on children. In this task the support of community and faith leaders, social workers, educators, opinion leaders and popular persons is essential.
3. To review the content of parental education and teacher education so as to empower parents and teachers in devising alternatives to corporal punishment suitable in different contexts.

4. To review the mechanisms of inquiring in corporal punishment cases at school so as to make them more impartial and effective. Other stakeholders like parents, social workers, school psychologists, parent mediators, members of students councils (where applicable) should be involved in carrying out such inquiries.

5. Children to be sensitized on their rights and responsibilities. They should be made aware that, for their own protection, they should behave in a responsible way and as far as possible stay within the social norms. Adults should, on their part, respect to a certain extent the rebellion specially of adolescents, as this is part of their character formation. Both children and adults should be made aware of the importance of dialogue in the family, at school and in all other settings.

6. Awareness programmes should put emphasis on the risk of victims of corporal punishment becoming violent and on the need to break the transgenerational cycle of violence.

7. The content of teacher training to be reviewed and include modules on:
   (a) dealing with children having behavioural problems
   (b) skills to listen to children and to detect child abuse
   (c) the referral procedure in case of child abuse.

These recommendations have not been implemented yet by the MOECHR. However, in September 2007, the OCO published a kit on Violence at School for teachers. This kit which had been prepared by a Committee involving all stakeholders including the MOECHR, aims at empowering teachers on positive and constructive ways of dealing with misbehaviour and violence at school. It is being used during OCO’s sensitisation and awareness campaigns with school staff, including inspectors, head teachers and teachers.

In this report the OC would like to reiterate her recommendations made in her past reports and urges the MOECHR to implement them the soonest possible. She specially appeals to the MOECHR to use the best interests of the child as its main standard for any decision taken.
Chapter V

Child and the Internet

Mauritius is fast moving towards becoming a cyber island and the priority of the government is to see to it that all children benefit from this opportunity. The world of information technology presents not only an asset to our youngsters but it also contains lot of risks which may jeopardize the future of our children if left uncontrolled.

Article 17 of the Convention on the Rights of the Child stipulates that “State parties should ensure that a child should have access to appropriate information, especially those aimed at promoting the well being, physical and mental health and should protect the child against any harmful influence that mass media or in particular .... printed materials and exhibitions on account of their contents, may exert on his mental and moral development”.

To be in conformity with this article and to minimize the risks that the cyber world may cause to our youngsters, the Ministry of Information Technology and Communication has worked out an Action Plan with different stakeholders namely the National Computer Board, the Prime Minister’s Office, the Information and Communication Technology Authority, the Ministry of Women’s Rights, Child Development and Family Welfare, the State Law Office, the Police IT Unit, the Ministry of Education, Culture and Human Resources, the University of Mauritius, University of Technology, the Internet Child Safety Foundation and the Mauritius Chamber of Commerce and Industry.

In view of the highly important challenges raised by this issue, the Ombudsperson for Children’s Office has delegated two officers to work in close collaboration with the Ministry to prepare the Action Plan.

The objective of the Action Plan is to ensure that our youngsters thrive in this global informatics system without any dire consequences on their social and moral development but that they should make good use of the internet.

In 2007, a study was carried out by the Internet Child Safety Foundation. Its objective was to ensure that Internet users were safe while accessing the super highway.

It was found that less than 10% of the parents monitored the websites visited by their children.

73% of the respondents stated that there were no rules applied at home with respect to the time spent on the Internet. It may vary from 3 to 6 hours, which is quite significant for a child.
The World of computer is an open gate to a wide range of information and adventures to children. The latter are easily manipulated by computer hackers and predators who are aware that children are mainly interested in downloading of games and music.

Exposure to inappropriate material whether they are sexual, hateful or violent in nature may leave children and youngsters with traumatic experiences or it may impair their emotional, moral or social development or instigate them to commit life threatening activities. For parents, a webcam is an easy and inexpensive way for a child to communicate with friends or relatives. But for a predator it is an open window to a child’s bedroom.

Cell phones and mobile phones are becoming very popular among youngsters. These devices are sometimes used to bully and harass youngsters. Text messages can sometimes be hurtful and some phones have global positioning systems and software that allow teens to broadcast their location and obscene photographs can be sent from one handset to another.

Child pornography objectifies and degrades children and may be used by abusers as a means to manipulate a child by claiming that what is happening in the picture is something that many children take part in and enjoy being part of. The exposure to images of other children in sexually abusive situation normalizes this behaviour which is then used to facilitate the above and make it difficult for children to come forward to disclose their own abuse.

A child may be subject to various abuses via the internet such as –

- **Child grooming**

  Grooming represents the initial actions taken by a child sex offender to ‘prepare’ the child for a sexual relationship. There are generally two forms of grooming, online enticement and distributing or showing pornography to a child;

- **Providing personal information on a child or financial information on family/parents.**

  No one has a right to a child’s personal information, name, age and address without the parents’ authorisation. Intrusion to a child’s privacy may expose him to substantial threats. Disclosure of personal information about one’s parents like credit card number can cause financial harm to the family.

- **Undertaking harmful activities e.g cyber bullying, brainwashing to join sects.**

  A child can receive emails or messages that are harassing thus impacting negatively on the child’s psychology.
• **Paedophiles manipulate children via internet to ultimately meet and kidnap them.**

Paedophiles often make use of email and chat rooms to gain a child’s confidence and arrange a face to face meeting. In such a situation a child is in great danger of physical and psychological harm.

A child who spends too much time on the computer is wasting a lot of his valuable instructive time. The child’s social, educational, physical and psychological development may suffer a lot because of this.

1. As at present, there are no specific legal provisions which deal exclusively with child online protection. However, there are laws which have been enacted in wider terms, and which do criminalize a number of activities which would fall under the definition of child pornography. These are:-

**Section 251 of the Criminal Code**

This is a provision criminalising the debauching of youth. It provides that-

“any person who offends against morality, by habitually exciting, encouraging or facilitating the debauchery or corruption of youth of either sex under the age of 18 shall be punished by imprisonment for a term not exceeding 10 years”.

Technically, if the internet is used by any person to debauch any child, the perpetrator can be prosecuted under this section. Further, this section provides for a higher punishment where such corruption has been excited, encouraged or facilitated by the father, mother, guardian or other person entrusted with the care of the child (not exceeding 15 years).

**Section 86 of the Criminal Code (Supplementary Act)**

This provision makes it an offence for any person to deal with obscene matters.

“obscene matter” has been defined in the Act as any obscene writing, drawing, print, painting, picture, poster, photograph, video tape, any data stored on a computer disk or by any other electronic means capable of conversion into a photograph, or any other obscene object. The definition is very wide and electronic pornographic pictures or video tapes of children would fall under this definition.

Relevant to this Section 86, one cannot
• possess such pictures or video tapes for the purposes of trade or distribution or public exhibition;
• one cannot import, export or put into circulation such obscene matters;
• one cannot take part in the business of distributing, exhibiting or lending of obscene matters;
• one cannot advertise or make known by any means that such and such person is engaged in distributing, circulating, lending obscene matters;
• one cannot advertise or make known how and from whom such obscene matter can be procured directly or indirectly.

This offence is punishable by fine not exceeding 100,000 rupees and imprisonment not exceeding one year.

This provision also makes it an offence for any person to-
- sell, lend, hire or distribute any obscene matter to a minor
- or to expose or allow to be exposed to the view of a minor, any obscene matter

Also punishable by fine not exceeding 100,000 rupees and imprisonment not exceeding 4 years.

**Furthermore, in sections 13, 14 and 15 of the Child Protection Act (CPA) 1995, provisions are made to protect the child against any type of harm.**

Section 13(1) provides that any person who ill-treats or exposes a child to harm shall commit an offence.

“harm” is defined in the act as including physical, sexual, psychological, emotional or moral injury

Section 13(2) further provides that any person who in an advertisement exploits a child by using him in such a way as is likely to cause in him, or in any child watching him, reactions which are contrary to morality or detrimental to psychological development shall be deemed to expose a child to harm.

Section 14(1)(a) of the Act provides that any person who causes, incites or allows any child to be sexually abused by him or by another person shall commit an offence.

So this provision would cover a situation where a person lures or incites a child via the internet for the purposes of sexually abusing of the child or having him sexually abused by another person.

Section 15 of the Act deals specifically with “Indecent photographs of children”

“photograph” includes data stored on a computer disk or by other electronic means which is capable of conversion into a photograph.
So the activities which have been criminalised in relation to indecent photographs of children are:

- taking such photographs
- distributing such photographs
- having in one’s possession such photographs with a view to it being published or shown
- publishing or causing to be published any advertisement with respect to the indecent photographs of children

Penalties under the CPA are much higher than under the Criminal Code or the Criminal Supplementary Code.

**Section 46(h)(i) of the Information and Communication Technologies Act 2001**

This section criminalizes the transmission or reception of a message which is of a grossly offensive, indecent or obscene character. The offence is punishable by a fine not exceeding 1 million rupees or to imprisonment not exceeding 5 years.

To ensure that children can safely access the Internet and its valuable resources without fear of falling prey to unscrupulous predators in the cyberspace the Child Safety Online Action Plan was endorsed by Cabinet in January 2009.

The main recommendations of the Safety Online Action Plan are:

A. Public Awareness Campaigns
B. Safety Measures for Schools and Public Internet Access Points
C. Best Practices for Internet Service Providers
D. Child Safety Online Legislation
E. Enforcement and Reporting Mechanisms
F. International Co-operation.

Parallel to this, a Child Safety Online Bill is in preparation, the Ministry of Information and Communication Technology and the Monitoring Committee, comprising of officers from different Ministries are investing largely on the preventive aspect:-

1. A lot of awareness campaigns are being carried out among students in various schools all around the island to sensitize them about the risks that computer represent if not used as an effective tool. Awareness campaigns are also being carried out at the level of the community and media by the ministry concerned, and the non governmental organizations, to make parents aware of their role and responsibilities towards their children while using internet.
2. Filtering is being done at the level of the GOC for public schools. As regards to private schools and public internet access points there is need to provide for proper safety measures.

3. Internet Service Providers have an important role to play to inform parents of the existence of dangerous sites on the internet and to ensure the provision of filtering to all parents.

4. As youngsters visit cyber cafés regularly, supervision of such places is highly recommended. A code of conduct should be established to ensure that children visiting such places are protected from risky sites.

5. The public should be made aware of the existing reporting mechanisms and its approach should be more proactive.

6. The setting up of cyber patrol will eventually help to protect the victims and for the enforcement of the appropriate legislation.

7. International Co-operation- Collaboration between the Police Department and the Interpol is very important especially in situations where offences are being committed from outside Mauritius.

8. To ensure better protection in this field, it is recommended that Mauritius ratifies and implements the UN Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

New challenges will always present themselves in the ever-changing dynamic cyber world. Nowadays, it is possible to access the Internet on mobile devices such as cellular telephone and other hand held devices. In such situation it would be difficult for parents to control their wards. Nonetheless, parents, educators, and those responsible for the well being of children have to initiate ongoing life skills to protect and educate our youngsters against this wonderful tool that may cause much more harm to uninformed and unsupervised children.

Up to date, no cases of abuse of child via internet has been reported to this office. Nevertheless cases of child pornography and bullying via the mobile phones have been reported. These types of cases are dealt with in collaboration with the police and the CDU to ensure the protection of the minors and also to ensure that the victims are provided with appropriate psychological assistance.

To ensure the protection and security of our children online, some safety tips have been recommended for both children and the parents. We are reproducing same to facilitate the education and sensitization by NGOs and the press in this field.
Summary of Safety Tips for Children

- Never fill out questionnaires or any forms online or give out personal information.
- Never agree to meet in person with anyone you have met online.
- Never tell anyone online where you will be or what you will be doing without Mom and/or Dad's permission.
- Never respond to or send e-mail to new people you meet online.
- Never send a picture over the Internet or via regular mail to anyone you've met on the Internet.
- Never respond to any belligerent or suggestive contact or anything that makes you feel uncomfortable.
- Always tell Mom and/or Dad about something you saw that is upsetting.

Summary of Safety Tips for Parents

- Become more computer literate and develop Internet savvy.
- Place your computer in an area of your home where you can easily monitor your child's Internet activity.
- Talk with your kids about their online friends and activities.
- Do not let your kids in chat rooms. There is currently no method to detect a disguised predator that may be lurking quietly in a chat room.
- Implement parental controls available on your online service, install protective software on your home computer, or use a filtered ISP.
- Monitor the amount of time your child spends on the Internet.
- Establish online rules and an agreement with your child about Internet use while at home or away from home.
- Watch for changes in your child's behavior (mention of adults you don't know, secretiveness, inappropriate sexual knowledge, sleeping problems, etc.).
- Remind your kids that once they post information online, they can’t take it back.
- Talk to your kids about avoiding sex talk online.
- Talk to your kids about bullying online, bullying can take many forms, from spreading rumors online and posting or forwarding private messages, sending threatening messages.
Chapter VI

Health

It would be impossible in a Report of this nature to analyse extensively the whole issue of children and health as it is very vast. However, this year it seems important to at least start addressing the issue. The OC has had to investigate in several cases relating to child abuse in relation to hospitals and their responsibility. For this reason amongst others, for the first time, a chapter has been devoted to reporting on the various issues raised during these investigations. But we also deal with some other aspects which are related to the health of children and adolescents.

Children’s rights to health

First of all let us recall the rights relating to health. Article 6 of the CRC provides that:

“1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child”.

Article 24 of the CRC provides that:

“1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. State Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. State Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
   (a) To diminish infant and child mortality;
   (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
   (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution;
   (d) To ensure appropriate prenatal and postnatal health care for mothers;
   (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the
advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. State Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. State Parties undertake to promote and encourage international cooperation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.”

Article 19 of the CRC provides that a child has a right to be protected from all forms of violence. This is also relevant to this chapter though we have discussed it thoroughly in chapter II. But, in this chapter, it is important to remind ourselves of the special duty imposed by Section 11 of the Child Protection Act 1994 on all persons exercising any medical or paramedical profession who “has reason to suspect that a child he is examining... has been ill-treated, neglected, abandoned or otherwise exposed to harm.” The said professional must immediately notify the Permanent Secretary of the Ministry of WRCDFW.

Once again it is important to refer to Section 39 A of the Criminal Code which refers to culpable omission that is “non assistance à personne en danger”.

In view of the above, it is expected that when a child attends a hospital for whatever reason, the person who attends to him must be particularly vigilant. His first duty is to treat him for whatever disease/injury that he was referred for and to help him recover. But there is also another duty to protect him so that he is not abused by anyone including his own parents or guardians.

Worldwide research has shown that most violence against children occurs at home. The OC has also undertaken a survey in four schools in May 2006. This clearly brought out the fact that children are often victims of physical violence perpetrated by their own parents. The reason for such violence, as expressed by the children themselves, is that they were disobedient.

**The degree of duty of care**

When a child is being treated in a hospital or in a health centre, the doctor or other paramedical officer examining him must be on the alert. He must be able to detect signs of abuse. These signs can be physical like abnormal cuts and bruises. But they can also be psychological/behavioural. Indeed all staff of hospitals should be trained to be able to recognize such signs and symptoms. If a child seems sad or seems to be suffering over and above the normal level which is expected for the disease or injury for which he came
for treatment, the health officer or doctor MUST try to talk to him. If the injury which he
bears does not correspond to what his parents or person who referred him explained, there
must be further examination. In some cases an Xray and/or a scan may be needed. In
most cases a social enquiry is very important. In any case it is unacceptable for the
professional dealing with him to turn a deaf ear or close his eyes. If there is suspicion of
child abuse, child neglect, or violence of any type, the case MUST be referred to the
MWRCDFW, and sometimes to the Police Medical Officers.

