



Report

MAY 2016-MAY 2019

Conciliation,

the catalyst towards building
a fair and equitable nation,
free from discrimination.

Published by the Equal Opportunities Commission, 1st Floor, Belmont House, 10 Intendance Street, Port Louis.

About this Report

This report provides an overview of the role of the Equal Opportunities Commission and its activities for the period May 2016 to May 2019.

Feedback

As the Commission is constantly striving to improve its services, any comment, observation or query relating to the content of this report will be appreciated.

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Disclaimer

The Commission has made every attempt to ensure accuracy and reliability of the information contained in this report. However, changes in circumstances over time may impact the veracity of this information.

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Highlights



Staff dedicated to the anti-discrimination cause



462 complaints investigated



Conciliation successful in 156 cases



Contributed to women empowerment through talks held at women centres



Delivered on-site talks with a total number of 4741 participants



Held sensitisation campaigns at 27 secondary schools to increase engagement with young people

1.0 Message of Chairperson

Preconceived notions foster discrimination, discrimination engenders inequality and inequality gradually gangrenes the individual to finally stall societal progress. Breaking that vicious circle is the very “raison d’être” of the Equal Opportunities Commission. Equal opportunity and fairness being indicators of progress in a modern society, the Commission has tried to be an agent of meaningful change over the years and I feel privileged to have been leading the Commission in its unrelenting battle of trying to bring the desired transformation, for more than three years now.



In our crusade to create a “non-discrimination” culture, we embarked on a review of our complaint form, no more tying the hands of the complainant to specific boxes to be ticked as to the status on which his/her complaint is based at the time of filling the form but rather allowing him/her the freedom of specifying the grounds on which he/she feels discriminated. It is then for the Commission to ultimately decide as to the well-foundedness of the complaint in light of the provisions of the Equal Opportunities Act.

In the same breath, in 2017, we welcomed the legislative amendment to include relevant previous criminal record as a prohibited ground of discrimination.

Conscious of the fact that there are often more common grounds between the parties to a complaint than those meeting the eyes on paper, we believe in giving all of them an opportunity to be heard. Additionally, with a view to being a more impactful influencer on the society and on employers in particular, there is a sustained effort to sensitise them about principles of equality, fairness and transparency. Convinced that a truly pluralistic and inclusive society will not emerge without bridging differences, parties to complaints are led into meaningful dialogues which often culminate into conciliation.

Too often the role of the Human Resources Officer is assimilated to being Management’s spokesperson with the mandate of convincing employees that “might is right”. We, at the Commission, strongly believe that officers of the Human Resources cadre can be the catalysts of the shift towards a pro- equal opportunity culture in their respective organisations. That is why, every single opportunity is availed of to highlight the invaluable independence that Human Resources officers ought to play, as equal-opportunity torch bearers, in their respective organisations.

The work of the Commission over the years has undoubtedly raised public expectations about protecting the rights of persons against discrimination. Sure enough, every now and then we find ourselves engaged in debates about how to further the equal opportunity cause. In so doing, our role continues to evolve. And as we move along, we are convinced that the conversations and strategies we engage in today will prove to be the building blocks of a society, we will all take pride in.

Khalid Tegally
Chairperson
Equal Opportunities Commission

“What has not been examined impartially has not been well examined. Skepticism is therefore the first step towards truth”

Denis Diderot, French philosopher

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
samaan avsar

समान संधी
samāna sandhī

égalité des chances

समान अवसर
samāna avsar

equal opportunities



equal opportunities

समान अवसर
samāna avsar

égalité des chances

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mem sans pou tou

About the EOC

2.0 About the Equal Opportunities Commission

The Equal Opportunities Commission is an independent statutory body set up under the Equal Opportunities Act 2008 (EOA), to administer that Act. The Commission's role is to promote anti-discrimination and equal opportunity principles and policies throughout Mauritius.

2.1 Functions of the Commission

The Equal Opportunities Commission currently performs three main roles:

1. Investigation of discrimination complaints, hearing the parties and attempting to conciliate them.
2. Working to prevent discrimination from occurring by informing people about their rights and responsibilities under the EOA through sensitisation campaigns as well as through preparation of appropriate codes and guidelines; and
3. Keeping under review the working of the EOA and submit to the Attorney-General proposals for amending them, if required.

2.2 Composition of the Commission

The Commission consists of a Chairperson and three other members appointed by the President of the Republic, acting on the advice of the Prime Minister after consultation with the Leader of the Opposition.

