Introduction:

This is the 8th Report of the Ombudsperson for Children (OC) prepared in virtue of section 11(1) of the Ombudsperson for Children’s Act (OAC) 2003, which provides that: “The Ombudsperson for Children shall, not later than 30 September in each year, submit a report on its activities during the preceding year, to the President.”

The President must cause every report sent to him to be laid before the Assembly within one month of its submission.

This tradition has been fully respected for the past years. Usually, as soon as the National Assembly resumes, the Annual Reports are tabled and I present my Report to the public in the presence of all main stakeholders including the media. I submit myself to a series of questions put and explain my role, powers and function and my stand regarding burning issues concerning children’s rights.

Chapter I deals with the concept of Ombudsperson and is entitled “The Ombudsperson for Children in Mauritius: its relevance, its mandate.” This is an occasion to revisit the trends of all modern National Human Rights Institutions (NHRI) specially, those dedicated to the defence of children’s rights. It looks back on the decision which led Mauritius to set up such an Institution. It also looks at the evolution of the OCO from 2003 to 2011. The Chapter summarises the major proposals made for the past eight years and those that have been implemented.

Chapter II – This chapter on “Protection of the Child – the chain of services” deals with the protection of children who are victims of child abuse, child neglect and all forms of exploitation and violence. This year has been particularly negative in that many children have died at the hands of irresponsible parents or violent persons living under the same roof. It looks as though the State has not been able to better protect children. Nonetheless I assess progress made, if any, by the authorities to prevent, protect and rehabilitate children. I continue to look at the obstacles which persist in the chain of services and propose policies and strategies which may have a positive impact on the situation of children in distress. Above all I continue to advocate for better coordination and monitoring. This year has been particularly interesting in that we have had the visit of the UN Special Rapporteur on the sale of children, child prostitution and child pornography who made an interim report highlighting many of the obstacles which I myself reported on for the past seven years.
Chapter III deals with “Violence against Children”. I report on all recent initiatives taken by the office to address the issue of violence. I also highlight actions taken by other stakeholders in this respect. Issues such as Child Trafficking and Commercial Sexual Exploitation of Children (CSEC) are dealt with in the light of the visit of the UN Rapporteur. The Chapter also covers domestic violence and its impact on children. I revisit the issue of corporal punishment at home specially those leading to death of very small children. The issue of sexual violence in all settings is also addressed.

Chapter IV: Under the chapter on education, I have analysed government expenditure in different sectors of education. Emphasis is also placed on Early Childhood Education as well as Special Needs Education. The OC also welcomes the introduction of kreole at school, as well as the the Sankoré project. The issue of private tuition is also addressed. In the secondary sector the issues of absenteeism and examination fees are also analysed.

Chapter V is on School Discipline. I have examined the issue of discipline at school which is of great concern to all stakeholders. I comment on proposals discussed with the Ministry and reiterates my proposals on this issue.

Chapter VI deals with the Convention on the Rights of the Child and is totally dedicated to the duty of the OC “to promote compliance with the Convention” (section 5c of OCA 2003). A matrix which has been prepared with all government departments is going to be placed on the website when it is finalised. But progress achieved is herewith reproduced. This relates to the issues raised by the UN Committee on the Rights of the Child after its examination of the report of our State in January 2006.

Chapter VII is reserved to Rodrigues. I describe the situation in the island as regards children. I visited the island twice, launched the Annual Report and later the DVD on children’s rights. I also visited a few schools and received several complaints.

Chapter VIII relates to the communication, sensitisation and training strategy of the OCO. This year I launched a DVD on the rights of the child based on the adventures of Tico and Rajoo, the child heroes of the comic booklet already launched last year and distributed in all schools. The 16 Days 16 Rights Campaign is also described and new proposals are made for the future. The chapter also describes all training given and received.

Chapter IX is devoted to a selection of cases dealt with. This year, numerous major investigations were undertaken by me, which concerned mainly children victims of violence which were fatal. Following these investigations, many proposals have been made to Ministries and departments directly concerned. I report on the difficulty to obtain change and the deterioration of the situation. I also report in great detail on proposals made to each Ministry concerned and on the final outcome.
Chapter 1

The Ombudsperson for Children in Mauritius: its relevance, its mandate
The Ombudsperson for Children in Mauritius: Its relevance, its mandate

After having been the Ombudsperson for Children (OC) for Mauritius for the past eight years, it is important in my eyes to revisit the very concept of OC. In this first chapter of my last Annual Report I want to analyse the role, powers and function of the OC under the Mauritian law and in the local context. This involves looking back on the creation of the post, on the way that it has evolved positively, but also by identifying the obstacles that have hampered the proper functioning of our institution. It is also important at this stage to situate our institution with regard to what is happening in this field around the world.

At the end of the Chapter I have made a list of proposals made to government stakeholders and analyse the outcome in each case.

A Global Network of Ombudspersons for Children

Mauritius is the only country in Africa to have set up an Independent Human Rights Institution (IHRI) for children. There are about 100 such dedicated institutions in the world. In Europe and Latin America there are networks which promote exchange between such defenders of children. A lot of progress has been made to set up a Global Network of Ombudspersons for Children, and UNICEF has been facilitating the network up to now. As OC for Mauritius, I have been a very active member of the Global Network which has met several times. A preparatory meeting was held in Florence from 11-12 November 2007 followed by the Second Global meeting of the Independent Human Rights Institutions for Children on 10 December in New York. This meeting coincided with the United Nations mid-term review in New York of the United Nations Special Session on Children (plus five) on 11-12 December. Another Global meeting was held in Rio de Janeiro, Brazil from 25-28 November 2008.

The Global Network prepared these major events and participated both at plenary sessions and in workshops. The input in the final document was also important. On these occasions the importance of setting up Ombudspersons for Children was highlighted.

1 The European Network of Ombudspersons for Children (ENOC)
The Ibero-American Network of Ombudspersons for Children
The Paris Principles

In December 1993, the General Assembly of the United Nations adopted the Paris Principles by resolution 48/134. These principles relate to the status of National Human Rights Institutions. Its section 1 provides that “a national institution shall be vested with competence to promote and protect human rights”.

In Mauritius the mandate of the Ombudsperson for Children is fully spelt out in a legislative text which was adopted unanimously in the National Assembly (Act 41 of 2003). On 20 November 2003, the President of the Republic gave his assent to the Act which was an excellent way of celebrating the Universal Children’s Day. On 10 December 2003, on National Human Rights’ Day, I was nominated and my mandate was renewed four years later.

Different countries have different systems but all democratic countries are expected to respect the major principles agreed in Paris in 1993 by giving to its national institution “as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence”.

Why is an Ombudsperson Important?

An Ombudsperson is important:

• To improve the performance of public administration,
• To improve government accountability to the public,
• To improve citizens’ access to the administration.

An Ombudsperson for Children (OC) is specialised and must

• Promote and protect the rights and interests of children,
• Improve access to existing rights,
• Promote recognition of human rights not yet embodied in legislation or practice.
In Mauritius, the objective of the OC is, according to Sec 5 of Ombudsperson for Children’s Act (OCA) 2003, to:

(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.”

Why an Ombudsperson for Children?

- Children are a particularly vulnerable group: they are vulnerable to human rights violations and particularly to violence in all its forms
- Children are dependent on adults for all their basic needs
- Children need to be guided to exercise their rights
- Children have no political power: They do not vote until they reach their majority which in most cases is at 18 years old.
- Children have no access to lobbies that influence government agendas
- Children have limited access to complaints mechanisms, legal systems and courts.

The independence of the Ombudsperson for Children.

Independence is at the heart of any National Human Rights Institution (NHRI) which does not fall under the aegis of any Ministry.

An OC must be at arms’ length with the Executive. No member of Government can dictate to the Ombudsperson for Children, or any other NHRI, nor influence any decision which the incumbent may take. The Ombudsperson for Children does not take orders from anyone but listens to all and can act upon genuine proposals made.

An Ombudsperson for Children must set his own agenda and must act and speak freely. Silence can be a sign of wisdom in some instances, but it can also be a sign of weakness and lack of freedom especially when the circumstances are such that the Ombudsperson for Children must speak out publicly.
The Paris Principles provide that a national institution has the responsibility of “drawing the attention of Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government”.

What does the OC do?

• Influence policy makers and practitioners to give greater consideration to the rights of children.

• Provide a voice for children, act as their champion and provide a channel of communication between children and government. The OC must advocate for children’s rights either generally or on specific occasions when these rights are violated.

• Identify major changes needed in terms of policy, strategy and the protection of the law to improve the rights and interests of children and propose specific changes to be made.

The powers and functions of the OC

1. In Mauritius, the OC has the duty to make proposals to the Minister on legislation, policies, practices regarding services to, or the rights of, children.

2. He can advise the Minister, public bodies and other institutions. He must ensure that children under the care of, or supervision of, a public body are treated fairly, properly and adequately.

3. He must investigate complaints made by adults and children whenever he considers that “there is, has been or is likely to be, a violation of the rights of a child.”

4. He can act as a mediator to resolve disputes following an investigation.

5. He can make proposals of a general nature to the Minister on any matter which came to light during an investigation.

6. He may make a report to any person or authority.

7. He must make an Annual Report to the President of the Republic.
The OC and the law

1. The Ombudsperson for Children must speak on behalf of all children as they have no official voice, and advocate for respect of their rights based specially on the United Nations Convention on the Rights of the Child (CRC).

2. He must also use all other Human Rights Treaties ratified or acceded to by Mauritius as benchmarks.

3. Further, a good command of the law relating to children is important in order to assess if there has been any disregard of existing laws, or, if no law exists to protect a specific aspect of the rights of any child, to make proposals for amendments.

4. In the case of a breach of the criminal law, the OC may refer the matter directly to the police if the case is of a criminal nature.

5. If not he may advise a court procedure.

6. The OC is not allowed to investigate if there is already a case pending before the court.

7. In such cases complainants can be referred to the CDU which can provide legal advice and assistance. The OC does not give any legal advice.

The specificity of the OC

There is a lot of misunderstanding on the exact role of the OC in the public, even amongst decision makers, journalists and social stakeholders. This is usually visible whenever there is a major crime committed against a child which creates a lot of anguish amongst the people, especially those close to the victim. In this period of public sadness and difficulty to accept such horrible acts, people try to understand. The media is sometimes tempted to look for culprits and does not make the necessary distinction on duty bearers who were irresponsible. The Convention on the Rights of the Child (CRC) is however clear on the duties of the State, the parents, the carers, educators and those who have specific relations to the child.

The Child Protection Act also spells out clearly who is responsible for the protection of children and in what circumstances. It also places a duty to report on educational and medical staff.
As Ombudsperson for Children, I do not engage in any urgent act of protection but I will refer any case of child abuse or child neglect to the Ministry of Gender Equality, Child Development and Family Welfare and follow up. I will however investigate cases if those who are vested with the duty to protect children have themselves been negligent. Major cases investigated are fully described in Chapter VIII.

The investigators at the OCO will however proceed with a pre-investigation before determining on how to respond in each case. If it appears that we can find a good and easy solution we will use mediation. For example, regarding the MEHR I will negotiate with them on behalf of children or even organisations looking after children, in order to ensure that the right of each child concerned is being fully respected.

**Interaction of the OC with non-state actors.**

As Ombudsperson for Children I also work very closely with all NGOs which are closely concerned with children. Some may be accommodating children placed by the CDU. Some may also be engaged in numerous actions of prevention, protection and rehabilitation. I consult them frequently, invite them to meetings and events and seek their expertise on issues or even on specific cases. I also go to meet them in the specific places where they work and hold sensitisation meetings with children and parents in the area.


**Relations of OC with children**

Ombudspersons for Children are, of course, expected to work closely with children whose immediate preoccupations are the basis of their work. They must be easily accessible to children. One way of doing so is to multiply efforts to make their office known to them. I have, from December 2003 onwards, been in contact with children in schools, in associations and in special events either organised by NGOs, schools or other community groups. We have set up a child’s network called Budi’s friends. The Budies received special training and participated in several workshops and events. In particular they were the leaders of the Carnival on violence against children organised by us with several NGOs and which rallied about 2000 children on the 22 April 2006. The latter were trained and also expressed themselves in very creative ways for the very colourful carnival which was a highly pedagogical and cultural event.
In 2007, the OCO set up a National Children’s Forum with the Budi’s friends and other children’s groups (ABAIM, Terre de Paix, Cedern, SOS Village, Scouts movement, Kites clubs of the National Children’s Council and young members of the Observatoire des droits de l’enfant de l’Océan Indien). The members of this forum were often interviewed by the written and electronic press and they participated in several events to celebrate the CRC or speak on their rights and responsibilities. This was done at a time when there was no other space for children to exercise fully their right to participation. The National Children’s Committee had not yet been set up though the National Children’s Council Act did provide for such a Committee. On 16 June 2011, the Minister of Gender Equality, Child Development and Family Welfare launched the National Children’s Committee after an appeal that I had made to her. A project of the former Attorney General to set up a Children’s Parliament never materialised.

It is unfortunate that the OCO is not staffed adequately today to be able to carry on with such interesting projects. This was possible when four investigators were allocated to the OCO whereas now we only have two investigators and the number of complaints is on the rise.

Relations with the media.

Ombudspersons for Children must have good relations with all press organs according to the Paris Principles, as they can be very helpful to “publicize human rights and efforts to combat all forms of discrimination, (…) by increasing public awareness, especially through information and education”.

I have, since the beginning of my mandate tried to sensitise journalists on their own role with regard to children’s rights. I have also advocated greater respect when dealing with the sensitive issue of child abuse. Many newspapers, radios and the national TV have respected the international guidelines which I have put at their disposal. Occasionally, a newspaper will however publish a photograph of a minor who is a victim. I have therefore, proposed to include a formal ban in such cases in the forthcoming Children’s Bill, which can also deal with the rules of ethics of the media with regard to children.
The Ombudsperson for Children and international relations.

As already explained, Ombudspersons for Children are not working in a vacuum. They are guided by the enabling laws establishing their offices. They also work according to principles establishing them. Apart from the UN Paris Principles, we also have General Comment No 2 (2002) of the Committee on the Rights of the Child as a good reference document.

The Committee states that “independent NHRI are an important mechanism to promote and ensure the implementation of the Convention…”

The Committee’s principal concern is that the Institution, whatever its form, should be able, “independently and effectively, to monitor, promote and protect children’s rights…”

I have been working very closely with my counterparts on other continents. My participation at the meetings of the European Network of Ombudspersons (ENOC) helped me at the beginning of my mandate. I have also kept very close relations with the United Nations, in particular with UNICEF. During two years, between 2004 to 2006, I have been a member of the Editorial Board of the UN Study on Violence against Children. Recently, I have also participated in discussions with my counterparts from the FRANCOPHONIE, more specifically with the Association des Ombudsmen et médiateurs francophones.

In the Southern African Region, my office is a member of a network called The Southern African Network to End Corporal and Humiliating Punishment of Children. This network groups some 17 organisations from the region working on the above mentioned issue. I have also worked closely with the Global Initiative to End All Corporal Punishment of Children which is an international organization advocating for the ban of corporal punishment in all settings.

In Mauritius itself, I have worked in close collaboration with the United Nations Development Programme (UNDP) especially on the follow up of the UN Global Report on Violence against Children. I also collaborated with the Observatoire des droits de l’enfant de l’Océan Indien (ODEROI).
Resources of the Ombudsperson for Children

Section 10 of the OCA 2003 provides that “the Secretary for Public Service Affairs shall make available to the OC such administrative and other staff as the Ombudsperson for Children may require”.

When the Office was created in December 2003, several officers at different levels have been seconded to the office, including four investigators who play a crucial role to help me carry out the duties of my office. An Assistant Secretary acted as Supervising Officer until a Secretary was appointed by the Public Service Commission (PSC) on a temporary basis on 28 April 2008. He stayed for three years. At this point in time, the post needs to be filled.

In January 2006, the United Nations Committee on the Rights of the Child, in its Concluding Observations regarding the report submitted by Mauritius stated: “While acknowledging the valuable work of the OCO in the area of investigations and awareness-raising, the Committee is concerned about the limited human and financial resources allocated for its effective functioning. It is further concerned that the staff of the OCO are seconded from government departments, hence limiting its total independence”.

“The Committee recommends that the State party ensures that adequate human and financial resources be allocated to the Ombudsperson for Children’s Office. The Committee also recommends that the State party strengthens the OCO by allowing it to recruit qualified and trained staff. It further recommends that the OCO be systematically included in the review of any laws and policies pertaining to children.”

Recently, two investigators were recruited by the PSC. At this stage, 10 out of 13 officers are now on our permanent and pensionable establishment. We also have two interns working under the “Service to Mauritius Programme” from the Ministry of Finance.
2003-2011: Recommendations made to Ministries and Government Departments

Section 6 (a) and (c) of the OCA 2003 provides that the OC shall:

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

The proposals made to the Minister responsible for child development and to other public bodies are usually based on what I have seen as lacking during an investigation. I can sometimes also rely on an analysis of any given situation which is clearly not in the best interests of a child or a group of children.

I have also founded my proposals on very well known principles that are accepted world-wide and more particularly by UN agencies, especially UNICEF, UNESCO, WHO, ILO or the UN Committee on the Rights of the Child, or the UN Global Report on violence against children. All my proposals are usually supported by reference to these principles or to articles of various Treaties signed, ratified or acceded to by Mauritius especially the CRC, the CEDAW and the CAT.

Some of the recommendations made are herewith reproduced followed by the outcome in each case.

Chain of Protection

I have been proposing a protection chain which is based on the following:

- The need for early detection of children at risk in order to save their lives.
- Parental education, rehabilitation and support;
- Child family mentoring for children who are not removed;
- Placement of children with their next of kin or member of their family;
- Placement in a foster family or institution with proper monitoring of these “places of safety”;
- An adoption policy which would cater for abandoned children and cover local and inter-country adoptions and a proper monitoring of international adoption;
- An improvement of the procedure for tardy declaration;
- Empowerment of children targeting different age groups.

- Amendment of the CPA to give the magistrate the possibility to order enquiries under section 8(2) b to be made with members of the extended family of a minor who is at risk in his nuclear family, and to place the child there.

- Special care should be taken to keep women and children in distress separate from the other children who are victims of child abuse and not to mix children with a handicap together with those victim of sexual abuse or other forms of child abuse.

- Emphasis be laid on Family Planning Programmes specially in rural areas and in town suburbs.

- This is still an urgent mission of the Ministry.

As regards Alternative Residential Care:

- To set up a proper child friendly meeting place where family visits could take place. Efforts must be made to organize such visits on a regular basis, say once a month.

- “Place of safety” should include “the home of a next of kin or other member of the family of the minor”.

- To set up a residential centre for handicapped children whose families cannot cope with them anymore.

- To prepare norms and standards of places of safety.

Regarding Social Aid and other targeted aid:

- To give coupons for specific use for children as we have had cases of parents or guardians who use the allocation for other purposes.
OUTCOME:

- The Ministry of Gender Equality, Child Development and Family Welfare set up the Community Child Protection Programme (CCPP) including the Child Watch Communities in 20 areas for early detection and protection.

- The Mentoring system is going to be implemented soon.

- The Civil Code was amended so that the judge can make orders for better relations with grandparents and next of kin but not specifically for placement or custody.

- The law on adoption is still in the pipeline.

- The procedure for tardy declaration has improved but still there are cases which have been unnecessarily delayed.

- On the 16 June 2011, the National Children’s Committee has been set up. But there is still a lot to be done in terms of empowerment of children.

See more in Chapter II

Shaken Baby Syndrome

Many parents shake their babies either to play with them or to stop them from crying. But it is well known to pediatricians that this can cause severe brain damage to the baby. Therefore I recommended:

- Efforts to prevent such violent reaction from caretakers or parents;
- Support to victims enduring stress or other societal problems;
- Training to caregivers in crèches and hospitals;
- Adult education, counselling specially at ante-natal and post-natal stage.
- Sensitisation and awareness programs on symptom of shaken baby syndrome.
- Educational programmes and campaigns to change attitudes and behaviour.
- Training in parenting - providing parents with information about child
devlopment as well as attachment and bonding, and teaching them to use consistent child-rearing methods and how to manage family conflict.
- Home visitation programmes involving regular visit from a nurse to the homes of families in special need of support with childcare or where there is an identified risk of child maltreatment.
• A Training programme to be developed to facilitate detection as Health Care Professionals have a key role to play in identifying, treating, referring cases and reporting suspected cases of shaken baby syndrome to the appropriate authorities.

• Legal remedies such as arrest and prosecution policies, child protection services, mandatory and voluntary reporting systems to aid in the identification of cases.

OUTCOME:

- Unfortunately no one has dealt with this issue specifically. The case of L.S. a baby of 2 months old who was the victim of this syndrome led to a full fledged investigation. But the Ministry of Health has not set up a media campaign to sensitise the public.

Corporal Punishment

• To amend existing laws and regulations so as to include a clear definition of corporal punishment (as any form of physical abuse administered to a child in a context of punishment or control) to explicitly prohibit such punishment in the family, at school and in all other settings.

• 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.

• 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.

• 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.

• 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.
• 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.

• That the content of teacher training be reviewed and include modules on:
  1. dealing with children having behavioural problems
  2. skills to listen to children and to detect child abuse
  3. the referral procedure in case of child abuse.

• The application of the seven principles of constructive discipline as proposed by UNESCO.

• Proposals made to the Minister to amend the CPA 1994 and the Criminal Code in order to ban corporal punishment in all settings including homes, schools and even institutions. She also appealed to the Honourable Prime Minister to set up a high level committee to look into the issue of violence.

OUTCOME:

- Very little progress has been made in this respect. Some sensitisation and training programmes have been taking place specially in collaboration with the MEHR based on the kit for Prevention of Violence at School prepared by the OCO.

- The Children’s Bill will take the whole issue on board. The Prime Minister set up an interministerial Committee to look at the issue of child abuse. The Committee has made recommendations.

Children in Advertising

To set up an Advertising Standard Authority which set up the standards to be respected, including those regarding children, and to ensure that everyone complies.

OUTCOME: NIL.

The matter will have to be taken up during consultations on the Children’s Bill.
Sexual Education

• The inclusion of compulsory sexual education at school, with emphasis on the human aspect of sexuality rather than on its technicity.

• Specialised teachers should be trained on how to approach and deal with this particular subject.

• Parents should sensitise their children on their sexuality mainly after the age of puberty.

• The appropriate ministries should consult and produce relevant teaching materials for teachers, parents and pupils.

• Protective and preventive measures should be taught to children over the age of 10.

• It is strongly recommended that the Ministry of Health & Quality of Life reports the cases of teenage pregnancies to the Ministry of Women’s Rights, Child Development Family Welfare and Consumer Protection for appropriate assistance and counselling to be provided to these teenagers, who need strong moral support.

OUTCOME:

- Some cases are being dealt at the Drop in Centre of Bell Village.

- Every now and again there is talk on the introduction of sexual education but nothing has been formalized yet.

Drugs, Alcohol and Cigarettes

Several recommendations were made to the different ministries concerned:

• The formal interdiction to sell alcoholic drinks together with other drinks and foodstuffs but rather place them in controlled areas of supermarkets or in specialised shops which would permit greater control on sale. It is obvious that, despite the law interdicting sale of alcohol to minors, there is no systematic check.

• Also a lot of awareness campaigns are needed through schools, clubs, community based organisations or through the press.
OUTCOME:

- These recommendations have been implemented under the two regulations made under the Health Act, namely (Prohibition on Advertisement, Sponsorship and Restriction on Sale of Alcoholic Drinks and Restriction on Tobacco Products) Regulations 2007 in force in March 2009.

- All alcohol is now sold in the same area in supermarkets.

Legislation

• To amend Criminal Code to include “non assistance à personne en danger”.

• To extent the duty to report to other professionals, pending an amendment of the Criminal Code.

• Re. the Civil Code I have proposed that the delay for recherche de paternité be extended.

• The Bail Act to provide for conditions to be imposed on accused parties released on bail in cases of suspected sexual offences, specially not to be found within a certain distance from the alleged victim.

• To introduce video evidence for all child victims/witnesses of violence.

OUTCOME:

- Non assistance à personne en danger is now included in the Criminal Code

- Video evidence is now being used in the Intermediate Court though some practical adjustments will need to be made for the future

- A special screen has been set up at the Police Headquarters for identification of perpetrators by child victims but unfortunately this has not been applied in other police stations.

- Other matters will be taken on board by the Children’s Bill which is now at consultation stage.
Family Court

- The setting up of a Family Court (completely detached from other kinds of court as the issues involved are not best addressed by a mere legalistic approach) to ensure that cases of domestic conflicts and children are dealt with in a fair and just manner and in the best interests of children. They need to be determined by a judge with a traditional legal training plus a special training. It is the approach which needs to be different.

- The law also needs to be amended to respond to new situations and the evolution of society.

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

- The Family Court to also deal with Emergency Protection Orders and Committal Orders as these may relate to the same family.

- There is a wide consensus on the need for more emphasis to be put on mediation, conciliation and counseling.

OUTCOME:

- Some progress has been made concerning the family division of the Supreme Court which sits everyday and does a lot of mediation. But a real reform is still awaited.

- Children still do not have their own legal representatives.

Compliance Committee

- Setting up of an inter-Ministerial Committee to follow up the proposals and look at the gaps and obstacles with regard to the CRC in order to ensure compliance in the years to come.

OUTCOME:

- The OCO set up a Compliance Committee.

- The Ministry set up a “Working together Committee” which could also ensure compliance but is not yet fully fledged.
Education

- Widening the mandate of ZEP Parent Mediators and Liaison Officers to include the empowerment of families.

- The introduction of Human Rights Education in the school curriculum at all levels.

- The introduction of proper rules and regulations to deal with school discipline.

OUTCOME:

- The ZEP Parent Mediator and Liaison Officer do visit parents at home. They may provide some advice but are not formed to empower families. Regarding Human Rights Education, the MEHR respond that it has already been integrated to normal curriculum of the primary sector. The OC requested copies of textbooks. As for the secondary sector, it will be integrated in the normal curriculum. In the meantime, it is taught as a topic for General Paper in form VI.

- The MEHR is presently working in standardized rules and regulations for all secondary schools. They have already shared their proposals with the OC. (Please refer to chapter V for more information).

Dealing with children in conflict with the law

- To intervene in a more gentle way whenever they have to intervene in the presence of children.

- Special care should be taken while searching a child's belongings in his/her presence.

- A WPC should always be included in the intervention squads to reassure and support children.

- A group of Police officers be trained on how to handle children in different types of police intervention. These officers should be trained in child psychology and on interviewing children among others.

- Priority to be given to candidates who are already trained in child psychology and who have some experience in working with children.

- I have recommended that a Community Service Order (CSO) or a similar scheme be extended to younger children. She proposed that young offenders could do handicraft, art or help NGOs with voluntary work.
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, the following recommendations were made:

- A need to make this centre more humane and more compliant with international guidelines and to engage in a general reform of the administration of juvenile justice.
- I also proposed a reform to introduce alternative socio-educational measures and restrict the frequent use of deprivation of liberty.

OUTCOME:
- Those responsible for the inhuman treatment were sanctioned.
- The Community Service Order (amendment) Act was voted in 2009.
- The Probation of Offenders (amendment) Act was voted in 2009.
- The Juvenile Offenders’ Act is in preparation.

(See Annual Report 2008-2009)

HIV/AIDS

- The possibility for a minor to seek a test in full confidence, even if he is not accompanied by his parents;
- For full anonymity when there is a test, even concerning a child, even if he is HIV negative;
- No institution, where children are committed, after an application to the District Magistrate can refuse:
  (i) to accommodate a minor who is HIV positive.
  (ii) to ensure that the minor is following an appropriate treatment under the supervision of the Aids Unit of the Ministry of Health and Quality of Life.
  (iii) to inform the said unit of any medical problem that might be identified while minor is under the care of the said institution.
Any person under whose care and custody a child has been placed, including a foster parent, a responsible officer of an institution including the Rehabilitation Youth Centre has a duty to report any suspected risky medical condition of any child to the appropriate medical authorities and, if need be, to the Aids Unit of the Ministry of Health and Quality of Life.

OUTCOME:

- The HIV and AIDS Act was voted in 2006 and was proclaimed in December 2007. It stipulates that “a person may undertake an HIV test on a minor without the consent of his legal administrator or guardian where the minor makes a written request for such test and that person is satisfied that the minor understands the nature of his request.” (Section 7(5))

Sexual Abuse

- That all minors victims of any form of physical or sexual abuse be treated with due care and diligence by persons who have been specifically trained to interrogate them.

- That they are given medical treatment first if that is needed, in order to save their lives or at least reduce their pain and suffering.

- That they be properly counselled by trained psychologists: first order counselling and long-term counselling (to follow present practice with help of CPU/CDU).

- That a Police Medical Officer be able to attend to the case soon after the case is referred, unless the occurrence allegedly took place more that 72 hours before.

- That blood samples should be taken at one go and be dished out for all different tests which have to be done including HIV/AIDS and that the victim and his/her parents should be apprised of every test which is done.

- That the dedicated rooms of Victoria and Jeetoo hospitals should be really used and if possible two more such rooms should be reserved in Rose Belle and Flacq hospitals respectively.

- That police officers and PMOs should refrain from questioning the child-victim on whether or not he/she consented to the act, or any question to that effect, unless it is a case of rape and he/she is over 16 or it is a case of attempt upon chastity and he/she is over 12.
• That more Women Police Officers should be recruited and trained to attend to cases of sexual abuse of minors of whichever sex and that they should, as far as possible, also work on night shift at least in Class A stations.