It is the mission of health specialists to save the lives of people. As regards children this
mission includes a high level of commitment to prevent further abuse when it is obvious
that a child is being ill-treated. The child needs protection from his abuser. Unfortunately
this year the OC had to investigate two cases of children who died of maltreatment and
extreme violence. They both died at the hands of their parents or person under whose
responsibility they were. But the worst part is that these children had both been admitted
to a State hospital, had been under the care of health specialists for several days, then they
were discharged and were allowed to go back to their ill treating parents who proceed to
kill them. Each time that the press reports these cases, there is a large section of the
population which is shocked. But then nothing happens and later on another case will take
place, until it becomes a “normal occurrence”. See selected cases at chapter X.

Alcohol and Cigarettes

The World Health Organisation in its 61st World Health Assembly adopted a resolution on
“Strategies to reduce the harmful use of alcohol”. Member States showed deep concern
about the magnitude and complexity of alcohol-related harm worldwide and emphasized
an urgent need for action to reduce its harmful effects.

The problem of alcohol and cigarettes have been deep-rooted in our society since
generations and its proliferation among the younger generation irrespective of gender is
quite significant. A study conducted for the World Health Organisation and the Ministry
of Health and Quality of Life in 2008 entitled “Global Youth Survey” revealed the
intensity of the problem of cigarettes among the youth. Some 15% of school goers
between 13-15 are regular smokers.

According to the survey, the most common age initiation to smoking is 12-13 years with
34.6% of students in Mauritius and 29% in Rodrigues. Among students below 10 years,
17.4% in Mauritius and 23% in Rodrigues have been initiated to smoking.

The main findings of this research for Mauritius and Rodrigues are reproduced at Table 1
and Table 2 below:

<table>
<thead>
<tr>
<th>Table 1: Mauritius National (Ages 13-15) Global Youth Tobacco Survey (GYTS)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prevalence</strong></td>
</tr>
<tr>
<td>28.4% of students had ever smoked cigarettes (Boys = 37.7%, Girls = 19.9%)</td>
</tr>
</tbody>
</table>
13.7% currently smoke cigarettes (Boys = 20.3%, Girls = 7.7%)
11.2% of never smokers are likely to initiate smoking next year

**Knowledge and Attitudes**
36.3% think boys and 13.6% think girls who smoke have more friends
12.2% think boys and 6.5% think girls who smoke look more attractive

**Access and Availability - Current Smokers**
22.3% usually smoke at home
51.8% buy cigarettes in a store
60.0% who bought cigarettes in a store were NOT refused purchase because of their age

**Exposure to Secondhand Smoke (SHS)**
36.1% live in homes where others smoke in their presence
73.6% are around others who smoke in places outside their home
74.5% think smoking should be banned from public places
72.6% think smoke from others is harmful to them
39.9% have one or more parents who smoke
12.0% have most or all friends who smoke

**Cessation - Current Smokers**
62.3% want to stop smoking
58.5% tried to stop smoking during the past year
76.1% have ever received help to stop smoking

**Media and Advertising**
84.9% saw anti-smoking media messages, in the past 30 days
51.4% saw pro-cigarette ads in newspapers or magazines, in the past 30 days
8.4% were offered free cigarettes by a tobacco company representative

**School**
62.9% had been taught in class, during the past year, about the dangers of smoking
36.6% had discussed in class, during the past year, reasons why people their age smoke
63.8% had been taught in class, during the past year, the effects of tobacco use
Table 2: Mauritius Rodrigues Global Youth Tobacco Survey (GYTS)

**Prevalence**
- 54.5% of students had ever smoked cigarettes (Boy = 63.1%, Girl = 47.0%)
- 19.7% currently smoke cigarettes (Boy = 26.6%, Girl = 13.6%)
- 10.8% of never smokers are likely to initiate smoking next year

**Knowledge and Attitudes**
- 41.4% think boys and 21.4% think girls who smoke have more friends
- 11.9% think boys and 9.1% think girls who smoke look more attractive

**Access and Availability - Current Smokers**
- 21.2% usually smoke at home
- 33.5% buy cigarettes in a store

**Environmental Tobacco Smoke**
- 43.1% live in homes where others smoke in their presence
- 65.7% are around others who smoke in places outside their home
- 83.6% think smoking should be banned from public places
- 79.5% think smoke from others is harmful to them
- 43.0% have one or more parents who smoke
- 18.2% have most or all friends who smoke

**Cessation - Current Smokers**
- 65.6% want to stop smoking
- 67.7% tried to stop smoking during the past year
- 75.7% have ever received help to stop smoking

**Media and Advertising**
- 71.2% saw anti-smoking media messages, in the past 30 days
- 38.4% saw pro-cigarette ads in newspapers or magazines, in the past 30 days
- 10.5% were offered free cigarettes by a tobacco company representative

**School**
- 57.0% had been taught in class, during the past year, about the dangers of smoking
- 42.1% had discussed in class, during the past year, reasons why people of their age smoke
- 55.1% had been taught in class, during the past year, the effects of tobacco use

The findings reveal a high rate of smokers among the adolescents of this bracket age (13-15) and also below 10 years. This situation and the trend of the survey are of concern as we are aware of the negative impact of cigarettes on health, more so, as those concerned in the survey are very young people.

A study published by researchers at the National Institute of Environmental Health Sciences (NIEHS), the University of Minnesota and the National University of Singapore adds to a growing body of evidence that “exposure to second-hand smoke early in life has health consequences that can last a lifetime”. Children of parents who smoke are more likely to suffer from asthma, chest infections and colds.
When a pregnant woman smoke, the carbon monoxide and nicotine pass from the lungs into the blood and reduce oxygen supply to the baby, who may be born premature or underweight.

Pregnant women who consume alcohol are also putting the life of their unborn babies at risk. Parents who are themselves alcoholic and cigarette smokers find it difficult to prohibit their children from falling prey to these ills.

The Ombudsperson for Children has in her precedent reports made various recommendations to the government to curtail the proliferation of alcohol and cigarettes in our society and to protect our youngsters. Most of the recommendations made, have been taken into consideration under the two regulations made under the Health Act, namely (Prohibition on Advertisement, Sponsorship and Restriction on Sale of Alcoholic Drinks and (Restrictions on Tobacco Products) Regulations 2007 which came into force in March 2009.

Sections 3, 4, 5 and 8 of these regulations are hereunder reproduced:

“(3) No person shall –
(a) import or sell –
   (i) a tobacco product used for sucking, chewing or snuffing;
   (ii) smokeless or flavoured tobacco products;
(b) in any manner be involved in
   (i) any advertisement for the sale or consumption of tobacco products;
   (ii) the promotion of any trade name or brand name associated with a tobacco product;
(c) offer any form of sponsorship in relation to a tobacco product or a trade name or brand or manufacturer’s name associated with a tobacco product;
(d) display tobacco product for sale;
(e) smoke any tobacco product-
   (i) in a public place;
   (ii) while engaged in the preparation, in the serving or in the sale, of food on any premises to which the public has access;
   (iii) while driving a vehicle carrying minors;
(f) sell
   (i) a tobacco product to a minor or allow a minor to sell a tobacco product….

4. (a) A seller of tobacco products may request a buyer to produce proof of his age prior to any sale of a tobacco product.
(b) For the purposes of paragraph (a), proof of age shall be made by the production of-
   (i) a national identity card;
   (ii) a passport; or
   (iii) a driving licence.
5. Every seller of a tobacco product shall conspicuously post inside the point of sale a message in the form specified in the Fifth Schedule informing the public that the sale of tobacco is prohibited to minors.

8. Any person who contravenes these regulations shall commit an offence and shall be liable –
   (a) to a fine of not less than 5000 rupees and not more than 8000 rupees, on first conviction;
   (b) to a fine of not less than 8000 rupees and not more than 10,000 rupees on second conviction; and
   (c) to imprisonment for a term not exceeding 12 months, on subsequent conviction.”

With regard to alcohol, Section 16 of the Child Protection Act 1994 prohibits the sale of alcoholic drinks to minors.

“(1) (a) No person shall sell any liquor, rum or compounded spirits to a child
   (b) Any person who causes or allows a child to have access to premises in respect of which a licence has been issued for the sale of liquor, rum or compounded spirits for consumption on the premises other than premises in respect of which –
      (i) a restaurant (liquor, rum and compounded spirits) retailer licence; or
      (ii) a hotel or boarding house keeper (liquor, rum and compounded spirits) retailer licence has been issued, shall commit an offence.”

Section 194 of the Public Health Act relates to (Prohibition on Advertisement, Sponsorship and Restriction on Sale of Alcoholic Drinks) Regulations 2007. and section 3, 4,5,6 and 7 of these regulations are reproduced below.

“3. No person shall –
   a) in any manner be involved in –
      (i) the advertisement for the sale or consumption of an alcoholic drink;
      (ii) the promotion of any trade name or brand associated with an alcoholic drink;
   b) offer any form of sponsorship in relation to an alcoholic drink or a brand name or brand associated with an alcoholic drink;
   c) consume an alcoholic drink in a public place

4. A person who is licensed to sell alcoholic drinks by retail for consumption off his licensed premises shall not display those alcoholic drinks for sale other than in a dedicated area with his licensed premises.
5. Every alcoholic drink offered for sale shall bear a label both in English and French indicating that an excessive consumption of alcohol causes serious health problems.

6. Every seller of an alcoholic drink shall conspicuously post inside the point of sale a prominent message in English, French or Creole informing the public:
   a) that the sale of alcoholic drink is prohibited to minors;
   b) that an excessive consumption or alcoholic drink causes serious health problems.

7. a) Every seller of an alcoholic drink may request a buyer to produce proof of age prior to any sale of an alcoholic drink.

   b) For the purposes of paragraph (a), proof of age may be made by the production of
      (i) a national identity card
      (ii) a passport; or
      (iii) a driving licence.

8. Any person who contravenes these regulations shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.

Alcohol is a leading risk factor for death and disability. Alcohol also leads to interpersonal and self-directed violence and other unintentional injuries such as those resulting from road traffic collisions. The high rate of domestic violence and family breakdown is to a large extent due to alcohol.

The problem of alcoholism was mainly a concern among young boys but with modernization, emancipation of women and the movement of our society towards the western culture, alcohol consumption among young girls and women is quite significant and is a subject of concern. The consumption of alcohol among adolescents within the school premises is creating much havoc: problem of indiscipline, bullying, violence, behavioural problems, school truancy and school drop outs. Adolescents under the influence of alcohol often commit indecent and violence acts which jeopardize the smooth running of the institution and traumatise other pupils and even the school staff.

Recently various cases of alcoholic students have been in the limelight. They have exhibited violent acts towards the authority and also made use of foul language. Girls under the influence of alcohol are even more vulnerable as they can be sexually exploited and fall pregnant. If these young starters in the consumption of alcohol are left uncontrolled, they can get addicted to this drug and cause much harm to their health and to their educational well being. Youngsters often play truant to consume alcohol among friends. To satisfy their urge, these youngsters may engage in illegal activities to get hold of alcohol thus putting their life and that of society at risk. A student was even found dead under the influence of alcohol.
The problem of alcohol and drugs among adults is more manifest and is leading to high rate of violence in couples, family breakdown and domestic violence. According to data available at the CSO, the number of domestic violence cases for the year 2008 was 2,246 and in 2009 for the period January to June, the number of cases was 1,189.

The divorce rate has experienced an upward trend in our society. According to the CSO, in 2007 there were 1,302 divorces. 65.5% of all couples granted divorce had at least one dependent child, thus amounting to 1,512 dependent children.

An increase in the rate of dysfunctional family impacts negatively on the well being of children. It is well known that children from broken families are more likely to be subject to various abuses. Separation of couples causes psychological and emotional trauma not only to the separated couples but its impact is much more significant on the children. Parents tend to ignore this aspect in their tug of war. The children who have been used to live with both parents, with the breakdown of the family, find themselves at a loss and it is very difficult for them to choose with whom to go. If ever, the family is reconstituted, a new male or female partner may join the family and the child has to adjust to this new member.

If ever one partner moves to another locality, the child has to adapt to the new environment. The person who has the responsibility of the child has to do the needful for the child to be admitted to a school nearby. One major problem encountered is that the other partner may refuse to sign the transfer certificate of the child. The Ombudsperson for Children’s Office is often called upon to mediate in such cases. (See selected cases).

Several students from secondary schools have made complaints to this office that they are traumatized and their education suffers a lot as their parents, sometimes only the father or more often both parents consume alcohol and are not assuming their parental responsibilities towards them. (See selected cases).

They are deprived of their rights to education, food and clothing as their parents spend their money on alcohol and cigarettes. The minors are sent to school without proper school material and foods. These adolescents consider tuition very important for them to succeed but instead of investing in their education, their parents are spending their salary uselessly on alcohol, cigarettes or drugs. They constantly make appeal to this office to make their parents aware of their responsibilities towards them.

Parents who indulge in drugs spend most of their time in prison. Children from such families are not only deprived of their parents but they are stigmatized in society. Children who are left on their own without proper parental supervision and guidance, fall prey to other social ills.

Parents are role models and should assume their responsibilities towards their children. Children living in a drug addict environment, where conflict is omnipresent, often fall
prey to drugs themselves. They use it as a means of evasion to forget all the sufferings that they are enduring. The influence of peer groups, indulging in drugs contributes to make the child a victim.

The Ministry of Women’s Rights, Child Development and Family Welfare have initiated several projects at the level of the Ministry to make the parents conscious of their parental responsibilities. The project of “Men as partners” create awareness among men on their role as husband and father in the family. The fact that both partners are working nowadays and the family is becoming more nuclear, the support and contribution of the male partner for the well being of the couple and the family is imperative. Young couples should be educated on the importance of marriage and stability, peace and harmony in the family.

To minimize the risk of divorce among young couples, the MWRCDFW’s project “Good Couple Relationship” is meant to create better understanding and good relationship between the couple. Such initiative will empower the parents with relevant skills to consolidate their married life and at the same time would reinforce their roles as parents and prevent the breakdown of the family. Once the family is endowed with a consolidated base, eventually the well being of the child is ensured.

Due to the rise of the number of single mothers with dependent children, the Ministry of Social Security, National Solidarity, Senior Citizens and Reforms Institutions has increased the quantum of social aid allocated to single women to support them financially to fulfill their role as parents. But to curtail this budget it would be more appropriate for the National Women Entrepreneur Council to empower these women and make them financially independent in the long run.

The Ministry of Health and Quality of Life has initiated the demonstration of sports activities as an alternative to drugs among the youth. The NATReSA and various other NGOs are working in close collaboration with the government on the preventive and curative aspects.

As the Global Youth Tobacco Survey indicates that children of 7 years are smoking cigarettes, it is imperative for the authorities to ensure that the regulations made under the Health Act are enforced. Although the law forbids the sale of cigarettes to minors, yet the survey highlights its easy accessibility to minors.