2.3 Staff Profile

As at 31 May 2019, the Commission's staff comprised 14 persons amongst whom are the Secretary to the Commission, 2 Investigators who joined in January 2018, an Assistant Manager (Procurement and Supply), an Office Management Executive, 2 Management Support Officers, 1 Word Processing Operator, 2 Confidential Secretaries, 2 Interns under the Service to Mauritius Programme (STM), an Office Auxilliary and a Driver. The Secretary to the Commission is a Deputy Permanent Secretary and exercises powers and administrative functions as the Commission delegates to him. The remaining members of the staff, apart from the Investigators and the STM interns are on secondment from the public service.

2.4 Chairperson and Members of the Commission



Mr. Khalid Tegally

Chairperson

Mr. Khalid Tegally, a retired Senior Magistrate, was appointed Chairperson of the Commission on 2 May 2016. He brings a wealth of experience to the role, having served the judiciary for many years. Mr. Tegally had also been the Chairman of the Tax Appeal Tribunal and President of the Permanent Arbitration Tribunal.



Mr. Rishinand Roy Dookhony, O.S.K

Member

Ex Permanent Secretary and former member of the Public Service Commission



Mr. Gunneswar Shibchurn

Member

Mr. Gunneswar Shibchurn is holder of a BA (Hons) degree in Economics with Management from the Napier University, Edinburgh, UK. He also possesses a PGCE in Business Studies from the MIE. He has a long career as Educator and is also a member of several socio-cultural and religious organisations.

