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

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

No. 82/2012 (MMG/HR/28/1)


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

Geneva, 19 April 2013

Office of the High Commissioner for Human Rights
Palais des Nations
1211 Geneva

Fax: (022) 917 9008
LEGAL PROTECTION AFFORDED TO THE ELDERLY

MAURITIAN CONSTITUTION

Section 1 of the Constitution declares that 'Mauritius shall be a sovereign democratic State'. Section 2 of the Constitution provides that the Constitution is the supreme law of Mauritius. Section 3 of the Constitution, construed in the light of the principle of democracy, expresses a general principle of equality. The Mauritian Constitution recognises that fundamental human rights and freedoms exist, without discrimination and the provisions of the Constitution affords protection to those rights and freedoms so far as the enjoyment of those rights and freedoms do not prejudice the rights and freedoms of others or the public interest.

Section 16 of the Constitution provides that no law shall make any provision that is discriminatory either of itself or in its effect. The term "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such description. Section 17 of the Constitution provides that a citizen who alleges that his right under, inter alia, section 16 of the Constitution is being or is likely to be contravened may apply to the Supreme Court for redress.

The Constitution does not specifically refer to discrimination on the ground of age or old age. However, the provisions contained in Chapter 2 apply equally to the elderly who benefit of all protections afforded to the citizens of Mauritius, by the Constitution. In addition to the constitutional provisions, laws in general apply equally to citizens and
this irrespective of age. There are furthermore specific enactments which have been passed to ensure further and better protection of the elderly in Mauritius.

PROTECTION OF ELDERLY PERSONS ACT

The Protection of Elderly Persons Act 2005 was proclaimed in September 2006. The Act puts in place a legal and administrative framework to ensure that greater protection and assistance are available to elderly persons. It provides for the setting up of a Protection of the Elderly Network, which comprises representatives of the Monitoring Committee, the Elderly Protection Unit, every Elderly Watch and the Rodrigues Committee for the Elderly. These institutional mechanisms aim inter-alia at ensuring, promoting and sustaining the physical, emotional, social, cultural and economic protection of elderly persons.

The Act makes it an offence for any person to commit an act of abuse on an elderly person or to willfully fail to provide an elderly person under his care with adequate food, medical attention, shelter and clothing.

A protection order may be granted by the Court if there is reasonable cause to believe that an elderly person has suffered, is suffering or is likely to suffer an act of abuse. The protection order will restrain the person committing the act of abuse from engaging into any such conduct towards the elderly person.

Section 11 of the Act provides that "any person who (a) wilfully subjects an elderly person to ill-treatment, whether physical or verbal; (b) subjects an elderly person to prolonged mental or emotional harassment; (c) intentionally causes pecuniary loss or material prejudice to an elderly person, shall commit an act of abuse."
It is further provided that "any person who (a) commits an act of abuse; (b) wilfully fails to provide an elderly person under his care with adequate food, medical attention, shelter and clothing; or (c) fails to comply with a protection order, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years."

THE EQUAL OPPORTUNITIES ACT

The Equal Opportunities Act 2012 ensures better protection from discrimination as it prohibits both direct and indirect discrimination on the grounds of age, caste, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation. The Equal Opportunities Act also prohibits discrimination by victimization.

Any person who alleges that his rights under the Act have been infringed, may lodge a written complaint with the Equal Opportunities Commission. If the complaint appears to be well founded, the Commission will conduct an investigation into the complaint. The Commission will attempt to resolve the matter by conciliation. If conciliation is unsuccessful, the matter will be referred to the Equal Opportunities Tribunal.

NATIONAL PENSIONS ACT

The Basic Retirement Pension is payable to every Mauritian citizen aged 60 years and above. This pension scheme, which is a non-contributory one, is paid on a universal basis out of Government fund. An enhanced Basic Retirement Pension is also payable to old age pensioners who suffer from incapacity or need the constant care and attention of another person.
SENIOR CITIZENS COUNCIL ACT

A Senior Citizens Council ("the Council") was established under the Senior Citizens Council Act, operating under the aegis of the Ministry of Social Security, National Solidarity & Senior Citizen Welfare and Reform Institutions. The objects of the Council are to:

(a) determine the areas in which the welfare of senior citizens needs to be improved;

(b) promote generally activities and projects for the welfare of senior citizens;

(c) maintain effective communication with senior citizens;

(d) diffuse knowledge and information on gerontology;

(e) establish contacts with organisations engaged in similar activities in Mauritius and abroad;

(f) advise Government on matters relating to the welfare of senior citizens;

(g) set up and manage homes for senior citizens; and

(h) implement such policies and programmes in favour of senior citizens as may be specified or approved by the Minister.