Parents have an important role to play to educate their children, since a very young age, on the negative impact of drugs, so that they can refuse and resist from peer pressure. Prevention programmes and awareness campaigns should be ongoing in the school community, in youth clubs to sensitize and empower the youth with life skills so that they can effectively cope with the problem of any type of drug.
**Video Game House**

The mushrooming of video game houses not far from the school locality around the island is another major subject of concern. Many youngsters are spending much of their time in such places instead of attending schools. Once used to such games, the minors can no longer resist and will often play truant. And such truancy will expose them to the consumption of alcohol, cigarettes and drugs. Boys and girls may also be abused when they are in isolated places.

Section 16 (2) of the Child Protection Act 1995 clearly stipulates that –

"Any person who causes or allows a child to have access to a gaming house shall commit an offence".

Despite these provisions, people operating such game houses allow minors in for pecuniary gains. The authorities made aware of the presence of youngsters during school hours have reacted positively. Several crack down interventions have been carried out in various game houses around the island to ensure that minors are not there during school hours. Awareness campaigns are carried out in schools, colleges, youth clubs and youth centers to sensitize the youth on the dangers minors having access to such places may encounter. The Government has set up a high level Committee to examine the proliferation of gaming houses and also not to grant new licences pending the recommendations of the Committee.

Parents have to ensure that their children are attending school regularly. At the level of the community also members of the public have a duty to report to the concerned authority if school children are in game houses instead of attending school so that appropriate action can be taken in the best interest of the minors.

Although a lot is being done at the level of the authority to keep these different social ill under control, it still remains a matter of concern and is affecting the bedrock of our society.

In order to combat these scourges that are wrecking the families, ruining health and devastating whole societies, it is high time to stimulate collective responsibility and action. Families, community-based groups, professional societies, NGOs must work in close collaboration and networking with the government to raise awareness about the negative impact of these social ills. It is also important to sensitize each and every individual about the different health problems and the different types of services available and how they can make proper use of these facilities. As the Public Heath Act has been reinforced by the two above-named regulations, the Authority should ensure that these regulations are enforced effectively.
Sexual Reproductive Health


In Mauritius, although free reproductive health information and services are available such services do not reach certain categories of people and cause a lot of harm to their overall development. Despite a relatively high contraceptive prevalence rate in Mauritius, a study carried out by the Mauritius Family Planning Association (MFPA) reveals that withdrawal is the most popular method used (27.1%) followed by pill (5.8%) and condom (9.1%), couple tends to favour withdrawal method over modern methods. Unreliable contraceptives may lead to unplanned and unwanted pregnancies.

It is high time for sexual reproductive health to be extended to the underserved groups such as the marginalized population. Promiscuity and family breakdown are quite predominant in such milieu. Men and women tend to change partners more frequently. In the same family, children can have different surnames. Being vulnerable, youngsters can easily fall prey to alcohol, drugs and prostitution. Children thriving in such insecure environment are often victim of all types of abuse which impact on their emotional and psychological development.

Lack of education and information in this midst on the availability of various services result in an irresponsible attitude. Some people are heedless and hardly realize the harm and sufferings caused to themselves and to their kids.

HIV/AIDS and other sexually transmissible diseases is a matter of concern among minors. 13 cases of minor affected by HIV/AIDS are following treatment at the Aids Unit of the Ministry of Health and Quality of Life.

One cannot expect such unempowered persons to visit the government health centres. Instead it would be more appropriate for the services to visit them. Such policy will not only be beneficial but also cost effective and efficient.

Another major problem emerging in our society among young girls due to lack of information and proper education on sexuality is teenage pregnancy. With the advent of technology, our youngsters are submerged with all kinds of information with regard to sexuality. At this age it is definitely difficult for them to make proper judgement of the subject. They can be easily influenced by peer pressure. At the age of puberty, adolescents have an urge to know more about their body and to make certain experiences without taking into consideration the consequences of their act. Nowadays, the youngsters have sexual relationship at an early age. The number of live births pertaining to mothers aged under 15 years has increased from 24 live births to 34 live births in 2007. The fertility rate among adolescents has experienced an increase of 5.5% from 1999 to 2006.
Teenage pregnancy can be a result of sexual abuse, rape, incest or a very fragile sexual relationship.

According to data available at the Ministry of Women’s Rights and Child Development and Family Welfare, the number of sexual abuse cases reported to the Ministry in 2008 are as follows:

<table>
<thead>
<tr>
<th>Sexual Abuse</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual Intercourse with minor under 16</td>
<td>92</td>
</tr>
<tr>
<td>Attempt upon chastity</td>
<td>72</td>
</tr>
<tr>
<td>Rape</td>
<td>18</td>
</tr>
<tr>
<td>Incest</td>
<td>29</td>
</tr>
</tbody>
</table>

As cases are underreported, these figures only reveal the minimum known.

A rise in the number of sexual abuse cases would imply that girls who have been abused after the age of puberty, are at risk to fall pregnant.

Nowadays adolescents have more freedom. They often visit discotheques, go out with friends at night, carry out rave parties without any parental supervision. Such a lifestyle favours unprotected sexual act among these minors and can lead to pregnancy. Youngsters should be informed of the existing methods of contraception.

An increase in the rate of teenage pregnancy is detrimental to the overall well being of these youngsters. For the year 2008, 49 cases of teenage pregnancy have been reported to the Ministry of Women’s Rights, Child Development and Family Welfare.

At the Ministry of Health & Quality of Life, the number of cases reported are as follows:-

Cases treated as in-patient for pregnancy and childbirth in Government Hospitals by age of women –

<table>
<thead>
<tr>
<th>Age of women (in years)</th>
<th>Year 2006</th>
<th>Year 2007</th>
<th>Year 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 or less</td>
<td>16</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>14</td>
<td>40</td>
<td>40</td>
<td>58</td>
</tr>
<tr>
<td>15</td>
<td>161</td>
<td>127</td>
<td>166</td>
</tr>
<tr>
<td>16</td>
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<td>375</td>
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<td>582</td>
<td>606</td>
<td>726</td>
</tr>
<tr>
<td>18</td>
<td>813</td>
<td>842</td>
<td>857</td>
</tr>
</tbody>
</table>
Deliveries in Government Hospitals by age of mother (figures included in above table)

<table>
<thead>
<tr>
<th>Age of women (in years)</th>
<th>Year 2006</th>
<th>Year 2007</th>
<th>Year 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 or less</td>
<td>4</td>
<td>18</td>
<td>8</td>
</tr>
<tr>
<td>14</td>
<td>21</td>
<td>25</td>
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<td>288</td>
<td>313</td>
<td>358</td>
</tr>
<tr>
<td>18</td>
<td>400</td>
<td>437</td>
<td>453</td>
</tr>
</tbody>
</table>

It must be remembered that some deliveries take place at home and in private clinics.

The incidence of teenage pregnancies and that of low weight babies is on the rise. Such a situation put the lives of mothers at high risks to many health-related complications and their newborns to poor birth-outcomes. It also leads to a disruption in their educational well being. Although the educational authorities allow pregnant minors to continue their schooling, some often refuse to do so as they feel stigmatized. Many of these adolescents find themselves in a very difficult situation. Sometimes their partners accept to take their responsibilities but most of the time, they refuse to do so. They may be minors themselves. These girls are rejected and neglected by their family when they need them most. These youngsters find themselves at a loss, they are depressed and often have suicidal tendencies. (See selected cases).

Parents’ role in educating their wards on sexuality is very important. They should deal with this subject openly and guide their children on their sexual development as well as on their emotional and psychological development as they grow up.

In view of the fact that teenage pregnancy affects the overall well-being of our young girls and their families, the Ombudsperson for Children have recommended to the Ministry of Education, Culture and Human Resources the inclusion of sexual education at both upper primary and secondary levels in her precedent reports. This year she reiterates her request to ensure that our youngsters have a good knowledge of the subject and can take proper decision about their sexuality without any dire consequences on their life. (See chapter IV on Education) Prevention is better than cure, educating our children will not only minimize the rate of teenage pregnancies but will also curtail the number of sexually transmissible diseases.
Chapter VII

Convention on the Rights of the Child (CRC)

The OC must “promote compliance with the Convention”. In order to carry out this duty the OC organises sensitisation campaigns throughout the year both in Mauritius and Rodrigues. She also trains several front line officers on specific aspects of the CRC. (see chapter – on Sensitisation)

Compliance Committee

Now, in view of the fact that Mauritius will have to submit its 3rd, 4th and 5th consolidated reports to the United Nations Committee on the Rights of the Child (UNCRC), a Compliance Committee has been set up. The Committee is looking at the Concluding observations and recommendations of the UNCRC made in January 2006, after submission of the first and second reports, and collecting information from various departments on progress achieved.

A matrix has been prepared. This exercise is proving to be very efficient as it constitutes an incentive for all those concerned to move forward.

Further, as all stakeholders meet on a two monthly basis, they can exchange between them and create a greater synergy concerning issues which call for a multistakeholders’ approach. Ideally the Ministry of Women’s Rights, Child Development and Family Welfare should take the lead in this coordination process. The matrix, when it is complete, will be handed over to that Ministry for these purposes.

A representative of the UNDP has been co-opted on the Committee so that crucial information on the areas of support can also be collected.

There have been three meetings up to now.

The participants are from the following departments/Ministries:

1. The Prime Minister’s Office
2. The Ministry of Women’s Rights, Child Development and Family Welfare
3. The Ministry of Foreign Affairs, Regional Integration and International Trade
4. The Ministry of Social Security, National Solidarity and Senior Citizens Welfare and Reform Institutions
5. The Ministry of Finance and Economic Empowerment
6. The Ministry of Education, Culture and Human Resources
7. The Attorney General’s Office
8. The Ministry of Health and Quality of Life
9. The Ministry of Labour, Industrial Relations and Employment
10. The Ministry of Information and Communication Technology
11. The Ministry of Youth and Sports

Celebration of Human Rights Day

On 10 December 2008, the OCO organised a symposium by adolescents who are members of the National Children’s Forum (NCF) on the theme “sexual abuse of children”.

This took place on Human Rights Day. The event was organised to celebrate the 60th anniversary of the Universal Declaration on Human Rights.

As the OC was also first appointed on the 10 December 2003, this was also an occasion for celebration.

The adolescents made power point presentations with regard to article 19 of the CRC which guarantees the child’s rights to be protected from all forms of violence or abuse. The presenters also worked on articles 34 of the CRC re sexual exploitation of children as well as article 35 regarding trafficking of children.

The adolescents had previously been trained by the OCO. They were sensitised on the findings of the UN Global Report on Violence against Children. The celebration, organised with the collaboration of the Municipality of Port Louis, ended with some music and dance features on the Human Rights Esplanade.

The celebration of the twentieth anniversary of the Convention on the Rights of the Child (CRC)

On the 20th November 2009, the CRC will be 20 years old. Indeed it is on that date that this most universally ratified convention was adopted by the UN General Assembly in 1989.

On that occasion the OCO is coordinating the production of a show by children from various NGOs throughout the island. The following NGOs are presently working with children to mark this day:
1. Scouts of Plaine Magnien (article 7)
2. Le Mouvement pour le progrès de Roche Bois (articles 20, 21 & 23)
3. Scouts de Lower Plaine Wilhems (article 12)
4. Ecole ZEP – André Bazerque (articles 24 & 25)
5. Ecole ZEP – Rivière Noire with NGO Tipa (article 19)
6. SOS Village (articles 18 & 27)
7. Ecole des sourds (article 28 & 29)
8. la Pointe Tamarin (article 32)
9. CEDEM (article 31)
10. Terre de Paix (article 29)

There is also the preparation of a brand new booklet on the CRC itself.
Chapter VIII

Rodrigues

As usual the Ombudsperson for Children (OC) has paid a visit to Rodrigues to ensure that the rights, needs and interests of Rodriguan children are fully respected by one and all according to the Ombudsperson for Children’s Act 2003 (OCA 2003). This is particularly important as it is essential to ensure that children of the whole Republic are treated fairly and without discrimination.

During the reporting period, the OC has visited Rodrigues from 1 – 3 June 2009 and a visit has been programmed for September/October 2009.

During the visit the OC has trained 50 teachers and sensitized 520 Children from the following schools: the Basile Allas Government School of Port Mathurin and the Antoinette Prudence R.C.A School of Lataniers.

The teaching staff were trained on the prevention of violence at school based on the kit prepared by the Ombudsperson for Children’s Office (OCO) in consultation with other stakeholders. The response was very good and most teachers seemed to be quite aware of the obstacles that inhibit the full realization of children’s rights. They appear to be committed. They however conclude that many children are victims of child neglect or child abuse at home. Some have been abandoned at the place of their relatives while their parents are separated and sometimes go to Mauritius to find a better job.

Teachers also lay emphasis on the fact that many children have emotional or psychological problems but cannot consult a clinical psychologist as there is no such expert in Rodrigues permanently. The educational psychologist present can give first order counseling but cannot engage in therapy.

Children’s rights

The meeting with the pupils of standard V and VI of both schools confirms that in Rodrigues, there has been a good sensitization campaign on the Convention on the Rights of the Child (CRC) both by NGOs and the authorities. Children seem to also hear about such rights, at least in general terms, at school.

The sessions organized were interactive and the OC therefore laid more emphasis on the lesser known rights by putting them in a more nuanced perspective. Concrete examples were given. Children responded positively.
**Children’s responsibilities**

As it is often the case even in Mauritius, adults tend to question the fact that children have rights but refuse to have responsibilities. The OC therefore explained in detail that every person who has a right must know that there are limits and that respects of the rights of others is also important.

The OC had a working session with the Commissioner for Social Security, Women’s Affairs, Child Development, Family Welfare and Alleviation of Poverty.

Several subjects of common interest were discussed. The issue of difficulty to recruit a clinical psychologist was again raised. The OC encouraged the Commissioner to work with NGOs to promote the rehabilitation of child victims. The possibility of looking for funds with the Women and Children Solidarity Programme (WCSP) was evoked.

The Commissioner confirmed that a new shelter was to be constructed at Baladirou and the present one to be converted to cater for boys with behavioural problems. The OC also received members of the public to register complaints and follow up on certain cases.

The issue of difficulty to obtain social benefits seemed to be predominant. The OC discussed with the Departmental head and promised to follow up with the Ministry of Social Security, National Solidarity and Senior Citizens Welfare and Reform Institutions in Mauritius.

The OC informed the Commissioner that the ODEROI had been working on a study on “Les flux migratoires dans les îles du sud-ouest de l’Océan Indien et leurs effets sur la situation des enfants et de leurs familles”. This did not include Rodrigues in great detail. There may therefore be a complementary study on internal displacements of population in which the case of Rodriguans migrating to Mauritius would be studied.

The Coordinator of the WCSP is planning to organize a workshop with NGOs of Rodrigues to encourage to build up projects which may fall within the criteria of the WCSP.

During the reporting period the OC has also started several investigations regarding Rodrigues. In particular she made an appeal to the National Transport Authority (NTA) to investigate a case of an alleged sexual abuse perpetrated by a school bus driver. The response of the NTA was positive.
The Show

NGOs working with children have been invited to help children choose one or two articles of the CRC, to write a brief scenario and to produce a part of a play which will be harmonized. A coordinator is in the process of meeting all the groups and ensuring that work is in progress. The children have already chosen the articles of the CRC on which they want to work. They have written their scenario or have started working on it. The show will take place at the Indira Gandhi Cultural Centre on 5-6 December 2009.

