

Interim Report

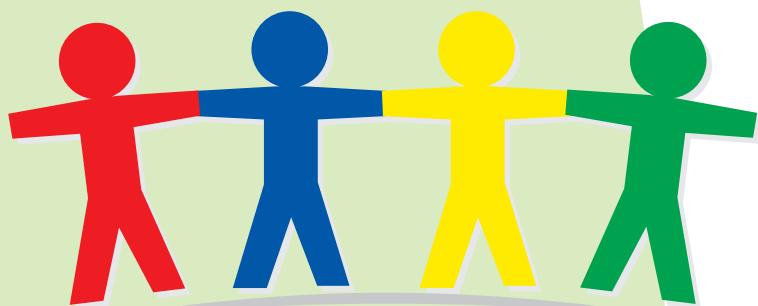
May-October

2012



One people One nation

EQUAL OPPORTUNITIES COMMISSION



One people One nation

Interim Report

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2012

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Equal Opportunities Commission Interim Report 2012

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Contents

Message from the Chairperson	1
Highlights of 2012	4
About the Commission	5
Complaints and Enquiries	10
Analysis	18
Relevant Case Studies	24
Strategic Plan	28
Recommendations	34
Photo Gallery 2012	36
Appendices	38



Message from the Chairperson

Que dit ta conscience? – ‘Tu dois devenir celui que tu es.’

These words from Friedrich Nietzsche should in a true democratic society never be confined to social wishful thinking and bottled up in mere political myth.

In their quest at fulfilling the dream of becoming who they legitimately aspired at becoming, too many have unfortunately stumbled either at the starting gates of life or on the professional and social hurdles of a society where unfairness of treatment was not just a perception in the minds of the most pessimistic amongst us.

The fair go principle which is to ensure that all the hurdles must be of the same height in each and every lane has not always been reality. On the eve of our country's Independence, it was rightly said that full independence will be achieved only when the eradication of discrimination will be fully achieved.



Words do not always crystallize into living principles especially when the constraints and exigencies of a new era are far from the realities of today and the needs of tomorrow.

The Equal Opportunities Act (hereinafter referred to as “the Law”) is an instrument designed at making a good society at becoming a better one: ensuring that every citizen of our country can legitimately aspire at achieving a professional and social integration based on his or her talent, competence and desire to work. Such integration can only transcend into reality if the principles of equal opportunity are integrated in the people's mindsets.

The Law symbolizes a vision for a better and happier Mauritius where every individual can achieve his or her potential and treat each other with dignity and respect. It is intended to have a significant impact on society at large and be a powerful contribution to individual lives, their families, the economy of the country and synergize good relations between people of different socio-economic backgrounds.

When the Equal Opportunities Bill was before Parliament, those who piloted the project made a very strong plea of the vital need for reducing discrimination in every aspect of life at this juncture in our history. It was said, that this piece of legislation will make a powerful contribution to nation-building after over 40 years of Independence and continue to make progress towards a society with fairness, dignity and respect for all, especially good relations between persons of different backgrounds in a multi cultural setting like ours. It was the intention of the legislator that this legislation further transforms our society. The Prime Minister said that it will bring significant, systematic, sustainable change across the nation and in all settings. The Leader of the Opposition concurred with the views of the Prime Minister particularly on the need to have a corporate body separate from the Human Rights Commission and to be a focused organisation on discrimination. This was a milestone event in as much as the desire to integrate the principles of equal opportunity transcended party politics.

Our findings show that the impact of discrimination whether direct or indirect can be very severe. Those who take decisions and those affected by them should know the consequences of such decisions. Some groups, especially from vulnerable quarters are particularly at risk and face potential dangers to be discriminated and

appropriate safety nets will be designed and put in place. The most vulnerable of the socio-economic spectrum can face greater danger from discrimination as their sense of power and voice is often undermined.

We are of the view that the Equal Opportunities Commission (hereinafter referred to as “the Commission”) provides a sanctuary where the voice of the aggrieved can be heard. Their quest takes the form of seeking trusted people who can provide the support necessary to fulfill their needs and to heal their hearts. We have observed that in several instances, aggrieved persons are happy to meet the Commission and to open out their hearts and go back home with a sense of happiness in their hearts. Some have said that the Commission is the last resort for them and they are confident to have an answer to their respective problems. Others have openly said at hearings that the Commission is a trusted organisation and the only one that can bring a solution to their problems. We hope that the goal of government should be to build stronger communities, not bigger bureaucracies in order to provide services that are more responsive to individual needs. We must help to build a stronger community, with its federations of support from the public as well as the private sector. This is the responsibility of many institutions and government is one of them.

The Law specifically aims at developing and applying strategies to reconcile the victims of discrimination and the discriminator. The activities of the Commission within the last six months of operation are illustrated in the present Interim Report. It overwhelmingly demonstrates that discrimination is widely spread across different socio-economic groups. It is emerging that as we pursue further action to reconcile parties and heal the hearts of aggrieved persons; stronger data is required to gauge the extent of the problem. Thus it is imperative to conduct further research to push the frontiers of knowledge and to be in the presence of strong data for pursuing further action. In this context during our sensitization programmes, the University of Mauritius and the Open University amongst others have expressed their wish to provide the necessary base line studies and research as a support to the activities of the Commission. The availability of strong data based on research is critical as it provides a vital benchmark for decision-makers.

A code of ethics with appropriate guidelines will be designed and developed with the collaboration of different stakeholders. An effective monitoring performance indicator will be put in place to ensure an effective implementation of the code. A continuous training programme will be developed to set up core groups for monitoring the activities of both private and public organisations. The Commission is thus imagining better futures for all the citizens of our country. The strategy is to equalize life chances for all and develop a powerful platform for resolving discrimination and work towards the creation of a change of the mindset.

Self determination is the ability to exert control over the most important aspects of one’s life especially personal identity which has become the source of meaning and purpose in life no longer dictated by blood lines and tradition. Personal freedom also implies that the community is important and that the individual will act with a high moral purpose and social responsibility, which are important matters addressed by the Commission.

More resources will be required by the Commission to extend and perform our activities with greater efficiency and effectiveness. We are determined and well-intentioned but we will succeed only if we have the required manpower and other resources. We are grateful to the Minister of Finance for supporting and providing the necessary financial support to the Commission.

Further, traditional approaches to achieving change by top-down mandate and support from political leadership may be helpful, if not necessary, but outcomes will fall short of expectations if there is exclusive reliance on these arrangements. Networks are an emerging feature of the landscape.

The Commission has conducted sensitization campaigns and workshops at primary and secondary schools, at university level, with youth, women's associations, unions, workers' organizations, employers, human resources managers, labour inspectors and NGOs. The interaction with these institutions overwhelmingly demonstrates that the Commission alone will not succeed in meeting its objectives but by working together with all these institutions. This will provide a wider range of opportunities for sharing resources and supporting effective learning networks in order to build the capacity to continue to develop and improve the quality of our services. We should not be complacent but learn from other countries like UK, Australia, USA, Canada and Scandinavian countries which might be some 20 years ahead of us. These countries have been able to conceptualize the issues related to discrimination in a more integrated holistic fashion within rapidly changing environments.

We shall not shift the burden on others but continue to develop partnership with others as a strategy for greater sustainability. This is a new approach that challenges individuals and other stakeholders to step up and play a critical role. We have to mobilize our partners. We are doing what we are saying- there are no empty promises; and this will be reflected in this Interim Report which is our showcase. We shall develop a community action network model to assist transformation of society through networking, collaboration and innovation. We need to identify emerging problems, seek strategies to solve them, create space for dialogue and test innovative solutions. The aim is to build stronger communities and not bigger bureaucracies.

Emile Chartier also known as Alain once wrote:

'Le pessimisme est d'humeur; l'optimisme est de volonté.'

We are alive to the fact that we live in a world of pessimism. We are often skeptical about real changes. It is however not a reason for shutting ourselves to the prospect of giving ourselves the opportunity of having greater opportunities. 'Donner la chance a la Chance' should not only be our rhetoric but the foundation of a new society eager to look at the future with eyes of hope. This new approach is nonetheless tributary to three strong wills:

- The Institutional Will;
- The Popular Will; and
- The Political Will.

The order in which we structured the above 3 points is not fortuitous. We believe that the Commission's most important mission is to create a sense of awareness in the public so that citizens of our country understand the tools which have been put in their hands with the coming into force of the Law. Once the people of our country become aware of their rights under the Law and the meaningful impact it can have on their lives, the Popular Will shall see to it that the principles of equal opportunities do not die of a natural death. In such a case scenario, the Political Will shall invariably follow suit.

The choice is therefore ours.



Brian N J GLOVER
Chairperson

Highlights of 2012 – May To October

Equal Opportunities Act 2008

The Equal Opportunities Act of 2008 (as amended) came into force with effect from 01 January 2012. The Equal Opportunities Act (hereinafter referred to as “the Act”) strengthens safeguards against discrimination on the basis of a person’s status by establishing 12 definitions of status. It also provides for protection against sexual harassment and victimisation. The Act also establishes the Equal Opportunities Commission and the Equal Opportunities Tribunal.

Equal Opportunities Commission

The Equal Opportunities Commission was sworn in before the Ag. President of the Republic on 24 April 2012. The 1st Floor of Belmont House at Port Louis is the office of the Commission. The Chairperson of the Commission is Mr Brian N. J. Glover and the three other members are Mrs Danisha Sornum, Dr Rajesh Bhowon and Mr Shameer Mohuddy .

The logo of the Equal Opportunities Commission

In order to further symbolise the autonomous and independent nature of the Equal Opportunities Commission, the latter caused its own logo to be designed. The logo shows the “equal to” sign with a “green tick” upon it. The logo “equal opportunity for all” is translated in English, French, Creole, Hindi, Tamil, Telegu, Urdu, Marathi, Arabic and Mandarin.

Equal Opportunities Commission Website

The Website of the Equal Opportunities Commission (www.eoc.gov.mu) was launched by the Hon. Prime Minister on 31 May 2012. The website enables, *inter alia*, online submission of complaints and a link to the Commission’s Facebook page. The Act can also be downloaded from it.

Equal Opportunities Commission in Rodrigues

A branch of the Equal Opportunities Commission was set up in Rodrigues on 08 August 2012. The Rodrigues branch enables persons residing in Rodrigues to lodge complaints on site and which are then transferred to the Commission in Mauritius.

Equal Opportunities Day

At a Press Conference held on 26 September 2012, the Equal Opportunities Commission announced that an Equal Opportunities Day will be celebrated on the 27 September of each calendar year. The whole symbolism of the same was publicly explained.



About the Commission

Our Law: The Equal Opportunities Act 2008

The Equal Opportunities Commission (hereinafter referred to as “the Commission”) is an independent and distinct statutory body which reports directly to the President of the Republic.

The Equal Opportunities Act 2008 (hereinafter referred to as “the Act”) prohibits discrimination, directly or indirectly, on the basis of any one or more of the following 12 characteristics of the complainant namely:

1. Age;
2. Caste;
3. Colour;
4. Creed;
5. Ethnic origin;
6. Impairment;
7. Marital status;
8. Place of origin;
9. Political opinion;
10. Race;
11. Sex; and
12. Sexual orientation.