• That all police officers, specially station orderlies, and new recruits of the Police Force should also receive a special training (Child Protection Course) on how to deal with minors who are victims of crime, specially sexual crime.

• That a special attention be given to Rodrigues.

• That a Code of Conduct should be drafted for all officers and, pending this, that each station should be provided with a handbook or practice code.

OUTCOME:

- A protocol of assistance to child victim of sexual abuse has been signed between the Police and the MGECDFW.

- Women Police Constables (WPC) have been recruited and are being given ongoing training on how to deal with child sexual abuse victims. This training is also given to new male recruits.

- Women Police Constables (WPC) already in post are also being trained.

- Rodrigues is part of the training. They receive regular visits of the Support Team for Mauritius and Rodrigues to provide support in terms of operational and training needs.

- Children are given medical treatment first if that is needed, in order to save their lives or at least reduce their pain and suffering.
Child Trafficking

There is also a recommendation to combat sexual exploitation and to ratify the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. The OC has been calling for such ratification for several years now. The answer is always that all relevant laws need to be amended first.

- Since March 2007, I have been urging the Government to ratify the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. I renewed my proposal on 1st April 2008 and on 8th January 2009. The Minister of Foreign Affairs and External Communication was informed by me on 22nd October 2010 that the UN Special Rapporteur was going to visit Mauritius and I urged him to contact his colleagues of the MWRCDFW and the Attorney General to ratify the said Optional Protocol before her arrival.

OUTCOME:

- On 24 June 2011, the Mauritius Government finally ratified the Optional Protocol to the Convention of the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, this mechanism will be a major instrument for combating CSEC and Child trafficking.

Early Childhood

- I recommended 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.

OUTCOME:

- The latter had 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.

See more with Empowerment Programme.
Natural disasters and other hazards

In 2008, I 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

- 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 an 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**.

- 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 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.

- 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.

- 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.**

- 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.
• 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.

OUTCOME:

- A School Flooding Committee is now to be set up in each and every primary and secondary school at the beginning of each year. It must list the potential hazards on the school premises and in the vicinity of the school. This Committee must also manage the crisis period; find a safe place for temporary shelter of pupils and for communication with parents. The Protocol devised by the Ministry describes how schools are managed in exceptional circumstances arising from torrential rains and flooding.

H1N1 Virus

When the risk of spreading of the H1N1 virus became obvious, I 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. I received information to the effect that, in some schools, up to fifty pupils were sick and had to be returned home.

I also proposed to the MBC to increase its educational programmes for different age groups.

OUTCOME:

- A few days later the Government took the decision to close all schools for 10/11 days.

- The Director of the MBC reassured me and informed me 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 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.
Chapter 2

Protection of the Child

The chain of services
Protection of the child - the chain of services

A full-fledged reform is still needed. Resources are inadequate. Monitoring of cases is difficult. Coordination is not yet up to the level needed.

For this eighth report, I have decided to look at the system as a whole and flag the weaknesses that still persist.

During the reporting period, that is between September 2010 and September 2011, there have been many cases of child abuse and neglect which have resulted in the death of very small children. Each time there has been a public outcry and, in some cases, the authorities have been blamed.

I have opened several major investigations in such matters. These are fully described in Chapter IX. The most important ones concern the case of J M, a young girl who was a victim of sexual abuse and was killed in a very atrocious way. She was clearly at risk with her mother as she had been victim of sexual abuse earlier on and was known to the Child Development Unit (CDU) who nonetheless decided to leave her with her mother.

It is unfortunately difficult to make those concerned realise what is their duty. True it is that the culprits are the abusers. Both have been arrested and the police enquiry is still going on. However, the first one was alleged to be an intimate partner of the mother and the last one was allegedly her own brother who had come unexpectedly to live under her roof. Under the shock of this case, some persons in positions of responsibility were convinced that those to blame were the mother and the perpetrators. It was difficult to make them understand the duty of the State under the Convention on the Rights of the Child and the Child Protection Act (CPA 1994).
The duty of protection of the State

The laws impose a duty on the Ministry responsible for child development to protect all children, “where the PS has reasonable cause to suspect that a child is being exposed to harm and is in need of assistance” (The CPA 1994)

This is of course a very wide duty. But if a proper system was in place to exercise this duty with care and competence, good decisions would have been taken in time to save children’s lives.

The investigation revealed that officers acting in the field did not have proper training and had no guidelines to refer to. Further, there was no proper monitoring of cases as I have repeated year in year out. There was no proper concertation between officers of the same outstation and certainly no communication at all between the main Units of the Ministry, which are all concerned by the issue of child abuse which is often a result of a dysfunctional family and of an unempowered mother/father.

The Gender Unit and the Family Unit do not feel concerned with these sad cases. No one seems to be able to impose a “working together” spirit amongst these Units or any implication of the officers of these units to support the CDU. Despite some very good officers who are in these units, those responsible do not promote the spirit of cooperation. No administrative decisions have been taken to ensure that whatever animosity or spirit of competition exist are toned down so that the service to children is improved.

Some people think that the OC is not concerned with this “purely administrative” problem. But the OCA 2003 is clear on the fact that I have to ensure that all stakeholders give due consideration to children’s rights and interests. It is the best interests of the child which should prevail in all circumstances and that is clearly not the case. It is also amply clear in my mind that procedures and administrative organisations can also violate the rights of children and as such I have the right to investigate. In the case of J.M., I have gone as far as I can and made concrete proposals, some of which have been adopted.
Human Resources

What also came to light in a very clear way during the investigation of this major case was the lack of resources of the CDU. The Head had been repeating this for years and no one responded. The investigation revealed that when the young girl first spoke of having been sexually abused, the team responsible for that district was taken up in two other cases and that, by the time that they actually came to attend the case, it was too late. Thereafter, due to their lack of diligence, the interview of the girl by the psychologist did not take place soon after for unacceptable reasons. In fact, the declaration was given almost one month later and in the meantime, of course, the perpetrator could not be arrested and the girl, and other children, continued to be at risk.

Unfortunately, it seems that the Ministry of Finance had not then agreed to give more financial resources to the Ministry for Protection purposes. The Ministry will therefore have to review its strategies in order to get results nonetheless.

Proposals made after this major investigation are as follows:

Recommendations for the immediate future:

1. A full manual must be drawn to establish the way that CDU officers must carry out their enquiries in the field. The decision to remove a child or not must be taken according to proper rules and be taken by the whole team after referring to the Head Office or a supervisor attached to the decentralised unit for a rapid examination of the case. The guiding principle must be in the best interests of the child. The fact that the child loves her mother is unfortunately not always relevant. It is well known that children always love their abusive parents.

2. A training programme must be prepared with the help of an expert. Some officers have followed courses organised by my office last year based on the guidelines that were obtained in the United Kingdom. They should be trained in effective investigation strategies, interviewing techniques, effective case management and reporting skills.

3. CDU officers must be trained and receive refresher courses regularly on all laws, Conventions, international reports and guidelines and rules relating to children and how to respect them.
4. CDU officers must be dedicated and not be expected to respond to all sorts of cases with different implications but they must nonetheless co-ordinate with their colleagues who may have been involved with the same family. This also applies to psychologists who should not move from one to the other unit and waste their time responding to queries on why they did not accept orders from a head and went to do the job of another. This quarrel, and the ensuing bureaucratic fuss, is really unacceptable and constitutes serious institutional abuse of children.

5. They must also work in close collaboration with all other government departments involved and also with the civil society. The CCPP must be a hands-on programme and not remain theoretical. It must be based on mutual trust, respect for the skills and knowledge of others and recognition that there is one common objective and only a multisectoral approach will give results.

6. I, therefore, propose the review of the system at decentralised level, with at least four dedicated full fledged teams for each FSB and working on a shift system. Otherwise, we must not be surprised that officers are not performing as they are burnt out. The dual head must be abolished. Time is for modernity and reform in favour of children.

7. I, also propose that the matter be taken with the Commissioner of Police (CP) to ensure that one police officer at least is available for each shift and for each FSB.

8. I will also recommend some reform to the CP regarding the role of the Brigade pour la Protection des mineurs who only work until 4 p.m. and who are wasting precious time lecturing whereas they should be doing emergency response in child abuse cases. Many of us give lectures but the BPM should be a flying squad and be available in the field and not in classrooms. That was the original mission of the BPM when it was set up just after the creation of my office.

9. Further, I will try to convince all stakeholders to make progress on the setting up of the child-friendly video recording of statements in cases of child abuse specially sexual abuse. The recording system is already possible now under the Courts Act and the Chief Justice has given his green light. In this case, the taking of the statement would have been possible soon after the child revealed the crime.

10. I also propose that, in specific cases, children may give a statement in presence of a CDU officer if the parents are not available or refuse to cooperate. If need be, the Child Protection Act must be amended urgently.
11. I would like the protocol signed between the Ministry responsible for Child Development and the other partners to be reviewed. There MUST be regular meetings to ensure that all partners are respecting the protocol.

12. I would also like to see the Mentoring System be applied when children are not removed but are vulnerable. The putting into practice of the system is already long overdue.

13. There must be an approach towards the Courts to facilitate the work on child protection by applying the best interests of the child principle. This means avoiding delays for hearing CDU officers and releasing them so that they can attend to their ungrateful protection work.”

In reply to Parliamentary Question B 692 on this issue, The Ministry reports as follows regarding measures taken in December 2010 in response to my proposals:

“Decision was taken to implement a separate and independent Child Protection Service System to improve service delivery...” but up to now this has not been done presumably for lack of resources.

1. A reshuffling was carried out in the work stations in a bid to bring some kind of renewal of officers in a different region.

2. Four psychologists have been posted specifically to the CDU.

3. Three Senior Family Welfare and Protection Officers have been assigned the duty of monitoring the intervention of field officers on a case to case basis.

4. One vehicle has been attached to each outstation.

5. Training programmes have been devised and training is ongoing.

6. Guidelines have been developed and disseminated.
But the Minister admitted that she needs more than 40 officers to manage the CDU properly.

I also made some overarching recommendations.

7. There could be an overhaul of the CDU, as we know it now, and the setting up of a separate independent unit for Child Protection which is highly professional and fully equipped to work around the clock in the spirit of the 24/7 principle, like a hospital. The Unit would be independent but remain under the aegis of the Ministry. I have said time and again that Ministries should not provide services but make policy.

8. The CDU would then concentrate on child development issues and engage only in policy making, strategising, training, facilitating and overall monitoring. As it is, they are both judge and party when there is a conflict, and this is not good from a governance point of view. And they provide service which is not the role of a Ministry.

9. A full redefinition of the profiles of the employees of the independent unit is needed. We need people not just with diplomas and degrees but also with experience in field work and with commitment.

10. A full fledged systems review is needed for that. It can be initiated as from now even if the big reform may take time. I therefore propose an evaluation of the CDU by the Mauritius Audit bureau as there is also a clear governance issue. We are wasting public money and the outcome is not so satisfactory.

11. I also reiterate my proposal for a social audit if only regarding children in order to look at all departments which deal with children, like the Ministry of Social Security and its Probation service. We could also see what social workers in different ministries are doing and why they are not collaborating.

12. A computerisation of the cases dealt with is needed by way of the setting up of a proper Child Protection Register. This would allow good referencing for the recurrent cases in the same family. It would also facilitate research.

13. The Ministry must encourage the setting up of specialised Courses in Child Rights and Child Protection.

14. A Plan of Action to end Violence against Children is now a must. We have proposed to help with the finalisation of this Plan.

15. The legal reform will also then take these policy reforms into consideration in the new Children's Bill.
Collaboration with other partners.

One of the most important things to do of course, is to work more closely with non governmental organisations (NGO) on some specific programmes. But again, this must be done in an intelligent manner without jeopardising these organisations. Usually, they are already efficient on the ground and would not want to be bogged down in bureaucratic processes which kill all initiatives. That does not mean to say that there should not be strict governance rules that would apply so that, if government funds are involved, there will be full transparency.

It is important to know that the Women and Children’s Solidarity Programme on which we have often reported in our Annual Reports, has now been merged with the Ministry’s “Special collaborative programme for women and children in distress.” The coordinator of that programme has explained that, through this programme the Ministry hopes also to be able to either count on NGOs to fully collaborate in the national effort to promote and protect children’s rights, or even to partner with the Ministry on some specific programmes.

In working with other partners, including the Private sector, government officers must remember that such partners will never substitute themselves for the State. They can only do the job at grassroots level or in specific areas. They already have the know-how. They can even help in continuous training of personnel. But it is for the government to monitor each and every project based on a Memorandum of Understanding (MOU) which describes clearly who does what and how. Ideally, all this should be part of a well thought of Plan of Action.

I would like to highlight here that I was pleasantly surprised when I attended the launching of a project which can be considered as an excellent example of how several partners can work wonders together. This concerns a project initiated by Caritas with the help of Soroptimist International Port Louis and the Ministry of GECDFW. It was launched on 30 June 2011 and concerns the setting up of a “centre d’éveil” for toddlers and a programme of family empowerment.

When we speak of collaboration, one immediately comes back to the fact that the lack of coordination has been highlighted several times by myself and other stakeholders. Recently, the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography has also drawn our attention to this problem.
The Ministry has shown that there is a will to organise the coordination with other
government departments in a more rational way. The Committee on Working Together
has been set up and has already met a few times. The first meeting was devoted to
the preparation of the Terms of Reference (TOR) of the said Committee. The said TOR
provides that “The High Powered Committee will –

(a) advise the Ministry of Gender Equality, Child Development and Family Welfare
and all the relevant stakeholders on appropriate measures for the improvement
of Child Protection and Development;

(b) identify solutions to bottlenecks/problems which might crop up and hamper
smooth delivery of the Child Protection and Development;

(c) ensure that each stakeholder takes full responsibility and ownership and
be accountable for services falling under its purview with regard to Child
Protection and Development; and

(d) ensure implementation of the Protocol of Collaboration devised by the
Committee and ratified by all the stakeholders concerned.

Modus Operandi of the High Powered Committee – Working Together

The High Powered Committee shall meet on a quarterly basis to –

i. take stock of progress made regarding Child Protection and Development; and

ii. endorse new policies and follow-up on the implementation thereof.

Special sessions of the Committee shall be held as and when required”.

Further, it was agreed that “Member of the Committee shall be called upon to act as
Child Protection Focal persons at the level of their respective Ministry/Department.”
Alternative Residential Care Institutions

In each Annual Report, I have given an update on institutions which are considered Places of Safety under the Child Protection Act 1994. On the one hand, there is the Government Shelter of Pointe aux Sables, called La Colombe, which should normally cater for some 60 children but is now accommodating 146 children including babies. This shelter is supposed to be a provisional place to accommodate children who are removed from their families and are housed there temporarily while an enquiry takes place. Thereafter, they are either returned to their families, if it is shown that they will not really be at risk. Or they are committed to a foster family or to an Institution for a longer period. Some 12 NGOs are operating institutions which are recognised as places of safety and are catering for 334 children.

These institutions are themselves overcrowded. Since the rehabilitation of families is very difficult and is hardly giving results most children placed stay until they are eighteen. The Ministry announces that 15 babies will be now housed in a shelter in Floreal and 30 boys will now be transferred to a new shelter in the North.

As there are still few half way homes that will cater for children who become of age, these children are often at risk of being thrown out. Fortunately some NGOs continue to cater for them. They look for jobs for them and some even get married. This is where a close collaboration with the Ministry of Social Integration will give good results, specially through the Empowerment Foundation, which can help with training of youngsters and their placement in appropriate jobs.

The Ministry has announced the creation of other institutions in order to cope with the ever-increasing cases of children at risk who need to be removed and put in Places of Safety. NGOs could, if they had a proper capacity building, invest in running small placement institutions and half way homes for children aged 16 upwards. Annpcan has set up such a home for girls and has a few success stories to tell.

The SOS Village also caters for children who are 16 onwards, with a different regime from children who are younger. They also have homes for youngsters who are above 18 and can earn their living and live as flat-mates under the supervision and guidance of a mentor.

What is urgent is to devise norms and standards that are appropriate for such institutions. The Ministry is aware of this need and has called for proposals from those with experience in this field. It has now been decided to include these norms in the Children’s Bill.
**Foster Family**

Of course a child is never better than if he is in a family environment. If his is too risky for him, for whatever reason, the best place for him to be in a foster family.

The Ministry has placed some 56 children in 52 foster families.

**Mentoring**

I have been advocating for a good mentoring system since 2004. This seems to me to be most appropriate for children who do not really need to be removed and who could be guided by an accredited mentor through a court order. Because of unnecessarily slow bureaucratic procedures, even when a policy decision was taken, the law was passed in December 2008. The system is still not in place for lack of a minor legal amendment. We learn that now the regulations have been proclaimed and look forward to seeing this system being put in practice.

It must be emphasised that only 18 mentors have been screened and trained and that the system would only start on a pilot basis 15 children have already been identified to benefit from the programme. But after having invested so much time and energy in setting up the system, it would be a pity to let it hibernate for another year.

**Adoption**

From 2004 onwards, I have proposed that there should be a new adoption law in order to conform to the Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption which Mauritius has acceded to 28 September 1998. In fact, in Mauritius, even local adoption is done in a very insecure mode which may sometimes be tantamount to child trafficking.

Indeed, since the 2005 amendment of the Child Protection Act, the law is clear on this. Section 13B provides that “any person who, for pecuniary gain or by gifts, promises, threats or abuse of authority, incites the parents of a child to abandon the child or a child to be born shall commit an offence ...” the amendment also provides for offences of those who act as intermediary if that person does it for pecuniary or other gain.

But, on the other hand, those who want to adopt have to go through a great ordeal before finding a child who has been abandoned and can be adopted. They actually shop around. But what else can they do?
I had to raise this issue over and over again for years. There were meetings between the main stakeholders but no progress was made because we could not reach a proper policy decision on the Ministry which was going to take full responsibility. It was obvious for most of the partners that the then Ministry of Women’s Rights, Child Development and Family Welfare was the most appropriate as it was better placed to be informed about abandoned children. In fact, many such children, including babies, were placed at the government shelter. But those who could take the decision or advise the Minister kept on saying that the Ministry was not mandated except to protect children.

It seemed so difficult to get the point through that children who are “abandoned” for all intents and purposes need to be given the chance to live in a family. Yet everyone was aware that the shelters were accommodating more children than could be properly cared for.

Moreover, article 21 of the CRC provides for adoption to be a good alternative to child care and that, in cases of inter-country adoption the same standards and safeguards should be applied as in the case of national adoptions.

Fortunately in 2010, when the new Minister was sworn in, she took a courageous and rapid decision in this field. She agreed to create a new agency which would be independent but working under the aegis of her Ministry. The new agency would have a different role from the National Adoption Council (NAC) which is responsible for authorising the application of all non citizens before presentation to the Supreme Court.

The Hague Convention provides cooperation between States parties in order to ensure respect for the best interests of the adopted child and to prevent the abduction, the sale of, or traffick in children. The Hague Convention also provides for proper counselling of all concerned so that they make informed decisions. This includes the proper consultation of the children themselves, having regard to their age and degree of maturity. In Mauritius, the Civil Code already provides that children aged 15 onwards can be consulted before being adopted. It might be reasonable to lower this age and/or allow the judge to consult on a case to case basis.

The new Agency would identify all adoptable children and examine all cases of adoption including those emanating from Mauritians. Until such a law is passed and an agency is set up, one should not be surprised if children are the subject of a form of trafficking.

I have opened an investigation in one case referred to me by the Ministry on 15 September 2010. My Interim Report was sent to the Minister on 27 October 2010.

(See more on the case in Chapter IX).
Parents’ responsibilities.

Though the CRC provides that the main responsibility of children’s rights is for the State, it also says clearly what parents responsibilities are: Both parents have common responsibilities for the upbringing and development of the child.

However, if they cannot assume these responsibilities, the State has a duty to help them. Sections 18 (2) of the CRC provides that “States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.”

The Civil Code in fact already stipulates what the responsibilities of parents are when they are living together. Article 213 provides that “les époux assurent ensemble la direction morale et matérielle de la famille. Ils pourvoient à l’éducation des enfants et préparent leur avenir.” It also provides for cases of separation or divorce when the responsibilities will be attributed to one or the other parent.

We feel that there must be slight amendments regarding the exercise of the “autorité parentale” even after a divorce or separation. The refusal of one parent to allow the other to see the child despite the order of a judge should be dealt with in a less complicated manner. The Family Court must in this respect be given wider powers and also be given the proper resources to discharge its functions.

Further the question arises each time that a parent has not assumed his responsibility. Unfortunately, there is not much that can be done in this respect. The Ministry has elaborated a parental Empowerment programme and in this context has launched a 14 école des parents all over the island. It is difficult to know at this stage if these are giving expected results as parental empowerment is a long term process. But at one time an evaluation needs to be done.

The new Children’s Bill must deal with the issue of finding a policy for forcing parents to assume their responsibility. Criminalisation is the worst that can be envisaged unless a new regime of community service and/or mandatory parenting orders be created to cater for this very sensitive problem. The best solution would be real empowerment with a therapy and assistance which are tailor-made.
Social Aid

In fact, in Mauritius social security is available for poor families. But this is a double-edged measure. The Ministry of Social Security, National Solidarity and Reform Institutions has introduced an allowance to single mothers as from July 2009. This Social Aid applies to an applicant who:

1. (a) has been abandoned by her spouse;
   (b) is a single mother; or
   (c) is the spouse of a household who has been remanded to jail or is serving a term of imprisonment
   (d) single mothers should be under 60 years.
2. Is temporarily or permanently incapable of earning adequately her livelihood and has insufficient means to support herself and her dependents.
3. Has one or more children between 3 months and 7 years.
4. Is an insured person under the National Pension Act or National Savings Fund Act; and
5. Her total monthly resources does not exceed Rs. 7,500/-.
   (a) She will receive Social Aid specified in part III of the schedule to the ACT or the amount by which her monthly resources fall short of Rs. 7500/- whichever the lesser and
   (b) Child’s allowance of Rs. 1068 for every child between the ages of 3 months and 7 years until the end of the year in which the child attains 7 years.

This is of course an exceptional aid given to those with children but is also encouraging a high degree of pregnancy, up to six children. It is important in such cases to ensure that the whole family, especially the children, are really benefitting from such aid.
The Empowerment Foundation also provides help for single mothers. The figures given by the Mouvement d’aide à la maternité to the effect that in 2008 there were some 1347 teenage mothers is alarming, the more so as only babies who are in fact born have been identified. The issue of single mothers is to be dealt with in a more coordinated system which should involve the three main Ministries concerned.

Logically the three Ministries should create very close working relations in order to ensure that there is an optimum use of public funds, which would benefit those who are really in need.

The Government has shown its commitment to alleviate poverty and specially to ensure that children enjoy their basic rights. But this must be done in a coordinated fashion and in a rational way so that one moves from aid to empowerment.
Chapter 3

Violence against Children
No violence is justifiable. Violence is often predictable and preventable

One of the major subjects on which I have worked is violence against children. Since the creation of the office I have decided that this would be a priority during my mandate. Very soon after my nomination, I was co-opted to sit on the Editorial Board of the United Nations Study on the subject, along with Professor Paulo Sergio Pinheiro. This was a very enriching experience which had a great impact on the national scene.

The definition of violence adopted by the UN Study is “all forms of physical or mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.”1 It also draws on the definition in the World Report on Violence and Health (2002): “the intentional use of physical force or power, threatened or actual, against a child, by an individual or group, that either results in or has a high likelihood of resulting in actual or potential harm to the child's health, survival, development or dignity.”2

National campaign on violence against children

On 19 November 2004, I launched a national campaign on the prevention of violence against children in order to sensitise all Mauritians on the negative impact of violence on individuals and on society. It was an occasion to share good practices and to mobilise one and all around the WHO Report on Violence and Health and the UN Study. During the first part of that campaign, political leaders and a wide variety of other stakeholders signed a pledge and made proposals to combat violence.

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1 Article 19 of the Convention on the Rights of the Child
General awareness

One of the objectives of the campaign was to follow up on the Global Report on Violence against Children as the Pinheiro Report, which was communicated before the UN General Assembly in October 2006. In fact from 2004 onwards the subject of violence has been a live issue on our agenda. A kit on the prevention of violence at school has been prepared and is still being enriched by new texts. The kit is used for training in the education sector. A full media campaign, including TV spots, has been undertaken. A carnival on the subject was organised in April 2006. Recently, a comic booklet has been prepared by our office and been distributed to all form I students in Mauritius and Rodrigues. This year, a DVD based on the booklet was launched and is being used in all schools whether mainstream or not. IBL Foundation has sponsored both the booklet and the DVD.

Finally a book called “Adieu violence” has been launched on 14 June 2011. Its objective is to analyse the different strategies that are already being adopted by NGOs. The analysis bears on the gaps and also the lack of an adequate evaluation which would show the real impact of any particular action. Another DVD on prevention of violence is in preparation. This time it is meant for parents. It is due to be launched on 20 November 2011. (Read more in Chapter VIII)

Different forms of violence

When we speak of violence regarding children we refer to physical, psychological and sexual violence but also to child neglect (failure to thrive etc...
Physical Violence

Physical violence against children is unfortunately very common in Mauritius. It is inflicted by several duty bearers like parents, teachers, friends, neighbours and carers in places of safety. Several documents published by the United Nations give a broad definition of this form of abuse.

Physical violence includes fatal and non-fatal physical violence. The UN Committee on the Rights of the Child is of the opinion that physical violence includes:

1. All corporal punishment and all other forms of torture, cruel, inhuman or degrading treatment or punishment; and
2. Physical bullying and hazing by adults and by other children.
3. Children with disabilities may be subject to particular forms of physical violence such as:
   (a) Forced sterilization, particularly girls;
   (b) Violence in the guise of treatment (for example electroconvulsive treatment (ECT) and electric shocks used as “aversion treatment” to control children’s behaviour); and
   (c) Deliberate infliction of disabilities on children for the purpose of exploiting them for begging in the streets or elsewhere.3

Corporal or physical punishment, which is the most common form of physical violence perpetrated by adults against children in Mauritius, is defined as “as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting (“smacking”, “slapping”, “spanking”) children, with the hand or with an implement a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, caning, forcing children to stay in uncomfortable positions, burning, scalding, or forced ingestion. In the view of the Committee, corporal punishment is invariably degrading.”4

3 UNCRC General Comment No. 13(2011) The right of the child to freedom from all forms of violence
4 UNCRC General Comment No. 8(2006) The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (articles 19, 28(2) and 37, inter alia)
The issue of corporal punishment has been dealt with in all the previous Annual Reports of the Ombudsperson for Children. In 2006, the OCO carried out a survey with a sample of 240 school children on Violence against Children. Physical violence was the most common one, representing 76% of the responses. Among the perpetrators, mothers were the most cited, 39%, and fathers were at 32%. The main reason for the violence was said to be ‘disobedience’.

The number of reported cases of physical abuse on children is increasing year after year. The most common ones are at school and in the home. In our laws, corporal punishment is prohibited in our schools under section 13(4) of the Education Regulations of 1957 which reads; “No Corporal Punishment shall be inflicted on any pupil in any school.” I found this provision insufficient and made several proposals to the MEHR. These are discussed in Chapter IX.

Regarding corporal and physical punishment in the family, the number of reported cases does not reflect the prevalence of such punishment. The reason is that many adults are still convinced of the necessity of using these degrading sanctions. Research has shown that when we use violent disciplinary measures against children, we are teaching them that violence is a means to solve a problem. The possibility for the child to use such violence against others in the short term as well as in the long term is quite high. The child may become more aggressive towards his friends, adopt antisocial behaviour, and, in the future, he may also use violence against his spouse and children, thus perpetuating the cycle of violence.

Our laws do make provision under the Criminal Code to sanction perpetrators of such violence. Hence they can be charged with the offence of ‘assault with aggravating circumstances, assault with premeditation or plain assault.’

During this reporting year I investigated into several cases of physical violence against children. Two of them even led to the death of the child victim. In many cases, I found that the perpetrators were the step-fathers or the concubines of the victims’ mothers. The latter are often so dependent on their partners that they fail in their duty to protect their own children. The lack of bondage between the perpetrators and the victims is often the cause of a lot of frustration which may lead to extreme violence.

I firmly believe that any strategy to prevent violence must look into the root causes, namely at the very situation of many women who are not emancipated and look for comfort with the wrong partner.

A few cases of physical violence against children investigated at the OCO are discussed in Chapter IX.

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5 Ombudsperson for Children’s Annual Report 2006-2006 pp 78-84
6 Sections 228, 229 and 230 of the Criminal Code
Domestic Violence

Domestic violence is any form of abuse be it physical, sexual, or emotional directed at another intimate partner.

According to law7, ‘Domestic Violence includes any of the following acts committed by a person against his spouse, a child of his spouse or another person living under the same roof.

(a) willfully causing or attempting to cause physical injury;

(b) willfully or knowingly or attempting to place the spouse or the other person in fear of physical injury to himself or to one of his children;

(c) intimidation, harassment, ill-treatment, brutality or cruelty;

(d) compelling the spouse or the other person by force or threat to engage in any conduct or act, sexual or otherwise, from which the spouse or the other person has the right to abstain;

(e) confining or detaining the spouse or the other person, against his will;

(f) harming a child of the spouse;

(g) causing or attempting to cause damage to the spouse’s or the other person’s property;

(h) threatening to commit any act mentioned in paragraphs (a) to (g);

The new section 3A of Act 11 of 2004 provides that:

1. Any person who has been the victim of an act of domestic violence by a person, other than his spouse, living under the same roof, and who reasonably believes that, that person is likely to commit any further act of domestic violence against him; may apply to the Court, in form AA of the Schedule, for a protection order restraining that person from engaging in any conduct which may constitute an act of domestic violence and ordering him to be of good behavior towards the applicant.