FREE TRAVEL SCHEME

A Free Travel Scheme was created in 2005, with the object of providing free transport facilities to old aged pensioners and students travelling by public buses.
TRUST FUND FOR SOROPTIMIST DAY CARE CENTRES FOR THE ELDERLY ACT

This Act was enacted in 2004 to set up a trust fund to establish and operate day care centres to provide day care, nursing and other services to the elderly and promote the welfare of the elderly generally.

The property, income or any other fund of the trust fund is applied solely towards the furtherance of the objects of the trust fund.

PROTECTION FROM DOMESTIC VIOLENCE ACT

The Protection from Domestic Violence Act was enacted in May 1997. It was proclaimed partly in August 1997 and fully in March 1998. The Act provides for the issue of emergency protection orders, occupation orders and tenancy orders and includes a wide definition of domestic violence to include physical, emotional, sexual violence and even threatened violence. Mauritius is one of the few countries in the region to have introduced a comprehensive law to combat domestic violence. The aim of the Act is to protect spouses, including persons who are cohabiting, children and elderly persons from violence at home.

For the purposes of this Act, "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) wilfully causing or attempting to cause physical injury;
(b) wilfully or knowingly placing 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).

MENTAL HEALTH CARE ACT

Special care is afforded to elderly persons who are admitted as patients at a Mental Health Care Centre ("the Centre") inasmuch as they are treated in special units.

Section 23. Patients’ units

(1) There shall be a separate unit for each of the following categories of patients—

(a) security patients;

(b) patients suffering from a severe mental disorder;

(c) elderly patients;

(d) patients under the age of 18.

(2) There shall be, for all categories of patients, a separate unit for male and female patients.

The Centre shall ensure that every patient is:

(a) provided with health care and is kept in living conditions conducive to human dignity and proper treatment; and

(b) protected from danger to himself and others.
Nursing and paramedical staff trained in handling patients suffering from a mental disorder are also made available for continuous monitoring of the health and welfare of any patient discharged from the Centre.

**LEGAL CAPACITY**

Elderly persons have full capacity to enjoy civil rights. However, if an elderly person is afflicted with mental disabilities with the resulting consequence that he is unable to care for his own interests, there are provisions in the Civil Code for the appointment of a legal guardian to represent the interests of that person.
MINISTRY OF SOCIAL SECURITY, NATIONAL SOLIDARITY AND REFORM INSTITUTIONS

Policies and Programmes for the Elderly

Government Programme 2012-2013

The philosophy of the Government is that "our elderly enjoy a pleasant and active retirement".

1. Challenges

- The growing elderly population stands at 169,545 as at to date representing around 13% of the total population of Mauritius
- The main challenges related to promotion and protection of Human Rights for Older Persons are mainly in terms of practical implementation of the relevant policies/plans relating to the Elderly by various sectors concerned and also the general attitudinal barriers.
- Provision of Home Care, Social assistance, Basic Retirement Pension, health care, leisure and education programme for increasing number of elderly
- Infrastructural facilities for providing leisure and educational programme
- Evolving needs of the elderly
- Non-Communicable diseases such as Dementia and Alzheimer Disease

2. Constitution

Section 2 of the Constitution of Mauritius generally provides for the protection of the rights of every Individual, including Elderly Persons. However, there is no specific provision in the Constitution or any other Legislation that explicitly forbids discrimination on the basis of old age.
3. **National Policy on Ageing 2008**

On the other hand, Mauritius has since the past few years been implementing a National Policy of the Elderly based mainly on the Vienna Plan of Action on Ageing (1982), the UN Principles for Older People 1991 and the Madrid International Plan of Action on Ageing 2002. The policies essentially evolve around the themes covering inter alia preparation for Retirement, Health/Nutrition, Housing, Income Security, Employment, Intergeneration Relationship, Social welfare/Leisure and Institutional Care.

4. **Elderly Persons Protection Act, 2005**

Mauritius has a specific Legislation known as Elderly Persons Protection Act 2005 whose main objects are to:

(i) ensure, promote and sustain the physical, psychological, social and economic protection of Elderly Persons and;

(ii) Ensure, promote and sustain the well-being of Elderly Persons so that they are able to play a meaningful part in society.

A welfare and Protection of the Elderly Unit has been set up to deal with reported cases of abuse. 20 Elderly Watch have been set up in different regions in Mauritius and 4 in Rodrigues. Two hotlines have been put in place for reporting cases of abuse 172 and 199.