In addition, the Act caters for Sexual Harassment and also Victimization. The latter is however confined to less favourable treatment following a person’s involvement with the Commission as more fully described in the Act.

All complaints lodged with the Commission must comply with the following procedural requirements:

- (a) The complaint has to be lodged within 12 months of the date of the alleged act of discrimination. The Commission may extend this delay only if there is good cause shown to it by the complainant.
- (b) If the complainant is unable to lodge the complaint personally due to some impairment, he/she may authorise another person to act on his/her behalf.
- (c) The complainant must furnish the Commission with supporting documents and relevant information as may be necessary for the proper and effective processing of the complaint.
- (d) All complaints must be signed by the complainant, save and except where the complaint is submitted online.
- (e) All pages of the complaint must be numbered and all additional pages other than the complaint form provided by the Commission (hereinafter referred to as “the Complaint Form”) must be signed at the bottom and submitted together with the Complaint Form.

It is apposite to note that there is an obligation in the Act for the complainant to act in good faith and to come to the Commission with clean hands. Although the inclusion of the good faith obligation may be regarded as a deterrent, it is however considered as a significant safeguard for the protection of the alleged discriminators against unfounded, frivolous and vexatious complaints.

Role of the Commission

As per the provisions of the Act, the Commission has been assigned the following duties:

- (a) To work towards the elimination of discrimination, and the promotion of equality of opportunity and good relations between persons of different status;
- (b) To keep under review the working of the Act and any relevant law and submit to the Attorney-General proposals for amending them, if required;
- (c) Following a complaint or of its own motion to carry out an investigation;
- (d) To attempt to reconcile the parties to whom and against whom a complaint relates;
- (e) To conduct and foster research and educational and other programmes for the purpose of eliminating discrimination and promoting equality of opportunity and good relations between persons of different status;
- (f) To prepare appropriate guidelines and codes for the avoidance of discrimination and take all necessary measures to ensure that the guidelines and codes are brought to the attention of employers and the public at large;
- (g) To take such measures as it considers necessary to ensure compliance with the duties imposed on any person under the Act;
- (h) On completion of an investigation which reveals that an offence has been committed under this Act or a relevant law, to refer the matter to the Director of Public Prosecutions;
- (i) To refer any matter to the Equal Opportunities Tribunal for non-compliance with the Act; and
- (j) To apply to the Equal Opportunities Tribunal for an interim order under section 35(1)(b) of the Act.

Our Goals

The Commission is built on the values of equality, proficiency and integrity.

Our motto is: **“One people, one nation”**

Our Vision

Ensure a Mauritius where individuals of any background enjoy equal opportunities and where there is no discrimination either on the ground of status or by victimisation, thus creating a society free from prejudices.

Our Mission

The overall mission of the Commission is to:

1. promote equal opportunity between persons;
2. prohibit discrimination on the ground of status and by victimisation;
3. promote good relations between persons of different status.
4. use sensitization campaigns and ensure extensive media coverage to inform the public about the principles of equal opportunity through an array of activities.
5. handle complaints and provide complainants/victims of discrimination with an effective remedy.

Our Strategies

- Promoting education to raise awareness and achieve a gradual change in the mindsets
- Strengthening communication with the public and community organisations to promote participation
- Building corporate partnership to encourage equal opportunity practices and prevention of discrimination
- Conducting research to guide our goals and better implement our strategies.
- Securing and implementing an effective legislative and regulatory framework for equality and human rights.
- Creating a fairer Mauritius, with equal life chances and access to services, facilities and opportunities for all.
- Building a society without prejudice, promote good relations and foster a vibrant equality and human rights culture.
- Promoting understanding and awareness of rights and duties, and deliver timely and accurate advice and guidance to individuals and corporate entities.
- Building an authoritative and responsive organisation.

Our Services

Commission services include:

- (a) A friendly and accessible enquiry service available by telephone, email or through the website;
- (b) Complaints handled with utmost confidentiality;
- (c) A free, fair and timely investigation and hearing process leading to conciliation;
- (d) Online availability of resources and information on the Act; and
- (e) A training and education service for Public, Private Organisation and the public at large on the good practices and the Equal Opportunities principles.

Organisational Structure of the Commission

The Commission comprises of a Chairperson with 3 Members nominated by the President of the Republic. The Chairperson is Mr Brian N. J. Glover and the 3 Members are Mrs Danisha Sornum, Dr Rajesh Bhowon, and Mr Shameer Mohuddy.

The Secretary of the Commission Mrs B. Rajahbalee-Cader, is responsible for the day to day running of the administration of the Commission. The Secretary is helped by Senior Officers and Officers of the Commission.

Due to its recent establishment, the task of acquiring capable staff to fill vacant positions is on-going. At first there were a mere 8 people. Heading by example, the Commission has made it a point not to recruit necessarily from the public sector. The Commission has recently recruited 3 persons and more positions need to be filled. The filling of vacancies would enable the Commission to have 4 distinct departments:

Administrative and Finance Unit

The department, which already exists, needs to be strengthened. It will ensure the proper Administrative and Finance Support of the whole Commission. The department is headed by the Secretary of the Commission and will include the monitoring of the finance and procurement issues.

Complaints and Investigation Unit

This department as the name suggests, will be solely responsible for investigations and for the gathering of evidence and for ascertaining whether complaints lodged are well founded. Investigators will be working under the aegis of the Commission and will be wholly accountable to the Commission.

Education and Training Unit

The Education and Training Department will ensure the proper and effective dissemination of information to the public at large including, but not limited to corporate bodies. Sensitization campaigns would be monitored and organized in that respect.

Research and Communication Unit

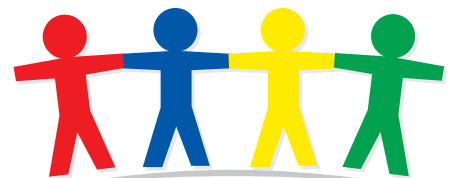
The Research and Communication Department would be responsible for conducting research and surveys in critical fields and the population in general. The department would also ensure all media coverage and press releases of the Commission.

Our Autonomous Nature

As previously indicated, the Commission is a distinct, autonomous and independent corporate body established under the Act. Its reporting obligation is only towards the President of the Republic thereby ensuring that total independence, autonomy and transparency are the very tenets of an efficiency-based institution delivering results.

It is apposite to note that initially, the Commission was intended to be a mere division of the Human Rights Commission (HRC) but during the Parliamentary debate on the Equal Opportunities Bill, it was rightly pointed by the Leader of the Opposition, the Hon. Paul Raymond Bérenger, that it should be a separate stand alone body to give it the required autonomy and independence hence advocating the establishment of the Commission as a full-fledged autonomous institution rather than a mere division of the HRC. The Parliament was eventually conquered by this proposal. In truth and in fact, the decision has been paying dividends as evidenced by the statistics, the overwhelming number of complaints received by the Commission since its inception and more especially by the public's response to the work of the Commission and its campaign of public awareness.

Complaints and Enquiries

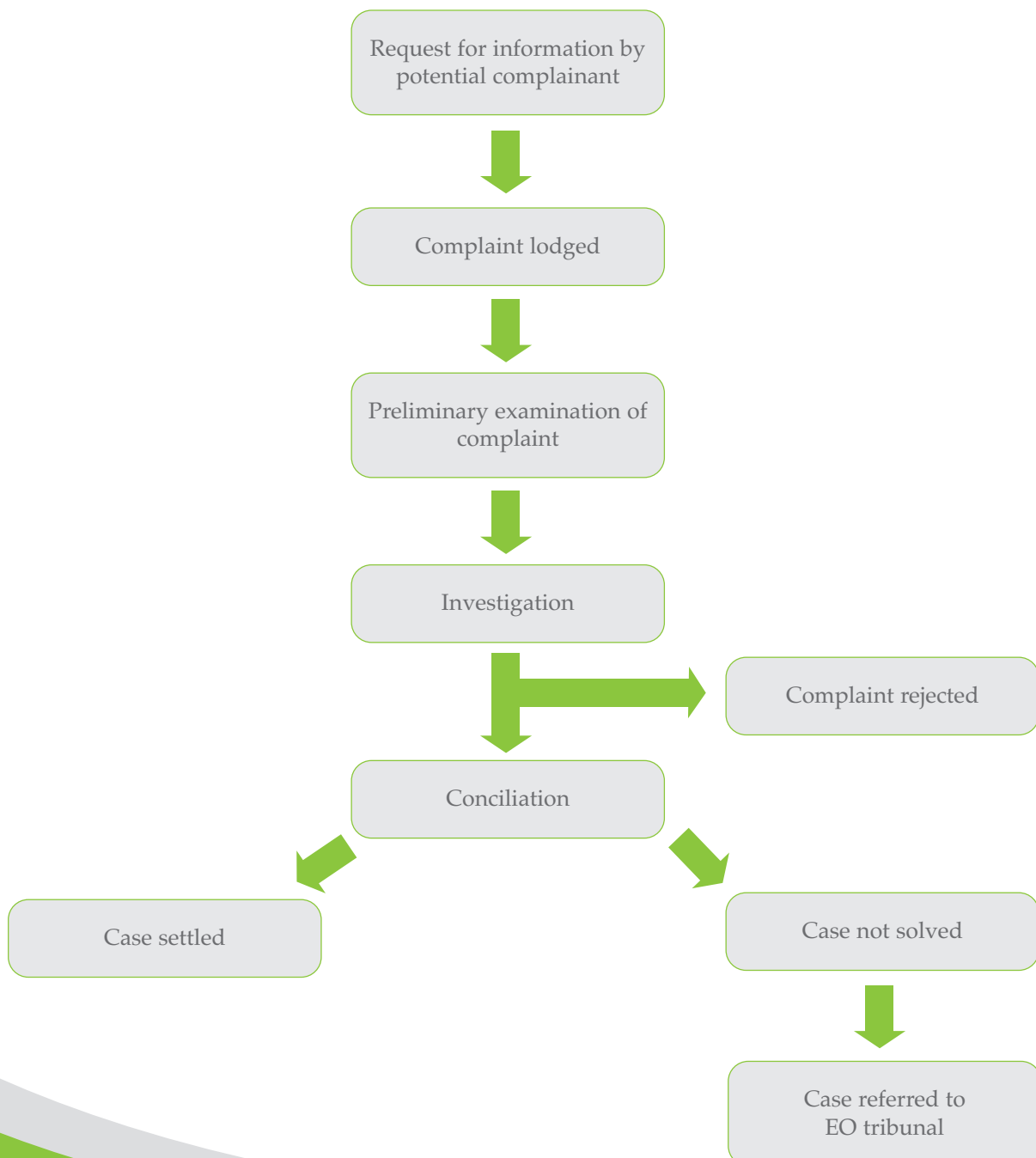


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Complaints and Enquiries

The Commission is mandated by law to use its powers to address individual, group and anonymous cases of discrimination. Through investigation and research, the Commission identifies and aims to solve alleged issues of discrimination.