2. Where an application for a protection order is made under subsection (1), the Court shall cause a notice of the application to be served on the respondent ordering him to appear before the Court on such day as may be specified in the notice, and which shall not be later than 14 days from the date of the application, to show cause why the order applied for should not be made.

3. An application for a protection order shall be heard as a civil case between the parties.

When determining an application, the Court shall have regard amongst others to “the welfare of any child affected, or likely to be affected, by the respondent’s conduct and the accommodation needs of the applicant, his children, as well as those of the respondent and his children; any hardship that may be caused to the respondent or to any of his children as a result of the making of the order”.

The purpose of the Protection Order is to restrain the perpetrator from engaging in any conduct which may constitute an act of domestic violence and ordering him to be of good behaviour towards the victim.
The Act also provides for a Occupation Order and a Tenancy Order which grants the aggrieved party the exclusive right to live in the residence belonging to him, the other spouse or both of them.

As regards offences the Act provides that-

1. Any person who willfully fails to comply with any interim order, protection order, occupation order, tenancy order or ancillary order made under this Act shall commit an offence and shall, on conviction, be liable-

   (a) on a first conviction, to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 2 years;

   (b) on a second or subsequent conviction, to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

2. Any person who commits an offence under subsection (1) may be arrested by the Police.

3. (a) The Police shall act with diligence in any case where an offence under the Act is reported to it.

   (b) Any Police Officer to whom an offence under this Act is reported shall report the matter forthwith-

      (i) to the nearest hospital or other medical institution, where the complainant is in urgent need of medical assistance;

Anyone found guilty of violating a Protection Order entails a fine not exceeding Rs25,000 – or a maximum of two years’ imprisonment.

The abandonment of one’s family or pregnant spouse for more than two months and the non payment of alimony are punishable under the Criminal Code but this is rarely applied in practice.

A study carried by the Mauritius Research Council reveals that, in analyzing gender-based violence in the domestic arena, the percentage of females victims of physical, sexual and emotional abuse is greater than males. Other characteristics of victims are that they are over-representative of the lower educational achievement, lower income as well as lower occupational status backgrounds. But since women from the bourgeoisie do not usually report cases, we must read these findings with caution.

It is known that the actual number of women victims of violence is far higher than those recorded officially, being given that a high proportion of cases are not reported for a number of reasons ranging from purely practical ones to highly complex emotional reasons. Domestic violence affects women regardless of class, race, age, disability or lifestyle.
Table 1 below shows the number of victims of domestic violence gender wise

<table>
<thead>
<tr>
<th>Year</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>227</td>
<td>1721</td>
</tr>
<tr>
<td>2008</td>
<td>287</td>
<td>1959</td>
</tr>
<tr>
<td>2009</td>
<td>325</td>
<td>2027</td>
</tr>
<tr>
<td>2010</td>
<td>263</td>
<td>1952</td>
</tr>
</tbody>
</table>

Source: Statistics Section MGECDFW

Table 2 below illustrates the number of protection order, occupation order and tenancy order which has been issued to victims of domestic violence.

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases of Domestic Violence</th>
<th>Protection Order Issued</th>
<th>Occupation Order Issued</th>
<th>Tenancy Order issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>1948</td>
<td>243</td>
<td>8</td>
<td>Nil</td>
</tr>
<tr>
<td>2008</td>
<td>2246</td>
<td>279</td>
<td>10</td>
<td>Nil</td>
</tr>
<tr>
<td>2009</td>
<td>2352</td>
<td>260</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>2010</td>
<td>2215</td>
<td>326</td>
<td>5</td>
<td>Nil</td>
</tr>
</tbody>
</table>

Source: Statistics Section MGECDFW
The impact of domestic violence on children

Domestic violence is also a form of violence which affects the whole family. Children are, unfortunately, the direct or indirect victims of this form of family violence. Sometimes they are themselves beaten by their mothers who act to please their male partners. Sometimes they are beaten by the perpetrator specially if they try to intervene.

Violence by an intimate partner has been linked to many immediate and long-term health outcomes, including physical injury, gastrointestinal disorders, chronic pain syndromes, depression and suicidal behaviour. It also affects reproductive health and can lead to gynaecological disorders, unwanted pregnancy, premature labour and birth, as well as sexually transmitted diseases and HIV/AIDS.

Research indicate that the ‘witnessing of abuse is usually combined with other childhood experiences that negatively affect children’s emotional and social functioning. One of the major concerns for children in abusive households is the inevitable emotional and psychological trauma that these children suffer. Later on, they perpetuate this cycle of violence in families and society. Further the anticipation of abusive episodes in the home results in constant stress for the children and these children often live in a chronic state of anxiety due to the ever present anticipation of a violent outburst, directed either at them, or at their mothers.

The consumption of alcohol and drug, extra-marital affairs, money and family-in-law interference exacerbate the violence under the conjugal roof. Though there is parity between men and women, yet we find that women are often subject to violence leading to permanent physical damage, psychological problems or even death. Its impact on children is enormous as it deeply affects their social and psychological set up. The United Nations Convention on the Rights of the Child (CRC) require States to provide protection to children from all forms of physical or mental violence, injury or abuse, neglect or maltreatment while in the care of parents or guardians. Besides, having signed and ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Government has obligations to prohibit by law all forms of gender-based violence which amounts to such baseless treatment.

Cases of domestic violence take a long time before being resolved before the courts. In many cases, the wife, victim of domestic violence leaves the conjugal roof for her own safety and very often she takes the children with her. The children have to make many adjustments in their lives like changing home, school and environment. The adjustment process is very tiring and stressful for the children adapting to their new house, to fit in their new neighbourhood and the new school culture. Some of these children cannot adjust and they behave in abnormal manner and refuse to go to school. The provisions of psychological assistance and counselling are very important to help them to overcome their trauma.
I have received several cases where the wife is victim of domestic violence and has left the conjugal roof with three or four children. She has been to court to seek for a protection order and to the Supreme Court to seek the legal custody of the children but in the meantime the children are deprived of their right to education. The Ministry of Education refuses to grant certificate of transfer to the minors’ mother in the absence of a court order. In such situation, the complainant often called for assistance from our office.

I have intervened in many such cases and requested the Ministry of Education and Human Resources to facilitate the transfer of the children so that the minors benefit from their right to education.

**Recommendations**

The system of protection order should also be reviewed to integrate an ongoing and systematic follow up of victims and perpetrators.

Domestic violence can be prevented from happening through strategies to change the attitudes and behaviours of the population towards the problem. Men and women have to be educated on their role in society and learn to deal with conflicts in a constructive manner. Through the parental empowerment programme, it is important to inculcate the modules of conflict management.

Parents should also have recourse to positive discipline rather than inflicting corporal punishment on children. Such an approach will minimise the level of violence within the family circle. If from childhood, children have been used to violence, they will reproduce this model. Research has shown that violence is a vicious cycle and is transgenerational. Once this vicious cycle is undermined it can put a halt to violence.

**Sexual violence**

Sexual abuse comprises any sexual activities imposed by an adult on a child, against which the child is entitled to protection by criminal law. Sexual activities are also considered as abuse when committed against a child by another child, if the child offender is significantly older than the child victim or uses power, threat or other means of pressure. Sexual activities between children are not considered as sexual abuse if the children are older than the age limit defined by the State party for consensual sexual activities, which in Mauritius is 16.
It includes:

(a) The inducement or coercion of a child to engage in any unlawful or psychologically harmful sexual activity;

(b) The use of children in commercial sexual exploitation; and

(c) The use of children in audio or visual images of child sexual abuse;

(d) Child prostitution, sexual slavery, sexual exploitation in travel and tourism, trafficking (within and between countries) and sale of children for sexual purposes and forced marriage. Many children experience sexual victimization which is not accompanied by physical force or restraint but which is nonetheless psychologically intrusive, exploitive and traumatic.8

Effects of sexual abuse

All types of sexual abuse affect children psychologically but the degree of affectation depends on the age of the child at the time of abuse and also on the duration of the abuse. Sometimes there may not be physical observable symptoms, hence the importance of listening to a sexually abused child. Observable symptoms can be laceration of anus, presence of sexually transmissible disease, pregnancy. The child can get a distorted view of sex. Child sexual abuse is associated with great secrecy – This leads to emotional behaviour, a feeling of guilt or shame. The child's school performance may also be poor.

Commercial Sexual Exploitation of Children (CSEC)

“Every child is entitled to full protection from all forms of sexual exploitation and sexual abuse... States are required to protect the child from sexual exploitation and sexual abuse and promote physical and psychological recovery and social integration of the child victim.”

from “Stockholm Agenda for Action”

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8 UNCRC General Comment No. 13(2011) The right of the child to freedom from all forms of violence
"The commercial sexual exploitation of children is a fundamental violation of human rights and children’s rights. The key element is that this violation of children and their rights arises through a commercial transaction of some sort. That is, there is an exchange in which one or more parties gain a benefit – cash, goods or in-kind – from the exploitation for sexual purposes of someone under the age of 18."  

It occurs in three main forms:

- Child sex tourism is the commercial sexual exploitation of children by people who travel from one place to another to engage in sexual acts with minors.

- Child trafficking for sexual purposes involves exploitation of children in prostitution, pornography, sex tourism and forced marriage.

- Child pornography exploits children in many different ways. Children may be deceived, tricked or coerced into engaging in sexual acts for the production of pornography.

The Convention on the Rights of the Child provides for the protection of children from all forms of sexual abuse.

**Article 34 CRC**

“States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.”

9 “Semantics or Substance?” NGO Group for the Convention on the Rights of the Child
10 ECPAT Information Booklet
**Article 35 CRC**

“States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.”

Furthermore, according to the ILO, the term “the worst forms of child labour comprises, inter alia:

1. all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and servitude, as well as forced or compulsory labour, including forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

2. the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

3. the use, procurement or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in relevant international treaties; and

4. work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety and morals of children;

The Child Protection Act and the Criminal Code contain provisions related to child prostitution. Under the Child Protection Act, it is illegal to cause, incite or allow a child to be sexually abused by the offender or by another person; have access to a brothel; or to engage in prostitution. Sexual abuse of a child includes being forced or voluntarily taking part in any sexual act for another person’s pleasure; any pornographic, obscene or indecent activity; or any type of exploitation. Violators may be punished with up to five years’ imprisonment and a fine up to 50,000 Rupees the punishment is increased to up to eight years’ imprisonment and a fine up to 75,000 Rupees where a prostituted child is mentally handicapped.

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11 Child Protection Act of 1994, Section 14(1).
12 Child Protection Act of 1994, Section 18(5)(2).
The Criminal Code prohibits procuring or exploiting a child for prostitution or acting as an accomplice to child prostitution, even if the offender has no motive or gain for doing so.\textsuperscript{14} Similarly, it is illegal to procure, entice, exploit, benefit from, share earnings or receive money from a prostituted person; violators may be punished with between two and ten years’ imprisonment and a fine up to 10,000 Rupees.\textsuperscript{15} Keeping a brothel is illegal, and may be punished with up to five years’ imprisonment and a fine of up to 100,000 Rupees. Allowing a child to use premises that are used for a brothel is also a crime that may be punished with at least two years’ imprisonment.\textsuperscript{16}

The crime of sodomy when committed against children, may be punished with at least two years’ imprisonment.\textsuperscript{17} Mauritius law also includes sexual crimes such as rape, indecent acts with a child under 12 years of age, incest and debauchery of youth.

The following offences are dealt under section 249 of the Criminal Code:

- Rape (applicable for minors above 16)
- Sexual abuse with minors under 16 (whether with or without consent)
- Sexual abuse of mentally disabled people (even with his consent)
- Sexual abuse of children in the form of an “an attempt upon chastity”

I have received several complaints alleging prostitution among school students. These children were being exploited for sexual gratification by several men against payment of a meager remuneration. These adolescents were having sexual intercourse without any precaution and they were prone to sexually transmitted diseases. They were pretending to attend school but instead they were adhering to a network of prostitution and were exploited. Once informed of this network of prostitution, I opened an investigation. I requested the CDU and the BPM to inquire on the field and take appropriate action. The network was dismantled and several perpetrators were arrested.

Several other cases were reported to the office, where the informant alleged that young adolescents were engaged in prostitution but as the police did not have any evidence, it was impossible for them to take the appropriate action.

\textsuperscript{14} Criminal Code, Sections 257(2), 253(2)
\textsuperscript{15} Criminal Code (Amendment) Act (Annex 4), Section 253.
\textsuperscript{16} Criminal Code (Amendment) Act (Annex 4), Section 90.
\textsuperscript{17} Criminal Code (Amendment) Act (Annex 4), Section 250
In one case I was informed that a lady at Grande Pointe aux Piments was causing her 12-year old daughter to be engaged in prostitution. I requested the police to intervene urgently. A team of the BPM and CDU Officers acted promptly and the minor was provided with protection and assistance. In her statement, the minor stated that “mo mama vende moi avec banne dimoune et li gagne l’argent”. In the course of the enquiry, the mother also confessed having caused her child to be engaged in prostitution against pecuniary gain as she was encountering financial difficulties. The mother and the clients have been arrested. The child was removed from her family environment and put in a place of safety.

In its fight against CSEC, the Government of Mauritius has adopted various measures to prevent and progressively eliminate CSEC and ensure the recovery and integration of the victims in society. In 2003, a National Plan of Action was made, based on the four components of the Agenda of Action Against CSEC adopted at Stockholm,18 viz:

- Coordination and Cooperation;
- Prevention and Protection; and
- Recovery and Reintegration.

The Action Plan should now be updated. I regret that the Government of Mauritius did not participate in World Congress III Against Sexual Exploitation of Children and Adolescents. Fortunately the then president of the National Children’s Council and I participated in this major Congress which took place in Rio, Brazil, from 25-28 November 2008.

The Declaration and the Adolescent Declaration to End Sexual Exploitation which were part of the outcomes of this major World Congress are reproduced as Annex II and III. This is to incite those interested to do further research on this important issue.

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18 First World Congress against Commercial Sexual Exploitation of Children (CSEC), 1996, Stockholm, Sweden
Data for years 2006 to 2010 on Child Trafficking, Sale of Children and Child Prostitution

<table>
<thead>
<tr>
<th>S/No.</th>
<th>Cases</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Child Trafficking</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Causing child to be sexually abused</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Procuring, enticing and exploiting prostitutes</td>
<td>1</td>
<td></td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Debauching youth</td>
<td>2</td>
<td>2</td>
<td>4</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Causing a child to be engaged in prostitution</td>
<td>2</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Inciting minor to engage in prostitution</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Abduction of minors</td>
<td>7</td>
<td>9</td>
<td>6</td>
<td>9</td>
<td>5</td>
</tr>
<tr>
<td>3</td>
<td>Child labour</td>
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<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>11</strong></td>
<td><strong>15</strong></td>
<td><strong>13</strong></td>
<td><strong>15</strong></td>
<td><strong>9</strong></td>
</tr>
</tbody>
</table>

Source: Mauritius Police Force

In 2004, I have made several recommendations to the Commissioner of Police regarding the treatment of child victims of sexual abuse whilst they are under the responsibility of the police force. These recommendations and their outcomes are discussed in Chapter 1.

Inspite of the availability of all the services and the legal provisions to ensure the protection of children victims of sexual abuse, each day the island is shaken by various cases of sexual abuse on infants and young children. Several complaints have been reported to my office, where the complainants refused to lodge any case in court, as they have been informed that the child would have to attend court sessions on several occasions. If the child cannot depone clearly before the Magistrates, the accused can scot free. In other cases, the court procedures take such a long time, that the victims refuse to attend court when required to do so.
Another great loophole is that the child victim is questioned several times on such a delicate issue, such situation prevents many parents to come forward in case their children have been victim of sexual abuse. I have recommended the implementation of the video recording of children’s statements to be used as evidence in court as well as the use of video for examination in chief and cross examination through a close circuit television. I have also recommended that victims identify their perpetrators behind a screen during the identification parade.

I once again reiterate my request to the Government to consolidate these projects which have already started in certain courts and police stations to be extended to the whole island and to Rodrigues. As regards the Sexual Offences Bill, it is high time that the Bill be finalized to address the issues concerning women and children victims of sexual abuse as these are on the rise.

**Statistics on Sexual Abuse for the Year 2011**

Our office has worked on the statistics of cases of sexual abuse for the year 2010 and 2009 provided by the police. Accurate statistics in Mauritius on the prevalence of child sexual abuse are difficult to collect because of problems of under reporting.

Statistics on sexual violence in Mauritius indicate that more and more children and young adults are the victim of some form of sexual abuse, incest, pornography, prostitution, human trade and sexual aggression. From the data, it was found that the average age of perpetrators is decreasing making perpetrators younger than before.

Children can experience violence in any of the settings in which they spend their childhood, in homes and families, communities, care institutions, schools etc. Vulnerable children are often subject to forced labour, prostitution, pornography and trafficking. Sometimes parents are perpetrators of violence against children and sometimes parents remain silent when violence is committed by other family members.

Statistics and studies show that the majority of sexual offenders are family members or are otherwise known to the child. Statistics further show that in most cases of sexual abuse it is men who are perpetrators but there are some cases in which women are the offenders.

In 2010, cases on sexual abuse have increased by 15%. It has been noted that in 2010 the offence of “sexual intercourse with female under 16” has increased by 14.5% compared with 2009 figures, published in last year’s Annual Report. The tendency is the same for other types of offences such as “attempt upon chastity” (+20%), “sexual assault” (+37.5%) and “sexually abusing a child” (+ 50%). However offences such as “rape” and “indecent assault” are stable in 2010 compared with 2009 whereas the rate of “sodomy” has gone down by 16.7%.
In 2010, 42% of perpetrators knew their victims (Please refer to chart 1 for more details) compared with 43% in 2009. The tendency is the same for 2009 and 2010 i.e. we can notice that a significant number of victims knew their perpetrators. The situation could have been otherwise if the relatives were more careful and less lax.

Table 1: Relationship of accused with victims (2010)

![Pie chart showing relationship of accused with victims (2010)]

Regarding the type of offence, the tendency is the same as last year, i.e. 47% of offences are “sexual intercourse with female under 16” and 34.2% represent “Attempt upon chastity” in 2010, whereas in 2009 the percentage of “attempt upon chastity” was 32.4%. – See Chart 2 below:

Table 2: Type of offense (2010)

![Pie chart showing type of offense (2010)]
**Child Trafficking**

Trafficking in children can be defined as “the recruitment, transportation, transfer, harboring or receipt of any person under 18 years of age for the purpose of exploitation”. Children can never voluntarily or willingly enter into an arrangement that resulted in trafficking, even if the parents give their consent. Therefore, all movement of children by another person for the purpose of exploitation constitutes trafficking, regardless of the means employed.

It is the extent and persistence of the physical and psychological abuse and the coercive deceitful and exploitative relationship with the trafficker that distinguish trafficking from other forms of abuse.

Child Trafficking necessarily entails mobilization of any person under 18 years for the purpose of exploitation. (IOM)

In 2005, the US Trafficking in Persons Report had downgraded Mauritius from Tier 1 to Tier 2 watchlist as the “the Government of Mauritius did not fully comply with the minimum standards for the elimination of trafficking”.

Following the report, the Government undertook various bold policies with regard to anti-trafficking legislation, provided additional police training in detecting and responding of trafficking in persons and expand public awareness-raising efforts on the dangers of children engaging in prostitution. Mauritius having ratified the UN Convention against Transnational Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons specially Women and Children (on 18 April 2003 and 24 September 2003 respectively), there is also a working committee to ensure follow-up on Child Trafficking

In January 2006, the CPA 1994 was amended to introduce the offence of Child Trafficking.

Section 13 A provides that:

1. Any person who willfully and unlawfully recruits, transports, transfers, harbours or receives a child for the purpose of exploitation shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 15 years.

2. Any person who willfully and unlawfully recruits, transports, transfers, harbours or receives a child-

   (a) outside Mauritius for the purpose of exploitation in Mauritius;

   (b) in Mauritius for the purpose of exploitation outside Mauritius,
shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 15 years.

4. Any person, who, in any place outside Mauritius, does an act preparatory to, or in furtherance of, the commission of an offence under subsection (1), shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 15 years.

5. (a) Any person who takes part in any transaction the object or one of the objects of which is to transfer or confer, wholly or partly, temporarily or permanently, the possession, custody or control of a child in return for any valuable consideration shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 15 years.

(b) Any person who, without lawful authority or reasonable excuse harbour or has in his possession, custody or control of any child in respect of whom the temporary or permanent possession, custody or control has been transferred or conferred for valuable consideration by any other person in or outside Mauritius, shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 15 years”.

6. (a) provides that press report of any court relating to child trafficking should not “include particulars calculated to lead to the identification of any child who is the victim of that offence, nor shall any photograph or picture be published in any newspaper or broadcast as being or including a photograph or picture of that child”.

(b) Anyone who contravenes the above subsection is liable to a fine not exceeding Rs100, 000 and to a maximum of one year imprisonment.

In November 2008, the Government passed the Judicial Provisions Act which provided for increased penalties for various offences; the Act prescribes punishment for child trafficking offences of up to 30 years’ imprisonment.

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.

Such measures reflected the commitment of the Government of Mauritius to combat child trafficking and in year 2011, Mauritius moved to Tier 1.
Since March 2007, I have been urging the Government to ratify the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. I renewed my proposal on 1st April 2008 and on 8th January 2009. The Minister of Foreign Affairs and External Communication was informed by me on 22nd October 2010 that the UN Special Rapporteur was going to visit Mauritius and I urged him to contact his colleagues of the MWRCDFW and the Attorney General to ratify the said Optional Protocol before her arrival.

During her visit to Mauritius from the 1-11 May 2011, the UN Special Rapporteur showed her concern on the rising number of reported cases of sexual abuse, maltreatment and neglect despite the efforts of authorities and others to combat the problem. She stated that the true scale of the sale and sexual exploitation remains difficult to determine because of taboo surrounding sexuality and the absence of a centralized information system.

On 24 June 2011, the Mauritius Government finally ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, this mechanism will be a major instrument for combating CSEC and Child trafficking.

**Neglect or negligent treatment.**

Neglect means the failure to meet children’s physical and psychological needs, protect them from danger, or obtain medical, birth registration or other services when those responsible for children's care have the means, knowledge and access to services to do so. It includes:

(a) Physical neglect: failure to protect a child from harm including through lack of supervision, or failure to provide the child with basic necessities including adequate food, shelter, clothing and basic medical care;

(b) Psychological or emotional neglect: including lack of any emotional support and love, chronic inattention to the child, caregivers being “psychologically unavailable” by overlooking young children’s cues and signals, and exposure to intimate partner violence, drug or alcohol abuse;

(c) Neglect of children’s physical or mental health: withholding essential medical care;

(d) Educational neglect: failure to comply with laws requiring caregivers to secure their children’s education through attendance at school or otherwise; and

(e) Abandonment: a practice which is of great concern and which can disproportionately affect, inter alia, children out of wedlock and children with disabilities in some societies.19

19 UNCRC General Comment No.13(2011) The right of the child
I have received many cases of child neglect. In fact, most of the complaints made by people from the neighbourhood are cases where the parents are neglecting their children like not sending them to school, not feeding them properly or letting them roam on the street till late in the evening. Many of these children were reported to have a poor body hygiene.

As the officers of the OCO do not go for home visits, these cases were referred to the CDU of the region. These officers were requested by the Ombudsperson to visit the families and to provide support to them so that they can care for their children better. A report on the action taken should be submitted so that I may assess if these were in the best interests of the children concerned. If need be, I may call for a case conference with several stakeholders to see how best a family with acute problems should be supported.

I also refer many such families to the National Empowerment Foundation (NEF), Ministry of Social Security, National Solidarity and Senior Citizens’ Welfare and Reform Institutions or the Trust Fund for Vulnerable Groups if the lack of means is the major cause leading to negligence. I would like to express my appreciation to the above institutions for having responded positively in several cases.

I proposed several actions to the MGECDFW to help negligent parents in taking their responsibility as fathers and mothers, inter alia, the Mentoring system and L’ecole des parents. These recommendations are discussed in Chapter 1.

I also responded positively to requests made by civil society organisations in their awareness programme on violence against children.
Mental/Psychological violence

“Mental violence”, as referred to in the Convention, is often described as psychological maltreatment, mental abuse, verbal abuse and emotional abuse or neglect and this can include:

(a) All forms of persistent harmful interactions with the child, for example, conveying to children that they are worthless, unloved, unwanted, endangered or only of value in meeting another’s needs;

(b) Scaring, terrorizing and threatening; exploiting and corrupting; spurning and rejecting; isolating, ignoring and practicing favouritism;

(c) Denying emotional responsiveness; neglecting mental health, medical and educational needs;

(d) Insults, name-calling, humiliation, belittling, ridiculing and hurting a child’s feelings;

(e) Exposure to domestic violence;

(f) Placement in solitary confinement, isolation or humiliating or degrading conditions of detention; and

(g) Psychological bullying and hazing20 by adults or other children, including via information and communication technologies (ICTs) such as mobile phones and the Internet, known as “cyberbullying”.21

20 “Hazing” refers to rituals and other activities involving harassment, violence or humiliation which are used as a way of initiating a person into a group.
21 UNCRC General Comment No. 13 (2011)
It must be clearly said that all forms of violence will have a psychological impact on the child even if the violence is neither physical nor sexual. Not responding properly to a child’s needs to be protected, to feel safe, to be fed are forms of psychological violence. But it goes beyond than that. Lack of bonding with one’s child failure to respond to his emotional needs can also be tantamount to such violence. Of course verbal abuse and acts which humiliate the child will have a great negative impact on the child and his self esteem will be negatively affected.

The worst form of psychological violence is perpetrated in the family by close members of the family. A small child needs to be valued in the eyes of his parents. At the narcissistic stage of his development, it is very important to praise him. But under no circumstances should he be spoiled. That would be very damaging.

During my investigations, I noticed that, in many cases, parents were using humiliation and degrading remarks as an alternative to corporal punishment. My office has informed the parents about the negative effects of such punishment which are inter alia, feelings of sadness, fear and/or anger, depression, loss of appetite, aggressiveness, low retention and possibly in extreme cases self inflicted violence and suicide.

The child witnessing violence between his parents is also affected psychologically, as explained earlier.

Many children are victims of psychological abuse at school. They cannot adapt to the system of competition which starts from a very young age. They are psychologically affected by the pressure exercised upon them by their parents, class teachers as well as private tuition teachers. They are forced to keep pace with others and be part and parcel of the rat race competition. Many of them cannot follow the pace. They cannot cope with the system and, in many cases, they play truant and are at risk of falling preys to the various ills of society like drugs, prostitution and alcohol. Many became street children or enter in conflict with the law.

I consider that the imposition of such a rude system to children without any assessment and evaluation on their psychological well being is a violation of their fundamental rights.

Other types of violence at school like corporal and humiliating punishments and bullying are discussed in Chapter V.
Chapter 4

Education
Education

Education is a fundamental right for all human beings. Children as fully fledged human beings should enjoy this right. All the major international human rights instruments guarantee the right to education. Extracts from the major ones relevant to children are reproduced below:

Article 26: Universal Declaration of Human Rights

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.

Article 10: CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 24: Convention on the Rights of Persons with Disabilities (CRPD)

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:

(a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

(b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

(c) Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:

(a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

(b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

(c) Reasonable accommodation of the individual’s requirements is provided;

(d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;

(e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

(f) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;

(g) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;

(h) Ensuring that the education of persons, and in particular children, who are blind, deaf or deaf blind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

**Article 28: Convention on the Rights of the Child (CRC)**

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) Make 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.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.
Article 29: CRC

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.
Government Expenditure on Education

In 2010, Government spent Rupees 10,466.7M on Education representing 13.6% of the total Government expenditure.

<table>
<thead>
<tr>
<th>Total Government Expenditure</th>
<th>Rs million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education (incl. items under other ministries)</td>
<td>11571.2</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sectors</th>
<th>Island of Mauritius</th>
<th>Island of Rodrigues</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount (Rs million)</td>
<td>Amount (Rs million)</td>
<td>Amount (Rs million)</td>
<td></td>
</tr>
<tr>
<td>Pre-primary</td>
<td>152.5</td>
<td>4.6</td>
<td>157.1</td>
</tr>
<tr>
<td>Primary</td>
<td>3020.1</td>
<td>121.4</td>
<td>3141.5</td>
</tr>
<tr>
<td>Secondary</td>
<td>5306.4</td>
<td>43.1</td>
<td>5349.5</td>
</tr>
<tr>
<td>Technical &amp; vocational</td>
<td>448.9</td>
<td>0.4</td>
<td>449.3</td>
</tr>
<tr>
<td>Tertiary education</td>
<td>1046.3</td>
<td>8</td>
<td>1054.3</td>
</tr>
<tr>
<td>Special education programme (MCA, NPCC, MIE, HRDC,……)</td>
<td>202.4</td>
<td></td>
<td>202.4</td>
</tr>
<tr>
<td>Other (MQA,WHS, RGSC,… )</td>
<td>290.1</td>
<td>21.8</td>
<td>311.9</td>
</tr>
<tr>
<td>Thro’ other ministries (NEF, Exams Fees, MIH, Maritime training,……)</td>
<td></td>
<td></td>
<td>905.2</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>10466.7</strong></td>
<td><strong>199.3</strong></td>
<td><strong>11571.2</strong></td>
</tr>
</tbody>
</table>

Source: Digest of Education Statistics 2010
As regards the percentage of government spending, we all know that the Ministry of Education and Human Resources is one of the high spending Ministries. The percentage can be considered reasonable. It is higher than in France, UK, India and China; unlike South Africa where budget allocation to Education is 18.5 percent. However, what is even more important is whether we are all satisfied that such an expenditure is worthwhile in view of the fact that 33 percent of children still fail the CPE. Those who pass are not at all literate. The method of teaching is still archaic and recourse to modern teaching techniques and use of ICT is still the exception and not the rule. The Sakoné project is an exception.