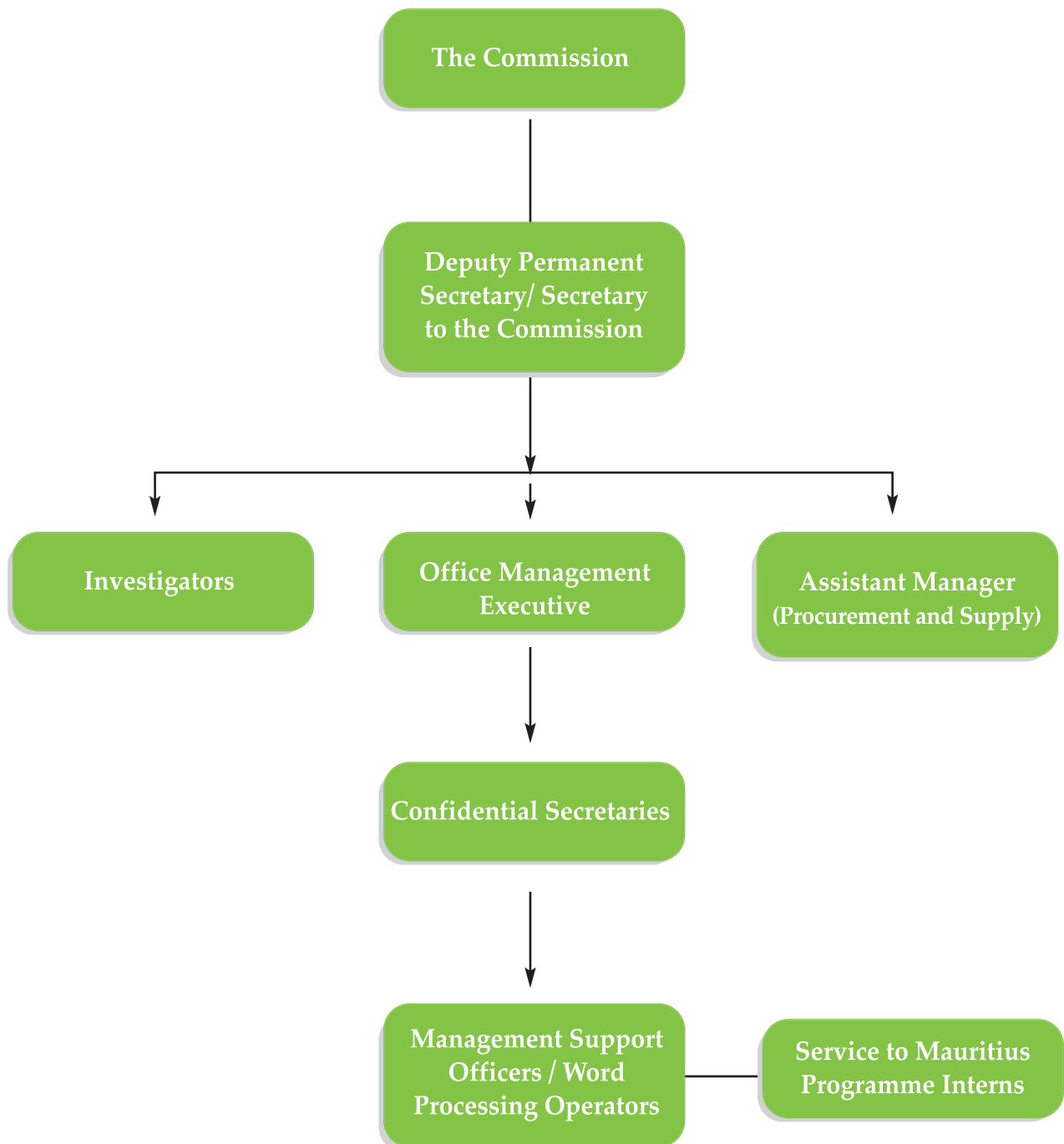


Mr. Louis Richard Toulouse

Member

Attorney at Law and former Clerk of the Rodrigues Regional Assembly

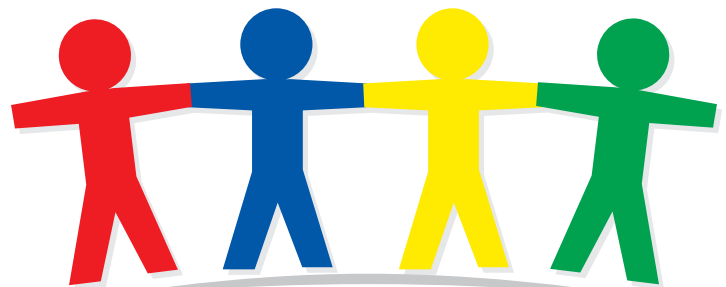
2.5 The Equal Opportunities Commission Organisational Structure



2.6 The Equal Opportunities Commission Team



Mr. Khalid TEGALLY	Chairperson
Mr. Rishinand Roy DOOKHONY, O.S.K	Member
Mr Gunneswar SHIBCHURN	Member
Mr Louis Richard TOULOUSE	Member
Mr. Jayraj PEEROO	DPS/ Secretary to the Commission
Mr. Jagdish SEEGOLAM	Investigator
Mrs. Mirabye NARROO-DAJEE	Investigator
Mrs. Karuna PEM	Assistant Manager (Procurement and Supply)
Mr. Haman K. BHUNJOO	Office Management Executive
Mrs. Rajshree BOODIA	Confidential Secretary
Mrs. Amlavally D. S. SOOBEN	Confidential Secretary
Miss. Bindya RUNGLOLL	Management Support Officer
Mr. Lovish NEWOOR	Management Support Officer
Ms. Ridhima DODLA-BHEMAH	Management Support Officer
Mr. Louis Rodney ARISTIDE	Word Processing Operator
Miss. Reevashinee PARASURAMAN	Service to Mauritius Intern
Mr. Ghirish RAMSAWOCK	Service to Mauritius Intern
Mr. Kailash DEEPCHAND	Office Auxilliary
Mr. Nazim DOMUN	Driver
Mr. Nirouben NIRSIMLOO	Trainee
Mr. Leckrajsing UJODHA	Police Corporal



One people One nation

The “People” Concern

*“To deny people their human rights is
to challenge their very humanity.”*

-Nelson Mandela

Former President of the Republic of South
Africa

3.0 Equal Opportunities Commission-The “People” Concern

“In the end, anti-black, anti-female, and all forms of discrimination are equivalent to the same thing: anti-humanism.”

Shirley Chisholm, first black woman to be elected to the United States Congress

Humanism is what animates us at the Equal Opportunities Commission. Being a Commission, the prime objective of which is to conciliate people. Respect for human interests, values and dignity remain at the core of our actions. Humanism is a choice made daily at the Commission.

Conscious of how discrimination can negatively impact the lives of people, the effort of the Commission lies beyond solving issues only. The desire to ensure that the interest of justice is served permeates the whole process from the time a complaint is lodged, until it is heard, investigated and given an outcome.

Language is no barrier to lodging a complaint with the Commission, as a complainant is free to express his grievance even in creole while filling the complaint form. Bearing in mind that people are creatures, not only of logic but also of emotions with a need to be heard, the Commission as a caring organisation does not set aside any complaint without giving the parties the opportunity to express their grievance or defense, as the case may be, viva voce. Desirous of creating an atmosphere conducive to conciliation, hearings are conducted in an informal manner with a view to encouraging dialogue between the parties. Emphasis is at all times laid on principles of equality, fairness and transparency while at the same time highlighting the crucial independent role that Human Resource Officers have to play in their respective organisations.

In the hope of creating a paradigm shift towards a discrimination-free society, the Commission avails itself of the opportunity of every single hearing to call out to people to get back to what they were originally designed for; being human. At the Commission, we believe that we people, are far more powerful in tearing down walls of injustice when we celebrate our diversity by turning to each other instead turning on each other....