The Commission has established a simple yet very powerful means of addressing the cases via a very user friendly “Complaint Form”. A copy of the said Complaint Form is set out in Appendix I. The Complaint Form is then examined and investigated upon by the members of Commission. Below is a structural outline of the process whereby complaints are handled:



As per the diagram above, the user-friendly procedure starts with requests from potential complainants. The staff of the Commission helps the public in understanding the principles of the Act and the procedural aspects thereof. After this, a complaint is lodged more often than not. A preliminary examination of the complaint is carried out. It is apposite to note that even if *ex facie* a complaint, it would appear that there is no sufficient evidence to find that a complaint is well-founded, the Commission does not reject the case. The complainant is given the opportunity to provide the Commission with further evidence or is required to particularise the status upon which he/she feels discriminated. The same procedure is adopted when *ex facie* a complaint, the latter appears to be time barred. The Commission invites the complainant to show good cause for the time-line to be extended. Albeit increasing the workload and being heavily time consuming, such a process is systematically adopted as it is believed that the Commission has a social mission to achieve, thereby being ever-responsive to public demand.

Following a preliminary examination of a complaint, if the Commission is of the view that there is sufficient meat on the bone, it conducts an investigation. After a full-fledged investigation, a complaint may still be rejected if, after gathering all the evidence, including but not limited to the hearing of the alleged discriminator, the Commission finds that the complaint is not well-founded. Be that as it may, the Commission strives at fulfilling its conciliatory mandate at all times. The promotion of good relations between persons of different status being of paramount importance in a diverse society, the Commission encourages parties down the path of conciliation.

In a conciliation process, if both parties are agreeable then the case is solved via a written agreement. If however both parties have not come to terms, then a report is prepared and the case is referred to the Equal Opportunities Tribunal with the consent of the complainant. An example of the aforesaid report is set out in Appendix II.

Complaints

The complaints handling and conciliation method adopted by the Commission is very flexible. It allows for a “Healing of Hearts” process which prevents an issue of discrimination being transformed into a beaurocratic, time consuming and costly legal case. Furthermore, a soothed out process of conciliation stands more chance of working effectively towards the promotion of good relations as opposed to an adversarial system which more often than not only seems to breed bitterness, contempt and bad blood between parties.

Since the commencement of its operation shortly after its swearing-in up to 23 October 2012, the Commission has received 352 complaints. 81 hearings were conducted pursuant to these complaints.

Out of these cases, 205 were examined by the Commission and the following decisions and results have been reached:

Figures on Complaints handled by the Commission	Figures	%
Number of complaints lodged as at 23.10.12:	352	
Number of hearings held	78	
Number of complaints examined by the Commission	205	58.23
Number of complaints not under purview of the Act	94	45.85
Number of complaints time barred	24	11.71
Number of complaint withdrawn	4	1.95
Number of complaints under Investigation	55	26.83
Number of complaints which were concluded in “no Evidence”	17	8.29
Number of complaints set aside (No feedback from Complainant)	8	3.9

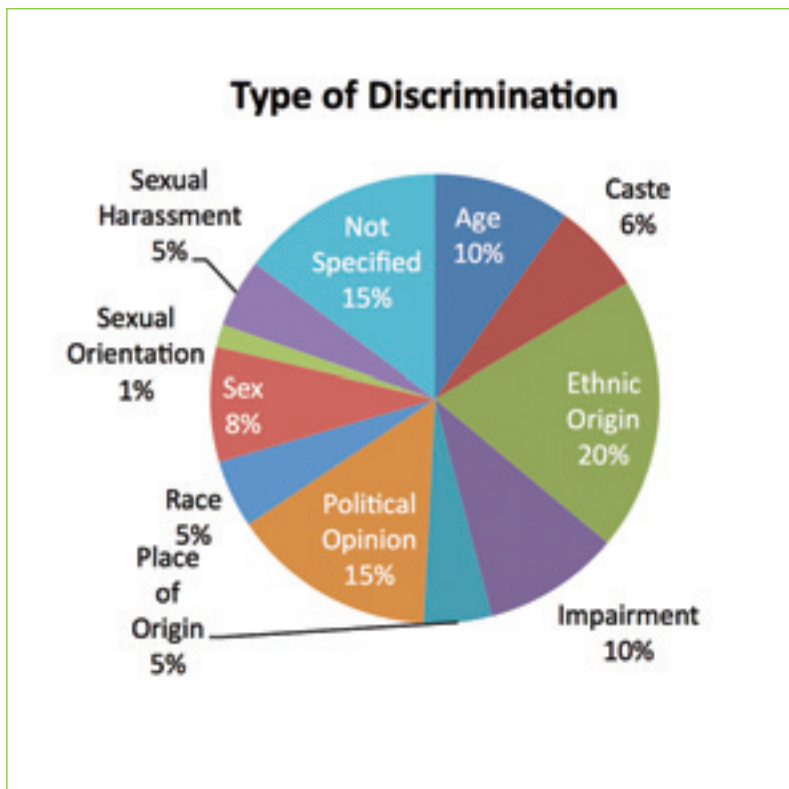
For cases set aside as shown in the above table, the complainants were requested by letter to furnish further information or to particularise their complaints by stating the ground of discrimination within the meaning of status. Having failed to do so despite various reminders, they have been informed that the Commission cannot proceed further in the absence of information. As will be seen further in this interim report, there is only one case for the time being which the Commission may have to refer to the Equal Opportunities Tribunal since no settlement has been reached between the parties despite evidence of discrimination. (Vide Appendix II)

A further point to note is that 8 (3.9%) of the cases were lodged by complainants residing in Rodrigues.

Complaints Categorisation

The complaints lodged with the Commission are essentially based on one of the twelve definitions of status as spelt out in the law. Out of the 205 cases examined by the Commission, the latter has carried out a data compilation for the categorisation of the nature of the said complaints. The categorisation is depicted below:

Type of Discrimination	Number of Cases
Age	6
Caste	4
Colour	None
Creed	None
Ethnic Origin	12
Impairment	6
Marital Status	None
Place of Origin	3
Political Opinion	9
Race	3
Sex	5
Sexual Orientation	1
Sexual Harassment	3
<i>Not Specified</i>	9



As depicted in this graphic representation, the most recurrent types of complaints are those pertaining to the Ethnic Origin of the complainant.

This trend may be explained by the diversity of the Mauritian society.

It is apposite to note however, that in 45.85% of cases, complainants failed to particularise the status on the basis of which he/she has felt discriminated.

This may be explained by the fact that many see the Commission as a last resort option in all cases of discrimination and unfair treatment irrespective of their particular status.

Conciliated cases

The Commission has settled seven cases through conciliation, three of which have already been the subject matter of an agreement between the parties through the conciliation procedure and four other cases are about to be embodied in a settlement agreement. Below is a brief summary of the cases solved:

1. On 15 May 2012, a complaint was brought to the Commission against a hotel in accordance with section 28(1) of the Act. The complainant alleged discrimination on the ground of colour and race. The complainant alleged that posts for which he considered himself to be duly qualified were given through outsourcing to those less qualified because of their race and the colour of their skin. The complainant alleged that white people were systematically favoured. After a close examination, the Commission found the complaint well-founded. The Commission conducted hearings and proceeded with an investigation. In accordance with section 30(1) of the Act, the Commission facilitated the settlement of the matter through conciliation. After much deliberation, despite denying its liability the hotel agreed to make a public tender for the contested post. Instead of automatically renewing the contract of the present post-holder, the hotel agreed to make allowance for equal opportunity by giving consideration to third parties' interests. An agreement was duly executed between the parties on 27 July 2012 to that effect.
2. On 19 July 2012, a complaint was lodged with the Commission against a company, whereby the complainant alleged discrimination based on her impairment. The complainant suffered post-traumatic stress, which falls under impairment, after she was trapped in a fire that broke out on the premises of the company. The complainant was of the view that due to her impairment, her employer treated her less favourably and put undue pressure on her. The Commission examined the complaint and found it well-founded. The Commission conducted hearings and an investigation. The complainant informed the Commission that she wished to resign and that a monetary compensation be paid to her. In accordance with section 30(1) of the Act, the Commission resolved the matter through conciliation. On 31 August 2012, the parties signed an agreement at the Commission's Office, by which the complainant received Rs34,000 and resigned without having to give any notice.

3. *A complaint was brought to the Commission on 22 May 2012 by a worker against her employer. The complainant alleged that she had been discriminated upon on the basis of sex. The complainant alleged that she was demoted to a position with a lower salary (a difference of almost Rs6,500) because she was pregnant. The company claimed that it demoted her as the job she had was demanding, hectic and required long hours of standing, all of which are detrimental to pregnant women. However, evidence laid down before the Commission suggested that the employer was reluctant to have an obviously pregnant woman as the ‘vitrine’ of its enterprise. Evidence further showed that due to the physical change in the complainant as a result of her pregnancy, the employer no longer wanted her to deal as a “hotesse d’accueil”. Instead, the employer wanted her to perform duties “hors de la vue” of the clients. The Commission found the complaint well-founded, conducted hearings and an investigation and finally arranged for a settlement by conciliation. On 20 July 2012, the parties agreed, in writing, on a full and final settlement, whereby the complainant would resign, but receive Rs75,000 by way of ex-gratia payment. It is apposite to note that the said sum is much higher than the sum the complainant may have obtained had she pursued the matter before the Industrial Court of Mauritius; an avenue which was open to her but which she refused to take.*
4. *On 18 June 2012, a complaint was brought to the Commission against a hotel in accordance with section 28(1) of the Act. The complainant again alleged discrimination on the ground of race. The complainant asserted that posts for which he considered himself to be duly qualified were given to those less qualified because of the colour of their skin. It was the contention of the complainant that whenever services were outsourced, white people were favoured to the detriment of black creoles. After close examination, the Commission found the complaint well-founded and conducted hearings and proceeded with an investigation. In accordance with section 30(1) of the Act, the Commission facilitated the settlement of the matter through conciliation. After deliberation, the hotel agreed to make a public tender for the contested post next year, after the expiry of the present contract instead of automatically renewing the contract of the present post-holder. Both parties agreed on the proposal and an agreement is being prepared for signature.*

-
5. *As will be seen further below, a case based on sexual orientation and involving the Blood Donors Association and the Ministry of Health, has already been heard. The alleged discriminators were represented, inter alia, by a State Law Officer who undertook that the wording of the questionnaire submitted to the public before donation of blood will be changed to be in line with the principles of equal opportunities and in compliance with the guidelines voiced out by the Commission. However, prior to an agreement being executed, a preliminary survey will have to be carried out in the public. This case has been the subject matter of extensive research and is more fully detailed at a later stage in this interim report.*
 6. *On 26 June 2012 a Mauritian living abroad lodged a complaint alleging that he had been refused access to a hotel. He averred having been discriminated on inter alia, his place of origin, that is for being a Mauritian. The hotel denied that fact. However, after hearing the parties, the Commission successfully attempted to resolve the matter through conciliation. Without necessarily admitting liability, the hotel nonetheless offered to settle the matter through conciliation. The complainant being presently abroad, the written agreement has not yet been executed.*
 7. *On 03 July 2012 the Commission received an anonymous complaint against a non-profit making school alleging that a particular caste of an ethnic group was being favoured at staff level. It was contended that a particular individual presently performing at acting ship at a significant level had already been promised to be confirmed thereby filling the vacant post in lite. It was suggested that this foregone conclusion was based on the caste of the said individual. The management of the school denied that fact but nonetheless acceded to the request of the Commission whereby they would advertise for the post thereby allowing the consideration of third parties' expressions of interests.*

Analysis



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Analysis

Month to Month Complaints Handling

Month	Number of Complaints lodge
May	93
June	66
July	83
August	58
September	32
October	20
TOTAL	352

Since the start of operation of the Commission, the number of complaints received month to month are depicted in the graphics below. At start the complaints made were very high, but subsequently subsided. This decrease may be explained by the following:

1. The novelty effect has worn out;
2. The proactive sensitisation campaign of the Commission is paying off and the mere presence of the Commission is regarded as a dissuasive element for potential discriminators;
3. Awareness to the equal opportunity concepts and the principles of non-discrimination is increasingly impacting on mindsets; and
4. Cases of discrimination are not rampant due to the extensive coverage and publicity given to the work of the Commission.