The booklet

The decision to publish a new booklet on the CRC has been made. The booklet will be in a new format. It will cover all the articles dealing with the rights of children. It will be illustrated by a well known cartoonist.

Hopefully funds will be available for a very large distribution.
Chapter IX
Communication, Sensitisation and Capacity Building

Section 5(b) and (c) of the Ombudsperson for Children’s Act 2003 provide that the OC shall “promote the rights and best interests of children” and “promote compliance with the Convention”. Convention means Convention on the Rights of the Child (CRC).

In order to carry out this part of her mission the OC and Investigators of the OCO deliver talks, participate in seminars and run training sessions. They also participate in various radio and T.V. programmes both in Mauritius and Rodrigues.

During the reporting period, the OC attended the following events and addressed the audience:

Talks and Seminars

- On 3 October 2008, from 9 to 12h30, at the Forum on the Teachings of Mahatma Gandhi, at the Indira Gandhi Centre for Indian Culture organised by the Anti Violence Support Organisation

- On 8 October 2008, at 13h, at St. Georges Hotel, Port Louis, at a meeting with NGOs organized by the MWRCDFW to explain the mentoring system.


- On 28 November 2008, at 5.30 p.m, at SOS Village, Mare Gravier, Beau Bassin on the occasion of the prize giving ceremony of the Annual Holiday Camp by British Airways, Mauritius. The OC spoke on Child Rights.

- On 9 December 2008, at 10.30 a.m, at the Octave Wiehe Auditorium of the University of Mauritius, at the Graduation Ceremony organised by the Mauritius Institute of Education. The OC delivered a speech on the role of teachers in preventing violence at school and denouncing child abuse.
• On 10 December 2008, at 9h30 a.m, at the Municipality of Port Louis at a Forum organised by the OCO on Children’s Rights, on the occasion of International Children’s Day. Several young people of the National Children’s Forum made presentations on violence against children.

• On 10 December 2008, from 13h to 15h, at the Embassy of the USA, Port Louis. Attended a talk and discussion on “Sexual Harassment: a form of gender-based violence”.


• On 29 January 2009, at the British Council, Rose Hill at a talk and discussion with Rani Moorthy “A case for multiple identities, an actor’s perspective”.

• On 21 February 2009, at 15h, at the inaugural ceremony of the Centre d’hebergement of NGO ARISE in Bain des Dames. The OC spoke about the rights of vulnerable children and the need for more qualified professionals in such alternative residential care institutions.

• On 4 March 2009, at 9h30, at the seat of the Mauritius Research Council, Rose Hill, at a half-day seminar on “The State, Society and the Condition of the Mauritian Child in Mauritius”.

• On 6 March 2009, at the Droopnath Ramphul SSS in Pamplemousses, on the occasion of International Women’s Day. The OC spoke about the Rights of the Child and the gender issue.

• On 10 March 2009, at the centre of APRIM, in Beau Bassin for the common flag raising ceremony for disabled students. The OC spoke about the specific rights of handicapped children.

• On 11 March 2009, at the flag raising ceremony of the School for the Deaf. The OC spoke about the dedication needed to care for and integrate disabled children.

• On 11 March 2009, at Ecole Paul et Virgine, Tamarin, at the flag raising ceremony. The OC discussed with the children and teachers.

• On 11 March 2009, at the Centre Emilien Pierre, Sainte Croix, at a meeting of all stakeholders to discuss about the problems of children of the area.

• On 25 March 2009, at Vacoas, at the invitation of CREW. The OC delivered a talk on violence against children and the citizen’s role in reporting cases.
• From 16 – 18 April 2009, at the Regional Workshop on “The migratory flux between the south west islands of the Indian Ocean and its impact on children and families” organised by the Indian Ocean Commission and ODEROI.

• On 21 April 2009, at Legends Hotel, Grand Gaube at a Rotary of Grand Baie meeting as Guest speaker. The OC spoke on the role of the citizen to prevent violence against children and uphold their rights.

• On 10 May 2009, at the Gymkhana Grounds, Vacoas, at the invitation of ATD Quart Monde, the OC spoke to 50 children about their rights.

• On 24 May 2009, at St. Mary’s College, Rose Hill at a meeting with parents on the theme “pour une meilleure communication entre parents et enfants”.

Investigator Ismail Bawamia participated in the following:

1. On 17 November 2008, he represented the OC at the Universal Children’s Day organised by the MWRCDFW at Gymkhana, Vacoas.

2. On 20 November 2008, he represented the OC at a symposium organized by the ECCEA on the occasion of the Universal Children Day held at Octave Wiehé Auditorium, Réduit. He presented a paper on the CRC and Positive Discipline.

3. Mr. Bawamia ran a training session on ‘Rights and Responsibilities of Children’ and on ‘Identifying and Reporting Child Abuse’ to Youth Leaders and 13 February 2009 at the Bible Resource Centre, Trou aux Biches organised by the Association Echanges, Sports, Culture et Jeunesse.

Investigator Geeta Sewock participated in the following:

1. She represented the office on the organising committee of the Internet Safer Day 2009. The meetings were held at the National Computer Board during the Month of January 2009.

2. On 30 March 2009 she represented the Ombudsperson for Children at the conference on ‘Poverty and Prostitution’ organised by CEDEM at the Municipality of Quatre Bornes.
Training

Training organised by the OCO

Training of children

On 30 April 2009, the OC and the investigators of the OCO trained two batches of 150 children (300 in all) at Dr. Regis Chaperon SSS, organised by the Green School Committee.

Training of teachers

On 16 July 2009, 33 teachers of Primary Schools of Zone 3 followed a half day training workshop run by the OC and Investigator Bawamia.

The theme was prevention of violence at school based on the kit prepared by the OCO. This time the kit also included a document on Bullying and another one on Class Management and Discipline. The other documents relate to characteristics of child friendly schools and how to prevent violence; the fact that corporal punishment is counter-productive and dangerous and how to apply principles of positive discipline. Teachers were also trained on how to recognise the signs and symptoms of child abuse.

Training of State Law Officers

On 5 May 2009, the OC trained some 20 State Law Officers on problems relating to child witnesses/victims in Court. She explained the advantages of introducing video evidence in Mauritius.

Training of Police Officers

1. On 30 June 2009, 76 police officers were trained by Investigators Bawamia and Sewock.
2. On 4 July 2009 and 10 July 2009 Ms. Sewock and Mr. Bawamia proceeded with the evaluation of the trained policemen.
3. On 7 July 2009, a second batch of 73 police officers were also trained by the OC.
4. On 14 July 2009, a third batch of 20 Chief Inspectors and Inspectors of Police were trained by the OC.

The training laid emphasis on the Convention on the Rights of the Child, the Child Protection Act and other laws relating to children. Officers were advised on the proper way to deal with child victims. They were also made aware of the rights of children who are in conflict with the law, more specifically their right to be treated with humanity.
They were reminded that parents or other responsible parties must be present when children are questioned and are giving a statement.

**Training of front line officers in Child Protection and Child Evidence in Court**

The OC invited Ms. Barbara Patricia Charnier, a Consultant, Child Protection and Children and Family Services in the UK, to deliver three half day courses to several front line officers of the several government departments. These courses took place on 27 April 2009, 6 May 2009 & 25 May 2009.

The course was attended by the two investigators of the OCO as well as 7 officers of the *Brigade pour la protection des mineurs*, 6 psychologists from the MOECHR, 4 officers of the probation and aftercare service, 4 officers of the MWRCDFW and one Chief Inspector of Police and the Police Family Protection Unit, that is, 24 officers in all.

The course content included issues on Child Protection, Case Conferencing, video evidence and child victims and witnesses of domestic violence.

**Training of OCO Staff: September 2008 – August 2009**

**Training in Negotiation Skills – Ministry of Civil Service and Administrative Reforms (Two full days)**

<table>
<thead>
<tr>
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<th>Name</th>
<th>Position</th>
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<tbody>
<tr>
<td>13 – 14 November 2008</td>
<td>Mr. I.A. Bawamia</td>
<td>Investigator</td>
</tr>
<tr>
<td>17 – 18 November 2008</td>
<td>Mr. I. Jhumun</td>
<td>Secretary</td>
</tr>
<tr>
<td>27 – 28 November 2008</td>
<td>Mrs. C. Sewock</td>
<td>Investigator</td>
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**Training in Medium Term Expenditure Framework and PBB - Ministry of Civil Service and Administrative Reforms (Three full days)**

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<td>19 – 21 January 2009</td>
<td>Mrs. T. Ramchurn</td>
<td>Financial Operations Officer</td>
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**Training in Leadership and Supervision - Ministry of Civil Service and Administrative Reforms (Open Distance Learning)**

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<tbody>
<tr>
<td>15.4.09 – 19.9.09</td>
<td>Mr. I. Jhumun</td>
<td>Secretary</td>
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Training - Refresher Course in Information and Communication Technology - Ministry of Civil Service and Administrative Reforms (Three half-day)

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<tr>
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<td>7.4.09 – 9.4.09</td>
<td>Mrs. C. Sewock</td>
<td>Investigator</td>
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Training in Customer Care and Quality Management
(Open Distance Learning)

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<tr>
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<tr>
<td>4 June – 31 August 2009</td>
<td>Mrs. A.K. Bundhoo</td>
<td>Word Processing Operator</td>
</tr>
<tr>
<td>8 June – 31 August 2009</td>
<td>Mrs. T. Ramchurn</td>
<td>Financial Operations Officer</td>
</tr>
<tr>
<td>8 June – 31 August 2009</td>
<td>Mrs. S. Jawaheer</td>
<td>Clerical Officer/Higher Clerical Officer</td>
</tr>
<tr>
<td>10 June – 3 September 2009</td>
<td>Mr. I.A. Bawamia</td>
<td>Investigator</td>
</tr>
<tr>
<td>12 June – 3 September 2009</td>
<td>Mrs. C. Sewock</td>
<td>Investigator</td>
</tr>
<tr>
<td>12 June – 3 September 2009</td>
<td>Mrs. R. Ramsooroop</td>
<td>Clerical Officer/Higher Clerical Officer</td>
</tr>
<tr>
<td>15 June – 4 September 2009</td>
<td>Mrs. H. Ramdin</td>
<td>Clerical Officer/Higher Clerical Officer</td>
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Training in Public Relations and Customer Care - Ministry of Civil Service and Administrative Reforms (Two full days)

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<tr>
<td>23.7.09 – 24.7.09</td>
<td>Mr. S. Annasawmy</td>
<td>Head Office Care Attendant</td>
</tr>
<tr>
<td>30.7.09 – 31.7.09</td>
<td>Mr. A.M. Kodabux</td>
<td>Office Care Attendant</td>
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</tbody>
</table>

Child Protection and Child Evidence in Court

Mrs. C. Sewock and Mr. I. Bawamia Investigators followed the three hours sessions run for the OCO by Mrs. Barbara Patricia Charnier.
Chapter X

Regional and International Exposure (RIE)

Since the setting up of the office of Ombudsperson for Children in 2003, the OC and members of the staff have been active far beyond the boundaries of the Republic of Mauritius. This is a matter of pride not just for those who are actually concerned but it should also be a reason for rejoicing for all patriots. The action of Mauritians and Mauritian Institutions abroad usually amounts to what the French call rayonnement i.e a worldwide influence. The rayonnement is that of Mauritius.

There are two types of missions abroad. Those that are occasions to network, to learn and be trained. There are also those where our own expertise is being sought to train others, share with them and show-case our good practices.

The very fact that Mauritius has set up an Independent National Human Rights Institution, dedicated to Children’s Rights, constitutes a good example. In view of the fact that ours is the only one in Africa, it is normal that the OC is often invited either to meetings on the continent, or elsewhere to represent the African voice.

During the Reporting period, the OC was invited to several meetings. For lack of time, and in order not to waste public funds, the OC has turned down several invitations. Her criteria for choosing is the importance of the meeting and also if financial implications are borne by those who invite. She chose to participate in the following meetings/conferences and travelled as follows:

- On 19 November 2008 in New York, USA, at the invitation of UNICEF, a Conference on “Legislative Reform to achieve Human Rights” (costs borne exclusively by UNICEF). The OC was a main speaker.
- From 25 to 28 November 2008 in Rio, Brazil at the invitation of UNICEF and the Government of Brazil at the World Congress III on Sexual Exploitation of Children and Adolescents (costs borne by UNICEF and Government of Brazil) as well as at a meeting of the Global network of Ombudspersons. The OC ran a workshop for adults and adolescents.

- From 22 to 24 April 2009 in Reunion Island, at the invitation of the Présidente du Conseil Général, in order to meet her French counterpart, Ms Dominique Versini, and participate in the preparatory meetings for the celebration of the 20th Anniversary of the CRC. The OC also visited the following organizations/institutions:
  - The hotline service
  - The Brigade de prévention de la délinquence juvenile
  - A school where parent’s involvement was giving good results
The protection services under the control of the “Région” (Only the cost of the flight was borne by Government. All other costs borne by the Région Réunion)

- From 13 to 18 May 2009 in Paris, France, at the invitation of the French Government, at the World Congress on Human Rights, Sexual Orientation and Gender Identity (All costs borne by the French Government)

- From 22 to 23 June 2009 in Bamako, Mali, at the invitation of UNICEF (Innocenti Centre) and the Organisation Internationale de la francophonie at a meeting on “Création d’institutions indépendantes des droits de l’homme pour la promotion et la protection des droits de l’enfant: approches effectives pour l’Afrique Francophone” (All costs borne by Unicef). The OC intervened in two panel discussions and presided two others. The OCO was taken as an example, along with the French and New Brunswick institutions, to help Mali, Bukina Faso and Senegal prepare to set up their own similar Institution. During the meeting the OC met and discussed with the President of the Association des Ombudsman et médiateurs de la Francophonie (AOMF).

Mr. I. Bawamia, Investigator, participated in the 4th Annual meeting of the Southern African Network to End Corporal and Humiliating Punishment of Children, held in Pretoria from 11 to 12 May 2009. He presented a paper on actions taken by OCO and other parties during 2008 to address the problem of Corporal and Humiliating Punishment of Children. During 2008, OCO contributed in advocacy material of the network which were used at a meeting with the African Committee of Experts on the Rights and Welfare of the Children (ACERWC) and at a conference of the African Council of Children. During its submission to the ACERWC in November 2008, the network urged the committee to do the following:

1. At its session in November 2008 adopt a written statement urging States in Africa to prohibit corporal and other forms of humiliating punishment of children in all settings and to urge States to promote measures to implement and promote this prohibition.

2. Ensure that member States provide information on their progress in eradicating the use of corporal and other forms of humiliating punishment of children in all settings in their periodic reports.

3. In the Committee’s recommendations to individual member States, draw attention to measures that member States need to undertake to fulfil their obligations under international and African human rights instruments.
4. Continue to urge individual members of the Committee to promote a ban on corporal punishment of children in their individual interactions with government officials and other relevant stakeholders.

5. Support our position to fully address general societal violence and ensure that children are raised in homes and communities that instil a strong sense of self-discipline and an abiding respect for the rights and dignity of all.

6. Support the recommendation in the *Africa Declaration on Violence Against Girls* for the African Union to establish a Special Envoy on Violence against Children to support the efforts of the Committee towards preventing, reporting and monitoring violence against children on the Continent.