**Early Childhood Care and Education**

During the past years, I have been involved in the rethinking of the Early Childhood sector. In 2006, officers from my office participated actively in a National workshop on Early Childhood Care, Development and Education jointly with the Ministry of Women’s Rights, Child Development and Family Welfare and the Ministry of Education and Human Resources. The aims of the workshop were:

- to revise and update policies and strategies
- to revise and update programming tools
- to establish monitoring and evaluation process
- to review the legal framework
In 2007, my officers and I participated in an international workshop on “Strong Foundations: Early Childhood Care and Education”. It brought together Mauritians and delegates from nine of twenty two countries from sub-Saharan Africa that have made progress in developing young child policies within their Education for All (EFA) programs heading for the realization of the Millennium goals by 2015. The general objectives of the workshop were:

(a) to discuss ways and means to achieve the Dakar Declaration on Education for All (2000);

(b) to respond to the recommendations formulated in Education for All (EFA) Global Report of UNESCO – “Strong Foundations: ECCE, published in October 2006”; and

(c) to provide an opportunity to position Mauritius as a Centre of Excellence in

- ECCE for the African Region. The participants had to deliberate inter-alia, over the following from a child rights perspective:

  (a) policy dialogue and policy development in favour of the young child;

  (b) integrated programming processes in favour of the young child;

  (c) monitoring and evaluation tools, using key indicators and data banking; and

  (d) information, communication and documentation strategies for resource

- mobilization (human, material and financial)

I intervened directly as one of the experts. Several strategies emerged from the discussion, namely:

- Advocacy and mobilization
- Capacity building
- Monitoring and evaluation
- Action research
- Resource mobilization
After the workshop, an Ad-hoc committee was set up to monitor the implementation of the resolutions of the workshop. Mr Ismail Bawamia, Investigator, was designated to represent me on the committee. One major outcome was the setting up of the Early Childhood Care and Education Authority in 2008.

My officers and I also participated in the National Workshop on the Status of Early Childhood Care and Education in Mauritius: Mapping and Strategizing in 2009 and in the Mauritius Africa Initiative on Early Childhood Development, Care and Education organized jointly by the UNDP and the ECCEA in 2010.

In the meantime, during 2008 and 2009, Mr Bawamia contributed to the review of the curriculum guidelines carried out by the Mauritius Institute of Education. This exercise leads to the publication of the National Curriculum Framework Pre-primary 3-5 years in 2010 by the ECCEA.

The participants in the above workshops advocated for the Professionalization For Quality of services for the young child (0-8 years). They invited all stakeholders—parents, communities, training institutions, front line ministries, government agencies among others to set the proper training modalities for staff from grass root to high level of administration, management and monitoring of programmes while promoting innovative approaches in the sector of young child integrated development.

I always responded positively to the requests for training of front line officers in the sector like pre-primary educators, managers, school caretakers and babysitters amongst others. I will also continue to give my full support in making Mauritius a Knowledge and Learning Hub in the sector for the African continent.

**Access to Pre-primary schools**

In order to give all children equal chances to access education at a very early age, in 2007, I proposed to the then Deputy Prime Minister and Minister of Finance and Economic Empowerment to give a special consideration for children from financially deprived families to access pre-primary education. The latter agreed and provided Rs 395M 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 decent lunch

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

iv. social problems are dealt with
This programme is now known as the **Educational Support Programme** and is run under the aegis of the Ministry of Social Integration and Economic Empowerment. It provides assistance in the form of provision of meals, transport fees and “accompagnement scolaire”. 903 children attending pre-primary schools in the Island of Mauritius and 461 children in the Island of Rodrigues are benefiting from aid under this programme. Moreover, 585 children in private pre-primary schools have benefited from free pedagogical material.

According to official statistics, there were 1042 pre-primary schools in the Republic of Mauritius in 2010; 1099 in the Island of Mauritius and 33 in Rodrigues. The chart below shows the distribution of pre-primary schools by type of administration.

![Distribution of Pre-primary Schools in Mauritius and Rodrigues](chart.png)

*Source: Digest of Education Statistics 2010*

**Complaints received at OCO in the Early Childhood Sector**

During this reporting year, I received several cases in this sector. Some major problems were corporal punishment, safety in the school yard and verbal abuse.

I met the Director of the ECCEA to discuss these problems. The latter informed me that there was no license which is delivered to a person willing to work in the sector to allow him to work in Early Childhood institutions. Hence, in case of problem the ECCEA cannot forbid a carer from changing school. Action can only be taken when the carer is found guilty by a court of law.
The Primary Education Sector

According to the official statistics of 2010, there were 305 schools providing primary education in the Republic of Mauritius; 291 in the Island of Mauritius and 14 in Rodrigues. They are run by four types of administration; government (222), Roman Catholic Education Authority (51), Hindu Education Authority (2) and private non-aided ownerships (30).

The table below shows some comparative statistics for the period 2006-2010 in the primary education sector.

<table>
<thead>
<tr>
<th></th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of schools</td>
<td>290</td>
<td>289</td>
<td>299</td>
<td>302</td>
<td>305</td>
</tr>
<tr>
<td>Enrolment</td>
<td>121,387</td>
<td>119,310</td>
<td>119,022</td>
<td>117,922</td>
<td>117,432</td>
</tr>
<tr>
<td>No of Teachers</td>
<td>5,598</td>
<td>5,548</td>
<td>5,495</td>
<td>5445</td>
<td>5472</td>
</tr>
<tr>
<td>Gross Enrolment Ratio (%)</td>
<td>102</td>
<td>101</td>
<td>101</td>
<td>101</td>
<td>101</td>
</tr>
<tr>
<td>Pupil/Teacher Ratio</td>
<td>29</td>
<td>28</td>
<td>29</td>
<td>29</td>
<td>28</td>
</tr>
<tr>
<td>Transition Rate (Primary to Secondary)</td>
<td>84</td>
<td>81</td>
<td>82</td>
<td>82</td>
<td>82</td>
</tr>
<tr>
<td>CPE Pass Rate</td>
<td>67.9</td>
<td>66.2</td>
<td>67.4</td>
<td>68.1</td>
<td>68.5</td>
</tr>
</tbody>
</table>

Source: Digest of statistics 2010

The Certificate of Primary Education (CPE)

One of the critical challenges set by the Ministry of Education and Human Resource in its Strategic Plan 2008-2020 was ‘to review the purpose of the CPE examinations’. In the same document, it is also stated 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.’ I then commented, in my Annual Report of 2009, that ‘in the meantime, our young children will continue to be abused by this unjust system.’

23 Digest of Education Statistics 2010
24 Education and Human Resources Strategic Plan 2008-2020
25 Education and Human Resources Strategic Plan 2008-2020 Pg 61
26 Ombudsperson for Children’s Annual Report 2008-2009 Pg 48
In 2010, 31.5% of the total school candidates sitting for the CPE examinations, i.e., 7285, did not pass their examinations. The pass rate among candidates sitting for a second time was 32.4% only. In the ZEP schools, only 36.2% of the candidates passed their examinations.

I am very concerned about these figures. Our education system is failing our children from a very young age. I believe that as long as there will be some form of ranking favouring the elites, children will continue to be left aside and their rights to education as enunciated in the CRC be violated.

I reiterate my recommendations made in earlier reports for a complete removal of any form of competition in the Primary Education sector. I urge the MEHR to take up the challenge to review the CPE examination system as set in their strategic plan in the shortest possible delay.

Private tuition in the Primary Education Sector

In 2009, the Minister of Education and Human Resources announced that private tuition in Standard four will be prohibited. I welcomed that decision but at the same time I declared that this was not enough. However, up to now the law has not been amended and private tuition is still being given to pupils of standard four despite the introduction of the Enhancement Programme.

Private tuition is depriving our children from enjoying their right to leisure, to form part of associations, to engage in play and recreational activities appropriate for their age. They cannot find time to participate freely in cultural life and the arts. Much of their time after school hours is spent in tuition, homework and other academic activities.

I am of the opinion that private tuition creates inequality among children as those who are financially better off can pay to have extra coaching leaving the other children behind. It must be banned in all primary schools.
Introduction of Kreol language

In 2006, the UN Committee on the Rights of the child made the following 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’.”

This year the Minister of Education and Human Resources declared in the press that “Mauritian Kreol will be introduced in schools in January 2012. It (The Mauritian Kreol) is henceforth a complete language which is ready to be taught and used. Besides, teachers are being trained to teach this new language in schools,”

The training of teachers will be done by the MIE. I welcome this decision and believe that this measure will be beneficial to all school children.

ICT in Primary schools

In all primary schools ICT is being taught as a non-examinable subject. Children are initiated to the use of computers. The table below shows the number of computer rooms and IT corners in primary schools zone wise.

<table>
<thead>
<tr>
<th>Zone</th>
<th>No of Schools</th>
<th>No of Computer rooms/IT corner</th>
</tr>
</thead>
<tbody>
<tr>
<td>Port Louis/North</td>
<td>93</td>
<td>109</td>
</tr>
<tr>
<td>BBassin-RHill/East</td>
<td>79</td>
<td>100</td>
</tr>
<tr>
<td>Curepipe/South</td>
<td>66</td>
<td>72</td>
</tr>
<tr>
<td>QBornes/VacoasPhoenix/West</td>
<td>53</td>
<td>60</td>
</tr>
<tr>
<td>Rodrigues</td>
<td>14</td>
<td>15</td>
</tr>
</tbody>
</table>

*Source: Digest of Statistics 2010*

---

27 UNRC Concluding observations: Mauritius 2006 Pg11
28 www.defimedia.info
Moreover, as from this year, all primary schools are equipped with an interactive digital classroom through the Sankoré Project. This project “consists in empowering teachers and other stakeholders in the education sector to create, use and share digital educational resources. The project relies on the following to bring qualitative change in the classroom:

1. The provision of an interactive interface an interactive projector
2. A platform for sharing digital educational resources Sankoré website
3. Training of teachers and key stakeholders to use the interactive interface and the Sankoré software suite.”

The Sankoré project is a Franco-British partnership which aims to educate some 16 million African children from Anglophone and Francophone countries. It consists in providing the schools with laptops, digital interactive projectors/White Boards (IWBs) as well as digital educational lessons.

The materials were handed over to the ministry in April 2011. In the first instance, they will be in Standard Four classrooms in the Island of Mauritius. Later, the project will be extended to Standards five and six classes and also to Rodrigues and Agalega. Secondary schools, particularly Forms Three, Four and Five will also join this project.

I would have preferred that the project be launched in Rodrigues, Agalega and in the Island of Mauritius simultaneously so as to prevent any form of discrimination against any group of children.

I welcome this project. It will definitely help ALL children in their learning and at the same time provide them, especially those from poor areas who are not exposed to new technology, to discover the marvels of Information and Communication Technology.

29 http://sankore.mie.mu
30 Government Information Service, 21 April 2011
The Secondary Education Sector

In 2010, there were 182 secondary schools in the Republic of Mauritius; 187 in the Island of Mauritius and 5 in Rodrigues. The table below shows the number of schools in each zone by type of administration.

<table>
<thead>
<tr>
<th>Zones</th>
<th>Number of Schools</th>
<th>Type of Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>State</td>
</tr>
<tr>
<td>Port Louis/North</td>
<td>58</td>
<td>23</td>
</tr>
<tr>
<td>B.Bassin-R.Hill/East</td>
<td>45</td>
<td>18</td>
</tr>
<tr>
<td>Curepipe/South</td>
<td>42</td>
<td>13</td>
</tr>
<tr>
<td>Q.Bornes/Vcs-Phoenix/West</td>
<td>32</td>
<td>15</td>
</tr>
<tr>
<td>Rodrigues</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>182</td>
<td>69</td>
</tr>
</tbody>
</table>

Source: Digest of Statistics 2010

During this reporting year, I received several cases from the secondary sector on different issues, inter alia, discipline, health problems, abuse of power from rectors, unjustified rustications, bullying and school transfer. A few of these cases are discussed in Chapter IX.

I am also following some projects announced in the Budget Speech or by the Minister of Education and Human Resources himself.

Absenteeism

To solve the problem of absenteeism in the secondary schools an SMS-based System commonly known as the e-Register System was introduced since 9 February 2011. It is a collaborative venture between the Ministry of Education and Human Resources and the Ministry of Information and Communication Technology, with a view to curbing unjustified absences and truancy as well as continued lateness of some students to schools. The system has been introduced on a pilot basis in 21 secondary schools, i.e. 17 State owned and 4 private aided schools, and in spite of some intermittent technical problems, mainly due to the internet bandwidth capacity, the system is working rather smoothly.
At this point in time, I am informed that 90 out of the 138 remaining schools have already confirmed their participation in the project. These include all the remaining 48 State Secondary Schools, the 9 Mahatma Gandhi Secondary schools, and 33 out of a total of 85 private aided secondary schools.

The other 48 private aided secondary schools are still being sensitised to join the system and in this connection, the following crucial steps have already been initiated by my Ministry:

(a) sensitisation of the Rectors and the school staff on the importance of the project;
(b) seeking of parental written consent by the school with a view to securing their collaboration;
(c) training of the users, and
(d) data collection and entry into the system. 31

I welcome this project as it will put the responsibility on the parents to ensure that their children are attending school regularly. However, I recommend all the users of this system to be very cautious on possible misuse of authority. The school should not use the system to stigmatise parents and force them to sign transfer certificates and look for other schools for their children. With the implementation of the project, there is a danger that these managers may misuse this wonderful tool to ‘protect the reputation of their college’

I also recommend that this tool should be used as part of a Positive Disciplinary Strategy to curb the problem of indiscipline in a Whole School Approach, absenteeism being one aspect. Tackling the problem of lateness and absenteeism in isolation is not the best of strategies as misbehaviours at school are often interlinked.

This project is also an opportunity to value those students who make the effort of being on time every day and refrain from absenting themselves from school. This positive behaviour should be valued so that others may learn that they are noticed even when they do good things. It would be wise to send an SMS to the parents to inform them that their child is punctual and regular at school.

31 Reply to parliamentary question B/384 of 24.05.2011 by Hon. Dr Bunwaree, Minister of Education and Human Resources
Examination fees

In 2006, the then Minister of Finance announced that the subsidies on School Certificate and Higher School Certificate examination fees would be abolished. I wrote to him and requested him to review his decision in the best interests of the students concerned. The decision was revised and parents drawing a monthly salary not exceeding Rs7500 would be benefitting 100% subsidy from government.

I then advocated for reconsideration for families whose monthly income are above Rs 7500, especially for those having two children sitting for the examinations in the same year or consecutive years. The Minister first allowed parents who were eligible to Passage Benefits to use this money to pay for the examination fees of their children. Later, he gave extra facilities for a second child taking exams in the family to be entitled to 50 percent of the examination fees if the monthly family income is less than Rs 11,000.

In the Budget Speech 2010, the Minister of Finance announced the following:

i. Government will raise the monthly income threshold for paying 100 percent of the fees from Rs 8,500 to Rs 14,500.

ii. under the current scheme, a second child taking exams in the family is entitled to 50 percent of the examination fees if the monthly family income is less than Rs 11,000. Mr Speaker, Sir, henceforth they will benefit from 100 percent payment of fees.

iii. I am also introducing a new benefit for families with monthly income between Rs 14,500 and Rs 20,000. They will receive a grant for 50 percent of the examination fees, regardless of the number of children taking examinations.

iv. These new schemes will benefit some 19,000 students in contrast to some 8,000 presently.32

I welcome this measure which is in line with what I proposed in 2006. This measure will give the chance to many children from poor families to sit for their examinations.

32 Budget speech 2010
Book loan scheme

This scheme has been existing for years to help needy students to get the required textbooks used in class. The problem with the scheme was that the children had to return the textbooks at the end of the year and that they were given only books which were available in stock. As different schools prescribed different books, the parents had to buy the missing ones.

As from this year, each school will be authorized to purchase prescribed textbooks for its own needy students directly from the bookshops and issue the books to students who will retain same for reference purposes. About 6,700 needy students will benefit from this measure.33

Human Rights Education

Since 2004, I have been advocating for the introduction of Human Rights Education in the school curriculum in line with the Convention on the Rights of the Child which states that education should be directed to “the development of respect for human rights and fundamental freedoms…”34

In 2007, a task force was set up by the Ministry of Education and Human Resources, comprising of several stakeholders including representatives from my Office. The task force agreed that a comprehensive formal education strategy for human rights education would rest on the following:

- Sensitisation and awareness-raising among the student community through the organisation of a series of activities, posters and other audio-visual support.

- Integration of human rights education in school curricula at primary and secondary levels.

- Training of teachers and resource persons in human rights education.

- Introduction of modules of human rights education in the pre-service and in-service programmes of MIE.

- Developing training materials and teaching and learning resource materials for human rights education.

- Networking with other ministries, local institutions, international agencies, NGO’s and private sector35

33 Budget speech 2010
34 Article 29 (1) of the Convention on the Rights of the Child
An Action Plan was also prepared and international consultancy was sought. However, I regret to note that the project has not evolved and we are still at the stage where we were in 2006. Recently, the Ministry informed me that they have integrated some aspects in the primary curriculum (e.g. slavery, right to education, housing etc… and the autonomy of Rodrigues). After verification, it was found that in the Health Education textbook of the Standard Five, a unit has been introduced on “good and bad touch” and how to protect oneself against strangers. The Ministry also informed me that Human Rights is taught as part of the General Paper topics in Form Six.

I reiterate my recommendations made previously that Human Rights should be included in the school curricula with clear objectives and with a defined syllabus. The methodology also should be clearly defined. This step is very important if we want our children to become responsible rights bearers in society.

**The Pre-Vocational Sector**

In 2010, there were 124 schools providing pre-vocational classes in the Republic of Mauritius; 119 in the Island of Mauritius and 5 in Rodrigues. The chart below shows the number of schools by type of Administration in each zone.

![Graph showing number of schools by type of Administration in each zone.](image)

With the introduction of compulsory education up to the age of 16 years, the prevocational education scheme was launched in 2001 with a view to provide the necessary environment for the growth and development to these children, who are ejected from the system after two attempts at the CPE examinations. It also aims at developing learn ability to eventually help them live a socially acceptable and economically self sufficient life anew.
The curriculum for the sector aims at promoting and supporting opportunities for the young learners to:

1. develop self-confidence and be motivated to learn through new approaches,
2. use language to understand and communicate information, express themselves and efficiently interact with others in society,
3. use and apply numerical, size and space concepts tasks and logical thinking in real life situations,
4. apply knowledge, skills and resources in the development of practical solutions to basic technological situations,
5. develop creative skills and an aesthetic outlook for life,
6. develop an understanding of the human body, and its functioning and cultivate a healthy life style,
7. value and implement practices that promote the growth of a person, his/her safety and well being,
8. use basic IT equipment,
9. make proper use of media to communicate and handle information
10. develop a scientific outlook and approach to living,
11. be aware of his/her rights and responsibilities as a learner and a consumer,
12. get an insight into existing opportunities in the job market and further learning avenues for economic sufficiency,
13. develop understanding of how individuals and groups interact and live in harmony together with their immediate environment and the environment at large,
14. be able to work and function individually and collaboratively in a multicultural context,
15. become responsible citizens recognising their own rights and responsibilities while respecting the rights of others.36

36 www.gov.mu/portal/site/education
The project is a very laudable one as it gives another chance to those who have not been able to cope with the cruel competitive system at primary level. However, I have always expressed myself against any form of competition in our education system at an early stage as it is discriminatory in many ways to poor children and late developers, among others.

I received many cases from this sector, especially cases of bullying but also of corporal punishment and discrimination. There is a tendency for many parents whose children are in the mainstream classes to have a negative perception of pre-voc students. Many of them are of opinion that these children should be separated from mainstream pupils, arguing that they are spoiling their children.

In parliament, in reply to a parliamentary question, the Minister of Education stated that “they are, in fact, very few schools but the reasons that are underlying behind are being studied” with regards to the number of schools which are choosing to gradually discard pre-voc classes in their schools.

He also announced that a High Level Technical Committee was working on a full reorganization plan to be ready by early 2011. The committee is still working on the plan. I believe that there is an urgency to review the sector and I hope that the plan will be implemented in January 2012.

37 Reply of Minister V.K Bunwaree to PQ 1B/698 of 30.11.2010 retrieved from www.gov.mu/portal/site/education
Special Needs Education

In 2010, there were 1618 children enrolled in Special Education Needs (SEN) schools in the Island of Mauritius in 48 schools. The table below shows the distribution of SEN school by zone and type of administration in 2010 in the Island of Mauritius:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Type of Administration</th>
<th>Total</th>
<th>Govt. School</th>
<th>Govt. Integrated Unit</th>
<th>NGO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. PLouis/North</td>
<td>14</td>
<td>-</td>
<td>2</td>
<td>-</td>
<td>12</td>
</tr>
<tr>
<td>2. BBassin-RHill/East</td>
<td>18</td>
<td>1</td>
<td>1</td>
<td>16</td>
<td></td>
</tr>
<tr>
<td>3. Curepipe/South</td>
<td>8</td>
<td>-</td>
<td>-</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>4. QBornes/Vcs-Phnx/West</td>
<td>8</td>
<td>-</td>
<td>2</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>48</td>
<td>1</td>
<td>5</td>
<td>42</td>
<td></td>
</tr>
</tbody>
</table>

I believe that as per the various human rights instruments mentioned above, it is the duty of the State to ensure that children with disabilities have access to education in the best conditions. As shown in the table, Government has delegated this responsibility to NGOs. However, in one of my recent investigations, I found that the adequate means to deliver quality education to children with special needs were not given to the NGOs concerned. The procedure to obtain the grant in aid is very complex. I carried out mediation between two SEN schools and the Government. The case is discussed in details in Chapter IX.
Chapter 5

School Discipline
School Discipline

State 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.  

In my last annual report, I devoted a whole chapter on school discipline as I received several cases of indiscipline perpetrated by pupils and also cases of abuse of power and humiliation perpetrated by teachers and rectors in their quest to apply discipline in the school compound. Corporal punishment was still widely used despite the fact that it is prohibited in ALL schools as per section 13(4) of the Education Regulations of 1957.

This year also I regret to report that I received many complaints from parents regarding corporal and humiliating punishment perpetrated by teachers of all sectors; pre-primary, primary, secondary and prevocational. I also initiated investigations following information gathered from the press or from anonymous sources.

I wish to reiterate my firm conviction that discipline should be maintained in ALL schools at ALL time. As a place of learning, school should be kept safe for both pupils and teachers. I adhere to the General Comment No. 8, the Committee on the Rights of the Child which explains that while corporal punishment is rejected, discipline is recognised as fundamentally important in a healthy childhood:

“In rejecting any justification of violence and humiliation as forms of punishment for children, the Committee is not in any sense rejecting the positive concept of discipline. The healthy development of children depends on parents and other adults for necessary guidance and direction, in line with children’s evolving capacities, to assist their growth towards responsible life in society.”

38 Article 28(2)- The UN Convention on the Rights of the Child
39 Ombudsperson for Children’s Annual report 2009-2010, pp 27-33
40 United Nations Committee on the Rights of the Child- General Comment No 8: The right of the child to protection from corporal punishment and other cruel and degrading forms of punishment (2006)
I believe that:

1. Discipline should be taught rather than imposed on children;
2. It should promote the development of pro-social behaviour, self-discipline and character;
3. It should respect the child’s developmental needs and quality of life;
4. It should also respect the child’s motivation and life views;
5. Discipline should be fair and proportionate to the gravity of the misbehaviour;
6. It should provide opportunities for the child to amend, and above all
7. It should respect the child’s dignity

From the different contacts I had with people working in the education sector, I understood that the repressive disciplinary measures like corporal and humiliating punishment are still being widely used in class. I concur with the results of several studies which established that children victims of such harsh punishment develop problems of depression, fear and anger. These students frequently withdraw from school activities and disengage academically. They also often develop “deteriorating peer relationships, difficulty with concentration, lowered school achievement, antisocial behaviour, intense dislike of authority, somatic complaints, a tendency for school avoidance and school drop-out, and other evidence of negative high-risk adolescent behavior.”

I had a meeting with high officials of the MEHR on the issue of discipline. Following my recommendation in the past regarding the standardisation of sanctions, the Permanent Secretary informed me that his officers are working on a document. A presentation on the proposed sanctions was made. The table below shows the proposed sanctions for different types of misbehaviour.

---

<table>
<thead>
<tr>
<th>Level</th>
<th>Category</th>
<th>Examples of misbehaviour</th>
<th>Proposed sanctions/ action</th>
</tr>
</thead>
<tbody>
<tr>
<td>School</td>
<td>Minor</td>
<td>+ Occasional unjustified lateness</td>
<td>+ Investigate with other colleagues to confirm if it is really a first time offence</td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Disrespect towards schoolmates</td>
<td>+ Meaningful dialogue between the Educator and the student with a view to finding the root cause of the infraction and getting the perpetrator to be more responsible</td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Short uniform in girl's school*</td>
<td>+ Reprimand/verbal warning by the educator</td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Investigate with other colleagues to confirm if it is really a first time offence</td>
<td>+ Ask for apology</td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Meaningful dialogue between the Educator and the student with a view to finding the root cause of the infraction and getting the perpetrator to be more responsible</td>
<td>+ Complete the homework during breaks/free periods</td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Reprimand/verbal warning by the educator</td>
<td>+ Help a friend with a work</td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Verbal behavioural contract between the educator and the pupil</td>
<td></td>
</tr>
<tr>
<td>Class</td>
<td>Minor</td>
<td>+ Disruption of class</td>
<td>+ Report the misconduct in the Student's Journal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Impolite verbal or non-verbal language towards classmates</td>
<td>+ Inform the parents officially</td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Eating and drinking in class during teaching period</td>
<td>+ Copy an educational article of reasonable length related to discipline at school</td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Reading unauthorized materials</td>
<td>+ Verbal behavioural contract between the educator and the pupil</td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Hindering other pupils to learn</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Running or standing in the corridor while classes are on</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Failing to complete homework without valid reasons</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ Making impertinent remarks or responses</td>
<td></td>
</tr>
<tr>
<td>School</td>
<td>Serious</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>---------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ Recurrent unjustified lateness and absences</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ Failure to wear prescribed school uniform</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ <strong>Having unexpected hair style contrary to established school standards</strong>*</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ Wearing exuberant ornaments and other artifacts* contrary to school rules and regulations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ Possession of cigarettes or illicit substances in the school compound</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ Stealing and indulging in commercial activities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ Threatening, violence or intimidation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ Truancy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ Extortion</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ <strong>Showing racist/communal behavior</strong>*</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ <strong>Having a sexualized behaviour at school</strong>*</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**1st time offence**

+ Getting the student on special report where the behaviour of the student is monitored from daily reports obtained from teachers
+ Parents be convened at school to discuss the misbehaviour with the Educator in the presence of the pupil
+ Make the pupil sign a behaviour contract in the presence of the Responsible Party
+ Refer the child for counselling

**2nd time offence**

+ Recess detention along with a positive discipline activity like asking the child to give a written account of his misbehaviour together with ways of improving his conduct
+ Rector to give a serious warning to the pupil in the presence of the responsible party
<table>
<thead>
<tr>
<th>Class</th>
<th>Serious</th>
<th>3rd time offence</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>+ Use of mobile phone and/or other devices during class hours</td>
<td>+ One hour detention after school hours or on a Saturday morning along with a positive discipline activity</td>
</tr>
<tr>
<td></td>
<td>+ Repeatedly disturbing the teacher in class</td>
<td>+ Community service</td>
</tr>
<tr>
<td></td>
<td>+ Shirking classes</td>
<td>+ Recurrent or repeated offences to be considered as very serious and to be sanctioned accordingly as decided in a case conference</td>
</tr>
<tr>
<td></td>
<td>+ Using improper language towards classmates or staff</td>
<td></td>
</tr>
<tr>
<td></td>
<td>+ Making graffiti of a vulgar nature on the walls, desks, chairs, and copybooks</td>
<td></td>
</tr>
<tr>
<td></td>
<td>+ Damaging other’s personal belongings</td>
<td></td>
</tr>
<tr>
<td></td>
<td>+ Damaging school property</td>
<td></td>
</tr>
<tr>
<td></td>
<td>+ Mishandling equipment*</td>
<td></td>
</tr>
<tr>
<td>Class / School</td>
<td>Very Serious</td>
<td>+ These cases fall beyond school rules and regulations and are under the jurisdiction of criminal/civil law.</td>
</tr>
<tr>
<td>---------------</td>
<td>-------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>+ Sexual assault</td>
<td>+ Rustication</td>
</tr>
<tr>
<td></td>
<td>+ Aggravated /felonious assault</td>
<td>+ Community service</td>
</tr>
<tr>
<td></td>
<td>+ Arson</td>
<td>+ Refer to the Brigade pour la protection des mineurs and followed by a psychologist. The school should be kept informed</td>
</tr>
<tr>
<td></td>
<td>+ Use, sale or possession of drugs/narcotics and other substances</td>
<td>+ Expulsion and readmitted in another school</td>
</tr>
<tr>
<td></td>
<td>+ Burglary</td>
<td></td>
</tr>
<tr>
<td></td>
<td>+ Bomb threat</td>
<td></td>
</tr>
<tr>
<td></td>
<td>+ Breaking and entering- illegally gaining entrance through force of a school building</td>
<td></td>
</tr>
<tr>
<td></td>
<td>+ Use of explosives- an act or device utilizing unauthorized fire, smoke which presents a risk of danger of life or property including, but not limited to, fire crackers or fireworks</td>
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<td>+ Unauthorized distribution, posting or broadcasting of communicative materials</td>
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<td>+ Possession or distribution of pornographic materials- including through electronic or other media</td>
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+ Use (Misuse) of any type of Electronic Communication Device (ECD) during the academic school day or within the school building
+ Misuse of technology

Note:

1. Sentences in bold character are the proposals of the Ombudsperson to the document submitted by the MEHR to her
2. I do not agree with points marked with an asterix(*)

Corporal and humiliating punishment at school

No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment

The United Nations has, on various occasions, commented on the issue of corporal punishment in Mauritius and made several recommendations. Some of these are reproduced in the table below:

Recommendations by human rights treaty bodies regarding corporal punishment in Mauritius

Committee on the Rights of the Child

(17 March 2006, CRC/C/MUS/CO/2, Concluding observations on second report, paras. 37 and 38)

“While noting that corporal punishment is prohibited in schools through the Education Regulations of 1957, the Committee remains concerned that corporal punishment is not explicitly forbidden by law in the family and in all settings, including in alternative care settings.”