Enquiry by the public at the Commission

As shown in the complaints processing chart earlier, the first stage of complaint registration is via an enquiry by the potential complainant at the Commission. After having all the information on the role of the Commission and a thorough discussion with the staff of the Commission, the potential complainant will be in a position to lodge a complaint.

Below are some relevant statistics about enquiries made by the public at the Commission.

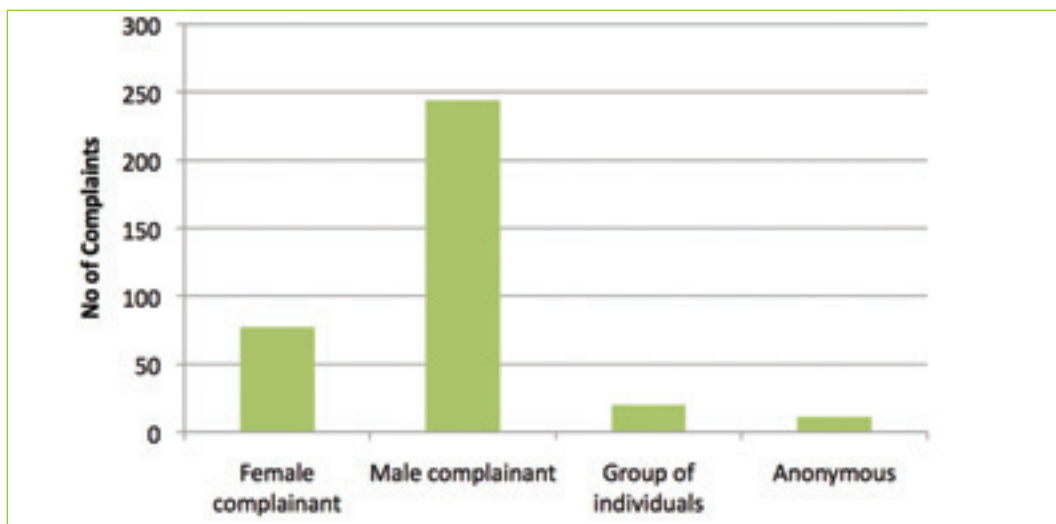
Months	Number of Enquiries
May	75
June	61
July	71
August	27
September	34

Note that the number of enquiries made by the public has been decreasing since May 2012 and this for the reasons already expatiated above.

Gender Categorisation

It is interesting to note that a very large number of complaints have been received by men. The possible reasons are that men feel more discriminated than women or the latter are reluctant to come forward.

Category	Number
Number of female complainants	77
Number of male complainants	244
Number of complaints received from a group of individuals	20
Number of complaint received anonymously	11
TOTAL	352



Public sector and Private sector Comparison

Out of the 352 cases lodged at the Commission, there are 233 cases that are against the Public sector. Here Parastatal bodies have been included in the figures as they are more or less regulated by one parent Ministry.

Cases lodged against public institutions (Including Parastatal Bodies):	233
Cases lodged against private company/individuals:	70
Complainants who have not specified against which institution/ person they were lodging the complaint:	49
TOTAL	352



In 14% of the complaints lodged, the alleged discriminator is not defined clearly.

The analysis of the specificities of the cases from the Private and the Public sector is more precise when two cases of similar discrimination base are compared. Those two cases are still under investigation and briefly summarised below.

1. *An anonymous case was lodged at the Commission by the parents of a primary school in the Plaine Wilhems in July 2012 alleging that a teacher of the school is discriminating pupils in terms of their ethnic origin in class. The Commission opened an investigation in the case and the Head Mistress of the school was asked further information about the case. The Head Mistress and the representative of the Ministry of Education, Zone A were heard by the Commission on 24 August 2012. The representative of the said Ministry stated that there had been no official complaint against the said teacher and that an investigation had been carried out by the*

Inspectors of the Ministry on the matter the day prior to the hearing of the case before the Commission. According to the representative of the Ministry of Education, the investigation carried out by the Ministry revealed no case of discrimination. The Head Mistress stated that the Teacher is well appreciated by the parents of the pupils. The Commission requested a copy of the investigation report from the Ministry and a copy of the file of the Teacher. The Commission is unfortunately still awaiting the information requested despite an official request made on 07 September 2012. The case is still under investigation.

2. A case was lodged at the Commission by an individual alleging that he had been discriminated upon in terms of his ethnic origin in the allocation of a green loan from a commercial bank. The Commission opened an investigation and the complainant was heard. From his averments he stated that the bank favoured 'white' people for the allocation of green loans. Being a contractor/businessman and his product having all the standards required, he felt that because of his ethnic origin, the bank had not accepted to grant him a loan. The alleged discriminator was heard

thereafter and stated that the complainant had submitted an incomplete file and that the case of discrimination did not arise as the bank had granted loans to people of different ethnic groups. In truth and in fact, the majority of green loans had been granted to entities of the same ethnic origin as the complainant. The bank readily gave evidence and was at no time evasive or giving the impression of using delaying tactics. The case was concluded as closed as no prima facie evidence of discrimination was found.

The following points could be noted from a comparison exercise carried out with the two aforesaid cases:

1. The alleged discriminator from the private sector is more cooperative; and
2. The alleged discriminator from the private sector is more prompt in furnishing the required information.

It is apposite to note that amongst the 7 cases conciliated so far at the Commission, 6 are from the private sector. Although private companies are managed by a board of Directors, the conciliation process is more flexible and rapid. A decision can be taken promptly. Quite often, the legal counsel of the company is present at hearings and issues concerning confidentiality and regulation of the company are addressed immediately.

There is a readiness to provide information in most cases pertaining to the private sector. Information requested is rapidly forwarded to the Commission for investigation purposes. In cases dealt involving the public sector, information is not available easily. The case from the primary school mentioned above is a clear example. The accuracy and integrity of such information can be subject to doubt when delaying tactics are being used.

Finally, in cases being conciliated, the private sector tends to go for monetary compensation more often than the public entities. The fact that the board of directors and the administrative procedure of the private sector is less cumbersome than the public sector, the former is more readily agreeable for a monetary compensation in cases of conciliation.

Average Case Settlement Time

It is apposite to note that the 7 cases conciliated at the Commission, have taken an average of 2 months to be settled. A brief study has indicated that from the date the Complainant has lodged his case at the Commission, and the time taken for the conciliation process until the date the agreement document is signed by both parties, on average, a lapse of 2 months has been taken by the Commission for each of the 7 cases.

The obvious conclusion is that the complainant has had a cost free, timely yet conclusive settlement for his/her case along with the elimination of frustration and bad blood.

Educational and Sensitisation Campaigns

In an effort to reach out to the public at large, the Commission has undertaken various sensitisation campaigns around the country. The objective is to motivate and promote equal opportunity principles amongst Mauritians. The concept of “one people, one nation” is the motto that drives the members of the Commission to make the general public aware of the importance of adopting the equal opportunity principles.

The Commission, since its inception, has been to Youth Centres around the island, to Secondary Schools, and to corporate meetings to spread the message.

Below is a tabular representation of the various campaigns undertaken by the Commission since May 2012:

MONTH	SENSITISATION SESSIONS	NUMBER OF PERSONS TARGETTED
MAY	2	100
JUNE	9	430
JULY	8	470
AUGUST	5	210
SEPTEMBER	5	353
OCTOBER	4	302
JULY RODRIGUES	4	148
TOTAL	37	2013

From above, the Commission has made 37 sensitisation campaigns across Mauritius and targeted at least 2013 persons. This would suggest that an average of 5 campaigns have been undertaken monthly by our small team at the Commission, including Rodrigues.

Note that the campaigns are an on going process and the Commission has been requested by various entities such as the Tertiary education sector (via the Ministry of Tertiary Education) and the Mauritius Employees' Federation to make presentations and to carry out workshops.

Appendix III sets out all the details of the sensitisation and educational campaigns carried out by the Commission so far.

As will be seen further, the educational campaign will be extended to other sectors and will eventually take various forms such as debate contests and informative programmes via the media.

Relevant Case Studies



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Relevant Case Studies

1. The Sexual Orientation case

The case involving the Blood Donors Association of Mauritius and the Ministry of Health is one where the complainant alleges that he has been discriminated against on the basis of his sexual orientation. The complainant alleges that when one wishes to donate blood there is a questionnaire one is required to complete, as part of the blood screening process. Part of the questionnaire asks the question whether the prospective donor has been involved in homosexual activities, and if the answer is in the affirmative, the prospective donor is permanently disqualified from donating blood. The complainant alleges that this part of the questionnaire discriminates against homosexuals as a group of persons and also stigmatises them as having 'dirty blood' as compared to heterosexuals. Hence the discrimination.

The Commission carried out an extensive research in this particular case. The Commission found that discrimination on the basis of one's sexual orientation is prohibited under the Act. It found, nevertheless, that the practice of excluding homosexuals from donating blood is prevalent in most countries of the world, especially the developed ones. It observed, however, that other countries, do not exclude homosexuals per se, but exclude only those "men who have had sex with men" (in the past 12 months or any other such period, depending on the policies adopted in the various countries). In truth and in fact, in most developed countries the emphasis was laid on a "certain sexual activity" as opposed to targeting a "certain group of individuals". This is in accordance with the World Health Organisation's guidelines and standards. The Commission accordingly found that the questionnaire used by the Blood Donors Association for blood donation in Mauritius discriminates against homosexuals in Mauritius. Before making its recommendations, the Commission noted the following points:

- That homosexuality, although implicitly recognised in other enactments, remains proscribed under the criminal laws of Mauritius;
- That sexual orientation is not recognised under the Constitution as a prohibited ground of discrimination, whereas the Equal Opportunities Act does;
- That the case raises a serious constitutional question and that the Commission not being a Court of law, lacks powers to give new interpretations to the Constitution.