The members of the network are:


**Regional Cooperation**

Several personalities have visited the office with a view to promoting exchange at regional level.

- On 12 December 2008, Mr. Per Engebak, regional director of UNICEF, accompanied by Mr. Bruno Maes, Director UNICEF of Madagascar, called to expose his ideas on the need for the close collaboration of our office with UNICEF in the East African Region
- On 9 February 2009, Mr. Maurice Apted, Programme Development Consultant with UNICEF Madagascar, accompanied by Mr. Bjorn Ljungvist, UNICEF Global Coordinator, called to discuss on possible cooperation
- On 15 April 2009 and on 11 August 2009 Ms. Arianne Schoettel, Advisor to the Présidente du Conseil General de la Réunion who is responsible for regional and international relations called at the office for an exchange of views
This year has witnessed a closer collaboration between the OCO and the Observatoire des droits de l’enfant de la région Océan Indien (ODEROI).

The ODEROI has made a leap forward in terms of information, education and communication. It has managed to produce, with the help of the MBC, a series of 225 programmes on the theme of violence against children, HIV Aids, dependence on tobacco, etc. These programmes have been broadcast during prime time on several channels of the MBC. The OC personally participated in some of these programmes. The ODEROI then launched a series of three minutes TV programme on violence against children done in collaboration with the OC. During the same period a series of articles have been published on the same subject in Le Mauricien. This was a good and concrete follow up of the Regional report on violence against children.

A 15 minute bi-monthly programme called “Jeunes 5/5 – Les promesses du futur” is also being broadcast on MBC TV.

As far as the radio is concerned Cool FM broadcasts a weekly programme called “Ocean Zen”.

The ODEROI also associated the OCO in the workshop on “Etude sur les flux migratoires entre les îles du sud-ouest de l’Océan Indien et leurs effets sur la situation des enfants et de leurs familles” which took place at the seat of the IOC in Quatre Bornes.

For 2009 several other studies are scheduled.

- Etude sur l’impact de la pauvreté et des disparités sur les enfants et leurs familles.
- Etude sur le statut nutritionnel des enfants des établissements ZEP.
- Document sur l’Education à la non-violence dans l’Océan Indien.
Chapter XI

Complaints, Investigation and Selected cases

Each year we have tried to give a good picture of the complaints dealt with by our office. Sometimes it is useful to make a full report of cases dealt with over the years, specially when reports have been submitted and there are visible results. This year we have decided to analyse the first 1065 cases reported to give a better view of the way that we have been working. It is of course impossible to do this exercise at one go for all cases dealt with which amount to 2351 since December 2003.

This year we have dealt with 316 cases between August 2008 and September 2009.

The data on these cases cannot be available immediately as most cases have not been finalised. Some have been referred to other agencies mandated to deal with them and we are still awaiting a report. Others are being investigated and will not have reached a stage where any useful information can be made public.

It must be remembered that the Ombudsperson for Children’s Act 2003 (OCA 2003) affords a full protection to any person who, in the course of an investigation, gives a statement in good faith to the Ombudsperson for Children (OC), whether he is a complainant or a respondent or merely a witness. Reporting therefore must respect the elements of confidentiality which is a prerequisite to any complaint dealt with by the OC. Further, the OC has been advocating the respect of children’s identity and therefore they must remain anonymous.

The selected cases given later in this Chapter is therefore based on this principle.

Analysis of 1065 cases

However, the OCO has analysed the first 1065 cases in order to give an idea of how the office works.

During replies to supplementary questions to Parliamentary Question B1456, which focussed on our office, it was wrongly averred that of the 2000 cases investigated by the OCO, most of them were, in fact, referred to the CDU. In order to give a true picture, the following data will help to enlighten all those who are interested in the work of our Institution. It shows that many complaints are referred to different stakeholders. But the OC does intervene either wholly or partly in many cases. She can only intervene if the complaint falls within her mandate. For example if a case is pending before any court, the OCA 2003 states clearly that she cannot investigate. The OCO does not provide service. It monitors rights. The MWRCDFW on the contrary has clear mandates. It is
the only stakeholder which can seek an Emergency Protection Order or a Committal Order. The OCO cannot either provide for psychological services or place a child with a foster family or an institution.

Unfortunately, despite all our efforts to explain, some citizens still have difficulty in understanding the exact role and function of the OC. Moreover, when complaints are lodged at the OCO, there are several aspects to the problems raised. These may concern several stakeholders. The OC refers those aspects and keeps on monitoring the case by asking for reports. Until and unless she is satisfied, the case will not be filed. It is a matter of concern that reports are not being sent regularly by those who are called upon to take action.
Cases referred to different Stakeholders and the CDU

Reasons for referral of cases to CDU

No of cases still awaiting report
### Cases referred to different Stakeholders

| Ministry of Women’s Rights, Child Development and Family Welfare | 111 |
| Ministry of Education, Culture, Human Resources | 80 |
| Ministry of Social Security, National Solidarity & Senior Citizens Welfare and Reforms Institutions | 55 |
| Commissioner of Police | 107 |
| Police Family Protection Unit | 22 |
| Court | 56 |
| Commissioner of Prisons | 4 |
| Brown Sequard Hospital | 3 |
| Prime Minister's Office | 3 |
| Ministry of Local Government, Rodrigues and Outer Islands | 2 |
| Ombudsman | 5 |
| National Transport Authority | 3 |
| National Human Rights Commission | 1 |
| Ministry of Environment and National Development Unit | 1 |
| Ministry of Health and Quality of Life | 6 |
| MSPCA | 4 |
| Pre-School Trust Fund | 5 |
| Ministry of Public Infrastructure, Land Transport and Shipping | 2 |
| NATRESA | 1 |
| Civil Status Office | 2 |
| National Children's Council | 1 |
| Private Secondary Schools Authority | 2 |
| Bureau de L'Education Catholique | 4 |
| Ministry of Labour, Industrial Relations and Employment | 1 |
Selected Cases

We propose herewith a series of selected cases which are placed under different headings for study purposes.

Case Conferencing

The new method of Case Conferencing, which we have referred to in Chapter 1, is going to be developed in the months and years to come in Mauritius. It is an important step in improving the procedures for the protection of children. The most important advantage of this mechanism is that it favours a multistakeholder’s approach. It gives a better chance to the child who is in need of protection. It brings to the same table all those who have important information and expertise to deal with the case rather than leave to only one stakeholder the decision to be taken regarding the child. We present below, a few cases which have given more or less good results.

Case 1

OCO/COMP/11/705

The case of the young boy who had suicidal tendencies, was the first one that we dealt with through a case conferencing. Our office had been called by the headmistress of the school where they could not cope with his situation anymore. We reported on this case in last year’s Annual Report.

We have since then been following up his case. The child is now living with his mother and is well respected in his environment. He is still going to the specialised school run by an NGO. The method used by this NGO is to integrate children in an “atelier du savoir” which uses art and culture and other occupational methods as therapy. This case confirms that all children are not adapted to mainstream schools, even prevocational schools. Unfortunately the MOECHR does not provide for such children who are most of the time excluded after several negative attempts to find a solution.

Case 2

OCO/COMP/11/1962

This case concerns a child who has been reported to be violent at school. She is in her early teens and has difficulty in controlling her anger. The OC called her parents and her for a mediation. The father seemed to work most of the time and the mother was unable
to understand that the kind of life that she was leading has a negative effect on the child. In fact, it then came to light that the child had been victim of sexual abuse twice.

She was being treated by medication but since she did not take the medication as prescribed, she had bouts of anger each time things did not work out the way she wanted. This was specially happening at school where she was being bullied by other pupils. She also became violent against teachers and other staff.

She had had the support of the school psychologist in the past but, in view of the fact that parent’s consent is needed for a proper follow up, she was referred to the CDU. She was then seen by a psychologist but unfortunately the mother did not take her for her appointments regularly.

Throughout the case conferencing, it appeared that the minor was neglected. The home atmosphere was very negative for her. It was therefore proposed that she should be removed from her school and attends a school run by an NGO which specialises in dealing with children with such difficulties. There she would be receiving a proper therapy and at the same time pursue her studies and even sit for the CPE exams.

As the months went by, the minor stabilised and was doing quite well in her studies. She never had problems with anyone. But recently her father brought her to the office as he averred that she beat up her mother. Another case conferencing was called. A close monitoring is still needed in this case. Further investigation regarding her mental state is needed.

**Case 3**

**OCO/COMP/11/1970**

This is the case of a young boy who has developed behavioural problems which made him most unwelcome at school. When things got out of proportions, the OC was contacted by his aunt who had his responsibility. Even she could no longer tackle him. The only person who seemed to have some authority over him was his paternal grandfather. The latter however was not always in Mauritius and had agreed to him staying with his aunt along with his sister.

The OC contacted the relevant social services in Great Britain and obtained the whole file concerning the minor and his siblings who had all been adopted by their grandfather after their father’s sudden death. The mother had obviously given up all her rights and responsibilities over her children. The Social Services had even sent their representatives to Mauritius to see if the Mauritian side of the family could take charge of the children. Two of the children remained in Mauritius but minor was obviously suffering immensely from his family history. Further he was so obviously different from other children that
one could infer that he was rejected by them. It is hard to say how the interactions between him and other Mauritian children actually took place. But the result was that he became more violent, either suicidal or on the defensive all the time.

When the grandfather realised that the situation of the child was aggravating, he agreed to take the child with him to England to afford him proper treatment in an environment where hopefully he would not feel excluded. The minor is a British citizen, but he has double nationality since his father and grandfather were all originally Mauritian. This is an important element of the case since the law provides that the OC can investigate, and therefore follow up, any complaint concerning a Mauritian child wherever he may be.

The grandfather however took a long time to decide to go to England as he had personal matters to deal with here. In the meantime, the minor was becoming more and more violent. The Ministry of Education was more and more concerned by this child as there were protests by other parents and the staff of the school where he was obviously unable to adapt anymore. The Ministry therefore decided to call for a Case Conferencing. The OCO was invited to attend. It became obvious that the minor could not remain at school and it was decided to have him sent temporarily to an Institution where he would be provided with an adapted therapy. The OC called the child and his grandfather, and they both agreed to give it a try. However even there the child was extremely violent and had to be sent back to his grandfather. The result was that he was not being sent to school.

In the meantime the OC mediated with the British Authorities to deliver a passport to the child to enable him to travel to Britain. He left Mauritius and the OC is still in touch with his aunt to monitor his rights.

**Case 4**

**OCO/COMP/11/2037**

A young boy, aged 5 years, who is presently in Standard I, is hyperactive in class. According to his treating psychiatrist, he suffers from Attention Deficit and Hyperactivity Disorder (ADHD). He is also very turbulent at school but lately he developed an aggressive behaviour. The child’s mother cannot look after him well as she suffers from acute epilepsy. As for the father he spends much time at work and very little with the family.

A case conference was organised at the MOECHR. It was decided that the child should be sent to a specialised school at least for some time. The OCO had the responsibility of convincing the parents to transfer school, to look for reports from BSH on the child and to organise a meeting to take a final decision.
The parents were convened at our office. The mother agreed to the temporary transfer of the child to the specialised school. However, she would not be able to afford to pay for a school bus. We arranged with the school for a transport to be provided freely to the child. We also received the report from BSH. Finally the child has been transferred temporarily to the specialised school. A review meeting will be held at the end of the school year.

**Violence at school**

When we report on violence at school we have to remember that we have cases where children are victims of violence and cases when they themselves perpetrate violence. In some cases, if not in most cases, when children perpetrate some form of violence they are in fact victims of violence themselves, whether it be verbal, emotional, physical or sexual in nature. It can also be as a result of an immediate violence or of a form of abuse or neglect which has been their lot for most of their childhood. In the last two cases described, the children were violent at school against children and even staff and had to be removed. But clearly they were also victims of child abuse and neglect.

The office does receive complaints on teacher violence and an investigation either directly or through the Ministry or other relevant agency is absolutely necessary. This situation does not of course please these teachers who hide behind the fact that children are not disciplined and need to be dealt with. It has even been suggested that some force should be applied. The Ministry of Education, Culture and Human Resources is of course trying to apply the law which forbids any form of corporal punishment at school. But many investigations do not give positive results. However sometimes things are taken seriously.

**Case 1**

**OCO/CONF/154/1**

The alleged case of paedophilia which involved a school inspector has seen the suspension of the said inspector. The case came to light when the OC received images of the sexual acts of the said inspector with young teenagers. During the investigation, it was averred that there has been a previous case a few years back but the Ministry did not investigate. They relied solely on the fact that there had been a *nolle prosequi* and the criminal case had never gone through. This time, because of the great proportions that the case took, the Ministry decided to take the bull by the horns. The Minister even decided to reopen the investigations in all cases where there had been allegations in the past.
The present case is now before the court and there is no need to comment in detail on the facts themselves. The point is that the attitude of the Ministry of Education, Culture and Human Resources has changed for the better.

Case 2

OCO/COMP/11/1997

This is the case of an adolescent who was kicked in his leg by his teacher. As it is, this is most unacceptable. But it so happens that his leg had undergone a major surgery as a result of a road accident. The teacher refused him access to his class. The OC was kept informed of the case and of the whole process which led to the case being referred to the Board of Discipline and Dismissal of the PSSA. In the meantime the teacher has been suspended by the college.

For her part the OC called the mother to ensure that the child would be seen by a psychologist.

Violence in the family

OCO/COMP/11/1929

A woman, mother of two children, a boy and a girl aged 14 and 12 years respectively, wrote to the OC to complain that her brother and sister-in-law are harassing her children. She reported that on several occasions her son had serious problems with her brother. The latter even slapped the boy. Both uncle and nephew made a statement to the police against each other. The mother sought help from the CDU, but each time the psychologist was not free. As for the girl, her aunt saw her with a boy. She slapped her and asked her mother to remove her from school, but the latter did not agree.

The OC convened the woman and her two children to gather additional information. She then convened the uncle and the aunt to have their version. Both called at her office and explained the events from their perspective. The OC also talked to the sergeant who is in charge of the case to gather further information.

After mediation, the uncle agreed to withdraw his complaint against the minor if the latter is agreeable to follow psychological counselling at the CDU. The proposal was made to the mother and to the minor. They both agreed. The uncle withdrew his complaint made to the police and the woman also withdrew the allegation made against her brother. The mediation was successful.
Violent killings of children

The OC has had to investigate several cases of children who have been abused, and even violently killed by their parents or those who are close to them and should love, cherish and protect them. She does not investigate in the criminal aspects of these cases. That is done by the police. But she investigates in all the circumstances which led to this sad situation to find out if this could not have been prevented by all those who have a duty to protect children, specially government officials on whom there is a legal duty.

Among these, two cases need to be highlighted.

Case 1

OCO/COMP/11/2014

This case concerns a 2 months old baby who was shaken and beaten to death. Her father confessed that he shook her and finally threw her on the floor because she was crying and stopping him from sleeping.

Apart from the fact that this case confirms the theory that children are mostly victims of violence in their own families, this cases raised many issues. The OC learnt that this child had been admitted to hospital for five days a few days prior to her murder. She wanted to find out if the treating doctors or other hospital staff had in fact seen any sign of child abuse, and, if so, what had they done to prevent further abuse. She was particularly concerned that the child had been discharged and been handed back to her family.

She therefore asked the Ministry of Health and Quality of Life to open an independent investigation and report to her.