The EOC Team

Anti- discrimination law in Mauritius

*"We don't need more stuff, we need
more humanity."*

-Seth Godin

American author

4.0 Anti-discrimination law in Mauritius

In 2008, the Equal Opportunities Act 2008 (EOA) was adopted by the National Assembly with a view to promoting equal opportunity between persons, prohibiting discrimination on the ground of status and by victimisation as well as establishing an Equal Opportunities Commission and Equal Opportunities Tribunal. The EOA, therefore makes it unlawful to discriminate on certain grounds, in certain circumstances.

4.1 What is discrimination?

4.1.1 Direct discrimination

As per the EOA, direct discrimination occurs where in the same circumstances, the discriminator treats or proposes to treat a person with a particular characteristic (status) less favourably than he treats or would treat another person with a different characteristic. The discriminator is thus deemed to discriminate when he does so because of the particular characteristic (status) of that other person. The characteristic (status) of that other person need not be the only dominant reason for discrimination. That it is a substantial reason would be enough for the offence to be constituted under the EOA.

4.1.2 Indirect discrimination

A person discriminates indirectly against another person where he imposes or proposes to impose a condition, requirement or practice which is not justifiable in the circumstances, on another person and which has the effect of disadvantaging that other person when compared to other persons of the same status.

4.1.3 Discrimination by victimisation

A person discriminates by victimisation against another person where he subjects or threatens to subject that other person to any detriment on the ground that the aggrieved person has made or proposes to make, a complaint against the discriminator or any other person under the EOA.

4.2 Grounds of discrimination

Discrimination based on the following statuses is prohibited under the EOA-

- Age
- Caste
- Colour
- Creed
- Ethnic origin
- Impairment
- Marital Status
- Place of origin
- Political opinion
- Race
- Sex
- Sexual orientation
- Criminal record in relation to employment of persons and persons in employment

4.3 Areas of discrimination

As per the EOA, the aforementioned types of discrimination are unlawful in the following areas-

- Employment activities
- Traineeship
- Professions, trades or occupations
- Education
- Provision of goods, services or facilities
- Accommodation
- Disposal of immovable property
- Companies, partnerships, sociétés or registered associations
- Clubs
- Access to premises
- Sports

4.4 Sexual Harassment

Apart from discrimination, sexual harassment is also prohibited under the EOA. According to section 25 of the Act, a person sexually harasses another person where, he makes an unwelcome sexual advance, or an unwelcome request for a sexual favour to another person or he engages in any other unwelcome conduct of a sexual nature towards another person.

Sexual harassment is constituted where that unwanted behaviour of a sexual nature is made in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the other person would feel humiliated, intimidated or offended.

Acts of sexual harassment may include:

- unwanted requests for sexual favours
- offensive comments of a sexual nature
- sexual, vulgar, dirty, indecent, obscene jokes
- comments, questioning or teasing about a person's alleged sexual activities or private life
- persistent unwelcome invitations, telephone calls or emails with sexual undertones.

Acts of sexual harassment are prohibited under the EOA in the following areas:

- Employment activities
- Education
- Provision of goods, services or facilities
- Provision of accommodation
- Disposal and acquisition of immovable property
- Companies, partnerships, sociétés or registered associations and clubs.

In circumstances where, following an investigation, it is revealed that the offence of sexual harassment has been committed, the Commission may decide to refer the matter to the Director of Public Prosecutions.

4.5 Application of the EOA

The EOA binds the State of Mauritius and has effect notwithstanding any other enactment relating to employment, education, qualifications for a profession, trade or occupation, the provision of goods, services, facilities or accommodation, the disposal of property, companies, partnerships, sociétés, registered associations, sports, clubs and access to premises which the public may enter or use.

4.6 Non-Application of and exceptions to the EOA

Section 4 of the EOA sets out a number of instances where provision of different treatments to persons is not prohibited. Examples of such instances include life insurance policies, accident insurance policies and similar matters involving the assessment of risk, making the membership of a club available to persons of one sex only and the ordination of a priest, minister of religion or a member of a religious order, to name a few.

Section 13 of the EOA provides for exceptions to the prohibition to discriminate. As such, an employer or prospective employer may discriminate on the ground of sex where, being of a particular sex is necessary to qualify for a particular employment, promotion, transfer or training. The said section also stipulates the conditions under which an employer or prospective employer may discriminate against a person who has an impairment.

Expansion of Employment Opportunities: Criminal History

*"Give every human being every right
that you claim for yourself."*

-Robert Ingersoll

Former American politician

5.0 Expansion of Employment Opportunities:Criminal History

Finding a job is a tall order for many, but people with criminal records face unique challenges. People who have been involved in the criminal justice system are faced with struggles and are usually left on the roadside.

In Mauritius, many employers require their prospective or existing employees to submit a certificate of character to find out whether such employees have any criminal record. As a matter of fact, people with criminal records find it difficult to find a job or are dismissed from employment.