The matter was to a greater extent resolved through conciliation as the alleged discriminator conceded that the wording of the questionnaire violated the Act and that it was not in line with the practice of other countries as well as WHO standards. The alleged discriminator accordingly undertook to make reforms to its policies as well as amending the questionnaire, and also undertook to adopt the Commission's recommendation that, since homosexuality remains a criminal offence, the questionnaire will explicitly give the homosexual donor an explicit assurance that any information furnished therein shall be confidential and shall not be used in any court proceedings.

During the conciliation proceedings, it was also found that not only the question on the questionnaire was discriminatory, but also that the wordings used on the website of the Ministry of Health are also offensive. It is therein mentioned that to be a safe donor one should not be a homosexual. The alleged discriminator undertook before the Commission to remedy this as soon as possible.

As far as the phrasing in the questionnaire is concerned, the Commission is still awaiting the final response of the alleged discriminator who promised to get back to the Commission after some internal deliberations. It was pointed out by the alleged discriminator that there is a technical committee that works on the questionnaire. A pre testing has to be carried out with the public with the new questions that would be inserted in the questionnaire. It is only following this pre testing that it may be concluded whether the new questionnaire is to be validated or not. The Commission is, therefore, awaiting the results of the pretesting and the report from the Ministry.

2. The case to be referred to Tribunal

At this stage, there is only one case which the Commission is considering to refer to the Equal Opportunities Tribunal in accordance with section 33(1) of the Act because the parties have, so far, not been able to reach an agreement. The case concerns a complaint lodged at the Commission on 6 February 2012 against a night club, alleging discrimination on the ground of impairment, as the complainant was denied access to the night club because she was in a wheel chair. The Commission, held several hearings, conducted an investigation and thereafter initiated a conciliation process. However, the Commission's attempt at conciliation has, so far, not been successful, although it has conducted at least 5 meetings with the aim of settling the matter.

The alleged discriminator claims that the complainant was denied access because, in accordance with section 23(2) of the Act, the night club is not designed in a way to render it accessible to persons in a wheelchair. Consequently, the alleged discriminator therefore is not willing to furnish the complainant with the monetary compensation that she demanded. The Commission however found that the arguments canvassed by the alleged discriminator calling in aid section 23(2) of the Act did not hold good water. The question of accessibility is not a valid point in as much as the complainant had managed to reach the door step of the night club when she was denied access. Furthermore, the complainant had on previous occasions enjoyed the use of the premises and so have other persons with other disabilities, as confirmed by the alleged discriminator. The alleged discriminator has also failed to demonstrate that any alteration to the premises would impose unjustifiable hardship on him as required under section 23(2) of the Act.

On 19 September 2012, the Commission, in accordance with section 33(2) of the Act, sent a report relating to the complaint to the parties for them to consider resolving the matter through conciliation within 45 days.

In the report, the Commission drew the attention of the parties to the provisions of section 33(3) of the Act, which provides that where the parties fail to reach an agreement under section 33(2) of the Act, the matter would, with the consent of the complainant, be referred to the Equal Opportunities Tribunal. A copy of the said report is set out in Appendix II. Names have been obliterated for obvious reasons.

3. The Medha Gunpath Case

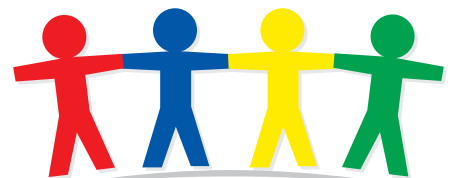
Wide publicity has been given to the case of Mr. Medha Gunpath. And rightly so in as much as it is still a moot point in various quarters whether public officers are protected by the provisions of the Act and whether the Commission can entertain cases from public officers. The Commission has, on Friday 19 October 2012, issued its findings in that case. Although not a determining factor in reaching its findings, the Commission felt it necessary to deal with the constitutional point canvassed by counsel appearing for the alleged discriminator. A copy of the findings of the Commission is set out in Appendix IV. Furthermore, as will be seen below, the Commission will make recommendations to the Attorney General in the aftermath of this case.

4. The Oriental Languages Teachers Case

A complaint was lodged at the Commission on 10 July 2012 by the Government Urdu Teachers Union as represented by Mr Haniff Peerun. The complaint is against the Ministry of Education. It is averred by the complainant that Oriental Languages Teachers are treated less favourably than General Purpose Teachers. As language is not within the definition of 'status' as defined in section 2 of the Act, the complainant has contended that the discrimination is based on age and ethnic origin. The arguments in support of these grounds are that, on the one hand, many Oriental Languages Teachers are most senior to some General Purpose Teachers whilst the latter are apparently treated more favourably and, on the other hand, the vast majority of Oriental Languages Teachers are from specific ethnic groups. The case is presently under consideration at the Commission. The complainant has already been heard whilst the alleged discriminator will be summoned shortly.

This case albeit still under consideration appears to raise significant issues which remain nonetheless very much alive. Its importance is not to be undermined. Hence its inclusion in the present section of case studies.

Strategic Plan



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Strategic Plan

Implementing the Act

The Commission plans to prepare codes and guidelines in identified areas to shed light on responsibilities under the Act and provide practical guidance to concerned bodies on measures and schemes that can help prevent discrimination and ensure equal opportunities. The codes or guidelines would concern employers, public sector bodies, disability, workers, service users and stigmatised groups.

Furthermore, to ensure proper implementation, the Commission intends to have work and review sessions with NGOs, and with other stakeholders.

With the view of propagating information, the Commission has already started distributing pamphlets with relevant basic information that could help people to get acquainted with the mandate of the Commission and the safeguards against discrimination afforded to them under the Act.

Establishing Rules of Procedure

The Commission plans to draw up Rules of Procedure which would further buttress various issues such as the independence and impartiality of the Commission, time limitations between hearings to avoid delaying tactics by parties, and other such matters, with the aim of ensuring an expedient process.

Research

The Commission strives to develop its capacity to promptly and effectively respond to issues of discrimination. One means of achieving this is by strengthening its understanding of matters of equal opportunities and discrimination by conducting surveys and research, especially in the following areas: sexual orientation, disability, employment, equal pay for work of equal value.

The Commission intends to set up a Department of Research and Development to reinforce the Commission's commitment in the area of research.

Raising public awareness

The Commission has been recently established and, as such, not many people knew about it. It therefore became imperative for the Commission to launch publicity programmes and campaigns aimed at sensitising

the public about the work and operations of the Commission. The Commission has staged various sensitisation campaigns around the island where it aimed at educating the public about the Commission and its work.

During the past five months, the Commission has had working sessions with various secondary schools, with women associations, with human resource persons, and with different parastatal as well as private institutions. Such sessions have also been staged in Rodrigues.

With the collaboration of the Prime Minister's Office, the Commission also embarked on a human rights programme targeting youngsters between 16 and 25. In this respect, the Commission carried out working sessions with groups of youngsters in various youth centres around the island during week-ends. The response from the youngsters who participated in this Human Rights Programme has been very positive.

For the year 2013, the Commission has already elaborated a calendar of sensitization programmes that it intends to carry out with the various institutions around the island. This would include the following:

- (a) target group- students and staff of secondary schools (at least one school per week)
- (b) Equal Opportunities Campaign in youth centres- at the rate of 1 per month on Saturdays
- (c) Public sector (ministries, para statal bodies)
- (d) Private sector (private companies, textile factories, call centres, management companies, hotels etc.)

Rodrigues.

Publicity programme

As part of its activities aimed at promoting equal opportunities, the Commission has already participated in various radio and television programmes till date, whereby not only information was disseminated to the public, but also questions and observations were invited from the public. These programmes also involved the participation of other social workers and professionals, who contributed towards constructive debates.

The Commission now intends to do publicity programmes in the form of television advertisements and shows, print media articles, placing posters in public places, exhibitions, press briefings and interviews as well as regularly updating the Commission's website.

The Commission further intends to upgrade its website by making it accessible not only in English but also in French and Creole, as well as providing the Equal Opportunities Act in these two languages. The Commission has negotiated with the US Embassy in Mauritius for sponsorship in this regard.

It is to be noted that as part of its visibility campaign, the Commission held its first press conference on 26 September 2012 and it undertakes to do so at regular intervals so as to keep the public informed of the working at the Commission.

Educational programmes

The Commission also seeks to promote equal opportunities through educational programmes. In this regard the Commission will use strategies such as debates, workshops, pamphlets, competitions, and seminars with various stakeholders such as non-governmental organisations (NGOs), government departments, public and private sector, educational institutions etc.

Community participation

The Commission also endeavours to encourage public participation in the promotion of equal opportunities. It is foreseen that this may be done in the form of providing relevant assistance to community based associations and organisations which seek to promote equal opportunities and eliminate discrimination.

Developing Equal Opportunities guidelines and Codes

The Commission will also develop equal opportunities guidelines and Codes for various sectors which should influence the policies and practices of employers, the business community, public and private sector, particularly towards the promotion of equal opportunity and the elimination of discriminatory practices.

Enquiries

The public may enquire through telephone, letter, in person and by email. Enquiries may be specific or general. Presently a majority of enquiries from the public are telephonically made and the Commission receives an average number of twenty calls per day.

The Commission has strived, so far, to encourage people to come to the Commission with their queries. One important aspect of this is the online submission complaint process that has been made available on the EOC website. The public is also encouraged to send the Commission emails or letters with their queries and suggestions.

Building networks

The Commission shall also establish links and cooperation with various partners both locally and abroad to share experiences, exchange knowledge, develop skills and strengthen its effectiveness in the promotion of equal opportunities. This shall be achieved in the following ways:

1. At the national level

The Commission aims to enter into an agreement with the University of Mauritius to recruit interns during their summer breaks. Such interns shall be paid during their period of internship. They will assist in areas of research through surveys on certain thematic areas which the Commission may consider appropriate

at any given time, with a view to ascertaining the extent of accessibility of opportunities for all in that thematic area and also to inform the Commission on the remedial action that needs to be taken, if any.

The Commission will also establish and strengthen ties with the NGO community which is involved in the promotion of equal opportunities and the elimination of discrimination. This will also assist the Commission in its task to report to the United Nations Human Rights Council once accredited as a National Human Rights Institution, which is addressed below.

2. At the international level

The Commission aims to spread its wings by establishing relationships, partnerships and also sharing knowledge and skills with international actors involved in the promotion of equal opportunities. This shall begin with securing international accreditation as a National Human Rights Institution under the auspices of the International Coordinating Committee (ICC) of National Human Rights Institutions, which is under the United Nations Human Rights Council. In particular, the Commission aims to partner with other Equal Opportunities Commissions from other countries.