The Investigation took place. But the OC, after having read the Report was amazed to learn that the conclusion was that everyone had done their duty. To her question as to whether the Child Development Unit had been informed as per the Child Protection Act, the answer was that there had been no need to inform the CDU. Yet section 11 of the Act imposes a clear duty on all medical staff to report any suspected case of risk of harm to a child that they are examining.

The Report never referred to the cause of death and to the Report of the Police Medical Officer (PMO). The investigators had not even discussed with the said PMO.

The OC summoned the PMO, the radiologist and also the medical social worker. Of course it was difficult to establish that the obvious signs of maltreatment seen by the doctor and radiologist had been seen by the doctors who treated the child when she was
admitted. They never asked for a full body X-RAY, even though the first paediatrician had stated clearly that he suspected that this was a case of a shaken baby syndrome. In fact he had asked for the medical social worker to carry out an enquiry.

The latter admitted to the OC that she had asked the mother and father if they had beaten the baby and when they denied, she did nothing else. She purely and simply believed them. Apparently she also asked the medical staff how the mother behaved while in hospital. She asked the mother to ask the grandmother to call on her, but, when the latter did not turn up, she never thought that it was her duty to go to meet her. Though it is written in the medical records that she states that she will do follow up investigations, she never went to see the parents at their place even after the child had been discharged. She never questioned the neighbours or did anything else which could have been considered as a form of independent evidence. Her attitude was absolutely unprofessional. To say the least, she was negligent.

But what is even more disturbing is that finally the child is given back to the parents without the doctor who took the decision asking whether there is a report from the medical social worker. From the record which was fully examined by the OC, it appears that no one really bothered about the social report except the first paediatrician.

The result is that the baby died of conjunctival haemorrhage. We have been explained by experts in this field that this is clearly a sign of shaken/battered baby syndrome.

The problem that the OC noted and communicated to the Ministry was that there had been no coordination and proper monitoring in this case. She therefore made her proposals to the Ministry as follows:

“There is a need to review the protocol that should apply in such cases in order to prevent the re-occurrence of cases of child abuse and fatal negligence.

The Ombudsperson for Children proposes that the Ministry of Health and Quality of Life calls an urgent meeting of specialists and high officials to devise an up to date protocol to be applied when dealing with children in general and children who are suspected of being victims of child abuse and neglect in particular.

The Ombudsperson for Children is willing to assist the Ministry in ensuring that the laws cited above as well as the CRC are fully respected.”

Since in the meantime Mauritius has been on the alert regarding the A/HINI flu, one can understand that the Ministry could not work on this protocol urgently. The Ministry has informed the OC that the proposed meeting will take place and that she would be informed of the outcome.
Case 2

OCO/COMP/11/2052

The second case concerns the death of a small boy of seven years who was alleged to have been beated by his step-father. The latter confessed his guilt to the police. The mother was absent on the day but declared to the press that she knew that her concubine was beating her children to correct them. But she thought that, despite that, he loved and cared for them.

It was also reported in the press that the child had previously made a declaration to the police. It was also reported that he had also been admitted to hospital in the preceding months. The OC opened an investigation in this case to find out who knew about the violent abuse of the child and why no one reported to the authorities.

The Child Development Unit said that in July 2006, minor’s mother had reported a case of conflict with her husband. She was seen by a Family Counselling Officer and was referred to the Citizen Advice Bureau of Flacq concerning her housing problem. The CDU was not informed by anyone that there was a case of child abuse. They started an enquiry after the death of the minor. It is noteworthy that they report that the mother told them that it was because of his being beaten that she took him to hospital in May 2009.

The police replied that there was no trace of any declaration given by the child or his mother. We just hope that, it was not because the child was very young that, the police officers did not take his statement seriously. We learn that in such cases the Brigade pour la protection des mineurs should be called to assist the child. But the BPM confirm that no one called them.

The Director of the hospital where he had been treated previously confirmed that he had come for a case of gastro enteritis and had been admitted and treated accordingly. He had been handed over to his mother who had brought him. There were, according to their report, no signs or symptoms of abuse and neither the child nor his mother declared anything. This is in contradiction with the CDU Report. However, we learn that the maternal grandfather who visited the child did question the child who informed him that he was beaten. But it is yet unclear as to why they did not report the matter.

At this stage it is difficult to impute any negligence on the part of the police or the hospital. The OC will have to delve further to find out the exact circumstances. She has also tried to get a report from the school where he was. She wanted to know if they did not notice anything. But the report is rather vague. The teacher’s appreciation seems superficial.

But over and above the authorities, there is a duty on every citizen to save the life of any one who is in danger. The Penal Code has now an offence called culpable omission. Did
no one see that there was something wrong? The press articles are full of declarations from all sorts of people who declare the wildest things. For example, one theory is that the child was victim of a sacrifice and that the step-father deals in sorcery. If that is so, which of course remains to be proved, how is it that no one came forward to denounce him.

In this context, the OC has had to go to the press to sensitise the public on their duty and give them the relevant phone numbers where they can report to the CDU, to the Police, or to our office. She has explained that they can even do so anonymously. To have remained quiet in such circumstances would amount to a refusal to do her duty according to the OCA 2003.

**“International” cases**

The OCA 2009 provides that the OC can open an investigation whether a Mauritian child is abroad or in Mauritius, if she considers that his rights are or may be violated.

There are many cases referred to our office concerning children who are abroad or whose parents or one of them is abroad. Some of these cases are referred by the parent who feels that his rights may not have been respected. Some of them are referred by the consulate of the country concerned.

The OC will always stand guided by the principle of the best interests of the child and try to have the views of all parties concerned. Sometimes a mediation is possible. Sometimes it may be an alleged case of child abduction. In this particular instance, the case is referred to the Ministry responsible for Child Development, the designated Central Authority under the relevant Convention and the law.

**Case 1**

**OCO/COMP/11/1879**

This case was referred to us by a foreign consulate. They had been advised by a municipal child service that a young boy aged 13, placed with his guardians, had been on holidays to see his father in Mauritius. He had never gone back. The issue was to find out in what conditions the child was living. It was mentioned that he had a younger brother who also lived with his father in Mauritius.

The OC asked the Child Development Unit to visit the place of the father and find out what were in fact the living conditions of the family. She learnt that the father had admitted his son to a well respected private school in order to facilitate his integration in the same school system that he had known abroad. The report was overall very positive.
The OC decided to write to the school to seek a full report on the child. This report was also positive except that the child pestered some of his school mates. But the father who was summoned by the school promised to speak to him. And happily this stopped.

The OC decided to make double sure. She summoned the father and his son during the school holidays. She came to the conclusion that the son had decided to stay with his father to whom he was attached. He was very alive and expressed himself very clearly. In fact he was outspoken. The OC learnt that the guardians were in fact the father’s mother and step-father to whom he had himself willingly left his child at a time when he had a specific problem including in his married and professional life.

The OC discussed with the children’s mother who was living separately. She confirmed the father’s version. She also explained that she worked for long hours and could not ask for the custody of her children but that they saw each other as often as possible. The minor also confirmed this.

The OC was surprised to learn that the grandmother/guardian had come to Mauritius recently but had neither contacted the consul here nor anyone to try and get back the custody of the minor. The OC then discussed with the officer at the foreign municipal service to inform them of the details of her findings. They also had not had any new contact with the grandparents/guardians.

The OC informed the consulate and filed the case.

Case 2

OCO/COMP/11/1982

This was a case of alleged abduction. The father who lives abroad sent a full file to the foreign consulate here. He averred that his wife had purely and simply left the conjugal roof without informing him. She took their only child with her and went to stay at her cousin’s place in Mauritius. The Consulate had done a preliminary enquiry and obtained the version of the minor’s mother. She averred that she had no choice than to leave her husband as his mother was controlling their life, that she could not go out freely and that her husband did not react positively when she explained the situation to him. On the other hand he averred in the documents that he sent, that his wife was having intimate conversations with her cousin’s husband on the internet. He feared that she may have an affair with him.

It is important to underline that Mauritius has acceded to the Hague Convention on the Civil Aspects of International Child Abduction since the 1 June 1993. The said Convention was domesticated by Act No 19 of 2000. This means that Mauritius is bound to act with regard to any case of international abduction as long as it concerns a country
which has also acceded to the same Convention and recognised our own accession. It is the CDU which must monitor the said law as it is the Central Authority that must cooperate with other Central Authorities in such cases.

The OC therefore referred the Consulate to the CDU. However, at one point in time an event occurred which had an impact on the situation of the case. The husband of the Respondent’s cousin died.

When the OC contacted the family to find out how the Respondent and her child were coping, she learnt that the latter had reconciled with her husband who had finally agreed to receive her in a separate house away from his mother’s control. She had then agreed to go back to stay with him. The OC therefore informed both the Consulate and the CDU of this new development. A follow up is needed by the CDU to find out if in fact the case can be filed.

Case 3

OCO/COMP/11/1315

Too often cases relating to children are referred to our office by one parent against another. When one of them is abroad, of course it complicates matters.

In this case, the mother first contacted us as she was having difficulty to exercise her right of hébergement. Indeed the Supreme Court had ordered that she could see her child whenever she is in Mauritius and also she could take him abroad with her during school holidays for 4 weeks.

In this case there was very bad blood between the parties and, each time, the OC has judged that the parties’ lawyers were the best persons to mediate between them to ensure that each one respects the order.

Then it was the father who lodged a complaint to the effect that his son had been taken away from school without him being informed. He did not even know his whereabouts and could not talk to him on the phone.

Again parties had to be advised to find an acceptable way to be able to exercise their rights. But this was to no avail because, after more than two years, every time it seems that they need a third party to help them. One almost gets the feeling that each one needs to be comforted in the idea that he is right. There is an accusation from the mother that extreme violence has been used against her in the past. At the same time the mother is unable, each time, to respect the court order and she keeps the child for more than four weeks.
One cannot doubt that both parents are suffering because of their own personal problems and that they need to work with a good therapist to overcome their frustration, anger and anguish. But how can the OC convince them to seek help? They both believe that they do not have problems and they are not open enough to seek anyone’s counsel.

In the meantime the child is torn between his parents and will also develop some kind of psychological problem. This is exactly what transgenerational violence means.

The OC is not the proper person to engage in real mediation in such cases. But unfortunately there is no real profession of family mediator in our country. The best advice given to the mother, who keeps on contacting the office each time that she is in Mauritius, is that she must make a choice. Either she accepts the situation and respects the court orders or she comes back to Mauritius and moves for a variation order to obtain custody of the child. It is a personal choice to make. In all these matters it is the principle of the best interests of the child which should guide the parents. The case was filed.

Case 4

OCO/COMP/11/1969

This is the case of a child born of a Mauritian father and French mother. The parties met here and the child was born abroad. The father had left Mauritius to be present for the birth of his child. He explained that the relationship however turned sour between the parties. He was victim of domestic violence and was kicked out of the conjugal roof after having lived three years with his concubine. He then had no means to maintain himself and was helped by the social services. Finally, his elder children from his previous marriage helped him to come back to Mauritius. He declared that he wanted to get better and had the intention of going back to see his child. He complained that he could not get any news about the child.

The OC got in touch with his lawyer in France. The latter explained that there had been a court order granting him a right of visit of the child, twice a month, to be exercised at a special point de rencontre. He was allowed to take the child out but not remove him from the territory. He had to sign the document attached to the order which was sent to our office to confirm that he agreed to the order made in his absence. We helped him to deal with this last administrative aspect of his case.

The order laid emphasis on the fact that, since both parents had recognised the child within a year of his birth, they enjoyed joint parental authority. Both had the right to follow his development and education. It was up to the parent who has custody to inform the other parent of the evolution of the child. They had to take all major decisions jointly.
It is difficult to believe that this will be respected by the mother in view of the bad blood between them and also if the father is in Mauritius. But he recently informed us that he intends to go back in order to exercise all his parental rights. All we could then do was to wish him good luck.

It is important to note that the Mauritian law is not quite the same concerning the exercise of parental authority and we could consider to revisit the Civil Code to improve all these family rights and specially how they can be exercised in the best interests of children. The OC will make a proposal to the Minister of WRCDFW to that effect.

**Teenage Pregnancy**

**OCO/COMP/11/790**

Minor’s mother called at this office to complain that her 16 years old daughter is pregnant.

According to her, the minor accompanied her to Rodrigues for a holiday. Minor met her lover there and they had unprotected sexual intercourse.

She returned back to Mauritius and did not reveal anything to her mother. Minor’s mother informed the office that she questioned her daughter about her menstruation, the latter did not reply. She did not worry anymore. The next month, minor began to suffer from pain in her belly. She was not feeling well. Minor was taken to hospital and the doctor informed her that her daughter was pregnant.

The complainant came to our office completely depressed and wanted us to intervene in the best interest of the child. She wanted to talk to minor’s lover but could not contact him.

Our office contacted the Child Protection Department of Rodrigues to request them to carry out an enquiry at their level.

In the meantime, the minor was referred to the CDU for psychological assistance.

Following the enquiry made by the Child Protection Department, the respondent contacted the office the day after and informed us that they had had sexual intercourse during her stay there. He had never thought that the minor would become pregnant thereafter. But as the situation is, he accepted to take his responsibility towards the minor. He stated that his parents were against his decision but he would look for a lodging to keep minor after the birth of the baby. He promised to marry her afterwards. He said that, as he had just entered a new job, it would be very difficult for him to visit the minor in Mauritius.
The respondent was requested to contact the minor and her mother by phone and to inform them of his decision, which he did. On learning that minor is pregnant, minor’s stepfather got angry, he asked minor and her mother to leave his house. Minor and her mother went to live at a relative’s place. Minor was completely at a loss and did not want to attend school. She feared that the attitude of her friends would be negative.

Minor’s mother called at our office anew to relate her situation. She was advised to bear this separation for some time. In the meantime, the stepfather was contacted and was advised to accept the situation. Minor is now following her treatment at the hospital. She is being psychologically assisted. The family has reconciled. As minor did not want to attend school, minor’s mother was requested to enroll her in a needle work or cookery course pending her delivery.

**Request for temporary school transfer**

In cases of parents’ separation and, pending the court judgement in respect of the custody of the child, the intervention of the Ombudsperson for Children’s Office to ensure that children are not deprived of their rights to education has been quite significant.

Several parents, mainly mothers called at our office to inform us that their children have been deprived of their rights to education. The minor’s parents have separated for various reasons amongst others, problem of alcohol, victim of domestic violence, extra conjugal affair. As both parents have the same rights over the child, the Ministry of Education, Culture and Human Resources and the Ministry of Women’s Rights, Child Development and Family Welfare cannot intervene pending the court’s ruling. Intervening in favour of one parent may cause frustration to the other partner and may lead to conflict and violence. In such circumstances, the Zone Directorate of the Ministry of Education, Culture and Human Resources requests our office to intervene.

**Case 1**

**OCO/COMP/11/1941**

A parent who has taken the responsibility of a child pending the court judgement called at this office to report that her child is being deprived of her rights to education for weeks. She informed our office that she has been victim of domestic violence for several years and had lodged several complaints of domestic violence at the police station. As she has moved to another locality with her children, she would appreciate if her child could be
admitted to a nearby school. She has already entered a court case in respect of custody of her child.

A preliminary investigation was carried out by our office. The other partner was contacted. A mediation was done between the two parties in the best interest of the child. The respondent agreed to sign the transfer certificate and the child was transferred to another school.