There was indeed a call for policymakers to adopt measures prohibiting discrimination against prospective employees on the basis of their irrelevant criminal records at the time of recruitment. In fact, one of the axes of the Government Programme 2015 -2019 was to increase employability of people convicted of minor crimes and misdemeanours and that such records would cease to appear on their certificates of character after one year.

It is with this in mind, that the Bill to amend the Equal Opportunities Act 2008 came into being in 2017, with the objective of prohibiting discrimination at recruitment and promotion levels where a person's criminal records were irrelevant to the nature of his employment. The certificate of character is in fact, a barrier that is not easily overcome by jobseekers with a criminal history looking for a decent employment. Therefore, as highlighted by the Prime Minister, the amendment was designed to bring along an effective solution to the benefit of jobseekers. The amendment resulted from extensive research, consultations and after adapting the Australian model to the local context. In contrast, it was argued by the Leader of the Opposition that Mauritius ought to follow the British model and introduce the Disclosure and Barring Service instead.

Under the Australian model, people who have been subject to discrimination on the basis of an irrelevant criminal record may complain to the Human Rights Commission.

On the other hand, the Disclosure and Barring Service Code of Practice published under section 122 of the Police Act 1997 requires all registered bodies to treat Disclosure and Barring Service applicants who have a criminal record fairly and not to discriminate automatically because of a conviction or other information revealed.

In defending the amendments, the Prime Minister stated that the following objectives would be achieved by same:

- (i) Increase in employability of persons who have been convicted of minor crimes and misdemeanors, and
- (ii) Allowing persons who have been convicted of more serious offences to be employable provided that such offences are not inherently related to the jobs these persons have applied for.

The purpose of the amendment therefore, was to prohibit discrimination against prospective employees on the basis of their irrelevant criminal record at the time of recruitment.

The Equal Opportunities Act provides 12 statuses on which a person can be discriminated against. The Equal Opportunities (Amendment) Bill proposed a 13th ground, that is, criminal record. Thus, section 2 of the Equal Opportunities Act 2008 was amended and the definition of status came to include ‘criminal record’ in relation to sections 10 and 11. The latter two sections were also amended. The Equal Opportunities (Amendment) Act 2017 is reproduced hereunder:

Acts 2017

429

THE EQUAL OPPORTUNITIES (AMENDMENT) ACT 2017

Act No. 15 of 2017

I assent

BIBI AMEENAH FIRDAUS GURIB-FAKIM

23 November 2017

President of the Republic

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
- 2A. Section 2 of principal Act amended
3. Section 10 of principal Act amended
4. Section 11 of principal Act amended

An Act

To amend the Equal Opportunities Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Equal Opportunities (Amendment) Act 2017.

2. Interpretation

In this Act –

“principal Act” means the Equal Opportunities Act.

2A. Section 2 of principal Act amended

Section 2 of the principal Act is amended by deleting the definition of “status” and replacing it by the following definition –

“status” –

- (a) means age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation; and
- (b) in relation to sections 10 and 11, includes criminal record;

3. Section 10 of principal Act amended

Section 10 of the principal Act is amended –

- (a) by renumbering the existing provision as subsection (1);
- (b) in the newly numbered subsection (1), by adding the following new paragraph, the word “or” at the end of paragraph (d) being deleted and the full stop at the end of paragraph (e) being deleted and replaced by the words “; or” –
 - (f) where, subject to subsection (2), that person has a criminal record which is irrelevant to the nature of the employment for which that person is being considered.
- (c) by adding the following new subsection –
 - (2) The burden of establishing the relevance of the criminal record to the nature of employment shall rest with the employer or prospective employer.

4. Section 11 of principal Act amended

Section 11 of the principal Act is amended –

- (a) by renumbering the existing provision as subsection (1);
- (b) in the newly numbered subsection (1), by inserting, after paragraph (e), the following new paragraph, the word “or” at the end of paragraph (e) being deleted –
 - (ea) where, subject to subsection (2), the employee has a criminal record which is irrelevant to the nature of the promotional post for which the employee is being considered; or
- (c) by adding the following new subsection –
 - (2) The burden of establishing the relevance of the criminal record to the promotional post shall rest with the employer.

Passed by the National Assembly on the twenty first day of November two thousand and seventeen.

Bibi Safeena Lotun (Mrs)
Clerk of the National Assembly

After amendment, section 10 of the Equal Opportunities Act provides, inter alia, that no employer or prospective employer shall discriminate against another person where that person has a criminal record which is irrelevant to the nature of the employment for which that person is being considered; and that the burden of establishing the relevance of the criminal record to the nature of employment shall rest with the employer or prospective employer.

The amended section 11 of the Equal Opportunities Act stipulates amongst others that no employer or prospective employer shall discriminate against an employee who has a criminal record which is irrelevant to the nature of the promotional post for which that employee is being considered; and that the burden of establishing the relevance of the criminal record to the promotional post shall rest with the employer.