“The Committee reiterates its previous concluding observations (CRC/C/15/Add.64, para. 31) and urges the State party to prohibit through legislation and other measures corporal punishment of children in the family, in schools, in penal institutions and in alternative care settings. The Committee further recommends that the State party conduct awareness-raising campaigns among adults and children, the promotion of non-violent, positive, participatory methods of child-rearing and education.”
Committee on the Rights of the Child

(30 October 1996, CRC/C/15/Add.64, Concluding observations on initial report, para. 31)

“In the light of articles 19, 34 and 35 of the Convention, the Committee encourages the State party to take all appropriate measures to prevent and combat ill-treatment of children, including child abuse within the family, corporal punishment, child labour and the sexual exploitation of children, including victims of sexual tourism....”

Committee on Economic, Social and Cultural Rights

(8 June 2010, E/C.12/MUS/CO/4, Concluding observations on second to fourth report, para. 23)

“The Committee is concerned at the persistent problem with cases of child abuse and neglect in the State party (art. 10).

The Committee recommends that the State party take the necessary measures to combat child abuse and neglect, including explicitly prohibiting corporal punishment at home and in alternative care settings and as a disciplinary measure in the penal system.”

In all my past Annual Reports, I drew the attention of the authorities on the wide use of corporal punishment in our schools. I received several complaints from parents whose children have been victims of such punishment at school, perpetrated by the class teacher or other member of the school personnel. In most of these cases, I referred the problem to the MEHR for inquiry and report. I regret to note that in all the cases the teachers denied the act and the children were referred to the school psychologist. Several children who found it difficult to return in the same class due to fear were given a transfer to another school. The teachers only had to read the circular on corporal punishment and the Ministry declared that he/she would be closely monitored by the Headmaster. This means that the children who were themselves victims were victimized a second time as their word has been considered as lies.
I am very concerned as, despite all my efforts, the number of cases reported to my office, regarding corporal punishment is not decreasing. Since 2004, I have been making recommendations to the Ministry of Education and Human Resources aiming at eliminating corporal punishment in all schools. I regret to note that the Ministry is taking too much time to implement my proposals. I am reiterating the following recommendations and urge the authorities to implement them in the best interests of our children.

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. I propose to define corporal punishment as ‘any form of physical abuse administered to a child in a context of punishment or control’.

2. 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.
3. To set up an appropriate mechanism in all schools to look into any case of violence reported by any child against his/her person. This mechanism should be transparent, accessible, child friendly, democratic and just. Other stakeholders like parents, social workers, school psychologists, parent mediators, members of students’ councils should be involved in carrying out such inquiries.

4. To sensitize children on their rights and responsibilities. They should be made aware that, for their own protection, they should behave in a responsible and constructive way. Adults should, on their part, understand and respect to a certain extent the rebellious attitude 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.

5. To ensure that awareness programmes lay emphasis on the risk of victims of corporal punishment becoming violent and on the need to break the transgenerational cycle of violence.

6. To work on core rules and regulations urgently to make them applicable to all schools, so that the same disciplinary approach would be used in all schools. These rules and regulations should be based on positive and constructive discipline principles fully described in the kit on the Prevention of Violence at School (PVAS). Children should participate in the elaboration of these regulations which would guide their behaviour at school and that would facilitate their respect for same.

7. To involve children in the implementation of the rules and regulations as well as in the running of the school. They should also play an active role through a well organised and democratic students’ council and in other instances like the disciplinary committee, sports committee and so on. Children should be regarded as partners and not as liabilities. Ideally, the PTA could also be reformed and include pupils’ representatives.

8. To develop support systems at school level involving teachers and older pupils to act as peer counsellors. Heads of school should also involve educational psychologists and social worker of the MEHR as well as volunteer parents and NGOs in their plans to support children with disruptive behaviour.

9. To introduce Life-Skills Education as well as Human Rights Education in our schools to help our children to become more responsible, reliant, supportive and committed, respectful of the rights of others. I firmly believe that discipline should be taught and not imposed. Its main aim should be the profound transformation of the child who would have learnt self-discipline.
10. To review the content of teacher training 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.

My office's contribution in the advocacy against the use of corporal and humiliating punishment against children

1. Kit on the Prevention of Violence at school

The Kit on the prevention of violence at school which was 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 proposals 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

A document on **Classroom Management** and another one on **Bullying** have been added. Two posters have also been produced and included in the kit.

This year two new e-documents have been added:

1. The multi-disciplinary case conference in child protection
2. Positive Discipline at school- A manual for Rectors and Headmasters

These documents can be accessed on our website www.oco.gov.mu
Bullying

Bullying among children is defined as “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 or 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 and older children behaving in such violent way.”

The problem of bullying in our schools is a growing one. It affects all sectors from the pre-primary to the secondary sectors. The pre-vocational sector seems to be the most affected but the others are not far behind. To understand this problem, we should try to know the reasons which push a child to bully a fellow classmate. Some of these reasons are given below:

- To defend themselves
- To have fun
- Due to loneliness
- To express frustration, anger or rage
- To take revenge
- To assert themselves
- To get things they do not have
- To avoid being the target
- To appear tough and target others
- Peer pressured strong
- Learned behaviour
- To be popular

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43 www.samsha.gov
It is clear that repressive measures will not help the bully to amend his behaviour. This child needs help and should be referred to a psychologist for assistance. The teachers should be supportive and guide him in a trustful and respectful relationship. The parents should also be involved in this effort. The child must be encouraged to apologise and to pay for any loss.

As for the victim appropriate support should be provided to help them to recover from the violence, specially the psychological one, they have experienced. The first thing to do is to believe them and not to try to know if they looked for it. Bullying is not child’s play; it has negative effects on both the bully and the victim.

As mentioned above, a document entitled “Taking action against bullying” has been included in the Kit on the Prevention of Violence at School. This document will help teachers and other staff members to understand this problem better. It may also be used as a guide to them to deal with this problem at school.

Training and sensitizing the educational personnel

My officers and I organized regular training sessions in collaboration with various authorities like the Ministry of Education, The ECCEA, The Ministry of Health and Quality of Life and the Ministry of Youth and Sports targeting teachers, headmasters as well as the non-teaching personnel from the pre-school, primary and secondary education sectors. See Chapter VII for more details on this year’s workshops.

During the workshops, the concept of Positive and Constructive Discipline is presented to the participants as a way of making our schools a pleasant and peaceful place to study. The CRC is explained to them so that they can free themselves from the negative perception which teachers may have on the rights of the child.

“How can we expect children to take human rights seriously and to help build a culture of human rights, while we adults not only persist in slapping, spanking, smacking and beating them, but actually defend doing so as being ‘for their own good’? Smacking children is not just a lesson in bad behaviour; it is a potent demonstration of contempt for the human rights of smaller, weaker people.”

P Newell & T Hammarberg, 44

44 The right not to be hit” in Children’s rights: Turning principles into practice, Stockholm: Save the Children Sweden, 2000 at page 135
Chapter 6

Convention on the Rights of the Child
Convention on the Rights of the Child (CRC)

The Ombudsperson for Children’s Act 2003 provides that one of the objects of the OC is to promote compliance with the CRC. In order to do that, I have regularly opened investigations to make proposals to all stakeholders who have, often through sheer ignorance, violated articles of the CRC. I then follow-up to ensure that there is due respect for the CRC.

I also organize awareness campaigns on the CRC. We have published a booklet on the CRC and a DVD based on the booklet. These have been distributed to pupils in Mauritius and Rodrigues.

I have set up a Compliance Committee to follow up on the Concluding Observations of the Treaty Body, UN Committee on the Rights of the Child (UNCRC) which receives the periodic reports from State parties.

The last time that representatives of Mauritius deponed before the Committee was in January 2006. I had sent in an Alternative Report in September 2005 and deponed in October 2005 before the UNCRC.

Hereunder we are faithfully reproducing the Committee’s recommendations and providing information available up to now from other stakeholders. We also provide information on our own actions and recommendations. The full report will be finalized before the end of the year and will be communicated to the UNCRC.
1. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)

Committee’s previous recommendations

The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the initial report that have not yet been implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations on the next periodic report.

2. Reservations

The Committee reiterates its previous recommendation that the State party undertake all the necessary measures to withdraw its reservation to article 22 of the Convention, in accordance with the Vienna Declaration and Plan of Action of 1993.

Reservation on article 22 of the CRC has been withdrawn on 4 June 2008

3. Legislation

The Committee recommends that the State party strengthen its efforts to continue reviewing its legislation with the aim of ensuring full compliance with the principles and provisions of the Convention. Furthermore, the Committee encourages the State party to consider enacting a comprehensive Children’s Act to consolidate the various pieces of legislation covering all aspects of child rights.

- A draft bill on adoption has been submitted to the Prime Minister’s Office. A multi-stakeholder meeting was held to discuss the following:

  (a) Setting up of an agency;

  (b) Procedures for d’échéance de l’autorité parentale

  (c) Establishment of a database of “adoptable” children
The Bill is still under consideration at the State Law Office.

- The Juvenile Offenders Bill is being finalized
- The Probation of Offenders Act is already in operation.
- The Community Service Order Act passed on 12.5.09. CSO already in operation since the first of August 2010.
- The Civil Code was amended on 25 April 2011 so that divorce is possible on the grounds of rupture de la vie commune after 3 years separation instead of five years.
- On the same date, the Divorce and Judicial Separation Act was amended to provide for divorce on the grounds that both parties agree that there has been a rupture after 2 years of marriage or for divorce by mutual consent. These amendments have a bearing on the issues of custody, alimony etc.
- The Children’s Bill is in preparation at the Attorney General’s Office. A series of consultations have been taking place with all stakeholders concerned. The OCO has made certain proposals and been closely associated with the exercise.

4. Coordination

The Committee recommends that the State party further strengthen the coordination between the various bodies and institutions at all levels and pay particular attention to the various regions of the State party.

A Working Together Committee was set up this year.

A Protocol signed by the Ministry of Gender Equality, Child Development and Family Welfare and other government departments, and institutions dealing with Child’s Rights was reviewed by the New Committee which also adopted appropriate terms of reference.
5. National Plan of Action

The Committee recommends that the State party implement a comprehensive National Plan of Action (NPA), covering all areas of the Convention and incorporating the objectives and goals of “A world fit for children”, the outcome document of the special session of the General Assembly on children in 2002. In this regard the Committee recommends that the State party involve the Ombudsperson for the Children’s Office and civil society in the revision and implementation of this NPA.

The Ombudsperson for Children proposed a Plan of Action based on the UN Report on Violence against Children 2006 (Pinheiro Report) but the Ministry has not yet decided to either update its NPA or replace it by this Plan of Action on Violence.

6. Independent monitoring

The Committee recommends that the State party ensured that adequate human and financial resources be allocated to the Ombudsperson for Children’s Office. The Committee also recommends that the State Party strengthen the OCO by allowing it to recruit qualified and trained staff. It further recommends that the OCO be systematically included in the review of any laws and policies pertaining to children.

A Secretary was recruited but had to revert back to his previous post. A new advertisement will be posted to recruit another one.

Two investigators were recruited in June 2011

Two officers working under the Service to Mauritius Programme of the Ministry of Finance were also posted at OCO. This is very useful as a lot more research can be done.

Additional technical staff needs to be recruited

The OC is being consulted on all laws.

7. Resources for children

With the view to strengthen its implementation of article 4 of the Convention and in light of articles 2, 3 and 6, the Committee recommends that the State party prioritize budgetary allocations paying special attention to regional disparities in order to ensure the implementation of the rights of children to the maximum extent of available resources and where possible, within the framework of international cooperation and using a rights-based approach.
There is a new Ministry of Social Integration and Economic Empowerment which has taken over the empowerment programme:

Regarding the eradication of absolute poverty – funds have been provided to children of three years from poor families to enroll in preprimary.

Total number of children under EAP/Child Welfare Program: 1,587 including 942 Children admitted in Pre Primary schools aged 3-5 yrs. Remaining children are admitted in primary schools

The programme has been extended to 922 pre-primary and primary students in Rodrigues.

Around 22 000 children in Mauritius and Rodrigues have also benefited from provision of school materials in 2011.

The Ministry of Social Security provides several benefits to needy children under the National Pensions Act : Child Allowance; Basic Orphans Pension;

Under the Social Aid Act: Child Allowance-Multiple Birth

Under the Unemployment Hardship Relief Act: Child Allowance-Financial help to disabled children-An exgratia allowance- Carer’s allowance; Refund of Bus Fare;

The amount paid are revised every year on the cost of living index.

Allowance to single mothers: This social aid applies to an applicant who:

1. (a) has been abandoned by her spouse;

    (b) is a single mother; or

    (c) is the spouse of a household who has been remanded to jail or is serving a term of imprisonment

    (d) single mothers should be under 60 years.

2. Is temporarily or permanently incapable of earning adequately her livelihood and has insufficient means to support herself and her dependents.

3. Has one or more children between 3 months and 7 years.

4. Is an insured person under the National Pension Act or National Savings Fund Act; and
5. Her total monthly resources does not exceed Rs. 7,500/-.
   
   (a) She will receive Social Aid specified in part III of the schedule to the ACT or the amount by which her monthly resources fall short of Rs. 7500/- whichever the lesser and
   
   (b) Child’s allowance of Rs. 1068 for every child between the ages of 3 months and 7 years until the end of the year in which the child attains 7 years.

This is of course an exceptional aid given to those with children but is also encouraging a high degree of pregnancy, up to six children. It is important in such cases to ensure that the whole family, especially the children, are really benefitting from such aid.

8. Data collection

The Committee recommends that the State party strengthen its system of data collection and indicators which cover the provisions of the Convention, disaggregated by sex, age and region and with specific emphasis on those who are particularly vulnerable, including children living in poverty and children with disabilities. It further encourages the State party to use these indicators and data in the formulation of laws, policies and programmes for the effective implementation of the Convention.

The CSO through the Statistics Unit of MGECDFW has already started an inventory of all statistics on women and children available at the Ministry. This inventory will be needed in connection with the forthcoming project of the Ministry entitled “Harmonisation System of Data Collection on Women and Children in Mauritius”.

As from 2009 onwards, a statistical report on children would also be produced.

9. Training/dissemination of the Convention

The Committee recommends that the State party strengthen and systematize its human rights training programmes, including the principles and provisions of the Convention, for all professional groups working with and for children such as judges, lawyers, law enforcement officials, traditional and religious leaders, personnel working in institutions and places of detention for children, teachers, health personnel and social workers. In this regard, particular attention should be paid to Rodrigues and Agalega.
The OC has produced the following IEC materials:

1. Training by OCO of police, magistrates, school teachers and Inspectors, and other duty bearers on the CRC, Violence Against Children, Corporal Punishment and Positive Discipline.

2. A training kit on the Prevention of Violence at School has been published by OCO.

3. Two TV spots on Protection against physical and sexual violence respectively have been produced by OCO. These TV spots are broadcasted on the National Television during children's programme.

4. A comic booklet entitled “Les aventures de Tico, Tiffy et Rajoo” on Children's Rights has been published and distributed to school children aged 10/11.

5. A DVD on Child Rights entitled “Rajoo et Tico” has been produced and is being distributed to all schools.

6. A book entitled “Adieu Violence” has been published and targets all NGO’s, social workers, etc…

The OC has also organized training modules on the Convention on the Rights of the Child, Violence Against Children in all settings, Corporal Punishment and Positive Discipline and laws related to children. The targeted groups are teachers, parents, front line officers working with children, NGO leaders and children.

10. Cooperation with civil society

The Committee reiterates the State party’s primary obligation with regard to the implementation of the Convention and recommends that the State party continue its efforts to strengthen cooperation with NGOs and to involve them systematically at all stages in the implementation of the Convention as well as in policy formulation. The Committee recommends that the State party provide NGOs with adequate financial and other resources to enable them to discharge governmental responsibilities and duties with regard to the implementation of the Convention. The Committee refers the State party to its recommendations arising from the day of general discussion held in 2002 on the theme “The private sector as service providers and its role in implementing child rights”

(CRC/C/121, para. 630).
Through the CSR Programmes, the Private Sector has the obligation to allocate 2% of their annual profit for the funding of projects of NGO’s.

The Book on Violence “Adieu Violence”, published by the OCO, describes strategies and mechanisms adopted by NGOs to ensure the protection, rehabilitation and recovery of abused children.

NGO’s have been regularly consulted by the Ministry of Gender, Child Development and Family Welfare, the Attorney General’s Office and the OC during the preparation of the Children’s Consolidated Bill.

The Women and Children Solidarity Programme was set up under the PMO to fund projects from NGO’s in the fields of Violence Against Women and Children and support to children with disabilities. The Programme is now under the MGECDFW and is known as the Special Collaborative Programme for Support to Women and Children in Distress.

11. Non-discrimination

The Committee recommends that the State party undertake all necessary measures to eliminate de facto discrimination in full compliance with article 2 of the Convention.

The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa in 2001 and taking account of general comment No. 1 (2001) on the aims of education.

The Equal Opportunities Act makes provision against discrimination on the ground of age. However, the Act has not been promulgated yet.

The OC has drawn attention to the following:

1. The failure to help children who are slow learners, and the physical and psychological violence exercised on them in class by teachers who flout the law on corporal punishment is a flagrant discrimination. In fact 33% of students fail the highly competitive examination at the end of the primary cycle. These children then drop out. Fortunately an umbrella NGO will help some of them to catch up by using an adapted method. But many become idle and some such children even become street children, during the day at least.

2. The prevocational sector has unfortunately not given results.
3. The grant in aid for Special Needs Educational Institutions is also not at par with other schools.

12. Best interests of the child

The Committee recommends that the principle of the best interests of the child enshrined in article 3 be systematically implemented in judicial and administrative decisions as well as in programmes, projects and services with regard to children in various situations.

The Civil Code already provides for the best interests of the child to be the main criteria to be taken in consideration in family matters. The principle will be one of the main features of the forthcoming Children’s Bill so that it is extended to all administrative and judicial decisions taken with regard to a child.

13. Respect for the views of the child

In light of article 12 of the Convention, the Committee recommends that the State party continue and strengthen its actions to promote the rights of the child to express his/her views fully in all matters affecting him/her, including within the school, in the media, the courts, administrative bodies and in society in general.

For the moment, the views of the child are only sought in cases of custody and right of visit and lodging of parent, in cases of separation and divorce, as well as in cases of adoption. In the first instance the judge is duty bound to consult children above 10 years but he may consult younger children. In custody matters, the age limit is 15 which is on the high side. When children are removed and placed they are not consulted systematically.
14. Birth registration

The Committee encourages the State party to continue its initiatives to ensure that cases of tardy declarations are dealt with in a more expeditious manner.

A Tardy Declaration of Births Scheme has been put in place at the level of the MGECDFW to re-establish speedily the identity of undeclared children.

A fast-track system is operational since August 2005 with the collaboration of the Attorney General’s Office, the Police, the Civil Status Office, and the Ministry of Health.

A high level Committee co-chaired by the Attorney General and the Minister of Women’s Rights, Child Development and Family Welfare set up in August 2005 monitors the tardy declaration of birth program on a regular basis.

Undeclared Children who are identified to be tardily declared are referred to the vaccination unit of the Ministry of Health for immunization and to the Ministry of Education for admission in pre-primary, primary or vocational schools.

Unfortunately there have been cases when the file has been lost and no provision is made to expedite matters to reconstitute the file and proceed with the declaration. This is due to the non computerization of the whole system of protection.

15. Right to privacy

The Committee recommends that the State party take all necessary legislative measures to fully protect the right of the child to privacy and to support the initiatives of the Ombudsperson for Children in this domain, including the proposals of drafting a Code of Ethics. In addition, the Committee recommends that the State party provide trainings on the principles and provisions of the Convention to chief editors and journalists.

The Ombudsperson for Children has made various recommendations to the various Authorities and the Media for respecting and safeguarding this right. This will hopefully be taken on board in the forthcoming Children’ Bill.
16. Corporal punishment

The Committee reiterates its previous concluding observations (CRC/C/15/Add.64, para. 31) and urges the State party to prohibit through legislation and other measures corporal punishment of children in the family, in schools, in penal institutions and in alternative care settings. The Committee further recommends that the State party conduct awareness-raising campaigns among adults and children, the promotion of non-violent, positive, participatory methods of child-rearing and education.

OCO published a kit on Prevention of Violence at School which deals with the need for child-friendly and teacher-friendly schools, the fact the corporal punishment is counterproductive and dangerous, the use of positive and constructive discipline as alternatives.

Training of school psychologists, school inspectors, head-teachers, mentors and teachers of the pre-primary, primary and secondary sectors is being done regularly by the OCO.

OCO carries out regular talks to parents on the negative effects of corporal punishment and on positive discipline at home.

The OC has proposed that the laws should be amended to define corporal punishment and to make provision for its ban in all settings. These proposals will be considered in the Children’s Bill.

Posters have also been published.

17. Illicit transfer and non-return

The Committee recommends that the State party formally recognize every other State which has acceded to the same Hague Convention as party to that Convention in order to provide immediate and effective protection for abducted children in accordance with the Hague Convention and with articles 11 and 3 of the Convention on the Rights of the Child.

The Government explains that countries having ratified the Convention, or acceded to it before Mauritius, must accept Mauritius and not vice versa. Mauritius can collaborate with 35 such States as at now. The Government has engaged a lengthy procedure to check the mechanisms in place in the other countries to decide on whether it will formally recognize them or not. I have as OC stressed on the fact that it is urgent to deal with countries with which we have regular exchanges so that children who are abducted are not penalised because of long bureaucratic procedures.
18. Separation from parents

The Committee recommends that the State party, in light of the ongoing reforms of the juvenile justice system, ensure full compliance with the principles and provisions of the CRC. The Committee further recommends that the State party abolish the possibility for parents to place a child in an institution on the basis of an oath before a juvenile court.

The Committee also recommends that the State party provide families who have difficulties in the upbringing of children with necessary support and counselling services.

The Community Service Order (Amendment) Act of 2009 provides for community service for minors aged above 16. The OC has proposed that even children of 14 onwards should be able to perform some kind of adaptable community service.

The Probation of Offenders (Amendment) Act was voted on 16th June 2009 and was proclaimed on 1st October 2010. This Act provides for alternatives to custodial sentences, for example a requirement to attend a centre regularly, drug or alcohol treatment, a residence requirement and a curfew. The last requirement is meant for high-risk cases.

The residence requirement is meant to reside for a period of not more than 12 months at the probation hostel for boys or probation home for girls or any other institution run by the Mauritius Probation and Aftercare Service.

A Juvenile Justice Bill is in preparation.

Unfortunately the so-called uncontrollable children are still being placed in the Rehabilitation Youth Centres, although the Probation and After Care Service is more involved in the support of families and only difficult cases in fact go before the Magistrate sitting as a juvenile court.

19. Periodic review of placement

The Committee recommends that the State party adopt a comprehensive mechanism of periodic review of children placed in institutions.

The Ministry stated that there is periodic review, but it has been impossible to know when and how they proceed.
20. Adoption

The Committee recommends that the State party take legislative measures to ensure that in cases of adoption the decision of the judge is supported by relevant information regarding both the child and the adopting parents in order to ensure that adoption is in the best interests of the child.

Cases of adoption are dealt with before the Supreme Court and social reports are now being sought by the judges. In cases of foreigners, they must apply to the National Adoption Council and satisfy the Council that they have the proper agrément from their country of origin.

Until and unless the new Adoption Bill is ready with clear mandates for those who deal with adoption, there is always a risk that applicants will look for children to adopt in very unsatisfactory circumstances, sometimes being involved in child trafficking.

21. Child abuse, violence and neglect

The Committee recommends that the State party:

(a) Provide facilities for the care, recovery and reintegration for child victims of violence;

(b) Ensure that the child victim’s privacy is protected in legal proceedings; and

(c) Train parents, teachers, law enforcement officials, care workers, judges, health professionals and children themselves in the identification, reporting and management of cases of violence and abuse, using a multidisciplinary and multisectoral approach.

In the context of the Secretary-General’s ongoing in-depth study on the question of violence against children (A/RES/56/138) and the related questionnaire to Governments, the Committee acknowledges with appreciation the written replies of the State party and its participation in the subregional consultation for Indian Ocean Island States held in Madagascar from 25 to 27 April 2005 and Regional Consultation for Eastern and Southern Africa held in South Africa from 18 to 20 July 2005. The Committee recommends that the State party use the outcome of this regional consultation in order to take action, in partnership with civil society, to ensure the protection of every child from all forms of physical or mental violence, and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.
The Child Development Unit (CDU) has great difficulty in coping with the huge amount of cases of child abuse and child neglect. There have been many cases which have brought to light the fact that the CDU was understaffed, disorganized, and not able to recruit staff with experience to respond efficiently to cases, let alone do prevention. Following the proposal made by the OC in one of the most atrocious case involving a child of seven who had been sexually abused and not been removed from the house of her mother who was putting her at risk and who was again abused and killed, the CDU has started to engage in training and developed guidelines for its officers. But in fact the CDU needs to be totally reviewed.

Further the issue of lack of coordination between the different Units of the Ministry as well as the difficulty to collaborate seriously with other stakeholders is also hampering the smooth chain of protection. The Ministry has now decided to revamp a Protocol which did exist and which was dormant by setting a Committee on “Working Together” which meets every three months—at least in theory!

22. Children with disabilities

The Committee recommends that the State party, taking into account the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee’s recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339), further encourage the integration of children with disabilities into the regular educational system and their fullest possible social integration. The Committee also recommends that the State party:

(a) Collect adequate statistical data on children with disabilities, allowing for
(b) disaggregated analysis of the problems facing such children;
(c) Establish a national system of early detection, referral and intervention; and
(d) Seek further technical assistance and cooperation for the creation of more effective specialized institutions, including day-care centres, and for the training of parents and professional staff working with and for children.
The CSO through the Statistics Unit of the Ministry of Education, Culture and Human Resources would, as from 2009, compile data on children attending Special Needs Educational institutions.

As from 2011, the population census will also collect data on people with disabilities including children.

The OC opened an investigation concerning difficulties met by NGOs running specialized institutions and made many recommendations.

It is regretted that, though the grant in aid paid to the Institutions for children with special needs is now being paid on a regular basis, the amount is still not at par with that which is available for children in the mainstream and that the Ministry states that the exercise is “extremely complex and protracted”.

23. Health and health services

The Committee recommends that the State party:

(a) Prioritize the allocations of financial and human resources to the health sector in order to ensure equal access to quality health care by children in all areas of the country;

(b) Continue its efforts to improve prenatal care, including training programmes for midwives and traditional birth attendants, and take all necessary measures to reduce infant mortality rates, especially in rural areas;

(c) Improve the nutritional status of infants, children and mothers;

(d) Ensure access to safe drinking water and sanitation in all areas of the country and particularly in Rodrigues; and

(e) Encourage exclusive breastfeeding for at least six months after birth with the addition of an appropriate infant diet thereafter.
Food programmes do exist for children of Zone d’éducation prioritaire (ZEP) schools. In other schools, children get a loaf of bread on a daily basis. A sum is provided to special needs schools for a food programme. Many schools, private companies, and NGOs provide supplementary food to needy children.

Rodrigues still suffers from a shortage of water.

Continuous training is being provided for the personnel of some hospitals where neo-natal health care units have been, or are going to be, opened.

Although there have been campaigns by NGOs on the importance of breastfeeding in the seventies, it is stated that there is now a study on the prevalence of breastfeeding in Mauritius, in order to formulate a policy on this very important matter.

24. Adolescent health

The Committee recommends that the State party, taking into account its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child (CRC/GC/2003/4):

(a) Strengthen its efforts to ensure access to reproductive health services for all adolescents;

(b) Incorporate reproductive health education in the school curriculum;

(c) Conduct awareness-raising campaigns among adolescents to inform them about their reproductive health rights and the prevention of STDs, HIV/AIDS, and early pregnancies; and

(d) Provide particular support to pregnant teenagers, including through community structures and social security benefits and ensure their completion of education.

As regards access to contraception, the law does not yet provide for such access if parents do not agree. It has been decided to include this issue in the Children’s Bill.