In addition to partnering with other EOCs, the Commission will also partner with international universities and enter into programmes to accept human rights students for internships. Presently the Commission has two students serving as interns from the University of Pretoria in South Africa. These students are on an exchange programme between the University of Pretoria and the University of Mauritius under the Master of laws (LLM.) in Human Rights and Democratisation in Africa Programme. The names of the current interns are Mr. Thabiso Caesar Mavuso from Swaziland (formerly practicing with M.H. Mdluli Attorneys, a private law-firm in Swaziland) and Miss Albab Ayalew from Ethiopia (formerly serving with the African Union Commission as a legal intern). They have been involved, *inter alia*, in comparative international human rights research in the Commission, observing proceedings of the Commission, preliminary research on the accreditation process, research on guidelines for various sectors and also in the preparation of this report.

Equal Opportunities Day

The Commission has announced its intention to celebrate The Equal Opportunities Day on the 27 September of every calendar year. In this respect, the Commission will request the Government to officially declare the 27 September as The Equal Opportunities Day.

This date has been chosen by the Commission after a thorough research into the history of Mauritius. It was deemed appropriate since it coincides with the 1943 events whereby four labourers died on the Belle Vue Harel Sugar Estate. The 1943 were a battle for better wages, which reflects the very basis of a society grounded on meritocracy. Meritocracy being at the very core of the concept of equal opportunities, it is considered by the Commission that there can be no better day to create awareness in an on-going effort for a better society.

Amongst the people who lost their lives in the labour strikes was a lady called Anjalay Coopen, who was pregnant at the time. The Commission considers that she stands as a symbol through which the Commission can transmit the essence of the Equal Opportunities Act to the public.

The Commission, therefore, intends to celebrate its first Equal Opportunities Day next year. In this respect, it intends to hold a series of activities, *inter alia*:

1. debate competitions for secondary schools and tertiary level;
2. drawing competition for primary school pupils;
3. sketch, slam and other related activities;
4. sports activities for physically impaired persons;
5. an annual conference with national and international stakeholders.

Recommendations



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Recommendations

Based on the cases treated by it and in the light of the response obtained during its workshops and sensitisation work, the Commission is considering making recommendations to the Honourable Attorney-General pursuant to the provisions of paragraph (b) of subsection (3) of section 27 of the Act.

As already explained above in the present Interim Report, the Commission has noted that in too many cases complainants made frivolous, unfounded and vexatious allegations against both corporate and incorporate entities. It would therefore be just and equitable to amend the Act to include the obligation for complainants to act in good faith when lodging complaints before the Commission against alleged discriminators.

As the Commission can only entertain cases of discrimination based on the status of the complainant, it is advisable to open up the scope of the definition of ‘status’ in section 2 of the Act so as to include some additional definitions. For example, it has often been canvassed in workshops conducted by the Commission that the laws pertaining to equal opportunity and the safeguards against discrimination should also extend to ex-detainees having served very short sentences for minor offences so as to further ensure their proper rehabilitation in professional life and society.

Last but not the least, as we have seen in the case study of the complaint lodged by the Government Urdu Teachers Union, the members of the latter feel discriminated on the basis of the languages they teach. Language not being within the definition of “status” as set out in section 2 of the Act, the complainant has pitched the case on ethnic origin and age although it is apposite to note that many General Purposes Teachers are of the same ethnic origin as many Oriental Languages Teachers. It is a fact that language often triggers a tagging effect thereby causing prejudice. In light of the above, it is worth considering of amending the definition of “status’ accordingly.

Much debate has been prompted following the complaint lodged by Mr Medha Gunpath. Although not relevant for the outcome of the aforesaid case, some constitutional issues have been raised and are worth addressing for the future. Albeit the Commission holds the view that it may, within its conciliatory mandate, entertain cases from public officers and/or the Public Service, the Commission is however of the view that a constitutional hurdle may well appear should the Equal Opportunities Tribunal be called upon to deal with a case involving the Public Service Commission.

The Commission invites views and comments with regard to the above proposed amendments. This should in no way be considered, construed or otherwise interpreted as a fettering of the discretion of the Commission. This approach is however in line with the rule of transparency and conducive to thought provoking debate on issues of public interest.

Photo Gallery 2012



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The Chairperson and Members of the Commission

From left to right: Mr B.N.J Glover (Chairperson), Dr R. Bhowon, Mr S. Mohuddy & Mrs D. Sornum



Launching ceremony of the Equal Opportunities Commission's website by the Prime Minister, Dr the Hon. Navinchandra Ramgoolam on 31 May 2012.



Sensitisation campaign at Hindu Girls College on 02 October 2012



Sensitisation campaign at Rodrigues on 05 July 2012 and Royal College Curepipe on 27 September 2012



Sensitisation campaign at Rabindranath Tagore Institute on 04 October 2012.

Appendices

- I. **Complaint Form**
- II. **Equal Opportunities Commission Report**
- III. **Sensitisation Campaign**
- IV. **Equal Opportunities Commission Findings**
- V. **Agreement of Conciliation**



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EQUAL OPPORTUNITIES COMMISSION
1st Floor, Belmont House, Intendance Street, Port Louis, Mauritius

COMPLAINT FORM

About You

Name (Surname first): (Mr/Mrs/Miss).....

Your Address:

.....

Telephone (Home): (Work):

Mobile:E-mail:

Fax:NIC:

Name of person/s/organisation complained against:

.....

Its/their address:

.....

Telephone:

What is their relationship to you?

What would you like to happen as a result of lodging this complaint?

Further information

Were there any witnesses?

Other institutions. Have you submitted a complaint against the same person/organisation in connection with the same facts? If Yes, please specify the name of the institution and the date of the complaint.

Is there anyone who is helping you with this complaint who you would like us to talk to?
(for example, a community worker, trade union, a lawyer or a friend)

What is their name: _____

What is their role/job? _____

Their address: _____

Telephone: _____

Documents: Please attach copies of any document that may help us with our investigation, such as doctor's certificates, records of conversations, letters or advertisements. If you cannot provide relevant documents please tell us where they are kept and who can get them.

I hereby declare that I am making this complaint in good faith and that the facts contained therein are true and correct.

Signed

Date

Send this complaint form to:

**The Equal Opportunities Commission
1st Floor, Belmont House
Port Louis**

For further information please contact the Equal Opportunities Commission on 201 3502 or on the following e-mail address: eoc@mail.gov.mu

EQUAL OPPORTUNITIES COMMISSION
REPORT

(Pursuant to Section 33(1)(a) of the Equal Opportunities Act)

Re: Complaint of [Name of Complainant] against the [Name of Respondent]

1. On [xxxx], [Name of Complainant] (hereinafter referred to as “the Complainant”) lodged a complaint in writing (hereinafter referred to as “the Complaint”) with the Equal Opportunities Commission (hereinafter referred to as “EOC”) pursuant to the provisions of subsection 1 of Section 28 of the Equal Opportunities Act (hereinafter referred to as “the Act”).
2. The Complaint was directed against the [Name of Respondent] (hereinafter referred to as “the Alleged Discriminator”).
3. The gist of the Complainant’s case against the Alleged Discriminator was that on [xxxx], the Alleged Discriminator refused to the Complainant access to the Alleged Discriminator’s [xxxx] situated at [xxxx] (hereinafter referred to as “the Premises”) on the ground of the Complainant’s [xxxx]. The Complainant is [xxxx] and is in a [xxxx].
4. The EOC examined the Complaint and decided to ask further information from the Complainant.
5. On [xxxx], the EOC held a preliminary hearing of the Complainant in order to seek further information in respect of the Complaint.
6. After an examination of the Complaint and after the preliminary hearing referred to at paragraph 5 above, the EOC decided to conduct an investigation into the Complaint pursuant to the provisions of Section 30 of the Act.
7. By letter dated [xxxx], the EOC informed the Alleged Discriminator about the Complaint and requested the Alleged Discriminator to attend a meeting to be held on

[Date and Time. at the seat of the EOC situated at 1st Floor, Belmont House, Intendance Street, Port Louis.

8. On [xxxx], the Alleged Discriminator attended the aforesaid meeting. After putting the Alleged Discriminator on notice of the Complaint and the details pertaining thereto, the EOC proceeded to hear the Alleged Discriminator.
9. The Complainant alleged that she had suffered moral damage and prejudice following the Alleged Discriminator's [act of discrimination] and informed the EOC that some monetary compensation would settle the matter in lite
10. In line with the provisions of sub-section 1 of Section 32 of the Act, the EOC attempted, in the first place, to resolve the matter in lite by conciliation.
11. In the course of the conciliation proceedings, the EOC held several meetings to wit:
 - 11.1 on [Date] the EOC met with [Name of Complainant/Respondent];
 - 11.2 on [Date] the EOC met with [Name of Complainant/Respondent];
 - 11.3 on [Date] the EOC met with [Name of Complainant/Respondent];
 - 11.4 on [Date] the EOC met with [Name of Complainant/Respondent]; and
 - 11.5 on [Date] the EOC met with [Name of Complainant/Respondent].
12. At the last meeting referred to at paragraph 11.5 above, the Alleged Discriminator unequivocally informed the EOC that he was not prepared to pay any sum of money to the Complainant. The stand of the Alleged Discriminator was based on the following grounds:
 - 12.1 he had not discriminated against the Complainant on [ground of discrimination]; and

- 12.2 [xxxx] thereby explicitly calling in aid the provision of paragraph [xxxx] of Section [xxxx] of the Act.
13. In the light of the contents of paragraph 12 above, the EOC, after completion of its investigation, has come to the unfortunate conclusion that the matter in lite may not be resolved by conciliation.
14. Consequently, pursuant to the provisions of paragraph (a) of subsection 1 of Section 33 of the Act, the EOC is duty bound to prepare and issue the present report.
15. After carefully considering all the evidence before it and after having applied the same to the relevant provisions of the Act, the EOC finds that the grounds invoked by the Alledged Discriminator as particularised at paragraphs 12.1 and 12.2 above may not hold good water in as much as:
- 15.1 it is clear from the evidence on record that the Alledged Discriminator has in truth and in fact [ground of discrimination] on the basis of her [type of discrimination]; and
- 15.2 the provisions of paragraph (a) of subsection 2 of Section 23 of the Act may not be successfully called in aid by the Alledged Discriminator in as much as [ground of discrimination] was never an issue because:
- (a) [xxxx];
- (b) [xxxx];
- (c) [xxxx]; and
- (d) [xxxx].
- (e) [Emphasis added]
16. The Alledged Discriminator has failed to demonstrate that any [xxxx] as required by the provisions of section [xxxx] of the Act.
17. True it is that the Alledged Discriminator has averred that he [act of discrimination]. It is however, apposite to note that Section [xxxx] of the Act deals essentially with the question of [xxxx].
[Emphasis added]
18. For the reasons enunciated above, it is highly recommended that the Complainant and the Alledged Discriminator (hereinafter referred to as “the Parties”) do try a last attempt at resolving this matter by way of conciliation.

19. As provided for in subsection 2 of Section 33 of the Act, any of the Parties to the present matter may, within a period of 45 days of the date of the receipt of the present report, inform the EOC whether the matter may be resolved through a settlement.