The above two sections, after this amendment, incorporates into our law the new grounds of discrimination in employment based on irrelevant criminal record. This new conviction based employment discrimination is prohibited and sanctioned by the Equal Opportunities Act. Any prospective employee who feels that he has been discriminated on the basis of his criminal record at the time of recruitment can seize the Equal Opportunities Commission by lodging a written complaint in his capacity of aggrieved party and complainant within a delay of 12 months. If, after investigation, the act of discrimination on the basis of criminal record by the employer is proved and the employer cannot establish the relevance of the criminal record to the nature of employment, he faces the risk of being ordered by the Equal Opportunities Tribunal to pay compensation up to an amount of Rs. 500, 000 to the aggrieved prospective employee.

The Supreme Court of the United Kingdom recently upheld, in *R (P, G and W) and Anor v Secretary of State for the Home Department and Anor* [2019] UKSC 3, challenges to the legal regimes for disclosing criminal records in England and Wales, and Northern Ireland, finding them to be incompatible with Article 8 of the European Convention on Human Rights (ECHR).

Article 8 of the ECHR provides the following:

1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

To take perhaps the most striking example, in 1999 an individual identified in the proceedings as “P” received a caution for stealing a sandwich from a shop. Later in the same year, she was convicted of stealing a book worth 99 pence, and when she failed to surrender to the bail granted for the theft offence, was convicted a second time. At the time, she was homeless and suffering from undiagnosed schizophrenia. With later treatment, P got her mental illness under control and trained and qualified as a teaching assistant. However, she was encountering persistent difficulties in obtaining employment, which she believed was due to her legal obligation to disclose her convictions. This requirement arose because the

legislation mandated full disclosure when there was more than one conviction on someone's criminal record. Such disclosure also placed on her the added burden of feeling the need to explain her convictions by reference to her past schizophrenia.

The majority decided that it was disproportionate for the law to require that all offences were disclosed in every case in which there was more than one conviction. The idea behind the requirement was that multiple convictions could indicate a level of propensity to offend of which employers ought to be aware. However, as the court noted, someone could have two extremely minor convictions, or two convictions separated by a long gap in time. The requirement was therefore, not fit for purpose, and had disproportionate results, as in the case of P

It is not exaggerating to say that involvement in the criminal justice system and unemployment form a vicious cycle. Research does indicate that employment after incarceration acts as a catalyst in curbing an individual's risk of recidivism. Therefore, such an amendment indeed gives an equal chance to persons faced with criminal convictions regarding their employability.

Clearly, there should not be any padlock at the Equal Opportunities Commission. The foremost duty of the Commission is to work towards the elimination of discrimination and its first mandate is conciliation. The other is to sensitise people with regards to issues pertaining to discrimination. The Commission has already undertaken to sensitise various work sectors on the new amendments in a bid to expand employment opportunities to people with a criminal history.

Reevashinee Parasuraman
Ghirish Ramsawock
Staff (EOC)

Complaints Procedure



6.0 Complaints Procedure

By virtue of section 27 (3) of the EOA, the Equal Opportunities Commission is empowered to carry out an investigation of its own motion or following a complaint. The Commission has a well-established complaints procedure for receiving, recording and effectively responding to complaints made by aggrieved persons.

Provision of information to aggrieved persons

Very often, aggrieved persons seek information from the Commission before lodging their complaints. The dedicated staff of the Commission, therefore does its level best to help them by answering their queries.

Lodging a complaint

Any person who feels that any of his rights under the Equal Opportunities Act has been infringed, may lodge a written complaint with the Commission. In order to assist the aggrieved person, a Complaint Form requiring the complainant to specify the grounds on which he feels discriminated and to explain the circumstances that led to same has been designed by the Commission. Complaints can be lodged in hard copy, by email and via the Commission's website.

A complaint should, by law, be lodged within 12 months of the date of the alleged act of discrimination. However, on good cause shown to it by the complainant, the Commission may consider complaints lodged outside the 12 months' statutory delay.

Complaint Handling

Once a complaint is lodged, a preliminary exercise is carried out by the Commission with a view to gathering more information on the allegations made. Once sufficient information is gathered, the Commission proceeds to hear the parties.

Hearings

Hearings are held at the seat of the Commission and cases are considered in a chronological order. If, after hearing the parties, the Commission is of the view that the situation does not fall within the jurisdiction of the Act, the complaint is set aside. If the situation falls within the jurisdiction of the Act, but does not disclose any discrimination, the complaint is set aside on the basis of no evidence of discrimination. In the event of there being sufficient indication of the well-foundedness of the complaint, the Commission explores and encourages prospects of conciliation between the parties.