5. **Senior Citizens Council**

- The Senior Citizens Council has been established under the Senior Citizens Council Act 1985. It is now governed by the Senior Citizens Council Act 1995, amended on 6 July 2011.
No. of Senior Citizens Associations affiliated with the SCC - 637
Total Number of Members - 74,695 (aged 55 and over)

- The Senior Citizens Council organizes a host of activities during the year and also provides a grant to Senior Citizens Associations at the end of the year for them to organize their own activities.

6. Assistance and Benefits provided to the elderly

- Free public transport;

- Basic Retirement Pension on a universal basis to elderly aged 60 years and above;

<table>
<thead>
<tr>
<th>Age Range</th>
<th>2013</th>
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<tbody>
<tr>
<td>60 – 89 years</td>
<td>3494</td>
</tr>
<tr>
<td>90 – 99 years</td>
<td>10404</td>
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<tr>
<td>Centenarians</td>
<td>11807</td>
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- Incontinence allowance to elderly aged 75 and above and bedridden;

- Carer's Allowance;

- Rent Allowance to elderly persons living alone and in receipt of Social Aid;

- Free issue of assistive devices to needy elderly, namely Wheelchairs, hearing Aids and Spectacles;

- Free domiciliary medical visits to all persons aged 90 and above and to bedridden persons aged 75 and above;

- Funeral grant to close relatives (means test);

- Allowance for dentures for needy elderly;

- Income Support for needy elderly.
7. **Centenarians**

(i) One off payment – cash gift of Rs 20,000 and gifts in kind
(ii) Cash gift of Rs 10,000 by National Solidarity Fund
(iii) Telephone set by Mauritius Telecom

As at 11 March 2013, 96 centenarians (87 females – including 4 females in Rodrigues and 9 males)

**Programme and Activities for the elderly**

8. **Elderly Day Care Centres**

The Ministry operates 20 Elderly Day Care Centres in different regions in Mauritius, the objective of which is to empower the elderly to be productive, healthy and independent as well as promoting lifelong living.

The main activities organized in most of the Elderly Day Care Centres are:-
- Adult and IT literacy, Keep-Fit exercises, Yoga, Prayer Sessions, Handicrafts, Embroidery, Songs, Educational talks and indoor games.

9. **Anti-Influenza Vaccination Campaign**

Elderly persons aged 60 years and above are being vaccinated against seasonal flu as well as H1N1 virus.
10. **Training Programme for Carers**

In view of the ageing population the policy of the Ministry is to train 500 carers and informal carers. The Ministry has already embarked on a 6 month Training Programme for formal carers since 2010.

The Ministry will also embarked on a training programme for informal carers as there are many persons who are already looking after their elders at home.

11. **Medical Visit**

Domiciliary monthly medical visit are provided to those who are aged 90 years and above and bedridden persons aged 75 years and above.

12. **Recreation Centres**

The Ministry operates two hotel-type recreation centres for the elderly in the East and West of the country. The elderly enjoys a two-night stay on full board at a highly subsidized rate of Rs 250. These centres can cater for 22,000 residents yearly.

The Ministry has embarked on the setting up of a third Recreation Centre in the North at Pointe aux Piments for 12,000 additional residents.

A fourth Recreation Centre will be constructed in the South at Riambel.

The Ministry has procured two coaches which are attached to the two Recreation Centres. "Senior Citizens Tours" are being organized for the senior citizens during their stay at these two Centres to visit historical as well as other sites of interest throughout the island.
13. **Computer Clubs**

With a view to promote IT literacy programme among the elderly and to enable them to communicate through new technology, the Ministry, with the collaboration of the National Computer Board and Mauritius Telecom, have set up computer clubs in all 20 Elderly Day Care Centres.

14. **Get Together Programme**

Since 2010, a Get Together Programme is organized regularly for 625 elderly persons living alone and in receipt of Social Aid to pay rent, to enable them to socialize around a meal.

15. **Observatory on Ageing**

The Ministry has launched the Observatory on Ageing to carry out research on the socio economic impact on ageing with a view to better assist in the policy making process of this Ministry and other Ministries. Half yearly Reports will be issued to relevant Ministries and organisations for policy making purposes.

16. **Legal Counselling Programme for Elderly**

Following the proclamation of the Elderly Person’s Protection Act 2005, it has been noted our elders are subject to abuse by members of family and relatives particularly when they own properties. Hence, in November 2012, the Ministry started a Legal Counselling Programme on Property Rights for Senior citizens. The talks are being dispensed by a Barrister at Law as Resource Person.