20. Last but not least, the EOC wishes to draw the attention of the Parties to the inescapable and mandatory nature of the provisions of subsection 3 of Section 33 of the Act which reads as follows:

“Where the Commission has been informed under subsection (2) that the complaint remains unresolved, it shall, with the consent of the complainant, refer the complaint to the Tribunal forthwith”

21. The present report is issued only as at the date hereof and the EOC assumes no obligation to update or supplement this report to reflect any facts or circumstances which are not comprised within the evidence laid down before the EOC as at the date thereof.

22. This report including the recommendations contained therein is solely addressed to the Parties, and as such may not be relied upon by any other person way unless the EOC decides otherwise.

Made and issued in three (3) originals on this [date] at Belmont House, Intendance Street, Port-Louis, Mauritius.

.....
Mr Brian N.J. GLOVER
Chairperson

.....
Dr Rajayswur BHOWON
Member

.....
Mr Shameer MOHUDDY
Member

.....
Mrs Danisha SORNUM
Member

Sensitisation Campaign

<u>Schools</u>					
Date	Name of School	Number of audience targeted (Approx.)	Targeted Group	Resource Person	Observations
13.Jun.12	BPS (Form V)	70	Students	Conducted by Mr B. Glover	Concerns expressed about recruitment of minorities in public sector and favourable treatment to a particular ethnic group in the private sector.
26.Jun.12	S. Ramudhin Govt School	90	Parents	Conducted by Dr R. Bhowon	-
16.Jul.12	BPS College (Form IV & V)	80	Students & Staff	Conducted by Mr B. Glover	No significant questions raised.
26.Sept.12	Sir Bartholomew's College, Port Louis	80	Students & Staff	Conducted by Mr B. Glover	No significant questions raised.
27.Sept.12	Royal College, Curepipe	100	Students & Staff	Conducted by Mr B. Glover	Overwhelming interest in the Equal Opportunity principles and their impact on a better society
28.Sept.12	MGSS, Moka	50	Teachers & Support Staff	Conducted by Mr B. Glover assisted by Dr R. Bhowon, Mrs D. Sornum & Mr S. Mohuddy	Concerns expressed about the political will in pursuing the work of the EOC. Also, questions asked about the admission of married female students in schools under religious rites
02.Oct.12	Hindu Girls, Curepipe	85	Students	Conducted by Mr B. Glover	Concerns expressed about job opportunities in Mauritius after tertiary studies not necessarily due to discrimination on the basis of status but more with regard to some specific specialized sectors such as psychology and psychiatry.

Schools

Date	Name of School	Number of audience targeted (Approx.)	Targeted Group	Resource Person	Observations
03.Oct.12	Aleemiah College, Phoenix	80	Students & staff	Conducted by Mr B. Glover assisted by the other members	Concerns expressed about access to education for impaired student.
04.Oct.12	R. Tagore Institute, Ilot	45	Staff	Conducted by Mr B. Glover assisted by the other members	Questions with regard to whether conflict between equal opportunities principles and non-discrimination laws as opposed to the Performance Merit Management System.

Institutions					
Date	Name of Institution	Number of audience targeted (Approx.)	Targeted Group	Resource Person	Observations
01.Jun.12	National Women Council	50	Women	Conducted by Mr B. Glover, assisted by Dr R. Bhowon, Mrs D. Sornum & Mr S. Mohuddy	Concerns about women's rights, political backing and discrimination regarding political opinion.
May.12	MACOSS	50	NGOs	Conducted by Mr B. Glover, assisted by Mrs D. Sornum, Dr R. Bhowon & Mr S. Mohuddy	Suggestions made for provisions to be made in the EO Act for rehabilitation of ex-detainees.
31.May.12	Association Mauricienne Femmes Chefs d'Entreprise	50	Mostly women in business	Debate - Participants The Hon Minister of Gender Equality; Mr B. Glover & Mrs Urmila Boolell	Concerns expressed with regard to the place of women in the law practice and in business.
20.Jun.12	Soft Skills Consultant	25	Human Resources	Workshop by Mr B. Glover	Concerns about Workplace Harassment.
21.Jun.12	Soft Skills Consultant	20	Human Resources	Workshop by Mr B. Glover	Concerns about Workplace Harassment.
22.Jun.12	Government Services Employees Association	60	Representatives of Trade Unions	Conducted by Mr B. Glover, assisted by Mrs D. Sornum & Dr R. Bhowon	Concerns expressed about whether the EOC can entertain cases regarding the PSC.
05.Jul.12	University of Technology	40	Management	Conducted by Mr B.Glover	No significant concerns raised.
13.Jul.12	AHRP's Annual Seminar 2012- Le Meridien Hotel	50	Management & Council	Conducted by Mr B. Glover	Concerns about impact of EO Act on the performance appraisal system at work.
26.Jul.12	Mauritius Bankers Association Ltd	60	Human Resources of banking sector	Conducted by Mr B. Glover	Overall wish to work with the EOC for implementation of equal opportunity policies.

Institutions

Date	Name of Institution	Number of audience targeted (Approx.)	Targeted Group	Resource Person	Observations
30.Jul.12	National Women Council - Bramsthan Social Welfare Centre	40	Women	Conducted by Mrs D. Sornum	Major concern was the issue of caste and its prevalence in villages
01.Aug.12	Central Electricity Board	60	Management & Staff of CEB	Conducted by Mr B. Glover assisted by Mrs D. Sornum	<ul style="list-style-type: none"> i. Implementation of Equal Opportunity at work ii. Harmonisation of different policies iii. If a Minister interfere with the decision of an institution who is answerable following a complaint at the Commission iv. Possibility of having a standard interview feedback sheet in line with Equal Opportunities policies v. Issue of Proof vi. Age discrimination vii. Discrimination on the ground of political opinion.
29.Aug.12	Flacq Women's Centre	70	Students of Basdeo College + Women of the region	Conducted by Mrs D. Sornum	Major concern was relating to political backing, especially for jobs in the public sector.
05.Sept.12	Rotary Club of Port-Louis	50	Mostly Businessmen	Conducted by Mr B. Glover	Concerns as to whether equal opportunities concepts will impact on family owned enterprises. Also questions raised as to the possible exceptions to the general rules against discrimination on the basis of status.
11.Oct.12	Women in Networking	75	Mostly women	Conducted by Mr B. Glover assisted by Mrs D. Sornum	Concerns raised about the overlap of the EOC over other institutions such as HRC and Ombudsman. Also, great interest in the strategies of the EOC to impact on mindsets. Last but not

Institutions

Date	Name of Institution	Number of audience targeted (Approx.)	Targeted Group	Resource Person	Observations
					least, concerns raised about the possibilities of conciliation in public sector.
17.Oct.12	University of Mauritius	125	Students and Staff	Conducted by Mr B. Glover assisted by Dr R. Bhowon, Mr S. Mohuddy and Mrs D. Sornum	Overwhelming response and interest in the Equal Opportunity principles
18.Oct.12	Gender Links	30	Mostly women	Conducted by Mr B. Glover	Launching of the Gender Links Barometer.
26.Oct.12	Ministry of Labour	40	Labour & Industrial Relations Officers	Conducted by Mr B. Glover	Explanations sought with regard to the similarities, if any, between the EO Act and the Employment Rights Act

Youth Centres

Date	Region	Number of audience targeted (Approx.)	Targeted Group	Resource Person	Observations
Jul.12	Pamplemousses	30	Youngsters	Conducted by Mrs D. Sornum	<ul style="list-style-type: none"> i. Discrimination as a culture in Mauritius. ii. Discrimination against student's based on race and colour of skin or creed. iii. How to motivate youngsters to value their history and build a better future for the country?
Jul.12	Helvetia	50	Youngsters	Conducted by Mrs D. Sornum & Mr S. Mohuddy	<ul style="list-style-type: none"> i. Discrimination doing interviews. ii. Discrimination against women. iii. Issue of proof iv. Political opinion at major concern for youngsters. v. Avoiding delaying tactics.
Jul.12	Port Louis (seat of Ministry of Youth & S)	30	Youngsters	Conducted by Dr R. Bhowon	-
07.Jul.12	Bambous	30	Youngsters	Conducted by Mr S. Mohuddy & Dr R. Bhowon	-
07.Jul.12	Chemin Grenier	30	Youngsters	Conducted by Mrs D. Sornum	<p>Equal access to education for one.</p> <p>Is time delay under EO Act reasonable</p>
15.Jul.12	Rose Belle	30	Youngsters	Conducted by Mrs D. Sornum & Mr S. Mohuddy	<ul style="list-style-type: none"> i. What kind of body is the EOC (public, private...) & do we function independently. ii. Can the EOC be sued in court (eg for wrong decisions taken or on an issue of partiality?)

Youth Centres

Date	Region	Number of audience targeted (Approx.)	Targeted Group	Resource Person	Observations
11.Aug.12	Riviere du Rempart	30	Youngsters	Conducted by Mrs D. Sornum	Discrimination in the public sector
11.Aug.12	Flacq	30	Youngsters	Conducted by Dr R. Bhowon	-
12.Aug.12	Rose Hill	30	Youngsters	Conducted by Mrs D. Sornum	<ul style="list-style-type: none"> i. What steps the EOC intends to take to sensitise the public, especially the youth? ii. Is the list of grounds of discrimination under EO Act exhaustive?
01.Sept.12	Floreal	30	Youngsters	Conducted by Mr S. Mohuddy	-

RODRIGUES

Date	Institution	Number of audience targeted (Approx.)	Targeted Group	Resource Person	Observations
02.Jul.12	Session with Employees of the Public Sector	60	Civil Servants	Conducted by Mr B. Glover assisted by Mrs D. Sornum	Concerns expressed about discrimination between Mauritian and Rodriguan (Place of Origin)
03.Jul.12	Session with the Private Sector, including Trade Unions	30	Private Sector and trade unionist	Conducted by Mr B. Glover assisted by Mrs D. Sornum	Concerns expressed about discrimination between Mauritians and Rodriguans (Place of Origin). Also, concerns raised about political backing in Rodrigues.
03.Jul.12	Session with School teachers and Managers of Colleges	20	Teachers and Managers of colleges	Conducted by Mr B. Glover assisted by Mrs D. Sornum	Concerns expressed about discrimination between Mauritians and Rodriguans. (Place of origin)
04.Jul.12	Session with MITD students	55	Average age: 16	Conducted Mrs D. Sornum	Hearing of Rodriguans

FORTHCOMING SESSION

Date	Institution	Number of audience targeted (Approx.)	Targeted Group	Resource Person
26.Oct.12	Open University	30	Board Members & Administrative Staff	To be conducted by Mr B. Glover
30.Oct.12	University of Mascareignes	30	Administrative Staff and Council Members	To be conducted by Mr B. Glover
30.Oct.12	Mauritius Employees Federation	40	HR Managers	To be conducted by Mr B. Glover
31.Oct.12	Fashion & Design Institute	40	Administrative Staff and Council Members	To be conducted by Mr B. Glover
05.Nov.12	Tertiary Education	35	Administrative Staff and Council Members	To be conducted by Mr B. Glover
07.Nov.12	Mauritius Research Council	30	Administrative Staff and Board Members	To be conducted by Mr B. Glover
09.Nov.12	National Children's Council	25	Administrative Staff and Senior Management Staff	To be conducted by Mr B. Glover
09.Nov.12	Rajiv Gandhi Science Centre	30	Administrative Staff and Board Members	To be conducted by Mr B. Glover

EQUAL OPPORTUNITIES COMMISSION

FINDINGS

(Pursuant to Section 31 of the Equal Opportunities Act)

Re: Complaint of Mr Medha GUNPUTH against the Secretary to the Cabinet and Head of the Civil Service.