The Ministry of Education is still not seriously considering reproductive health education in the curriculum. The OC has proposed that the UNESCO guidelines be used for sexuality education.

The Ministry of Youth and Sports does engage in some programmes with young girls particularly.
25. HIV/AIDS

The Committee recommends that the State party integrate respect for the rights of the child into the development and implementation of its HIV/AIDS policies and strategies, taking into account its general comment No. 3 (2003) on HIV/AIDS and the rights of the child (CRC/GC/2003/3).

The HIV and AIDS Act 2006 is in force since December 2007. It provides that a person may undertake an HIV test on a minor without the consent of his legal administrator or guardian where the minor makes a written request for such test and that person is satisfied that the minor understands the nature of his request. (Section 7(5))

26. Standard of living

The Committee recommends that the State party strengthen its efforts to ensure that the needs of all children are met, in particular those from socially disadvantaged families and those living in remote areas, so that they do not live in poverty and their rights to adequate housing, education and health are respected.

A Ministry of Social Integration and Economic Empowerment has now been created to deal with poverty. The priority has been from the outset to help families where children are in need. It has an educational support programme and provides assistance in the form of a meal, transport fees and accompagnement scolaire for children attending pre-primary schools and the first two levels of primary schools in Mauritius and Rodrigues. They also provide pedagogical materials. The empowerment programme of this Ministry has now also started to provide housing to poor families.

27. Education, leisure and cultural activities

The Committee recommends that the State party:

(a) Ensure that the proposed reforms secure access to free and compulsory secondary education for all children regardless of their social status and ethnic background;

(b) Develop a policy regarding the use of Creole in the Early Childhood Development (ECD) stage and at primary levels; and

(c) Introduce human rights education, including the principles and provisions of the Convention on the Rights of the Child, in the school curriculum.
The OC still feels that education in Mauritius is elitist. It is compulsory until 16 years but the drop out percentage is far too high.

Creole is now going to be taught as an optional language and not as a medium of education. Some children who only use creole at home will always be penalized, the more so as the medium of education is English, which is a foreign language for most Mauritians. They will therefore continue to learn the unknown through the unknown. Even those who do get through the primary stage have a lot of difficulty to master the international languages like English and French, which are not taught as foreign languages except in private schools running for the Baccalauréat or International Baccalauréat.

Human Rights Education is still not taught at school. The Ministry of Education states that “human rights issues have been integrated in the new primary school text books.” The OCO does child rights education through its educational materials specially prepared for the education sector. There are Amnesty Clubs in some schools. Amnesty International (Mauritius section) is very active in the field of human rights education.

28. Drug abuse

The Committee recommends that the State party continue and strengthen its efforts in combating drug abuse by children and in particular to strengthen its awareness campaigns, prevention measures and programmes for recovery and social reintegration.

The National Agency for the Treatment and Rehabilitation of Substance Abusers (NATReSA) has introduced special techniques entitled IDEOGRAPH. It aims at providing students with maximum information on the problem of Substance Abuse and eventually they are asked to express their idea on the latter in the form of visual language.

Techniques of all kinds used separately or blended together ranging from drawings, paintings, crayonage, collages; sculptures and any form of creative arts are permitted.

The project has been carried out in collaboration with the Health and Anti Drug section of the Ministry of Education and Human Resource and the Private Secondary Schools Authority.
29. Sexual exploitation

In light of article 34 and other related articles of the Convention, the Committee recommends that the State party further strengthen the implementation of policies and programmes for the prevention, recovery and reintegration of child victims in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congress against Commercial Sexual Exploitation of Children.

There is a Plan of Action since March 2004. The OC believes that there must be an update especially since the III World Congress in Rio in 2008.

30. Juvenile justice

The Committee recommends that the State party ensure the full implementation of juvenile justice standards, in particular article 37 (b), article 40 and 39 of the Convention as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and taking into account the recommendations of its day of general discussion on the administration of juvenile justice. In particular, the Committee recommends that the State party:

(a) Establish by law a minimum age of criminal responsibility set 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.

As explained above, the Juvenile Justice system is being reviewed to be in line with all the international guidelines and rules and recourse to custodial sentences is the exception and is no longer the rule. The reform is ongoing.

It is however important to ensure that there is a reform at the level of the judiciary to set up a real Juvenile Court.
31. Optional Protocols to the Convention on the Rights of the Child

The Committee recommends that the State party ratify the Optional Protocols to the Convention on the Rights of the Child on the involvement of sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.

Mauritius had already ratified the Optional Protocol on the involvement of children in armed conflict and has now ratified the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (OPCRC2).

A New Extradition Bill is now needed to include the offence of trafficking as being an extraditable offence to give effect to cooperation under the OPCRC2.

The Combating of Trafficking in Persons Act was passed in April 2009.

32. Follow-up

The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Council of Ministers or the Cabinet or a similar body, the Parliament and to provincial or State Governments and Parliaments, when applicable, for appropriate consideration and further action.
33. Dissemination

The Committee further recommends that the second periodic report and written replies submitted by the State party and related recommendations (concluding observations) it adopted be made widely available in the languages of the country, including through Internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

The OC has published the recommendations in her Annual Report 2005-2006 and on the office web-site. She has been referring to several recommendations during her own proposals made to Ministries, especially after an investigation. She has also participated fully in the preparation of the Children’s Bill and other laws in order to ensure that the recommendations are taken into consideration. In 2007 she had organized a two day workshop at the University of Mauritius for NGOs and front line officers of various Ministries. 23 adolescents also participated in the workshop. Everyone was made aware of the recommendations and worked on a Resolution and draft Plan of Action to prevent violence with these, amongst other documents, as background documents.

34. Next report

The Committee invites the State party to submit its next periodic report before the due date established under the Convention for the fifth periodic report, i.e.

1 September 2012. This report should combine the third, fourth and fifth periodic reports. However, owing to the large number of reports received by the Committee every year and the consequent significant delay between the date of submission of a State party’s report and its consideration by the Committee, the Committee invites the State party to submit a consolidated third, fourth and fifth report 18 months before its due date, that is by 1 March 2011. Such a report should not exceed 120 pages (see CRC/C/148). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.
Chapter 7

Rodrigues
Rodrigues

The Ombudsperson for Children must defend the interests of all Mauritian children, whether they reside in Mauritius or not. Mauritius includes Rodrigues and the outer islands. Unfortunately it has never been possible to proceed to Agalega.

Each year, I try to visit Rodrigues at least twice. On these occasions, I usually give time to welcome the public for any complaint which they may want to lodge. I also meet anyone who wants to discuss with me and my officers. I also have meetings with the Commissioners who are concerned with various aspects of children’s rights and with the police.

During the past seven years, I have been several times to Rodrigues. I have visited many schools. I have also visited the shelter twice and I was also present for the laying of the foundation stone of the new shelter at Baladirou.

I have on two occasions held interactive sessions with teachers, to whom the Kit on the Prevention of Violence at School were distributed.

During the reporting year, I first visited Rodrigues from 24 to 26 November 2010. On 25 November I invited all government stakeholders, including the police, NGOS and the press to present the Annual Report to them. I then provide time for them to express themselves freely on any issue of importance and replied to the questions of members of the local media. Thus for example, I had a complaint made about the irregular distribution of bread to schools and the low quality of the bread. I then visited the bakery and sought the version of its owner. This matter was later raised with the Commissioner responsible for Education and a satisfactory solution was found.

The second visit took place from 19 to 21 April. On the first day, I paid a visit to the Deputy Chief Commissioner who is also responsible for children’s rights. I also paid a visit to the Divisional Commander of the Police force. We discussed matters of common interest. I particularly shared with the latter my concern about child prostitution and child trafficking in Rodrigues. I gave him some information to be checked and follow up closely of certain discothèques and night clubs where teenage girls are often found. I also gave him some confidential information on child pornography.
On 20 April I launched the DVD on Children’s Rights at Mont Lubin college. The DVD was seen by 120 children.

There was also a discussion with the teachers and children on the Convention on the Rights of the Child. I was very impressed with the level of awareness of the children and the commitment of the teachers and head-teacher.

On 20 April, I received the public and, before flying back, I spent the morning at Terre Rouge government school where my officers and I also sensitized 100 pupils of standards 4 and 5, as well as teachers on the Rights of the Child through use of the DVD. There was a distribution of the booklets on Children’s Rights and posters, stickers and bookmarks to all children who attended these two awareness sessions.

I also had a meeting with 80 children at the pre-primary level of the school.

This year the issue of controlled movement of minors to and from Rodrigues was raised while I was in the island. On Tuesday 5 April, Hon. Leopold had questioned the Prime Minister on this new measure. The latter replied that this was done to be in line with Regulation 19 of the Civil Aviation (Security) Regulations 2008 and was to be effective in the last week of May 2011. There was wide publicity on this new measure. The difficulty arose when a child did not travel with his parents and had no passport. He was then asked to seek a special identity card. The application had to be made by a responsible party. Of course everyone knows that, in Rodrigues, there has always been a problem, as children are often left with next of kin who are not legal guardians. The Prime Minister promised that practical solutions would be found.

I thereafter wrote to the Prime Minister on this issue to propose that, in difficult cases, the CDU could intervene and that a special provision be made for emergency cases.

I also drew his attention to the fact that the measure should also apply to Mauritian children travelling to Rodrigues to avoid a discrimination.

I now have confirmation that all children who travel alone need to prove their identity and that a simple birth certificate is accepted.
Chapter 8

The communication, sensitisation and training strategy
Communication, sensitization and capacity building

According to the Ombudsperson for Children’s Act (2003), the objects of the Ombudsperson for Children shall be to ensure that everyone gives due consideration to the rights and best interests of children, the promotion of the rights and best interests of children and compliance with the CRC. To achieve this object, my officers and I organize sensitization and training sessions on the CRC and its related issues on a regular basis targeting frontline people working with children. During these sessions, the following topics are dealt with:

- The Convention on the Rights of the Child
- Violence at school
- Corporal and humiliating punishment
- Positive discipline
- Child Rights based approach

Talks and Seminars:

I attended the following events:

1. On 6 September 2010, a special annual general meeting organized by the National Children’s Council.


5. On 12 April 2011, at Terre de Paix, Albion, at the inauguration of the “Centre d’éveil et de développement du jeune enfant et des parents- CED”, I participated in the colloquium on early childhood care, education and development.


11. On 8 July 2011, at the Training Unit, Ministry of Social Security, National Solidarity and Reform Institutions, Port Louis, I attended a presentation on Combat against Human Trafficking by Ms Carissa Phelps sponsored by the US Embassy and organized by MACOSS.

12. On 26 August 2011, at the Mauritius Institute of Education, I delivered a talk to 80 primary school teachers, on the role and function of the OC, and on the CRC with a special attention to article 2 on non-discrimination and article 30 on the right of each child to respect for his maternal tongue.
Mr I.A. Bawamia, Investigator attended the following events:

1. On 10 December 2010, he gave a talk on Violence against Children to parents at the Town Hall of Quatre Borne. The activity was organised by the Municipal Council of Quatre Borne.

2. On 16 December 2010, he gave a talk to 50 parents from Cite Mangalkhan, Cite L'Oiseau and Camp Tickfane on Child Rights. The activity was organized under the Family Strengthening Programme by the SOS Children's Village- Mauritius.

3. On 20 December 2010, he represented me at the launching of a Souvenir Magazine on the occasion of the 45th Anniversary of the MACOSS at the State House, Le Reduit.

4. On 3 March 2011, at the seat of the Bar Council, he was present at the 5th Anniversary of Sefire.

5. On 21 May 2011, at Cite Anoska, he attended a Cleaning Day organized by IBL Foundation. The DVD on Children's Rights was shown to children present.

6. On 13 June 2011, at the seat of Lacaz A in Port Louis, he represented me at the 25th Anniversary of Lacaz A.

7. On 1st July 2011, he represented me at the 8th Anniversary of Etoile de Mer ANFEN School at Roches Noires.

Mrs C. Sewock, Investigator attended the following events:

1. On 17 February 2011, a workshop on gender-based violence organized by Macoss at the Octave Wiehe Auditorium, University of Mauritius, Réduit.

2. On 24 February 2011, she represented me at the launching of a CDrom and booklet at the Mouvement d’Aide à la Maternité, Rose Hill.

3. On 12. 04.11, 13.04.11 and 14.04.11, a seminar organized by Terre de Paix in the course of the inauguration of the “Centre D’Eveil et de Développement du jeune enfant et des parents” at their seat at Albion.

4. On 30 June 2011, she attended the opening ceremony of the “Centre D’éveil” at Cité Flamboyant, Cité Richelieu.
During this reporting year, I received several requests to give training to different target groups. I tried to respond positively to all the requests. However on some occasions, I had to decline due to the heavy work-load in the office. The sessions are delivered by my investigators and me. The following training sessions were carried out:

   Facilitator Mr. Ismail Bawamia

2. On 4 October 2010, training of 12 new caregivers from the SOS Children's Village in the board room at OCO.
   Facilitator Mr. I.A.Bawamia

   Facilitators Mr. I.A.Bawamia, Ms Sandrina Thondoo and myself.

4. On 9 March 2011, training of 25 school inspectors, 78 headmasters and 15 mentors from Zone 1- MEHR at D.Ramphul State College, Calebasses.
   Facilitators: Mr. I.A. Bawamia and myself

5. On 15 March 2011, training of 85 school inspectors, headmasters and mentors from Zone 2 at Marcel Cabon SSS, Beau Bassin.
   Facilitators: Mr I.A. Bawamia and myself

6. On 17 March 2011, training of 36 Headmasters and 9 Mentors from Zone 4-MEHR at Sir Abdool Raman Osman State College, Phoenix.
   Facilitators: Mr. I.A. Bawamia and myself

7. On 28 July 2011, training of 40 secondary school teachers under the WHO Biennium 2010-2011, Areas of Work Injuries and Violence in collaboration with the Ministry of Health and Quality of Life at the Queen Elizabeth College, Rose Hill.
   Facilitator: Mr. I.A. Bawamia

8. On 4 August 2011, training of 40 primary school teachers under the WHO Biennium 2010-2011, Areas of Work (AOW) Injuries and Violence in collaboration with the Ministry of Health and Quality of Life at the Queen Elizabeth College, Rose Hill.
   Facilitator: Mr. I.A. Bawamia
9. On 5 August 2011, training of 55 Pre-primary school teachers at Helvetia Youth Centre.

Facilitator Mr. I.A. Bawamia

10. On 11 August 2011, training of 40 Pre-primary school teachers under the WHO Biennium 2010-2011, AOW Injuries and Violence in collaboration with the Ministry of Health and Quality of Life at the ECCEA Training Centre in Port Louis.

Facilitator: Mr. I.A. Bawamia

The 16 Days 16 Rights Campaign

Section 5(b) of the OCA 2003 provides that the OC shall “promote the rights and best interests of children”. In order to do that, I make proposals to all stakeholders and draw their attention to any specific right which may have been violated or which could be violated.

However in order for everyone to know what are the rights and interests of children I also organize awareness campaigns, the most important of which takes place from the 1 to the 16 June each year. This campaign was initiated by my office since 2004 in order to make children themselves reflect on their rights and responsibilities and communicate with adults about each and every right. Of course children, depending on their age and maturity, have some responsibilities. But I lay emphasis on the fact that adults are the ones who have greater responsibilities to guide children on how to exercise the rights provided for in the Convention on the Rights of the Child (CRC).

The investigators of the OCO and I also attend several talks, seminars and workshops where we elaborate on the CRC. We also speak on the major issue of violence against children.
This year the theme for the 16 Days 16 Rights Campaign was “Les droits de l’enfant c’est la responsabilité de tous”. The Ombudsperson for Children’s Office in collaboration with the National Children’s Council organized a series of interactive sessions in schools and NGO’s working with children. The DVD “Tico et Rajoo” on the Rights of the child was shown to every child, the booklet “Les Droits de l’enfant à travers les aventures de Tico, Tify et Rajoo” and bookmarks were distributed to them. In this context, the following schools and NGO’s were sensitized:

<table>
<thead>
<tr>
<th>Date</th>
<th>School/Organisation</th>
<th>No. of Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 June 2011</td>
<td>Centre de créativité Mahebourg</td>
<td>175 children and 10 adults</td>
</tr>
<tr>
<td>02 June 2011</td>
<td>Camp Levieux Govt School, Dunputh Lallah SSS (Floréal Community Centre)</td>
<td>60 children and 10 adults, 125 children and 2 adults</td>
</tr>
<tr>
<td>03 June 2011</td>
<td>Louis Dorbec, RCA School</td>
<td>56 children and 2 adults</td>
</tr>
<tr>
<td>05 June 2011</td>
<td>Mauritius Scouts Association (Moka/Flacq District)</td>
<td>125 children and 10 adults</td>
</tr>
<tr>
<td>06 June 2011</td>
<td>Espitalier Noel ZEP School</td>
<td>85 children and 10 adults</td>
</tr>
<tr>
<td>07 June 2011</td>
<td>Terre de Paix</td>
<td>58 children and 6 adults</td>
</tr>
<tr>
<td>08 June 2011</td>
<td>ANFEN, Triolet</td>
<td>125 children and 10 adults</td>
</tr>
<tr>
<td>09 June 2011</td>
<td>Vel Govinden Govt School</td>
<td>100 children and 10 adults</td>
</tr>
<tr>
<td>10 June 2011</td>
<td>APRIM</td>
<td>10 children and 6 adults</td>
</tr>
<tr>
<td>11 June 2011</td>
<td>Maison coeur écoute de Barkly</td>
<td>75 children and 10 adults</td>
</tr>
<tr>
<td>12 June 2011</td>
<td>SOS Village (Beau Bassin and Bambous)</td>
<td>150 children and 10 adults</td>
</tr>
<tr>
<td>13 June 2011</td>
<td>Flic en Flac Govt School</td>
<td>100 children and 12 adults</td>
</tr>
<tr>
<td>Date</td>
<td>Venue and Details</td>
<td>Participants</td>
</tr>
<tr>
<td>------------</td>
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</tr>
<tr>
<td>14 June 2011</td>
<td>London College, Launching of book “Adieu Violence” at IFM, Rose Hill at 5 p.m</td>
<td>95 children and 9 adults; 8 children and 80 adults</td>
</tr>
<tr>
<td>15 June 2011</td>
<td>Smt Indira Ghandi SSS and Quartier Militaire SSS (Hall of Moka/ Flacq District Council)</td>
<td>120 children and 10 adults</td>
</tr>
</tbody>
</table>
Chapter 9

Selected cases
Selected Cases

During the reporting year the OCO has investigated in 390 cases, out of which 357 were of a general nature and 33 concerned the education sector.

Follow up for cases pending is very tedious as those to whom cases have been referred do not send in reports in time. Sometimes, these reports are purely verbal.

The computerization of the investigation data will definitely help to monitor cases more efficiently. Unfortunately, this has not yet materialized even if a lot of progress has been made to train the personnel for the computerization of the Registry and at least this first part should be finalised by the end of the year.

Since last year, a very lengthy part of the Annual Report was dedicated to detailed reporting in cases, this year we have decided to concentrate on selected cases.

High profile cases

This year I have investigated into five high profile cases. I use this term to refer to cases which concern government departments as opposed to individual complaints for which the objective is specially to find a solution to a specific problem.

I open high profile cases to fulfill one of the main objects of my office namely “to ensure that the rights, needs and interests of children are given full consideration by public bodies, private authorities, individuals and associations of individuals.” (section 5(a) of the OCA 2003). In each of these cases I have had to summon officers of the various Ministries concerned and question them. I also had to ask them to produce documents and I finally made a series of recommendations. Whenever possible, I have reported on the follow up by the stakeholders concerned.
The case of J.M.
This case concerns a child who was sexually abused twice but remained in her home where she was at risk and was finally murdered. It concerned officers of the MGECDFW

This was a major case in that it was in the public eye and attracted a lot of sympathy. The reason is the fact that the child was young (7 years old) and she was not only allegedly abused by her maternal uncle, who has been arrested, but she was killed in a very heart-breaking manner. It appears that she was burnt while she was still alive.

Normally the fact that this is a crime, it was for the police to investigate. The OC cannot indulge in this kind of investigation. However, when I learnt that this child had been sexually abused in the past and that her mother was unable to take care of her, I opened an investigation to find out why she had remained with her mother, if she was at risk. I then learnt that, after she had been sexually abused the first time on 26 March 2010 (that is 3 months before), the CDU did not react immediately for a series of reasons.

My conclusions regarding the CDU’s role and involvement was that:

I am very concerned:

1. That the CDU did not act with greater diligence in this case. It took almost a month before the first perpetrator was arrested. This is due to a combination of the casual way of dealing with the case by the CDU officers AND the negligence of the Woman Police Officers who were not present when she was needed. It is also due to the fact that there are many cases, especially of sexual abuse, and they are overwhelmed and have little time to give for follow up of each case.

2. That although the mother did not bring the child to the office on her appointments, the officers still thought that she was a “good mother” and was able to look after her child. We now know that she had been admitted to hospital.

3. That the CDU officers failed to interview neighbours, other members of the family, the relevant persons in the school environment and then assess the mother’s capacity to look after her daughter. They relied only on the fact that the mother seemed to have stopped to consume alcohol. Even when they were told that the mother was irresponsible, they took no heed. They clearly felt sympathy for the mother and had concluded that no one liked her. They did not want to know why this was so.

4. That they did not discuss the case formally between them before taking the decision to leave the minor with her mother. They talked casually and put nothing on record.
5. They did not call for a case conference with all stakeholders in order to get the best picture of the situation and not shoulder the responsibility alone.

6. They did not even try to find out whether the school social worker could share her views with them. Vice versa the officers of the Ministry of Education did not come forward to share their information.

7. They did not seek a medical report from Jeetoo hospital to find out the real medical situation of the mother and whether she was logically able to give up alcohol so easily. They never thought of asking the BSH for her record, if any. A mother who is extremely sick cannot be said to be able to look properly after her child.

8. That they did not question anyone or themselves to understand the circumstances which led to the first sexual abuse of the minor and the responsibility of the mother in that sad event. Yet they heard the child relate that it was her mother who took her there. The mother admitted to the police that she used to take her child there and leave her with the person that she describes as her friend. The CDU officers did not discuss this aspect with the police. The police did not either draw their attention to this fact.

9. They did not contact their Head or coordinator about the case which means that they did not really think that it was so serious, despite the several calls of people from the forces vives.

10. I am even more concerned that, to date, they do not think that they did not act in the best interests of the child. To err is human. But to persist in the face of what happened, i.e. that a child was victimized and died for lack of proper control of her mother over her, is baffling.
General Conclusions

During the investigation, we also learnt that:

1. Many cases had been reported to the CDU of the region but few cases had been dealt with satisfactorily. We will seek reports in each of these cases.

2. The CDU officers are clearly unable to deal with all reported cases as there is a great increase in the number of cases and they are few officers in the Family Support Bureau (FSB) for the CDU exclusively, there is one Family Welfare Protection Officer (also acting as officer in charge of the team and only person to be able to go to court), one Family Welfare Officer (who can only accompany another officer or the psychologist, and a care worker (who can only do minor tasks).

3. There is a psychologist who also goes to another outstation on certain days. Further she is not attached to the CDU but must go and lecture on family issues etc. She is not accountable to the Head of the CDU. There are three officers who work at the Family Unit, in the same building. The overall head of the FSB does not really look after the cases of the CDU although her scheme of service provides that she must supervise the work of officers of the FSB and that includes the CDU. Again she is not accountable to the Head of the CDU. When questioned she contented herself with stating that there is conflict between the units.

4. The incapacity of the CDU to respond efficiently to all complaints is also due to the lack of proper training and of clear guidelines. It seems that new recruits learn sur le tas. There has never been any manual for a proper step by step approach. But the Head maintains that there is an induction course for new recruits and that others had followed many training courses from experts including well respected international experts, like Dr. Murphy.

5. Transport is also a huge problem as no vehicle is attached to any given unit and officers must apply in writing to get a car. A few years back one vehicle was to be attached to each unit. It is to be noted that officers cannot take the bus, even though in this case it was a direct route from the CDU to the police of Petite Rivière, as there may be problems of security, we were told. This issue must be solved with a lot of seriousness.

6. The lack of co-ordination is proverbial. It has even been said that some officers are arrogant and state that so and so will not teach them their job. They are particularly harsh on social workers who go to lodge complaints. We fully believe this, as even our officers are told off harshly when they query. People who are referred by our office also complain about being told off for having contacted us first.
7. There is no SYSTEM, no proper reporting, no evaluation and no monitoring on a case to case basis and also overall.

8. The fact that the officers are recruited on the basis that they can work for the three units of the Ministry is an aberration. This must change soon. Child abuse requires a specialized and dedicated staff. I have had the occasion to state in the past what a waste it was to transfer an officer who had gathered a lot of experience in child matters to another unit. Yet, this is happening all the time.

Regarding my recommendations for the immediate future and my over-arching recommendations as well as the outcome, see Chapter II.

**OCO/COMP/11/2512**

**The case of D.J.**

**This case concerns a child who was beaten to death after having been returned to her abusive parents by the medical personnel. It concerns the MOHQL**

I have sent a Report to the Minister of Health after an own motion investigation into the case of late minor D. J. who allegedly died following a severe abuse by her stepfather. As usual, I do not enquire into the criminal aspect of the case, which is the responsibility of the police, who have in fact arrested the stepfather and are still enquiring in the case.

The objective of my investigation was to find out if any public officer was aware that the minor was victim of child abuse and if her life could have been saved in due time. Section 11 of the Child Protection Act provides that any person exercising a medical or paramedical profession has a duty to report any case when he thinks that a child is at risk of harm.

I therefore, summoned all doctors and staff who dealt with or could have dealt with the case. I learnt that the minor had been taken to hospital one month prior to her death. The question is whether the officers concerned were aware then that the child was at risk. If yes, what could they have done? If not, why were they not vigilant enough?

The minor was taken to hospital and was treated for a laceration on her forehead. She was referred to another hospital for a skull X-ray but instead the parents took her the next day as she was suffering from an ache in her arm. The doctors there, examined the child and found that she had a broken arm. There was an X-ray of her arm and shoulder, she was plastered and she was admitted. The next day, she was discharged.

None of the medical personnel, except the radiologist, undressed the child. They only examined her limbs and asked the mother if she had other injuries. The radiologist did not see the marks which were clearly on her chest everywhere. These were old marks which could be seen by anyone who would have taken the pain to look. There was no need for any extravagant examination. But the doctors seemed all to have acted routinely.
They never referred the case to the medical social worker or to the CDU as they should have done. Their stand is that they had no cause to suspect any child abuse. But how could they come to this conclusion so rapidly since they never examined her whole body?

I made certain recommendations to the Ministry of Health. In particular, I wanted to see a new protocol being applied by all medical staff in all cases concerning children, especially those who come with visible injuries. I think that, though doctors are already trained to see signs and symptoms of abuse, they must be trained on how to react and who to report to.

It is high time that doctors take life-saving as THE most important component of their profession. Many are probably very committed. But this is not the first time that I have investigated a case of gross medical negligence. Discharging an abused child and handing him over to his abusers is a criminal negligence. Parents and close relatives are unfortunately no longer to be trusted. In this case, they have abused her again but this time it was fatal.

**Outcome**

Following my recommendations, the Ministry organized a series of meetings to work on new guidelines on child abuse for all medical staff. Further, the Ministry decided to include these guidelines in their continuous training.

**OCO/COMP/11/2420**

**Minor M**

This case is one of alleged child trafficking. It concerns the MGECDFW and the MPF.

1. On 15 September 2010, the Permanent Secretary (PS) of the Ministry of Gender Equality, Child Development and Family Welfare wrote to me to request me to “conduct an enquiry on this issue as well as on the involvement of the journalist who has acted as an intermediary for the adoption of the child, which is viewed as illegal”.

2. The issue concerned a case of “alleged child trafficking” which came to light when a couple who had been given a child in adoption contacted the Child Development Unit to inform them that the biological mother had contacted them anew and proposed to leave the child with them against payment of a sum of money.
3. I wrote to the PS on 20 September to remind her of the law with regard to investigation done by me. I stressed that “under no circumstances am I mandated to find out if someone is criminally liable. That mandate is reserved to the police”. I also drew her attention to section 8 of the Ombudsperson for Children’s Act (OCA) 2003 which provides “that I cannot divulge the statements that are made and these cannot be used by the maker of the statement in any civil or criminal proceedings”.

4. I informed the PS that “this investigation will however be an opportunity to revisit the whole issue of adoption and the particular aspect of child trafficking with regard to adoption”.

5. I therefore, informed the PS that I would need to question officers of her Ministry who had been involved in the matter to know who informed them that there had been a case of child trafficking and what they have done.

6. I also requested in writing information on all cases of child trafficking for the past five years.

My investigation

1. I questioned the couple who wanted to adopt, the journalist and all those involved with the case. I took a copy of the alleged damning evidence of the biological parents which had been recorded by the journalist and had been broadcasted during a programme on Child Trafficking. I listened to the recording.

2. I also asked for and obtained a copy of the declaration of the chairperson of the NAC.

3. I then questioned officers of the CDU and reiterated my request for certain information in particular regarding the number of cases of child trafficking for the past five years.
Outcome

1. The police informed me that the mother, grandmother and a third person have been arrested and been released on bail.

2. However, the Ministry has never given to me the outcome of the other 29 cases mentioned as being known to them since year 2001. This is shocking especially as there were 16 cases in 2007, 5 in 2008 and one in 2009 and in 2010.

OCO/COMP/11/2686

Minor P.A.