Successful conciliation

Conciliation can only occur if both parties agree on a settlement. The Commission is impartial and does not have the power to impose a settlement if the parties do not agree.

Settlements reached by the parties include:

- an apology
- monetary compensation
- a satisfactory explanation on behalf of the respondent
- policy change within the organisation
- opportunity to be considered for a promotion or training
- access to a particular service

Where a complaint has been settled by conciliation, the settlement is embodied in a written agreement and registered with the Equal Opportunities Tribunal. Upon registration, the agreement is deemed to be an order of the said Tribunal and becomes binding on the parties.

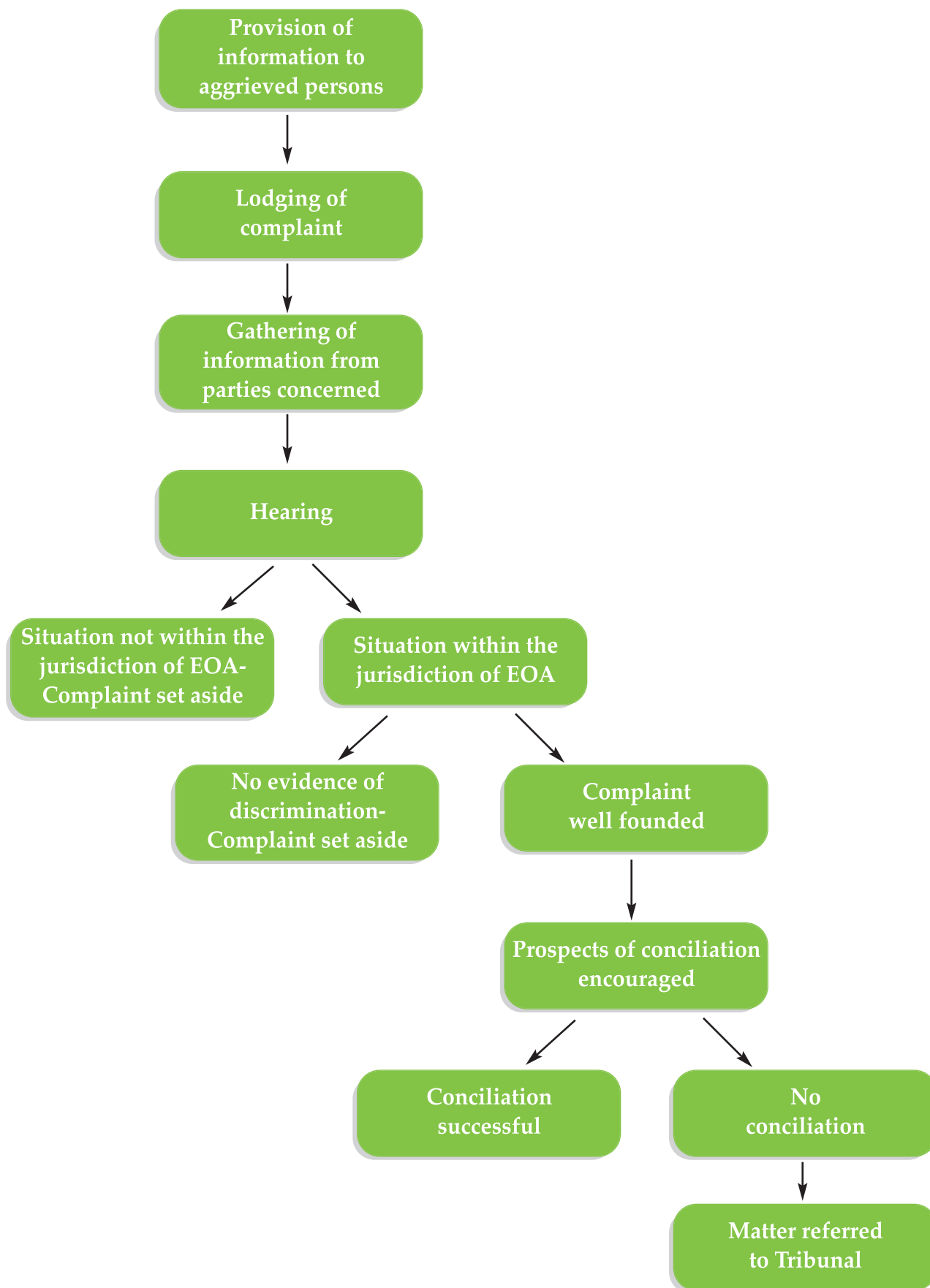
No conciliation

Where the Commission has been unsuccessful in attempting to resolve the matter by conciliation, a full-fledged investigation is carried out and a report is prepared by the Commission with its recommendations. A copy of the report is then sent to the parties to whom the complaint relates. If no settlement is reached within 45 days of the date of receipt of the report by the parties, the Commission may then, with the consent of the complainant, refer the matter to the Equal Opportunities Tribunal.