**Case 2**

**OCO/COMP/11/1919**

A complaint was made by minor’s mother that she has left the conjugal roof as she was victim of domestic violence. She has moved to her parents’ place and would like her child to be transferred to another school pending the court decision. The other party was contacted by our office, minor’s father stated that he does not want any mediation to be done and refused to sign the transfer certificate. He affirmed that as minor’s mother has left the conjugal roof it’s up to the mother to make the necessary arrangements for minor to attend school, he will definitely not sign the document.

As the child did not want to stay with his father, the office provided minor’s mother with the necessary documents to facilitate the temporary transfer of the child and enable the latter to benefit from her rights to education.

In cases of separation be it for whatever reasons, the parents should behave in a responsible manner. They should not use their children as scapegoats and should always act in the best interest of their child.

**Alcohol related problems**

Parents under the influence of alcohol cause much damage to the emotional, psychological and healthy well being of their children. The issue of alcohol has indeed been dealt with in chapter VI and the number of cases reported to this office are quite significant.

The cases reported do not concern only male parents but also female ones.
Case 1

OCO/COMP/11/2015

Two students of a secondary school were really affected by the behaviour and attitude of their alcoholic father. The latter were in upper classes and had to take part in an important examination. The minors were not able to study at home as the father returned home completely drunk. Under the influence of alcohol, he ill-treated his wife and wanted to have sex with her without taking into consideration that his children were still awake. The children were traumatized with his indecent acts and vulgar language.

As the minor was encountering behavioural problems at school, the school social worker accompanied the minor to our office. The parents were convened to our office. Minors’ mother informed us that her husband under the influence of alcohol did indecent acts in front of the children. When she refused to have sexual relationship, he beat her up and ill-treated her. When the children intervened in the conflict, he beat them too. The father was made aware of his responsibilities towards his children and was advised to behave in a more decent and responsible manner. The whole family is being provided with psychological assistance.

Case 2

OCO/Comp/11/1601

Minor lost his father when he was of a tender age. Minor’s mother got addicted to alcohol. Minor who was encountering speech problems, was not attending his treatment at the hospital. The latter was not attending school regularly as the mother who was completely drunk on the eve could not wake up to prepare minor for school. The child related the whole story to his aunt and informed her that he wanted to attend school.

Minor’s aunt requested the intervention of our office. Minor’s mother was convened to our office and she was asked to bring along all the health documents in respect of minor. She was informed of the impact of her irresponsible act on the well being of the child. She was requested to undergo a therapy to cease the intake of alcohol. The case was referred to the CDU to ensure that minor’s mother is not neglecting the child and that he is attending school regularly and following his therapy. Minor’s Aunt was also requested to follow up the child and to contact the office if any problem arose. The child was provided with psychological assistance.
THE OMBUDSPERSON FOR CHILDREN ACT – 10 November 2003

Act 41 of 2003

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Establishment of the office of Ombudsperson for Children
4. Appointment of Ombudsperson for Children
5. Objects of the office of the Ombudsperson for Children
6. Powers and functions of the Ombudsperson for Children
7. Investigation
8. Protection of witnesses
9. Immunity from legal proceedings
10. Staff of the office of the Ombudsperson for Children
12. Regulations
13. Commencement
An Act

To provide for the establishment of an office of Ombudsperson for Children and for matters related thereto

ENACTED by the Parliament of Mauritius, as follows -

1. Short title

This Act may be cited as the Ombudsperson for Children Act 2003.

2. Interpretation

‘child’ means a person under the age of 18;


‘Minister’ means the Minister to whom responsibility for the subject of child development is assigned;

‘Ombudsperson for Children’ means the Ombudsperson for Children whose office is established under section 3;

‘public body’ means-

(a) a Ministry or Government department;

(b) a local authority;

(c) a statutory corporation;

(d) any other company, partnership or other entity of which the Government is, by the holding of shares or some other financial input, or in any other manner, in a position to influence the policy or decision of such body.

3. Establishment of the office of Ombudsperson for Children

(1) There is established for the purposes of this Act the office of Ombudsperson for Children.

(2) The Ombudsperson for Children shall be a person who has a wide knowledge of the issues and the law relating to children in Mauritius.

(3) The Ombudsperson for Children shall take before the President the oath specified in the Schedule before assuming the duties of his office.
4. Appointment of Ombudsperson for Children

(1) The Ombudsperson for Children shall be appointed by the President of the Republic, acting after consultation with the Prime Minister, the Leader of the Opposition, the Minister and such other persons as he considers appropriate.

(2) An appointment under subsection (1) shall be subject to such terms and conditions as the President may determine.

(3) The Ombudsperson for Children shall hold office for 4 years and shall be eligible for reappointment for only a second term of 4 years.

(4) The President may remove the Ombudsperson for Children from office for inability to perform the functions of his office, whether arising from infirmity of body and mind or any other cause, or for misbehaviour.

(5) The Ombudsperson for Children shall not engage in any trade, business, profession or political activity.

5. Objects of the office of the Ombudsperson for Children

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.

6. Powers and functions of the Ombudsperson for Children

In carrying out the duties of his Office, the Ombudsperson for Children shall –

(a) make proposals to the Minister on legislation, policies and practices regarding services to, or the rights of, children;

(b) advise the Minister on public and private residential placement facilities and shelters established for the benefit of children;

(c) advise public bodies and other institutions responsible for providing care and other services to children on the protection of the rights of children;

(d) take such steps as he may deem necessary to ensure that children under the care of, or supervision of, a public body are treated fairly, properly and adequately;
(e) propose measures to ensure that the legal rights of children in care are protected and that the placement facilities promote the safety of children and conform with such norms as the Ombudsperson for Children may, from time to time, recommend;

(f) initiate an investigation whenever the Ombudsperson for Children considers that there is, has been or is likely to be, a violation of the rights of a child;

(g) investigate cases relating to the situation of children in the family, in schools and in all other institutions, including private or public bodies, as well as cases of abandoned children or street children;

(h) investigate any suspected or reported case of child labour;

(i) investigate cases concerning a child who is a citizen of Mauritius and who may be abroad at the time of the investigation, or a child who is not a citizen of Mauritius but who is residing in Mauritius;

(j) investigate complaints made by a child, or any other person, in relation to the rights of any child;

(k) advise the Minister on the establishment of mechanisms to afford children the ability to express themselves freely, according to their age and maturity, especially on all matters concerning their individual or collective rights;

(l) advise the Minister on the creation of partnerships with parents, teachers, non-governmental as well as governmental organisations, local authorities and any other stakeholders committed to the promotion of children’s rights.

7. Investigation

(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.

(2) For the purposes of an investigation under this Act, the Ombudsperson for Children may -

(a) request any person, including any public officer, to provide information concerning a child whose rights have been, are being or are likely to be violated;

(b) enter premises where –
(i) a child is present, either temporarily or permanently, including an educational or health institution and a place of detention, in order to study the environment of such a place and assess its suitability;

(ii) a child may be in employment;

(iii) there is reasonable ground to believe that the moral and physical safety of a child may be in danger;

(c) request the Commissioner of Police to enquire and report to the Ombudsperson for Children on any allegation relating to the breach of the rights of a child;

(d) enter any licensed premises where the Ombudsperson for Children suspects that alcohol and tobacco may be handled, consumed or purchased by children;

(e) record the statement of any person in connection with an investigation;

(f) request the assistance of the Commissioner of Police and the Officer-in-Charge of any public body or institution, as the case may be, to facilitate any entry and effect, where appropriate, any seizure pursuant to paragraphs (b) and (d).

(g) summon witnesses and examine them on oath;

(h) call for the production of any document or other exhibit; and

(i) obtain such information, file or other record, upon application to the Judge in Chambers whenever necessary under any law, as may be required for the investigation.

(Amended 08/05)

(3) Following an investigation under subsection (1), the Ombudsperson for Children shall -

(a) act as a mediator to resolve any dispute relating to the rights of the child;

(b) make a report to such person or authority as the Ombudsperson for Children considers appropriate;

(c) make proposals of a general nature to the Minister on any matter which may have arisen in the course of the investigation.
(4) The Ombudsperson for Children shall not 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.

8. **Protection of witnesses**

Notwithstanding any enactment, no statement made in good faith by any person by way of a written complaint, or by the giving in writing of a statement made in the course of an investigation, to the Ombudsperson for Children, or any member of the staff of the Ombudsperson for Children, shall subject the maker of the statement to, or be used against him in, any civil or criminal proceedings.

9. **Immunity from legal proceedings**

No liability, civil or criminal, shall lie against the Ombudsperson for Children, or any member of the staff of the Ombudsperson for Children, in respect of anything which is done, or purported to be done, in good faith under this Act or in respect of the publication, by or under the authority of the Ombudsperson for Children, of any report, proceedings or other matter under this Act.

10. **Staff of the Ombudsperson for Children**

The Secretary for Public Service Affairs shall make available to the Ombudsperson for Children such administrative and other staff as the Ombudsperson for Children may require.


(1) The Ombudsperson for Children shall, not later that 30 September in each year, submit a report on its activities during the preceding year, to the President.

(2) Notwithstanding subsection (1), the Ombudsperson for Children may at any other time, submit a special report on any matter which, in his opinion, is of such urgency or importance that it should not be delayed until submission of an annual report to the President.

(3) The President shall cause every report sent to him under this section to be laid before the Assembly within one month of its submission.

11A **Offences**

(1) **A person shall commit an offence** –

(a) where he –

(i) **fails to attend before the Ombudsperson**;
(ii) refuses to take the oath before the Ombudsperson; or
(iii) wilfully refuses to furnish any information or to produce any document, record, file or exhibit,

when required to do so under section 7.

(b) Where he –

(i) refuses to answer to the best of his knowledge any question lawfully put to him by the Ombudsperson; or

(ii) knowingly gives to the Ombudsperson false evidence or evidence which he knows to be misleading,

in connection with an investigation under section 7.

(c) where at any sitting held for the purposes of an investigation under section 7, he –

(i) insults the Ombudsperson; or

(ii) wilfully interrupts the proceedings.

(2) Any person who commits an offence under this section shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.

(Amended 08/05)

12. Regulations

The Minister may –

(a) make such regulations as he thinks fit for the purposes of this Act;

(b) after consultation with the Ombudsperson for Children, make regulations for the purpose of regulating the procedure to be applied for the investigation of complaints by the Ombudsperson for Children.

13. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

Passed by the National Assembly on the twenty first day of October two thousand and three.

André Pompon

*Clerk of the National Assembly*
ANNEX 1

SCHEDULE
(section 3)

I ................. having been appointed to be the Ombudsperson for Children under the Ombudsperson for Children Act 2003 do swear/solemnly affirm that I shall faithfully, impartially and to the best of my ability discharge the trust and perform the duties devolving upon me by such appointment and that I shall not, without reasonable cause, disclose any information imparted to me in the performance of such duties.

(S)......................................... Before me,

Date:................................. (S).........................................

President of the Republic
The significance of article 29 (1)

1. Article 29, paragraph 1, of the Convention on the Rights of the Child is of far-reaching importance. The aims of education that it sets out, which have been agreed to by all States parties, promote, support and protect the core value of the Convention: the human dignity innate in every child and his or her equal and inalienable rights. These aims, set out in the five subparagraphs of article 29 (1), are all linked directly to the realization of the child’s human dignity and rights, taking into account the child’s special developmental needs and diverse evolving capacities. The aims are: the holistic development of the full potential of the child (29 (1) (a)), including development of respect for human rights (29 (1) (b)), an enhanced sense of identity and affiliation (29 (1) (c)), and his or her socialization and interaction with others (29 (1) (d)) and with the environment (29 (1) (e)).

2. Article 29 (1) not only adds to the right to education recognized in article 28 a qualitative dimension which reflects the rights and inherent dignity of the child; it also insists upon the need for education to be child-centred, child-friendly and empowering, and it highlights the need for educational processes to be based upon the very principles it enunciates. The education to which every child has a right is one designed to provide the child with life skills, to strengthen the child’s capacity to enjoy the full range of human rights and to promote a culture which is infused by appropriate human rights values. The goal is to empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence. “Education” in this context goes far beyond formal schooling to embrace the broad range of life experiences and learning processes which enable children, individually and collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within society.

3. The child’s right to education is not only a matter of access (art. 28) but also of content. An education with its contents firmly rooted in the values of article 29 (1) is for every child an indispensable tool for her or his efforts to achieve in the course of her or his life a balanced, human rights-friendly response to the challenges that accompany a period of fundamental change driven by globalization, new technologies and related phenomena. Such challenges include the tensions between, inter alia, the

\[1\] In this regard, the Committee takes note of general comment No. 13 (1999) of the Committee on Economic, Social and Cultural Rights on the right to education, which deals, inter alia, with the aims of education under article 13 (1) of the International Covenant on Economic, Social and Cultural Rights. The Committee also draws attention to the general guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention (CRC/C/58, paras. 112-116).
global and the local; the individual and the collective; tradition and modernity; long- and short-term considerations; competition and equality of opportunity; the expansion of knowledge and the capacity to assimilate it; and the spiritual and the material.\(^2\) And yet, in the national and international programmes and policies on education that really count, the elements embodied in article 29 (1) seem all too often to be either largely missing or present only as a cosmetic afterthought.

4. Article 29 (1) states that the States parties agree that education should be directed to a wide range of values. This agreement overcomes the boundaries of religion, nation and culture built across many parts of the world. At first sight, some of the diverse values expressed in article 29 (1) might be thought to be in conflict with one another in certain situations. Thus, efforts to promote understanding, tolerance and friendship among all peoples, to which paragraph (1) (d) refers, might not always be automatically compatible with policies designed, in accordance with paragraph (1) (c), to develop respect for the child’s own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own. But in fact, part of the importance of this provision lies precisely in its recognition of the need for a balanced approach to education and one which succeeds in reconciling diverse values through dialogue and respect for difference. Moreover, children are capable of playing a unique role in bridging many of the differences that have historically separated groups of people from one another.

The functions of article 29 (1):

5. Article 29 (1) is much more than an inventory or listing of different objectives which education should seek to achieve. Within the overall context of the Convention it serves to highlight, inter alia, the following dimensions.

6. First, it emphasizes the indispensable interconnected nature of the Convention’s provisions. It draws upon, reinforces, integrates and complements a variety of other provisions and cannot be properly understood in isolation from them. In addition to the general principles of the Convention - non-discrimination (art. 2), the best interest of the child (art. 3), the right to life, survival and development (art. 6) and the right to express views and have them taken into account (art. 12) - many other provisions may be mentioned, such as but not limited to the rights and responsibilities of parents (arts. 5 and 18), freedom of expression (art. 13), freedom of thought (art. 14), the right to information (art. 17), the rights of children with disabilities (art. 23), the right to education for health (art. 24), the right to education (art. 28), and the linguistic and cultural rights of children belonging to minority groups (art. 30).

7. Children’s rights are not detached or isolated values devoid of context, but exist within a broader ethical framework which is partly described in article 29 (1) and in the preamble to the Convention. Many of the criticisms that have been made of

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the Convention are specifically answered by this provision. Thus, for example, this article underlines the importance of respect for parents, of the need to view rights within their broader ethical, moral, spiritual, cultural or social framework and of the fact that most children’s rights, far from being externally imposed, are embedded within the values of local communities.