This is a case of child abuse leading to death. It concerns the MGECDFW

The media reports concerning the minor reveal that she was beaten to death. The police has arrested her mother and her concubine, who allegedly confessed to the CID that he threw her down and she fell against a sofa. The Police Medical Officer (PMO) did find several old and recent scars that reveal that she was regularly being ill-treated. However, the old scars were over the abdomen and buttock and was therefore not visible to the eye of a non-medical officer.

The version of the family

1. Minor’s father died on 1 December 2009.

2. The paternal uncle and grandmother of the minor, explained that they went to the Child Development Unit of Bell Village several times.

3. They declared that they did not know that the minor’s mother was living with another man.

4. However, she did not attend all the ceremonies for her husband’s death and returned to live at the conjugal roof at Vallée Pitot.

5. At the beginning of 2010, the relations were good and the children visited their grandmother and the father’s next of kin.

6. However, the uncle stated that whenever he went to fetch the children there were bruises on their lips and ears. The mother pretended that the children fought between themselves.

7. The first time they went to the Child Development Unit as they were having difficulty to meet the children.

8. After a mediation, they again had access.
9. However, once more they noticed bruises on minor’s arms and hands but they agreed that at no time did they then take minor to the CDU or hospital or police.

10. The grandmother states that several times she had explained the situation to the Child Development Unit officers.

11. Apparently when the Child Development Unit officers went to visit, the mother used delaying tactics to let them in.

12. The uncle said that the dead body of the minor was covered with blue and dark blue bruises all over her body. This is corroborated by the evidence of the PMO who discussed with me at my request and in line with the OCA 2003.

13. The version of the Child Development Unit was sought.

14. I summoned two officers who are both attached to the Bell Village outstation of the CDU.

15. The case worker stated that when the grandmother first came to the office it was to seek rights of visit. She was referred to the Supreme Court (legal aid division and secretary to the judge).

16. The CDU convened minor’s mother and convinced her to allow the grandmother to see the children.

17. In November 2010, the grandmother again came to complain that she was not meeting the children. She said that she had not been to the Supreme Court and was referred to the legal adviser of the Ministry.

18. It was only in January 2011 that they visited the family house which they found untidy. The minor, her younger brother and a child from the mother’s previous marriage were all playing together. The mother said that the children were naughty but they saw no bruises.

19. The mother was convened to see a psychologist on 12 January but she did not attend.

20. On 17 January, the uncle and paternal grandmother asked for a mediation on 21 January 2011.

21. Due to heavy workload, it was only on 17 March 2011 that a new visit took place but again no sign of violence was detected.

22. The case worker said that they received no complaint of child abuse from the neighbourhood, the police nor NGOs in the region.
23. They maintain that, when the grandmother and uncle saw bruises they should have immediately informed the CDU or the police or taken the children to hospital as the children were then under their care.

24. I have perused the case file which support the version of the CDU. As usual I find the entries in the file rather sketchy.

The application for legal aid

1. It seems that even when the Family Protection Officer accompanied the minor’s grandmother to the legal aid section of the Supreme Court, legal aid was turned down.

2. I then discussed with the Head of the Secretaries of judges who did not seem to be aware of the Code Civil Mauricien (Amendment) Act 2007 regarding rights of “ascendants”.

3. In view of the doubt about this amendments, it is important to study the possibility of requesting Professor Garron, through the Law Reform Commission, to improve this section of the law in order to ensure that grandparents may have custody of their grandchildren in exceptional cases when both parents are incapable for whatever reason – sickness, absence etc.

Conclusions

1. Of course, we have a very important contradiction between the version of the minor’s paternal grandmother and the CDU officers who maintained that the latter had merely spoken of right of visit and never spoken of child abuse or violence.

2. The officers did not really look for bruises nor seek a medical report as they never noticed anything suspect.

3. All that we could propose in such circumstances is that, there should be persistent requests from grandparents or other close relations, the officers should question them thoroughly to find out if there may be severe child abuse. They can also seek a medical report, as a measure of precaution, in such cases.

4. The guidelines can therefore be reviewed accordingly.
Minor R.G.

This is a case of a child victim of corporal punishment at school. It also concerns the unprofessional attitudes of officers of the MEHR, of the MOHQL, and of the MPF.

The mother of minor R. G. complained in writing to the Commissioner of Police that her son had been beaten by his class teacher, and that neither the police nor the zone Directorate were giving due consideration to her complaint.

Her son had told her that a few boys from his class were kissing and petting in the toilet. She did not see the incident but decided to report the matter to the Respondent. Minor told her that Respondent had beaten him with a stick. She spoke to Respondent who denied.

She explained that she was called at the office of the Head-teacher where, in presence of the police (two of them) Respondent again denied. She did not come to any agreement with the police nor the school then.

She said that when she went to the police station on 31 May 2011 nobody took her statement and she was told to report to school the next day but no one explained to her that there would be a mediation. She had the feeling that everyone was protecting the interests of the educator.

She took the minor to the hospital on 02 June 2011. She complained that the doctor did not properly fill in the Form 58 which in fact did not reveal anything.

She also called at Zone 3 of the Ministry of Education and Human Resources where she met an officer and she alleged that the latter informed the Respondent and tried to convince her that her child would be “in the hands of” the educator.

The objective of the investigation was:

1. To find out if the minor was in fact a victim of violence perpetrated, as alleged, by his teacher.
2. To find out if the teacher does in fact use corporal punishment at school as a pedagogical system.
3. To assess the capacity of the Headmistress and Deputy Headmasters to deal with situations involving violence in their school.
4. To evaluate the extent to which the police officers involved in the case acted promptly, efficiently and with an open independent mind in the case.
5. To find out to what extent any medical officer dealing with this case was competent and independent.
6. To make relevant proposals to the Ministry of Education and Human Resources, the Ministry of Health and Quality of Life and to the Commissioner of Police.
It must be noted here that there is a police case against the teacher and the police enquiry is still ongoing. Further whereas a criminal case need to be proved beyond reasonable doubt, the findings of the OC can be based on the intimate conviction of the person investigating. Of course utmost care must be taken to hear parties who are directly involved in the matter. The OC further does not sanction but makes proposals to the authorities concerned to sanction and/or to take any other appropriate measures.

I have interviewed the following persons:

The minor and his mother who had written a letter to the Commissioner of Police and copied same to me, the teacher, the Headmistress (HM), and the Deputy Headmasters (DHM), the Senior School Inspector, all police officers concerned, the doctor who examined the minor, as well as parents whose children are in the same class (anonymously).

I also analysed documents received at my request and namely the copy of the full police file including the Dairy Book for the relevant date, the declaration and statements of minor and of his mother and the statement of the teacher. I looked at the police report on behalf of another minor who had been an alleged victim of the same teacher when he was working in another school. I examined the copy of the casualty card concerning minor as well as a report from another doctor from the Orthopaedic unit, of another hospital, concerning minor.

As in the meantime the mother of minor, who was a cleaner at the school where the incident allegedly took place, I also examined a Memorandum allegedly signed by minor’s mother.

I also looked at a copy of “report of serious incident at school” from the Headmistress sent to the Ministry of Education and Human Resources and also several reports from Zone 3, Ministry of Education and Human Resources.

1. I received information to the effect that the teacher beats up several pupils regularly and had once had a declaration made against him when he was teaching at another school. He was also allegedly the target of angry parents in another school where he worked.

2. I enquired in this old case and learnt that indeed a minor, aged 10, had reported that the said teacher had given him “several slaps at both his cheeks and ears and several kicks at his right foot, at his left leg”.

3. The Occurrence Book reveals that the “victim bears mark of violence on his uncovered part of his body”.

4. However on 03 April 2007 the DPP had advised no further action as the mother, had given a second statement and retracted her accusation.

5. My enquiry reveals that she did so for fear of reprisals.
When I interviewed the minor in the present case, he spoke very clearly about the incident which took place in the toilet. He gave the names of the boys involved and explained that the one who was being kissed pushed him asking him not to watch and to go away. He confirmed that Respondent beat him with a “baton blanc et pointu en bois” on his leg and hip and said to him that he was a “pédé”. He said that the other minors were also beaten. He said that Respondent is a violent person and in class he often kicked pupils even when asking them to go to the backboard. Sometimes they fell down. That was his case and he soiled his trousers. I had no reason to disbelieve minor. He did not want to attend school anymore. However, I noted that the child has psychological problems and that he did not articulate well. His performance at school is not satisfactory and he does need special attention and coaching.

On the other hand, I could not believe the Respondent, who spent his time trying to convince me that minor was an unruly child, hardly attended school and that his mother was an unreliable person. When called the second time about the allegation of one parent that he had called a parents’ meeting during which he explained why he beat up the minor, he said that the meeting only concerned parents whose children take tuition with him. (In fact that parent’s child was not then taking tuition with him).

He denied that he beats up the minor and that he said so in that meeting. He denied that he had asked parents to sign a petition regarding a sit in, nor regarding any sanction that may be taken against him. He said that his private tuition is open to all children whether their parents can pay or not. When questioned on why he asked a trade unionist to phone me to say that I was harassing him, he denied same and said that it was the trade unionist himself who rang him to find out about the incident. Regarding the first case lodged against him, he proudly stated that the minor’s mother retracted and the case was filed. He denied having put pressure on the said mother.

In his statement to the police he said that he had seen signs of child abuse on the minor who was allegedly beaten by his mother. It is to be noted that under Section II of the Child Protection Act 1994 he had a duty to report any case of child abuse to the Permanent Secretary, Ministry of Gender Equality, Child Development and Family Welfare, which he did not. Failing to report when he knows about the ill-treatment is an offence.

I was very disappointed with the Headmistress (HM) who did not even inform the Ministry of Education about the incident in the toilet. She could not remember if the minor was in the group nor could she remember the names of the pupils involved. She said that though minor’s mother showed the “bruise” on the child’s leg she could not see anything – (which I find very odd since I myself saw the blue marks a long time after the incident). When questioned regarding the reason why she did not report the sexual abuse, she merely said that she lacked experience in such matters. She complained a lot about minor’s mother who was a toilet cleaner at her school.
Regarding a letter signed by minor’s mother, she could not even understand that, since the latter was not employed by her or the Ministry of Education and Human Resources, there was no need for her to sign a resignation letter. She should have dealt with the employer of the lady. Nor could she see the unethical aspect of this act while I was in the middle of my investigation, as it could be interpreted as being a form of duress upon the mother of the minor.

**Regarding the police**

They provided copy of the full record to me except the PF 58. An examination of the documents revealed a few interesting facts. I was very concerned with the way the police decided to mediate in this case, without respecting the basic rules nor taking notes, in particular on the so called agreement reached.

The Police Sergeant, who had dealt with the case agreed that he had not been trained to do mediation as per the standards established by the Commissioner of Police. He also seemed convinced that the case would be withdrawn as this is usually the case. Several times he repeated that this was a minor case.

Regarding the medical aspects of the case, at the beginning, we were in presence of the PF 58 which the police merely showed me. It did not reveal any bruises. This was the basis on which those who did not believe the minor or his mother were relying to insinuate that the child was “acting” and that in fact he had not been hit. Minor’s mother herself was convinced that the PF 58 had been falsified.

But when probed further, I found out that the doctor had actually written more or less legibly in his Casualty Card. “No external injury seen over buttocks, scratch marks …… Right knee”. Another doctor who had later examined the minor sent a report which confirmed “soft tissue injury to right popliteal region.” When questioned on why the injury was not written on the PF 58, the doctor stated that he was pressed for time, only saw minor for five minutes and saw about 100 patients everyday. But he said that the injury could reveal that the minor was beaten with a big ruler.
Conclusions

I had several reasons for being concerned following this investigation, the most important being the negative attitude of the teacher and his archaic way of dealing with problems with his pupils, his recourse to violence and his failure to report child abuse or behavioural problems which he sees every day. The head teacher seemed very incompetent. The policeman who was supposed to enquire in this case was highly unprofessional and incompetent. The doctor did not give due attention while examining a case of violence against a minor, particularly when filling such an important document like a FORM 58.

I have therefore proposed to each department concerned to take the appropriate sanctions. I have also proposed follow up of the minor by an educational psychologist as well as follow up of other minors involved in the sexual act without pin pointing any pupil, by the Brigade pour la protection des mineurs, the Child Development Unit and the Ministry of Education and Human Resources.

I have also proposed training of police officers in mediation, as well as full campaign by the police, including through the written and electronic media, to sensitise the public on what police mediation means, how it is carried out and what are the rights of the people in such cases.

I also proposed that Guidelines be adopted for medical practitioners regarding proper recording of PF 58 and other relevant documents and that this issue to be included in the normal training sessions.

OCO/PROB/148

Report on the Probation Hostel for Boys.

Background

1. I received information to the effect that the houseparents whose contract had expired on 31 October 2010 were not leaving the premises and were therefore still in contact with the residents of the Probation Hostel for Boys (PHB).

2. The reasons provided for the non-renewal of the contract of the houseparents were that they were not acting in the best interests of the residents and that their behaviour was causing more harm to those adolescents who already had behavioural problems.
The objective of the investigation

I opened an investigation to find out:

i. if indeed the residents were at risk,

ii. if the non renewal of the contract of the house-parents was legal and fair,

iii. and if everyone involved with the children residents were in fact acting in the latter’s best interests.

1. I have opted to make a report to the Ministry of Social Security, National Solidarity and Reform Institutions in order to ensure that whatever decision taken to resolve the situation at the PHB is done in the best interests of the children who live there.

2. I also wanted to lay emphasis on the legal aspects of the situation.

The method

1. I made a surprise visit to the PHB on 11 November 2010.

2. There, I interviewed the Warden and the Secretary (Principal Probation Officer).

3. I also interviewed the houseparents separately.

4. The investigators of my office interviewed the children one by one.

5. I summoned amicably and questioned the former chairman of the Probation Hostel for Boys Managing Committee.

6. I also summoned amicably, the Commissioner for Probation and Aftercare and an officer and questioned them separately.

7. I made a request for production of all relevant documents including the contract of the house-parents, the relevant minutes of proceedings of all committees, the letters of warning given to the incumbents, the entries in the Occurrence Book etc…All documents were handed over to me and I perused them.
The findings concerning the work and attitude of the house-parents.

From all evidence gathered, I find as follows:

1. It is undeniable that the trust between the Managing Committee, the Warden and Secretary and the house-parents have gradually disappeared.

2. This is due to several factors but mostly to the fact that the house-parents do not accept to be guided by any instructions given to them either by the Managing Committee or the Warden. The most glaring example of this is their refusal to vacate their premises to other parts of the building while renovation works were taking place. This most irresponsible behaviour is, to say the least, a very bad example which they give to the young residents who should normally look up to them as their role model.

3. The house-parents in fact had no real commitment to their work. Examples of this lack of commitment are numerous. They refused to have dinner with the children whereas this is one important aspect of their work. They both explained that the children do not eat “properly” and that they are disgusted. Yet, it is for them to teach these children manners, including table manners.

4. They are supposed to be available but they take a very long time to respond when one knocks at their door. This happened while we were there.

5. They leave the premises without putting entries in the movement book.

6. There have been several incidents which have put inmates at risk. There are several allegations of ill-treatment of the residents. This includes physical violence and humiliation. This has a very negative repercussion on adolescents, especially those with a history of child abuse and neglect.

7. The incumbents of course did not agree with all the reports made concerning them but kept on blaming the residents for misbehaviour. Though it is difficult to find out the absolute truth on each incident, the fact remains that there was constant violence one way or the other and that many complaints were made. In any case if the residents are violent, they must be reported and there should be no corporal punishment.

8. It appears that in the last six months or so the situation deteriorated.
The findings concerning the health of the house-mother

1. When she took employment for the first time in July 2009, she submitted a medical report certifying that she has examined the incumbent who is “medically fit to work”.

2. However, we learned that she had put in a claim for an invalid’s basic pension in June 2010. The document obtained from the Ministry of Social Security, National Solidarity and Reform Institutions speaks of “major health impairment – epilepsy likely to last for two years”.

3. Further at our request, a report was sent from Brown Sequard Hospital which mentions that she was following treatment for a depressive disorder since 15.03.2003. He also confirms that she had epileptic fits and was treated for same. She had been following her treatment until 24.08.2010.

4. When I questioned her on the above information she had no choice but to confirm same. She even told me that she was much better and had ceased her medication. Indeed, she did so without any medical advice and this obviously had a very negative effect on her and, as a result, she was aggressive.

5. In view of the confirmation of her medical state, which she had kept secret, it is obvious that she can no longer be entrusted with the high responsibility of looking after the inmates of the PHB.

The legal aspect

Of course, it seems obvious that the non renewal of the contract of the house-parents was perfectly legal. But the Labour Office could advise the Management Committee on this aspect as well as any other issues concerning industrial law with regard to the various conditions of work of the houseparents.
Recommendations

Under no circumstances the contract of the house-parents should be renewed. (We understand that they have vacated the premises which they were occupying at the PHB on 18.11.10) Nor should they be employed in any other capacity whereby they would be in contact with vulnerable persons specially children.

1. It is now important to review the whole situation concerning the PHB, and presumably also the Probation Home for Girls (PHG).

(a) This means that first of all one must decide on whether it is normal to use buildings meant for 20 residents for only a handful. A decision MUST be taken to make optimum use of the building. Further, it is exaggerated to have a Management Committee of 12 persons for 5 inmates at the PHB.

(b) This may mean reviewing the criteria for taking inmates. A good coordination must take place with the Ministry of Gender Equality, Child Protection and Family Welfare.

(c) In the future it would be advisable to recruit personnel with a better profile to work as steward, housemother or even assistant steward and assistant housemother. For this to be a reality, the posts need to be upgraded, the salary to be more attractive in order to have a good response and make a good selection.

(d) Training of the specialised staff must be done in a more professional way and must be ongoing. This should comprise courses on Human Rights, Children’s Rights and the basic principles concerning protection, prevention and rehabilitation.

(e) Psychologists and therapists must work on a continuous basis with the children residents.

(f) The law and regulations should be reviewed in the light of the latest norms and standards which apply at international level concerning this kind of institution.
Follow up

Some of my proposals have been taken on board when designing the new profile of house-mothers, house-fathers, assistant house-mothers and house-fathers. I appreciate that the criteria of experience in social work and with children has been included in the recent advertisement for the posts. I understand that there are four boys in the hostel at present.

It must also be noted that the Probation of Offenders (Amendment) Act voted on 16th June 2009 was proclaimed on 1st October 2010. This Act provides for alternatives to custodial sentences, for example a requirement to attend a centre regularly, drug or alcohol treatment, a residence requirement and a curfew. The last requirement is meant for high-risk cases.

The residence requirement is meant to reside for a period of not more than 12 months at the probation hostel for boys or probation home for girls or any other institution run by the Mauritius Probation and Aftercare Service.

A Juvenile Justice Bill is in preparation.

OCO/APEIM/145

The issue of payment of grant-in-aid to NGOS running schools for children with special education needs

On 19 January 2011, I opened an own motion investigation regarding APEIM, and more specifically regarding their “dispute” with the Ministry of Education and Human Resources concerning non payment of Grant-in-Aid for two schools at Beau Bassin and Rose Hill respectively.

Before opening the investigation, I sought information from the supervising Officer of the said Ministry and learnt that this was due to problems of security as the two schools had not received a health clearance. However, I learnt that, as one of the buildings was a government building, the problem had already been dealt with and that the grant-in-aid would be available soon. It concerned the school in Beau Bassin.

In the meantime, the press was giving a large coverage to the “dispute”. Moreover, I learnt that APEIM had decided to close all their schools and workshops as a form of protest against the way that handicapped children were being treated by the government (Press Conference of 12 January 2011). They listed all their grievances.

On 19 January 2011, they released a Communiqué relating the whole situation and stating clearly that they would reopen their Beau Bassin and Rose-Hill schools temporarily but keeping the threat of closing all schools should there be no “Comité ad hoc” to discuss and agree on a protocol between the Ministry of Education and Human Resources and all associations which receive grant-in-aid.
Later CEDEM also drew my attention to the difficulties that they were facing and I decided to include their grievances in the same investigation as they raised much of the same kind of problems of principle.

According to them, no regular mechanism has been mounted by the MOE to evaluate and monitor services offered by NGOs working in the field of Special Education. There was no dialogue at all between NGOs and the MOE.

There are frequent delays in paying grant-in-aid to specialised schools.

Most of the time, the receipt of the grants is not at fixed intervals. Often, they lack funds and they face deficits in their budget. To overcome this issue, they are suggesting that the grant must be paid on a quarterly basis for its better monitoring, control and use.

The grant amount does not remain the same. It often fluctuates between Rs 945 and Rs 1234 without prior notice to its beneficiaries. They consider it important that explanations be given to organisations to account for decrease in grants. The Grant-in-aid amount given by the State per disabled child is insufficient while a minimum amount of Rs 2500 is actually required.

When the grant is received, only the total amount is displayed. There is no specific information or conditions available on how the grant should be allocated within the organisation.

To provide optimum services to children, an organisation needs professionals like psychologists, physiotherapists, other paramedical staff and qualified social workers. However, it is surprising that no grant is allocated to them.

There is no financial support for individualised care which is of primordial importance for certain children.

No regular training is provided to the staff members of specialised schools as carried out for normal schools.

Often, there are serious delays in the payment of the food programme. The organisation has to draw additional funds from its budget to compensate for it. This causes a tremendous pressure on financial management. Consequently, the organisation is left with no choice than to stop the food programme which is unfortunately at the detriment of the children.

There is no additional grant provided by the Ministry to invest on specialized material and equipment for disabled children.
The investigation is based on:

1. The Convention on the Rights of the Child (CRC) and more specifically article 2 on non discrimination, article 3 on best interests of the child, article 23 regarding the rights of disabled children and article 28 regarding the right to education “on the basis of equal opportunity”.

2. The Convention on the Rights of Persons with Disabilities (CRPD) which clearly specifies that persons with disabilities should benefit from “the full enjoyment of all human rights and fundamental freedoms” and in particular its article 7 regarding children with disabilities, and article 24 on education.

3. The above provisions, read as a whole, provide that State Parties must ensure that children living with a disability must enjoy all rights and specifically that to free and compulsory primary education. This implies either that the State shall itself provide for special needs education or that it ensures that the disabled child has effective access to and receives education, training… in a manner conducive to the child’s achieving the fullest possible integration and individual development…(article 23 (3) of the CRC)

4. Mauritius has ratified both the CRC and the CRPD.

5. Since the State is not providing directly for the education of handicapped children, except by the inclusion of a few children in the mainstream, it is normal that the State should help NGOs who are providing for the specialised education of children with a disability as long as they respect the norms and standards agreed upon.

6. Such provision has been made for several years but the questions which remain are: Is the State treating such children at par with children from the mainstream? If not, why not? Why is the State releasing the Grant-in-Aid in a haphazard manner, without giving a detailed breakdown? Why is Grant-in-Aid paid late and at a longer interval than for other schools? And why is there no proper on-going dialogue between the Ministry and the NGOs concerned?
Conclusion

I note that the Ministry has put in a lot of effort to try and find solutions to the problems raised, even while the investigation was still going on. I regret however that so much time has elapsed between the time when the APEIM drew the attention of the Ministry on the various problems and the time when the Ministry decided to react. I specially regret that, each time, it is when there is a threat and the media seizes the matter, that the issue is given attention.

More specially, I view with concern the very slow bureaucratic process for payment, even when there were no more external impediments like lack of health clearance. The APEIM file was treated without due diligence even at the beginning of 2011. Apeim told me that there was still arrears for the Rose Hill school which has not been paid.

I want to state that on the part of APEIM, I did not appreciate that they had decided to close all their schools and workshops as this would, if it had been put in practice, be against the best interests of the children.

I now, hope that a Committee with clear terms of reference will be set up to avoid any such negative impact on the children concerned. All NGOs working with children with disabilities should be represented on this Committee. It is also my view that, in actual fact, children with special needs should benefit from positive discrimination in the spirit of the CRC and CRPD.

I therefore urge the Ministry to do everything possible to respect the CRC and the CRPD to which Mauritius is a party.

OUTCOME

The Ministry sent us a detailed reply giving us their version on all allegations made and also informing us of new decisions.

They laid emphasis on the need to respect government procedures, especially regarding finance rules. But we know that in actual fact the delay in payment of the grant-in aid was due to the fact that officers work routinely and without due diligence. There is no fast track especially at the end of the financial year and each section lays the responsibility of the undue delay for payment on another section.

The good news is however that now payment is being made in four instalments instead of two. I understand from the NGOs concerned that there are still some issues that are not completely solved in a satisfactory manner.

The Ministry had also decided to make advance payments to NGOS who are in receipt of allowances for the Supplementary Food Programme.
The Ministry has enlisted the services of speech therapists and occupational therapists.

Regarding parity, the 2005 formula is being applied and there is still progress to be made to achieve full parity. For the moment the amount is Rs 2880. per child per year plus an additional sum of Rs 984. per child per year for other services, the total being Rs 3864.

NGOs sign a Grant Memorandum with the Ministry. The NGOs had a meeting with the Ministry on 03/03/11, following this investigation. However, they contest the information obtained and maintain that the sum received is diminishing and that these figures do not correspond to what they have actually been receiving.

Further there is no Committee meeting on a regular basis as far as we could gather. So some of the issues raised have still not been thoroughly discussed and there is still a lot of frustration on their side as funds are more and more difficult to obtain.

1. **OCO/COMP/11/2548**

A father complained that his daughter had not been allocated a seat in Standard I in a “star” primary school which is near to his residence. The reason given to him was that he does not live in the catchment area. The child was given another school a few kilometres away. The father explained that last year his elder daughter was admitted in the said school and that at no time was he informed that he lives outside the catchment area. In the meantime, the child was staying at home as in the morning the father could not drop his two children in time, given that the schools were in opposite directions.

I wrote to the MEHR for explanations. The Supervising Officer reported that the father does not live in the catchment area and that the bills he submitted as proof of address were not in his name. She also informed me that last year, exceptionally, the ministry decided to admit 31 additional pupils in that school.

I, then, convened a senior official of the Ministry in my office to discuss about the case. I proposed another nearby school and later a second primary school not far from the first choice. However, the ministry did not respond positively and maintained its decision that the child should attend the school allocated to her.

I then wrote to the Minister of Education requesting him to ensure that the right to education of the child is respected. I recommended that, in the future, accessibility should be considered in the allocation of schools to new entrants in primary schools.

On 13 July 2011, the child was finally admitted in one of the schools that I proposed.
2. **OCO/PRO.SCH/42/48**

I learnt through the press that the management of a private secondary school for girls refused access to the school premises to fifteen pupils as they arrived at school late. The girls walked to a nearby police station to report the case. There, the officers of the Brigade pour la protection des mineurs took the children to the Private Secondary School Authority (PSSA) in Beau-Bassin where they made their complaints. By so doing, the school put the children at risk. I wrote to the PSSA to ask for explanations on the action taken by the latter in this case. I drew their attention to the fact that it is not the first time that this school took measures which are not in the best interests of its pupils.

The Director reported to me that the authority informed the management of the school that ‘persistent flouting of the authority of the PSSA may lead to the cancellation of your registration as Manager in accordance with Section 14(b) of the Education Act.” The school was also asked to amend its rules and regulations so as to provide for reasonable sanctions in cases of unjustified lateness.

3. **OCO/COMP/11/2651**

A father complained to my investigators that his son, who is a form two pupil in a public secondary school, was rusticated from school until further notice. The rector and a few teachers alleged that the child removed his pants in class. The child stated that he was putting his shirt in his pants as required by the school rules. In the meantime, the rector changed her mind and gave a two-day rustication to the child.

I wrote to the rector to ask for explanations. The latter reported that the child committed several offences in the past. She attached a series of letters signed by other pupils stating that the child disturbs them at school. The father denied most of the offences which the child was accused of. The child was referred to a psychologist. I informed the school that they cannot take written statements from children in the absence of the parents or a CDU Officer. My officers are still following the case.

4. **OCO/COMP/11/2552**

A mother complained to my office that her son, a Form III pupil in a State Secondary School and three other friends were victims of humiliation in class. In fact their ICT teacher was not satisfied with the length of their hair, stating that it was not compatible with the school rules. Hence, she took her scissors and cut their hair. The mother informed me that his son tried to dissuade his teacher but in vain. He even asked her to phone his father first. When the parents phoned the rector later to inquire about the problem, the latter told them that it was a minor incident.

I summoned the teacher and the rector. The teacher confessed that she cut the hair of the child of his two friends. She stated that she did it in good faith and was not aware that her act was humiliating for the children. She apologized and agreed to apologize to the children. She promised to amend and rebuild the confidence between the children and herself. The parents were informed about the outcome and confirmed that the teacher apologized to their child.
I asked the rector to ensure that his teachers do not use corporal and humiliating punishment in their classes. He was given a few copies of the kit on the Prevention of violence at school to be circulated among the members of the staff.

5. **OCO/COMP/11/2631**

A mother complained to my office that the rector of a public secondary school told her to stop sending her 14-year-old son to school for some time. In fact, during the Easter holidays, the child was accused of alleged sodomy on a friend during an outing with a group of friends at a riverside. When the rector learnt about the problem, he verbally asked the mother to stop sending the child to school until the case is determined by a court of law.