1. On 04 July 2012, Mr Medha Gunpath, a Principal Assistant Secretary at the Ministry of Education and Human Resources (hereinafter referred to as “the Complainant”) lodged a complaint in writing (hereinafter referred to as “the Complaint”) with the Equal Opportunities Commission (hereinafter referred to as “EOC”) pursuant to the provisions of sub-section 1 of Section 28 of the Equal Opportunities Act (hereinafter referred to as “the Act”).
2. The Complaint was directed against the Secretary to the Cabinet and Head of the Civil Service (hereinafter referred to as “the Alleged Discriminator”).
3. The gist of the Complainant’s case against the Alleged Discriminator was that the Complainant believed that he was not promoted to the post of Permanent Secretary in the exercise carried out on 20 April 2012 on the ground of the Complainant’s political opinion.
4. The Complainant, a Principal Assistant Secretary, was in March 2005 assigned for duty as Secretary at the State House Le Réduit and thereafter assigned for duty as Secretary to the President of the Republic.
5. During his assignment as particularized at paragraph 4 above, the Complainant was drawing remuneration and benefits well above those of a Principal Assistant Secretary.
6. The Complainant’s assignment lasted almost seven years. The aforesaid assignment was of a temporary nature.
7. Shortly after the resignation of the then President of the Republic Sir Anerood Jugnauth, the Complainant was relieved from the aforesaid assignment and posted as Principal Assistant Secretary at the Ministry of Education and Human Resources.

8. After a preliminary examination of the Complaint, the EOC proceeded, on 16 July 2012, to hear the Complainant who albeit pitching his case on an alleged discrimination based on political opinion readily conceded before the EOC that he had no political opinion. Furthermore, no evidence of political tagging of the Complainant by the Alleged Discriminator was established before the EOC.
9. On 25 July 2012, the Alleged Discriminator, accompanied by Counsel from the State Law Office appeared before the EOC. The Complaint and the averments of the Complainant were put to the Alleged Discriminator who strenuously denied the facts averred by the Complainant. The facts in lite pertained to a conversation held between the Complainant and the Alleged Discriminator in the latter's office.
10. On 17 August 2012 the EOC heard the Complainant anew.
11. After the aforesaid hearings, the EOC found that:-
 - 11.1. there was no evidence that the Complainant had a political opinion;
 - 11.2. there was no evidence that the Alleged Discriminator had politically tagged the Complainant; and
 - 11.3. in his position as Secretary at the State House, Le Réduit and subsequently Secretary to the President of the Republic, the Complainant had efficiently discharged his duties to the then President of the Republic, an admittedly apolitical Head of State.
12. At this stage it is apposite to note that:
 - 12.1. a discrimination under the Act must imperatively be based on the status of an aggrieved party;
 - 12.2. "status" under the Act means "*age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation*";
 - 12.3. Section 5(1) of the Act stipulates that a "person ("the discriminator") discriminates against another person ("the aggrieved person") on the ground of the status of the aggrieved person"; and
 - 12.4. Section 5(1)(b) of the Act provides that the person committing the act of discrimination does so by reason of:
 - 12.4.1. the status of the aggrieved person; or

12.4.2 a characteristic that generally appertains or is imputed to persons of the status of the aggrieved person.

[Emphasis added]

13. In the light of the relevant provisions of the Act as particularized above, whenever a person complains of a discrimination based on status, it is clear that that person must satisfy the EOC that either his or her status (in the present case, his political opinion) or the status imputed to persons of his or her status was a substantial reason for the alledged act of discrimination. In the light of paragraphs 8 and 11 above, the Complainant in the present case has failed to successfully discharge that burden of proof.
14. For the reasons set out above, the EOC has found no evidence of discrimination on the ground of the Complainant's status. Consequently, the EOC shall take no further action on the Complaint.
15. Although not a determining factor in reaching the above findings, it is however significant that some constitutional issues be touched upon in the present report in as much as they have been canvassed before the EOC in the present case.
16. At the hearing of the Alledged Discriminator held on 25 July 2012, Counsel appearing for the Alledged Discriminator referred to various provisions of the Constitution in support of the following submissions:
 - 16.1 no authority could subject the Public Service Commission (hereinafter referred to as "PSC") to its control or directive save and except in cases falling within the jurisdiction of either the Public Bodies Appeal Tribunal or the Supreme Court of Mauritius (vide Sections 91A, 118(4) and 119 of the Constitution);
 - 16.2 appointments to the office of Secretary to Cabinet, Financial Secretary and Permanent Secretary can only be made by the PSC in consultation with the Prime Minister (vide Section 89 (4) of the Constitution);
 - 16.3 the appointments referred to at paragraph 16.2 above cannot be subjected to an appeal before the Public Bodies Appeal Tribunal (vide Section 91A (3) of the Constitution); and
 - 16.4 only the Supreme Court of Mauritius could entertain actions against decisions of the PSC taken pursuant to Section 89(4) of the Constitution.

17. We hold the view that the EOC is entitled, within its conciliatory mandate, to entertain cases referred to it by public officers and/or pertaining to the Public Service in as much as it is not subjecting any person or authority to its directive or control. This view is further buttressed by the unequivocal intention of the legislator at the time the relevant law was passed before the National Assembly. Last but not least, “employer” in the Act includes the State.
18. That being said, it would appear that a constitutional hurdle may however come across the Equal Opportunities Tribunal should the latter be called upon to entertain a case under the Act where the respondent is the PSC (vide Section 118 (4) of the Constitution) and where a decision taken pursuant to Section 89(4) of the Constitution is being challenged.
19. The present report is issued only as at the date hereof and the EOC assumes no obligation to update or supplement this report to reflect any facts or circumstances which are not comprised within the evidence laid down before the EOC as at the date thereof.

Made and issued in two (2) originals on this 19th day of October 2012 at Belmont House, Intendance Street, Port-Louis, Mauritius.

.....
Mr Brian N.J. GLOVER
Chairperson

.....
Dr Rajayswur BHOWON
Member

.....
Mr Shameer MOHUDDY
Member

.....
Mrs Danisha SORNUM
Member

AGREEMENT

Before the Equal Opportunities Commission
(Section 32 Equal Opportunities Act)

Between : **[Name of Complainant]**
A citizen of Mauritius holder of NIC NO. [xxxx]

and residing at [Address]

And : **[Name of Respondent]**
A public/private company duly registered and validly
existing under the laws of Mauritius, having its registered
office at [Address] represented by [xxxx]

WHEREAS

- A. **[Name of Complainant]** (hereinafter referred to as “the Complainant”) has on [xxxx] lodged a complaint (hereinafter referred to as “the Complaint) with the Equal Opportunities Commission (hereinafter referred to as “the Commission”) pursuant to the provisions of subsection 1 of section 28 of the Equal Opportunities Act (hereinafter referred to as “the Act”) alledging that he may have been discriminated upon by **[Name of Respondent]** (hereinafter referred to as “[xxxx]”) under the relevant provisions of the Act.
- B. Following an examination of the Complaint and after hearing the Complainant, the Commission decided to conduct an investigation into the Complaint.
- C. The Commission duly notified [Name of Respondent] about the facts set out at paragraph B above and called upon [Name of Respondent] to be and appear before it to, *inter alia*, give evidence in connection with the Complaint.
- D. [Name of Respondent] has denied having committed any breach of the Act, but has nevertheless, in a spirit of good faith and cooperation, agreed to the Commission carrying out a conciliation.
- E. Pursuant to the provisions of subsection 1 of section 30 of the Act, the Commission attempted to resolve the subject matter of the investigation by conciliation.

- F. During the several hearings of the representatives of [Name of Respondent] the Commission duly informed the aforesaid representatives about the facts set out at paragraph D above. [Name of Respondent] has in the course of the said hearings denied having committed any breach of the Act.
- G. The conciliation proceedings continued before the Commission following which [Name of Respondent] made an offer, in view of settling the subject matter of the investigation by conciliation in line with the spirit of the Act and more specifically to show its willingness in being instrumental to the promotion of good relations and making allowance for the principles of equal opportunities.
- H. The offer of [Name of Respondent] reads as follows:-
- [xxxx].
- (hereinafter referred to as “the Offer”).
- I. At a meeting held before the Commission on [date], the Complainant accepted the Offer.
- J. Pursuant to the provisions of subsection 4 of section 32 of the Act, the parties namely the Complainant, on the one hand, and [Name of Respondent] on the other hand, having settled the matter by conciliation, expressed the wish that the settlement be embodied in a written agreement.

THESE FACTS STATED, IT IS HEREBY AGREED AS FOLLOWS

1. The parties, having settled the Complaint by conciliation, hereby most formally and unequivocally agree to have the Complaint settled as per the terms and conditions set out at paragraph H above subject to the provisions set out below at paragraphs 2, 3 and 4.
- (hereinafter referred to as “the Settlement”)
2. The parties further vow and declare that the Settlement is in full and final satisfaction of the Complaint and furthermore that each party does not have any past, present or future claim whatsoever against each other.
 3. The parties further declare that the present agreement shall be registered with the Equal Opportunities Tribunal and that upon registration, this agreement shall be deemed to be an order of the Equal Opportunities Tribunal and binding on the parties.

4. Last but not least, the parties agree and undertake that no appeal shall lie against the Settlement and/or any matter being the subject of this agreement and that non-compliance with the terms and conditions of this agreement shall be construed as being a breach of an order of the Equal Opportunities Tribunal after the registration of the said agreement.

Made in three originals, one for each party and one for the Commission, and in good faith on **[date]** before the Equal Opportunities Commission at its seat situated at 1st Floor, Belmont House, Intendance Street, Port-Louis, Mauritius.

.....
The Complainant

.....
[Name of Respondent]

Witnessed by the Secretary of Equal Opportunities Commission

.....
[xxxx]
Secretary

mem sans pou tou

సమాన అవకాశాలు
samāna avakāśālu

平等机会
ping deng ji hui

சம வாய்ப்புக்கள்
sama vaayppukkal

یکساں مواقع
yaksan mawaqé

समान अवसर
samaana avsar

समान संधी
samāna sandhi

égalité des chances

समान अवसर
samāna avsar

equal opportunities



equal opportunities

समान अवसर
samāna avsar

égalité des chances

समान संधी
samāna sandhi

समान अवसर
samaana avsar

یکساں مواقع
yaksan mawaqé

சம வாய்ப்புக்கள்
sama vaayppukkal

平等机会
ping deng ji hui

సమాన అవకాశాలు
samāna avakāśālu

mem sans pou tou

One people One nation



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