8. Second, the article attaches importance to the process by which the right to education is to be promoted. Thus, efforts to promote the enjoyment of other rights must not be undermined, and should be reinforced, by the values imparted in the educational process. This includes not only the content of the curriculum but also the educational processes, the pedagogical methods and the environment within which education takes place, whether it be the home, school, or elsewhere. Children do not lose their human rights by virtue of passing through the school gates. Thus, for example, education must be provided in a way that respects the inherent dignity of the child and enables the child to express his or her views freely in accordance with article 12 (1) and to participate in school life. Education must also be provided in a way that respects the strict limits on discipline reflected in article 28 (2) and promotes non-violence in school. The Committee has repeatedly made clear in its concluding observations that the use of corporal punishment does not respect the inherent dignity of the child nor the strict limits on school discipline. Compliance with the values recognized in article 29 (1) clearly requires that schools be child-friendly in the fullest sense of the term and that they be consistent in all respects with the dignity of the child. The participation of children in school life, the creation of school communities and student councils, peer education and peer counselling, and the involvement of children in school disciplinary proceedings should be promoted as part of the process of learning and experiencing the realization of rights.

9. Third, while article 28 focuses upon the obligations of State parties in relation to the establishment of educational systems and in ensuring access thereto, article 29 (1) underlies the individual and subjective right to a specific quality of education. Consistent with the Convention’s emphasis on the importance of acting in the best interests of the child, this article emphasizes the message of child-centred education: that the key goal of education is the development of the individual child’s personality, talents and abilities, in recognition of the fact that every child has unique characteristics, interests, abilities, and learning needs. Thus, the curriculum must be of direct relevance to the child’s social, cultural, environmental and economic context and to his or her present and future needs and take full account of the child’s evolving capacities; teaching methods should be tailored to the different needs of different children. Education must also be aimed at ensuring that essential life skills are learnt by every child and that no child leaves school without being equipped to face the challenges that he or she can expect to be confronted with in life. Basic skills include not only literacy and numeracy but also life skills such as the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner; and to develop a healthy lifestyle, good social relationships and responsibility, critical thinking.

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creative talents, and other abilities which give children the tools needed to pursue their options in life.

10. Discrimination on the basis of any of the grounds listed in article 2 of the Convention, whether it is overt or hidden, offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child to benefit from educational opportunities. While denying a child’s access to educational opportunities is primarily a matter which relates to article 28 of the Convention, there are many ways in which failure to comply with the principles contained in article 29 (1) can have a similar effect. To take an extreme example, gender discrimination can be reinforced by practices such as a curriculum which is inconsistent with the principles of gender equality, by arrangements which limit the benefits girls can obtain from the educational opportunities offered, and by unsafe or unfriendly environments which discourage girls’ participation. Discrimination against children with disabilities is also pervasive in many formal educational systems and in a great many informal educational settings, including in the home. Children with HIV/AIDS are also heavily discriminated against in both settings. All such discriminatory practices are in direct contradiction with the requirements in article 29 (1) (a) that education be directed to the development of the child’s personality, talents and mental and physical abilities to their fullest potential.

11. The Committee also wishes to highlight the links between article 29 (1) and the struggle against racism, racial discrimination, xenophobia and related intolerance. Racism and related phenomena thrive where there is ignorance, unfounded fears of racial, ethnic, religious, cultural and linguistic or other forms of difference, the exploitation of prejudices, or the teaching or dissemination of distorted values. A reliable and enduring antidote to all of these failings is the provision of education which promotes an understanding and appreciation of the values reflected in article 29 (1), including respect for differences, and challenges all aspects of discrimination and prejudice. Education should thus be accorded one of the highest priorities in all campaigns against the evils of racism and related phenomena. Emphasis must also be placed upon the importance of teaching about racism as it has been practised historically, and particularly as it manifests or has manifested itself within particular communities. Racist behaviour is not something engaged in only by “others”. It is therefore important to focus on the child’s own community when teaching human and children’s rights and the principle of non-discrimination. Such teaching can effectively contribute to the prevention and elimination of racism, ethnic discrimination, xenophobia and related intolerance.

12. Fourth, article 29 (1) insists upon a holistic approach to education which ensures that the educational opportunities made available reflect an appropriate

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4 See general comment No. 5 (1994) of the Committee on Economic, Social and Cultural Rights on persons with disabilities.

5 See the recommendations adopted by the Committee on the Rights of the Child after its day of general discussion in 1998 on children living in a world with HIV/AIDS (A/55/41, para. 1536).
balance between promoting the physical, mental, spiritual and emotional aspects of education, the intellectual, social and practical dimensions, and the childhood and lifelong aspects. The overall objective of education is to maximize the child’s ability and opportunity to participate fully and responsibly in a free society. It should be emphasized that the type of teaching that is focused primarily on accumulation of knowledge, prompting competition and leading to an excessive burden of work on children, may seriously hamper the harmonious development of the child to the fullest potential of his or her abilities and talents. Education should be child-friendly, inspiring and motivating the individual child. Schools should foster a humane atmosphere and allow children to develop according to their evolving capacities.

13. Fifth, it emphasizes the need for education to be designed and provided in such a way that it promotes and reinforces the range of specific ethical values enshrined in the Convention, including education for peace, tolerance, and respect for the natural environment, in an integrated and holistic manner. This may require a multidisciplinary approach. The promotion and reinforcement of the values of article 29 (1) are not only necessary because of problems elsewhere, but must also focus on problems within the child’s own community. Education in this regard should take place within the family, but schools and communities must also play an important role. For example, for the development of respect for the natural environment, education must link issues of environmental and sustainable development with socio-economic, sociocultural and demographic issues. Similarly, respect for the natural environment should be learnt by children at home, in school and within the community, encompass both national and international problems, and actively involve children in local, regional or global environmental projects.

14. Sixth, it reflects the vital role of appropriate educational opportunities in the promotion of all other human rights and the understanding of their indivisibility. A child’s capacity to participate fully and responsibly in a free society can be impaired or undermined not only by outright denial of access to education but also by a failure to promote an understanding of the values recognized in this article.

Human rights education

15. Article 29 (1) can also be seen as a foundation stone for the various programmes of human rights education called for by the World Conference on Human Rights, held in Vienna in 1993, and promoted by international agencies. Nevertheless, the rights of the child have not always been given the prominence they require in the context of such activities. Human rights education should provide information on the content of human rights treaties. But children should also learn about human rights by seeing human rights standards implemented in practice, whether at home, in school, or within the community. Human rights education should be a comprehensive, lifelong process and start with the reflection of human rights values in the daily life and experiences of children.6

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16. The values embodied in article 29 (1) are relevant to children living in zones of peace but they are even more important for those living in situations of conflict or emergency. As the Dakar Framework for Action notes, it is important in the context of education systems affected by conflict, natural calamities and instability that educational programmes be conducted in ways that promote mutual understanding, peace and tolerance, and that help to prevent violence and conflict. Education about international humanitarian law also constitutes an important, but all too often neglected, dimension of efforts to give effect to article 29 (1).

Implementation, monitoring and review

17. The aims and values reflected in this article are stated in quite general terms and their implications are potentially very wide-ranging. This seems to have led many States parties to assume that it is unnecessary, or even inappropriate, to ensure that the relevant principles are reflected in legislation or in administrative directives. This assumption is unwarranted. In the absence of any specific formal endorsement in national law or policy, it seems unlikely that the relevant principles are or will be used to genuinely inform educational policies. The Committee therefore calls upon all States parties to take the necessary steps to formally incorporate these principles into their education policies and legislation at all levels.

18. The effective promotion of article 29 (1) requires the fundamental reworking of curricula to include the various aims of education and the systematic revision of textbooks and other teaching materials and technologies, as well as school policies. Approaches which do no more than seek to superimpose the aims and values of the article on the existing system without encouraging any deeper changes are clearly inadequate. The relevant values cannot be effectively integrated into, and thus be rendered consistent with, a broader curriculum unless those who are expected to transmit, promote, teach and, as far as possible, exemplify the values have themselves been convinced of their importance. Pre-service and in-service training schemes which promote the principles reflected in article 29 (1) are thus essential for teachers, educational administrators and others involved in child education. It is also important that the teaching methods used in schools reflect the spirit and educational philosophy of the Convention on the Rights of the Child and the aims of education laid down in article 29 (1).

19. In addition, the school environment itself must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin called for in article 29 (1) (b) and (d). A school which allows bullying or other violent and exclusionary practices to occur is not one which meets the requirements of article 29 (1). The term “human rights education” is too often used in a way which greatly oversimplifies its connotations. What is needed, in addition to formal human

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7 Education for All: Meeting our Collective Commitments, adopted at the World Education Forum, Dakar, 26-28 April 2000.
rights education, is the promotion of values and policies conducive to human rights not only within schools and universities but also within the broader community.

20. In general terms, the various initiatives that States parties are required to take pursuant to their Convention obligations will be insufficiently grounded in the absence of widespread dissemination of the text of the Convention itself, in accordance with the provisions of article 42. This will also facilitate the role of children as promoters and defenders of children’s rights in their daily lives. In order to facilitate broader dissemination, States parties should report on the measures they have taken to achieve this objective and the Office of the High Commissioner for Human Rights should develop a comprehensive database of the language versions of the Convention that have been produced.

21. The media, broadly defined, also have a central role to play, both in promoting the values and aims reflected in article 29 (1) and in ensuring that their activities do not undermine the efforts of others to promote those objectives. Governments are obligated by the Convention, pursuant to article 17 (a), to take all appropriate steps to “encourage the mass media to disseminate information and material of social and cultural benefit to the child”.

22. The Committee calls upon States parties to devote more attention to education as a dynamic process and to devising means by which to measure changes over time in relation to article 29 (1). Every child has the right to receive an education of good quality which in turn requires a focus on the quality of the learning environment, of teaching and learning processes and materials, and of learning outputs. The Committee notes the importance of surveys that may provide an opportunity to assess the progress made, based upon consideration of the views of all actors involved in the process, including children currently in or out of school, teachers and youth leaders, parents, and educational administrators and supervisors. In this respect, the Committee emphasizes the role of national-level monitoring which seeks to ensure that children, parents and teachers can have an input in decisions relevant to education.

23. The Committee calls upon States parties to develop a comprehensive national plan of action to promote and monitor realization of the objectives listed in article 29 (1). If such a plan is drawn up in the larger context of a national action plan for children, a national human rights action plan, or a national human rights education strategy, the Government must ensure that it nonetheless addresses all of the issues dealt with in article 29 (1) and does so from a child-rights perspective. The Committee urges that the United Nations and other international bodies concerned with educational policy and human rights education seek better coordination so as to enhance the effectiveness of the implementation of article 29 (1).

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8 The Committee recalls the recommendations in this respect which emerged from its day of general discussion in 1996 on the child and the media (see A/53/41, para. 1396).
24. The design and implementation of programmes to promote the values reflected in this article should become part of the standard response by Governments to almost all situations in which patterns of human rights violations have occurred. Thus, for example, where major incidents of racism, racial discrimination, xenophobia and related intolerance occur which involve those under 18, it can reasonably be presumed that the Government has not done all that it should to promote the values reflected in the Convention generally, and in article 29 (1) in particular. Appropriate additional measures under article 29 (1) should therefore be adopted which include research on and adoption of whatever educational techniques might have a positive impact in achieving the rights recognized in the Convention.

25. States parties should also consider establishing a review procedure which responds to complaints that existing policies or practices are not consistent with article 29 (1). Such review procedures need not necessarily entail the creation of new legal, administrative, or educational bodies. They might also be entrusted to national human rights institutions or to existing administrative bodies. The Committee requests each State party when reporting on this article to identify the genuine possibilities that exist at the national or local level to obtain a review of existing approaches which are claimed to be incompatible with the Convention. Information should be provided as to how such reviews can be initiated and how many such review procedures have been undertaken within the reporting period.

26. In order to better focus the process of examining States parties’ reports dealing with article 29 (1), and in accordance with the requirement in article 44 that reports shall indicate factors and difficulties, the Committee requests each State party to provide a detailed indication in its periodic reports of what it considers to be the most important priorities within its jurisdiction which call for a more concerted effort to promote the values reflected in this provision and to outline the programme of activities which it proposes to take over the succeeding five years in order to address the problems identified.

27. The Committee calls upon United Nations bodies and agencies and other competent bodies whose role is underscored in article 45 of the Convention to contribute more actively and systematically to the Committee’s work in relation to article 29 (1).

28. Implementation of comprehensive national plans of action to enhance compliance with article 29 (1) will require human and financial resources which should be available to the maximum extent possible, in accordance with article 4. Therefore, the Committee considers that resource constraints cannot provide a justification for a State party’s failure to take any, or enough, of the measures that are required. In this context, and in light of the obligations upon States parties to promote and encourage international cooperation both in general terms (articles 4 and 45 of the Convention) and in relation to education (art. 28 (3)), the Committee urges States parties providing development cooperation to ensure that their programmes are designed so as to take full account of the principles contained in article 29 (1).
**Acronyms**

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ADEA</td>
<td>Association for the Development of Education in Africa</td>
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<tr>
<td>BPM</td>
<td>Brigade pour la protection des mineurs</td>
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<tr>
<td>CCPP</td>
<td>Community Child Protection Programme</td>
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<tr>
<td>CDU</td>
<td>Child Development Unit</td>
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<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of Forms of Discrimination Against Women</td>
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<tr>
<td>CPA</td>
<td>Child Protection Act</td>
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<tr>
<td>CPE</td>
<td>Certificate of Primary Education</td>
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<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<tr>
<td>CSEC</td>
<td>Commercial Sexual Exploitation of Children</td>
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<tr>
<td>CYC</td>
<td>Correctional Youth Centre</td>
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<tr>
<td>EAP</td>
<td>Eradication of Absolute Poverty Programme</td>
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<tr>
<td>ECCEA</td>
<td>Early Childhood Care and Education Authority</td>
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<td>EPO</td>
<td>Emergency Protection Order</td>
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<tr>
<td>MBC</td>
<td>Mauritius Broadcasting Corporation</td>
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<tr>
<td>MOECHR</td>
<td>Ministry of Education, Culture and Human Resources</td>
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<tr>
<td>MOHQL</td>
<td>Ministry of Health and Quality of Life</td>
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<tr>
<td>MWRCDFW</td>
<td>Ministry of Women’s Rights, Child Development, Family Welfare</td>
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<tr>
<td>NCC</td>
<td>National Children’s Council</td>
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<tr>
<td>NGO</td>
<td>Non Governmental Organisation</td>
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<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>OC</td>
<td>Ombudsperson for Children</td>
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<td>OCA</td>
<td>Ombudsperson for Children’s Act 2003</td>
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<td>OCO</td>
<td>Ombudsperson for Children’s Office</td>
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<tr>
<td>ODEROI</td>
<td>Observatoire des droits de l’enfant de la région de l’Océan Indien</td>
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<tr>
<td>PSSA</td>
<td>Private Secondary Schools Authority</td>
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<tr>
<td>RYC</td>
<td>Rehabilitation Youth Centre</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNCRC</td>
<td>United Nations Committee on the Rights of the Child</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
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<tr>
<td>WCSP</td>
<td>Women and Children Solidarity Programme</td>
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<tr>
<td>WHO</td>
<td>World Health Organisation</td>
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<tr>
<td>ZEP</td>
<td>Zones d’Education Prioritaire</td>
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