An investigator referred the child to the psychologist of the Probation and Aftercare Service, and wrote to the Director of the institution reminding him of the following:

1. In Mauritius, education is compulsory up to the age of 16 years.
2. The incident involving the child occurred outside the school premises, thus, not under his jurisdiction.
3. The charges against the child are allegations. It is for a court of law to establish whether they are founded or not.
4. The child is innocent and should be considered as such unless he is found guilty by a court of law.
5. Such a case may take years and we cannot jeopardize the minor’s future because of allegations made.
6. The right to education is granted by the Convention on the Rights of the Child which is signed and ratified by Mauritius (Article 28 and 29).
7. Article 2 of the Convention talks about non-discrimination. It reads as follows:

   i. State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

   ii. State Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.”
He was told that the child was unjustly expelled from school and that he should be reintegrated immediately, and reminded him that the school should not substitute itself to a court of law and decide that the child was guilty. It is the duty of the school to educate and guide their pupils to build up their character and become constructive citizens.

The child was reintegrated and was provided with the services of an educational psychologist at school.

6. **OCO/COMP/11/2648**

A mother complained to the OCO that her child, a Form 1 pupil in an aided secondary school, was unjustly given a detention by her English language teacher as she started doing a homework given by the latter in class. The child did not understand the instruction of the teacher properly.

The teacher met me to give her version. She told me that she gave clear instructions to the class that the exercise was to be done at home. She even explained the meaning of homework to the pupils. The child was the only pupil who was doing the exercise in class. The child apologized to her. She gave her a one hour detention after school hours for disobedience.

The parents felt that the sanction was not proportionate to the misbehavior (if any) made by the child. They called at school to request the intervention of the rector, but in vain. The latter supported the teacher and the punishment was maintained.

I mediated with the parents and the school to find a solution in the best interests of the child. After discussion with the parents and the child, I proposed that the child be given a piece of work relevant to the misbehavior. The parents agreed but the work should be done during lunchtime and not after school.

I informed the school of the outcome. However, the rector maintained her position stating that the parents signed a Code of Discipline Contract when the child joined the school and that they should abide by it. The mediation failed.

I then wrote to the Director of the PSSA, who was aware of the case, to make the following proposals so that, in the future, such incidents should not occur:

1. For a first misbehaviour in class, the parents should be informed and positive disciplinary activity is given to the child during recess.

2. For a second misbehaviour, the parents are convened; a positive disciplinary activity given during recess and a homework related to the misbehavior is given.

3. For a third one, the parents are convened once more and a detention is given to the child. A positive disciplinary activity, to be done during the detention class is also given.
Minor’s step-mother made a complaint to our office in respect of her 10 year old child. She stated that she has been looking after the minor for 10 years after minor’s parents’ separation. After the departure of minor’s mother, the complainant lived with the minor’s father and his baby. After a few years, following a conjugal dispute, the minor’s father left the conjugal roof leaving the baby in the care of the complainant. He went to live with the minor’s biological mother who is an alcoholic and a drug addict. Taking into account the best interests of the child, the complainant cut all ties with the respondent. Over the years, a strong bond had developed between the minor and the complainant. Ten years after, the minor’s father wanted to have his son back and was harassing the complainant. According to the latter, the child was very disturbed, he could not concentrate in his studies and refused to live at his father’s place. The complainant was at a loss and requested the intervention of our office. The complainant was requested to accompany minor to our office.

The child stated that he knew his father but he was not acquainted with the lady he lives with. The child has good manners and was performing well at school. He refused to stay at his father’s place.

The minor’s father was convened to our office. The latter, who was a retired man, stated that he and his wife are the child’s biological parents and have the legal right to seek for his custody. He informed my investigator that the complainant has only brought up the child. He was informed of the child’s opinion and told that, though the complainant has not given birth to the child, she has taken care of him since he was a baby and now the child is very attached to her. We explained to him that: If the child is separated from the complainant, this will have serious psychological and emotional impact on his well being. Besides, the environment where the respondent is living puts him at risk. He was informed that if he wants to have access to his child, an arrangement could be made only after the minor has been counselled by a psychologist. A few weeks later, the complainant attended our office anew to inform us that she was facing financial difficulties as her small business is not working, besides she has to pay for two tuitions and the school van. She was referred to the Social Security Office. Our office also contacted the respondent and asked if he could provide some assistance to the child. As he is a retired person, he affirmed that he could not. The complainant contacted our office once again as the respondent, who was convened at the Social Security Office, refused to attend same, to give a statement on the minor. The respondent was once again contacted and requested to act in the best interests of the child. The complainant is now benefiting from a social aid and the child is attending school regularly.

The under mentioned cases demonstrate how a child coming from a dysfunctional family is victim of child neglect, corporal punishment and is also deprived of various rights.
8. **OCO/COMP/11/2216**

The case of the minors was referred to our office by the minors’ grandmother as the children were not attending school. The minors are from a dysfunctional family. Following their parents’ separation, the minors stayed at their paternal grandmother’s place. During the school holidays, the children who visited their mother did not want to return back to their grandmother’s place. As the latter refused to sign the transfer certificate, the children were deprived of their rights to education. The children, who were not attending school, spent most of their time roaming the streets and were considered to be at risk.

The case was referred to the CDU and the MEHR for enquiry and appropriate action. The social workers of the MEHR and CDU officers visited the respondent’s place on several occasions but they could not meet the minors’ mother. The assistance of the BPM was sought; the minors and their mother attended our office. The respondent stated that her children did not want to return at their paternal grandmother’s place. Their father, who was a drug addict, did not care for them and they were victims of corporal punishment. The children refused to go to their father’s place. The minors’ mother was requested to enter a case of custody in court and to make the necessary arrangements for the children to be admitted to a nearby school.

The respondent stated that the MEHR could not go ahead with the transfer as minors’ grandmother refused to sign the transfer certificate.

Report received from the CDU mentioned that the minors’ father is a drug addict and that the children are neglected by him.

I then wrote to the Solicitor General to seek legal advice. I wrote: “How does a mother, who is vested with parental authority, been refused this transfer.” In his reply, he stated that Article 371-2 of the Civil Code is clear on the exercise of parental authority, including the rights and obligations of the parents as regards to the education of their children. It provides that-

“L'autorité appartient au père et mère pour protéger l'enfant dans sa sécurité, sa santé, sa moralité. Ils ont à son égard droit et devoir de garde, de surveillance et d'éducation.

Mention was also made that the Minister of Education can make rules, under Section 39 of the Education Act, to regulate matters relating to transfer of pupils from one school to another. Attention was also drawn to the fact that a child should not be refused transfer if it is in his best interest. A temporary transfer can be effected pending the court order, to safeguard the child’s right to education.

The children were finally transferred to another school and were attending same. Minors’ mother then started to live in ‘concubinage’ with another man and gave birth to other children. Thereafter, the respondent neglected her two eldest children. Their school attendance diminished, their hygiene was poor and they had no school materials.

The school headmaster reported to our office that the children were victims of child neglect. He also stated that the children misbehaved in class, robbed their friends’ school materials and food as they were not provided with lunch by their mother.
He also mentioned that it is their paternal grandmother who visited them at school provided them with food and brought clothes. She even trimmed their nails etc. According to the Headmaster, there is a real bondage between the grandmother and the children, she is very affectionate and caring towards them.

The latter made a complaint to our office that the children were not attending school and were victims of child neglect. The case was once more referred to the CDU and the MEHR for enquiry and appropriate action. Various visits were effected by the officers to counsel the mother to assume her responsibility towards the minors. The children were provided with psychological assistance but the respondent refused to attend the counselling sessions. As she is living in a very precarious state, her case was also referred to the Ministry of Social Integration and Economic Empowerment. The children have benefited from school material and uniforms. The family is also benefiting from social aid.

Minors’ paternal grandmother was requested to enter a case of custody in court as their father no longer lives at her place. As the complainant is a landlord, she did not qualify for legal aid. The complainant, who is a pensioner, is still hesitating to lodge a case in court as she has to invest a huge sum of money. The CDU is ensuring a follow up in this case.

Teenage pregnancy is a phenomenon which is increasing in our society and is having direct consequences on the educational and developmental well being of our teens. Our office has received several cases where young adolescents have been deprived from their right to education.

9. **OCO/COMP/11/2481**

Allegation was made to our office that a minor, 15 year old, is having a love affair with a male drug addict. The child who was attending school, played truant and spent her time with her boyfriend. She disobeyed her parents. The case was followed by the CDU. She refused to attend the counselling sessions. She fell pregnant and gave birth to a baby boy.

Our office received complaints that the baby was at risk as the latter’s father was taking drugs and was encouraging the baby’s mother to take drugs too.

The case was referred to the CDU and the police. The report received from the CDU stated that the minor is living at her grandmother’s place with her baby. Her grandmother is assisting her to up bring the child. Report received from the Anti-Drug Smuggling Unit mentioned that the minor’s concubine is not a drug trafficker nor is he a drug addict.

The case is being followed by the CDU.
10. **OCO/COMP/11/2557**

The OC has received a complaint that a Form III adolescent is not attending school regularly. An allegation was made that the minor was pregnant and her mother was forcing her to abort. The case was referred to the CDU for enquiry and appropriate action. The rector of the said school was contacted, to have a full report on the child.

The report received from school stated that the child was behaving in an abnormal manner at school. Her behaviour was disruptive, unruly and she was inattentive in class. She sometimes shirked classes. Her academic performance was poor. Lately, she absented herself from school for a long period of time.

A report received from the CDU confirmed that the child was pregnant. The minor’s paramour is willing to take the responsibility of the minor and the baby. The minor’s mother has agreed to marry her daughter when she is 16 years old. The minor is being followed by the psychologist and the CDU.
Annex 1: The Ombudsperson for Children’s Act

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;
   i. enter any licensed premises where the Ombudsperson for Children suspects that alcohol and tobacco may be handled, consumed or purchased by children;
   ii. record the statement of any person in connection with an investigation;
   iii. 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).
   iv. summon witnesses and examine them on oath;
   v. call for the production of any document or other exhibit; and
   vi. 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*
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

Declaration

We, participants at the World Congress III against Sexual Exploitation of Children and Adolescents, representing governments, inter-governmental and non-governmental organizations, human rights institutions, ombudspersons, the private sector, law enforcement and legal community, religious leaders, parliamentarians, researchers and academics, civil society and children and adolescents, pledge ourselves to undertake as a matter of priority the necessary measures to prevent and stop the sexual exploitation of children and adolescents.

1. We will be guided by international human rights standards in fulfilment of States’ obligations to protect children from all forms of abuse and exploitation.

2. We recognize that our efforts to prevent and end the sexual exploitation of children and adolescents must address the root causes of these serious violations of the rights of the child by mainstreaming strategies within broader policy frameworks. We thus recommit ourselves to achieve the Millennium Development Goals, particularly to halve the proportion of people living in extreme poverty, ensure that all children complete a full course of primary schooling and halt and reverse the spread of HIV/AIDS.

3. We recognize the important role that parents, the (extended) family and other community caregivers can play in preventing and protecting children from sexual exploitation, and the need to provide them and other caregivers with adequate support.

4. We welcome the recommendations of the UN Secretary-General’s Study on Violence against Children and commit ourselves to follow-up and to support with financial, human and other resources, and facilitate the work of the (still to be appointed) Special Representative of the Secretary-General on Violence against Children as well as the Special Representative of the Secretary-General for Children and Armed Conflict, and relevant Special Procedures, particularly the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography and the Special Rapporteur on Trafficking in Persons, especially in Women and Children.

5. We recognize that a comprehensive response to the sexual exploitation of children and adolescents should include a focus on fighting all forms of child labour, and we welcome the endorsement in 2006 of the ILO’s Global Action
Plan against the Worst Forms of Child Labour, by which all 182 member States have committed themselves to eliminating all these forms – including the sexual exploitation of children and adolescents – by 2016.

6. **We will cooperate** with and support international, regional and national human rights bodies and civil society in efforts to promote and review reports on the implementation of measures against the sexual exploitation of children and adolescents.

7. **We will support** measures and structures to institutionalize meaningful child participation in a sustainable way at all levels, including for child victims of or at risk of sexual exploitation, for example through adequately resourced child and youth advisory committees, community-based programmes and peer-to-peer initiatives and we will support measures aiming at the implementation of the recommendations of the “Adolescent Declaration to End Sexual Exploitation” made at the Rio Congress (for the text of these recommendations see the annex to this document).

8. **We will strengthen** our efforts to address through targeted, gender-sensitive information, communication and education, training and community mobilization, any denial of the seriousness of sexual exploitation of children and adolescents and of its negative consequences, in particular the beliefs and values that condone and sustain sexual exploitation of children and adolescents and perceptions and treatment of the child as a sexual object or commodity.

9. **We will initiate, fund and share the outcomes** of research on all forms of sexual exploitation of children and adolescents, *inter alia* on the nature and scope of sexual exploitation of children and adolescents; mental and physical health impact of sexual exploitation of children; new manifestations including changing modalities, actors, mechanisms and locations used; sexual exploitation of children and adolescents in schools and care and justice institutions; the implementation and impact of legislative, social and other measures taken to prevent, stop and respond to sexual exploitation of children and adolescents; the demand that perpetuates sexual exploitation of children and adolescents; those involved in facilitating and perpetrating sexual crimes against children; the sexual exploitation of boys; vulnerability and resilience of children in relation to sexual exploitation; the nature and impact of virtual social interaction among children and its potential in preventing and protecting the sexual exploitation of children and adolescents in different social and cultural contexts; the impact and effect of global consumer culture on social values and behaviours, in particular on the sexual exploitation of children and adolescents; patterns of offending, with a view to ensuring that interventions are appropriate and effective.
10. We **undertake** to further develop specific indicators of performance and progress to measure the impact on children of all policies and programmes that we develop or implement in the area of sexual exploitation of children and adolescents, with a view to ensuring that all actions taken are in the best interests of the child and do no harm; and to share lessons learned – both positive and negative – in order to contribute to better understanding and action in the future and to ensure that as far as possible evidence-based information is used for the development and implementation of effective policies and programmes to prevent and protect children from sexual exploitation and support those who have been victimized by it.

28 November 2008, Rio de Janeiro, Brazil

We the children of the world commend the Government of Brazil and the other governments and responsible agencies for giving us the children, the present and future of the world, a voice at this Third World Congress.

The children have suffered too much from adult exploitation. But, organized and united, we have gone from being victims to actors. Our children’s organizations give us the strength to defend ourselves and fight for our rights.

We are here to contribute to the process of fighting this issue and raising awareness about this problem that continues to grow larger. We respect the adults, our parents and the life rules of our different countries. But we also want the respect of all of you. Everyone has the right to respect and this is an attitude that everyone should take.

However, it is not enough to just give us a voice but you MUST listen. Listen to our calls for urgent action, listen to our experiences and most importantly listen to our solutions.

The work we have begun here must not end here today when the congress rooms become empty and the heated discussions here in Rio de Janeiro become silent. We must not allow the discussion of children’s rights particularly in the matter of sexual exploitation to ever go silent again but we must evoke calls of change throughout the world like we have never done before.

Now, we need governments, NGOs, media, private sector, local authority, and many more children to join us in fight against child sexual exploitation and help high-risk children and victims.

We the children of the world ask of ourselves and similarly of you to share presentations of the proceedings of this conference with your communities, your nations and regions to perpetuate this message further.

If we are to make the pervasive and repugnant problem of sexual exploitation of children a relic of history once and for all, you the Government, the NGOs, and other social partners MUST:

1. Create the office of ombudsman with regards to children’s rights in each country to ensure the full and effective implementation of children’s rights, reform in all sectors to promote a more child friendly service, and efficient prevention, monitoring and handling of cases of sexual exploitation of children and adolescents.
2. Establish Child Protection Agencies and Centres in local communities throughout the world funded by UNICEF, other international and local groups to protect those that remain vulnerable to this cancerous problem.

3. Furthermore, a Children’s forum and organization led by children and for children needs to be established to ensure child and adolescent participation to prevent sexual exploitation.

4. We also ask that each major governmental agency and international organization dealing with children’s rights should have a Children’s Ambassador.

5. Pursuant to this Congress, we ask for national and regional consultations to internalize and adapt the decisions of the Congress to fit our varying cultural realities within 6 months. Again, we ask that the Governments of the World to engage us the children and listen to our voices.

6. Additionally, every 6 months to a year, we wish to continue these consultations to discuss matters related to sexual exploitation of children and children’s rights in general to promote the institutionalization of child participation. Arising from these consultations, regional reports should be submitted to UNICEF to form the International Report which will then be disseminated throughout the world.

7. We are at this moment calling for governmental actions to effectuate laws and policies that redound to the benefit, protection and well-being of children both on the local and international level. However, it is simply not enough to allow governments to make empty promises to curb this attack on children. Consequently, we the children, ask that action committees be created to audit the action plans in each country.

8. We also call for the adoption of an International Day where children will lead the effort in awareness raising campaigns, rallies and marches. To further enlarge the scope of this day, we request the organization of an International Art, Essay and Speech competition which will culminate on this day.

9. We now turn our attention to the media particularly the internet which poses one of the greatest threats to millions of children throughout the world. Stop X.org has emerged from this conference as a great resource in the combat against sexual exploitation. Henceforth, we ask that the webpage list the agenda of all the activities and conclusions of the World Congress, provide a forum to
post documents and closely monitor the development of our work and most importantly to continue discussion on this topic and the development of ideas.

10. We the children must make known our plight for governments to pursue strict and punitive legislation with regards to the Internet, especially child pornography- simply another form of abuse.

11. We similarly ask for strong cyber safety Rules which are well propagated on both the websites and within the communities. To this end we call for the increased development of children’s, teachers, parent’s and family manuals which address the threats of the internet in addition to providing supplemental information about sexual exploitation of children.

12. Further, we provide a mandate for the media to gather documents, reports, folders, CDs, videos and other materials to increase knowledge on this issue. We the children of the world pledge to vehemently and passionately pursue these policies and to call our governments to action if we do not see positive steps being taken to end this phenomenon that continues to scourge the world today.

The children and adolescents of the world ask all the event participants to remember when you adults were our age, in our developmental stages so that it will be easier to touch the hearts of the people and thus all reflect on and ratify our commitment to fight together, crossing frontiers to eradicate this world problem that interrupts the happy and harmonious development during childhood and adolescence throughout the world.
We children and adolescents throughout the world hereby ratify that by this conclusive document we are expressing what we feel, think and want to achieve to win the war against child sexual exploitation because, as already mentioned in the opening document, THE DECISION IS IN OUR HANDS.

Without a doubt, the greatest challenge that we will face as of the closing of this Third World Congress will be the multiplying effect.

We are convinced that all human beings are not the result of chance but that we have to realize our goal which is to bring in our lifetime through our realities and experiences to that they leave footprints. If I leave my children the same world as the one my parents left me, my existence will have been in vain; however, if my existence enriches my successors, my existence will have been justified.

Today, we are all making history because by simply participating in this important world event demonstrates our commitment to contribute our grain of sand to make our world a better place. Since the first congress up to the third congress, a greater social conscience was created about this world problem, but we believe that we need to act more and talk less, since more than a decade has gone by since we began before we saw the results of the proposals and commitments by which many of the decisions where made by the authorities of each country, to them we say the following:

We are together with the government, society, NGOs, international organizations and with all those who have the commitment to combat sexual exploitation of children and adolescents. Unit ing the creativity of children, the participation of adolescents and young people with the experience of adults, we can transform our view in one cry of STOP sexual exploitation of children and adolescents.
Annex 4: letter from the SANCHPC to the African Committee of experts on the Rights and Welfare of the Child

THE SOUTHERN AFRICAN NETWORK TO END CORPORAL AND HUMILIATING PUNISHMENT OF CHILDREN

Letter to the
AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD

Statement on Violence Against Children – 24 March 2011

Introduction

The Regional Network on Corporal Punishment is a network of Southern African organisations with membership from 6 countries in Southern Africa. Members of the Network work in various ways to prevent and address child abuse and neglect, to ensure the protection of the rights of children in their own countries. The purpose of the Network is to co-ordinate advocacy towards legal prohibition of all forms of corporal, humiliating and degrading treatment or punishment of children and to promote positive discipline in Southern Africa. This means bringing together interested and committed organisations within the Southern African region to work towards a prohibition of corporal punishment through capacity building, information dissemination, and joint regional advocacy initiatives.

The Network was formed in 2006, and meets face-to-face annually to report back on activities in the respective countries and joint activity in the year ahead. The Network is committed to supporting the African Charter on the Rights and Welfare of the Child, and to finding African strategies for addressing violence against children.

In November 2008 the Network, together with The African Child Policy Forum, submitted and presented its position paper to the ACERWC at its 12 session in which it urged the Committee to adopt a written statement urging states in Africa to prohibit corporal, humiliating and degrading treatment or punishment of children by 2009 and to promote measures to implement and promote the prohibition. Furthermore, the
Network recommended that the ACERWC ensures that member states of the ACRWC provide information in their State party reports on their progress in eradicating the use of corporal and other forms of cruel and degrading treatment of children in all settings. The Network is therefore grateful and pleased that the Committee issued the communiqué on violence against children on 24th March 2011. (Kindly see copy of the position paper presented to the Committee in November 2008.)

Submission: Statement on Violence Against Children (24 March 2011)

The Network, in writing this letter, would firstly like to commend the African Committee of Experts for reminding State Parties of their obligation under the African Charter to protect our children from all forms of violence, abuse, neglect and exploitation, however moderate the violations might be.

We also note with gratitude the emphasis placed within the Communiqué on the Committee’s intolerance of traditional and religious practices or beliefs that condone violence, abuse, neglect or exploitation of children in any manner, and that these harmful practices and their consequences should be made public for all persons to understand.

Furthermore, the Network also notes the African Committee’s emphasis of the UN Convention on the Rights of the Child, upon which the African Charter was founded, as well as the study conducted by the United Nations Secretary General on Violence Against Children, which calls for States parties urgency to act against all forms of violence against children in their respective jurisdiction.

The Network observes with appreciation the African Committee’s expressed condemnation of corporal and humiliating punishment of children, which is recognized as a widely accepted and frequently condoned form of violence against children within African communities.

The network also salutes the active participation by members of the African Committee in the Strategic Consultation on the Prohibition of all Corporal Punishment of Children that took place in Ouagadougou, 18th February – 1st March 2011, which resulted in the development of a Pan-African Strategic Plan setting out proposals to end corporal punishment of children in all settings across Africa.

Although the Network is appreciative of the African Committee’s expressed position against corporal punishment of children, the network wishes to bring to the attention the confusion that often arise around the acceptability of corporal punishment within the family. This confusion is evident from the small number of countries worldwide that have banned corporal punishment within the family setting (29 states globally and 2 states in Africa to date), compared to those countries that have banned corporal punishment in public settings such as schools, penal systems and alternative care (almost 100 states).

Corporal punishment is a deeply embedded common child rearing practice, and political and other leaders often do not find abolition popular. It is a deeply personal issue: a lot of people were hit as children whilst many parents do hit their children. One does not like to think badly of their parents or their parenting style. This makes it difficult at first for many people to accept the human rights imperative for challenging and ending all corporal punishment, and this issue therefore requires extra attention.
and effort for elimination.

The Network therefore calls upon the African Committee to be more specific and blunt in its pronouncement against corporal punishment of children within the family in order to eliminate any confusion/misinterpretation that arises from member states’ interpretation of the African Committee’s position regarding corporal punishment of children within the family.

Moreover, the Network appeals to the African Committee for the incorporation of express recommendations to State Parties for the prohibition and elimination of corporal punishment of children in all spheres within its statement on violence and within the African Committee's responses and recommendations to state party reports.

We need to send a message that is absolutely clear to all of Africa’s children and caregivers: No violence against children, no matter how moderate, is acceptable in an Africa fit for children.

This letter has been endorsed by the following organisations:

1. Centre for Child Law, at the University of Pretoria, South Africa
2. Childline South Africa, South Africa
3. Community Law Centre, University of the Western Cape, South Africa
4. DITSWANELO – The Botswana Centre for Human Rights, Botswana
5. Global Initiative to End All Corporal Punishment of Children
6. Human Rights Commission, Zambia
7. Ombudsperson For Children’s Office, Mauritius
8. Rede Came, Mozambique
9. Resources Aimed at the Prevention of Child Abuse and Neglect, South Africa
10. Save the Children
11. South African Council of Churches, South Africa
12. Zambia Civic Education Association, Zambia
13. Zambian Interfaith Working Group on HIV and AIDS, Zambia
## Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Definition</th>
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<tbody>
<tr>
<td>ADSU</td>
<td>Anti Drug and Smuggling Unit</td>
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<td>ANFEN</td>
<td>Adolescent Non-Formal Education Network</td>
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<tr>
<td>APEIM</td>
<td>Association de parents d’enfants inadaptés de l’île Maurice</td>
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<td>BEC</td>
<td>Bureau d’éducation catholique</td>
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<td>BPM</td>
<td>Brigade pour la protection des mineurs</td>
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<td>BSH</td>
<td>Brown Sequard Hospital</td>
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<td>CCPP</td>
<td>Community Child Protection Programme</td>
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<td>CDU</td>
<td>Child Development Unit</td>
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<td>CEDAW</td>
<td>Convention on the Elimination of Discrimination against Women</td>
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<td>CEDEM</td>
<td>Centre d’éducation et de développement pour les enfants</td>
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<td>CP</td>
<td>Commissioner of Police</td>
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<td>CPA</td>
<td>Child Protection Act</td>
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<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>CRPD</td>
<td>Convention on the Rights of Persons with Disabilities</td>
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<td>CSEC</td>
<td>Commercial Sexual Exploitation of Children</td>
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<td>CSO</td>
<td>Community Service Order</td>
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<td>CWO</td>
<td>Child Welfare Officer</td>
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<td>CYC</td>
<td>Correctional Youth Centre</td>
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<td>EAP</td>
<td>Eradication of Absolute Poverty Programme</td>
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<tr>
<td>ECCE</td>
<td>Early Childhood Care and Education Authority</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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<td>FSB</td>
<td>Family Support Bureau</td>
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<td>FSPO</td>
<td>Family Support and Protection Officer</td>
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<tr>
<td>HRDC</td>
<td>Human Resource Development Council</td>
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<td>ICT</td>
<td>Information Organisation for Migration</td>
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<tr>
<td>Acronym</td>
<td>Full Name</td>
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<tr>
<td>IOM</td>
<td>International Organisation for Migration</td>
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<td>IVTB</td>
<td>Industrial and Vocational Training Board</td>
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<td>MACOSS</td>
<td>Mauritius Council of Social Service</td>
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<td>MBC</td>
<td>Mauritius Broadcasting Corporation</td>
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<td>MCA</td>
<td>Mauritius College of the Air</td>
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<td>MCPCC</td>
<td>Ministry of Consumer Protection and Citizen’s Charter</td>
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<td>MDCC</td>
<td>Multi-disciplinary Case Conference</td>
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<td>MEHR</td>
<td>Ministry of Education and Human Resources</td>
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<td>MGECDFW</td>
<td>Ministry of Gender Equality, Child Development and Family Welfare</td>
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<td>MHQL</td>
<td>Ministry of Health and Quality of Life</td>
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<td>MICT</td>
<td>Ministry of Information and Communication Technology</td>
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<td>MIE</td>
<td>Mauritius Institute of Education</td>
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<td>MIH</td>
<td>Mauritius Institute of Health</td>
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<tr>
<td>MOLG</td>
<td>Ministry of Local Government</td>
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<td>MOLIRE</td>
<td>Ministry of Labour, Industrial Relations and Employment</td>
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<td>MOU</td>
<td>Memorandum of Understanding</td>
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<td>MPF</td>
<td>Mauritius Police Force</td>
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<td>MQA</td>
<td>Mauritius Qualifications Authority</td>
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<td>MSSNSRI</td>
<td>Ministry of Social Security, National Solidarity and Reform Institutions</td>
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<td>NAC</td>
<td>National Adoption Council</td>
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<td>NATReSA</td>
<td>National Agency for the Treatment &amp; Rehabilitation of Substance Abusers</td>
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<td>NCC</td>
<td>National Children’s Council</td>
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<td>NEF</td>
<td>National Empowerment Foundation</td>
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<td>NGO</td>
<td>Non Governmental Organisation</td>
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<td>NPA</td>
<td>National Plan of Action</td>
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<td>NPCC</td>
<td>National Productivity and Competitiveness Council</td>
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<tr>
<td>Abbreviation</td>
<td>Description</td>
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<tr>
<td>NSF</td>
<td>National Solidarity Fund</td>
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<td>NTA</td>
<td>National Transport Authority</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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<tr>
<td>OCO</td>
<td>Ombudsperson for Children’s Office</td>
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<tr>
<td>PFPU</td>
<td>Police Family Protection Unit</td>
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<td>PMO</td>
<td>Police Medical Officer</td>
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<td>PS</td>
<td>Permanent Secretary</td>
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<td>PSSA</td>
<td>Private Secondary Schools Authority</td>
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<td>Pre-School Trust Fund</td>
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<td>Parent’s Teacher Association</td>
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<td>RGSC</td>
<td>Rajiv Gandhi Science Centre</td>
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<td>RYC</td>
<td>Rehabilitation Youth Centre</td>
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<td>SACTAP</td>
<td>Southern African Counter-Trafficking Assistance Programme</td>
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<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>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organisation</td>
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<tr>
<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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<td>WHO</td>
<td>World Health Organisation</td>
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<td>WHS</td>
<td>World Heritage Site</td>
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<td>ZEP</td>
<td>Zone d’éducation prioritaire</td>
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DVD on child rights launched on 13 April 2011
The Ombudsperson for Children can be contacted by phone or in writing, by post, fax, e-mail or SMS as follows:

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Beau-Bassin

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**Fax**: 454-3037
**Mobiles (24 hours)**: 794-7435, 794-7439
**e-mail**: ombudscchild@mail.gov.mu
**Website**: http://oco.gov.mu
**Green line**: 177