Withdrawal of complaint

In some cases, the complainant abandons his complaint during the complaint handling process itself or decides to withdraw it, mostly if the matter has been settled prior to it being heard by the Commission at preliminary investigation stage.

Equal Opportunities Commission- Complaints Handling Process



Equal Opportunity Policy

"You're losing a lot of really important people who could do really important work by equating their power with their outward look."

-Amelia Meman

Feminist advocate and social worker

7.0 Equal Opportunity Policy

An Equal Opportunity Policy is used within a workplace to protect employees from discrimination. The term “equal opportunity” is a broadly used expression which promotes the idea that everyone within an organisation should have an equal chance to apply and be selected for posts, to be trained and promoted and to have their employment terminated fairly and equitably.

The primary aim of the Equal Opportunities Commission is to promote and protect everyone’s right to equal opportunities in the workplace as laid down in the Equal Opportunities Act 2008 (EOA). As per section 9 of the EOA, every employer employing more than 10 employees on a full-time basis is required to draw up and apply an Equal Opportunity Policy in line with the guidelines and codes issued by the Equal Opportunities Commission. The Commission issued the Guidelines for Employers under section 27(3) (f) of the EOA which came into effect on 15 April 2013.

Although the guidelines do not impose any legal obligation, yet they may be used as evidence in legal proceedings brought under the Act. These guidelines, when followed by employers, also enable them to better defend themselves in cases where they are the alleged discriminators. For the past years, the Commission has ensured that the guidelines are brought to the attention of all the employers, both in the private and public sectors, through the sensitisation campaigns carried out at the place of work and during the hearings held at the Equal Opportunities Commission. During the said hearings, it was noted that many of the organisations both in the private and public sectors, against which complaints were lodged, have not adopted an Equal Opportunity Policy. Sensitisation is done during hearings with the hope that those Organisations and Departments which have not adopted an Equal Opportunity Policy do it and those who were upto now only paying lip service to principles of equal opportunity, apply them in the real sense of the word.

As per the EOA, discrimination occurs where an employer treats an employee or a prospective employee less favourably than another one in similar circumstances on the basis of his/her status. ‘Status’ under the EOA refers to the following 13 protected grounds:

- Age
- Caste
- Colour
- Creed
- Ethnic origin
- Impairment
- Marital status
- Place of origin
- Political opinion
- Race
- Sex
- Sexual orientation
- Criminal Record

Thus discriminating against employees on any of the above mentioned 13 grounds is against the law.

What does this mean for employees?

To comply with the provisions of the EOA, employers must have policies in place and must adhere to certain practices that aim at preventing discrimination and affording equal opportunities to employees within the organisation. All employees and prospective job applicants must be treated equally and be given the same set of opportunities.

An employee has a right to:

- Fair practices and behaviour in the workplace.
- Fair allocation of workloads.
- Equal access to benefits and conditions.
- A workplace that is free from unlawful discrimination and harassment at work.
- Competitive merit-based selection processes for recruitment and promotion.
- Fair processes to deal with work-related complaints and grievances.

The role of the Human Resources Department at the recruitment stage

All employers must follow certain procedures for recruitment to ensure that all applications are treated appropriately and fairly and that, all things being equal, no candidate is rejected based on any of the 13 status mentioned in the EOA.

This means that recruitment procedures must satisfy the following criteria:

- The job description must be set out so that all applicants are assessed against criteria relevant to the job only.
- The post is advertised widely, fairly and openly.
- An interview panel must be put in place so that more than one person's opinions are weighed in deciding when and on whom to award the position to.
- All questions that are not relevant to the job must be excluded from the questionnaire. Applicants should not be asked about their race, religion or any other protected grounds.

Promoting equal opportunities at the workplace

All employers must follow certain procedures at the workplace to ensure that all employees are treated equitably and fairly. Promoting equal opportunities at the workplace may include:

- Ensuring that all similarly qualified employees have equal access and opportunity to training and advancement facilities regardless of sex, gender, age or disability.
- No employee should be overlooked for training or promotion because of any protected characteristic.
- Making reasonable adjustments in the workplace to accommodate disabled employees.
- Ensuring that no employee is paid more or even less than any of their colleagues who are equally qualified, equally experienced and performing the same job.
- Advertising new jobs externally as well as internally so that anyone who meets the qualifying criteria gets the opportunity to apply.
- Making sure that no employee is dismissed solely because of a personal characteristic.

Every employer should have their own Equal Opportunity Policy in place, which is customised to their organisation. This policy must detail the steps the organisation will take to comply with the EOA and to promote equality in the workplace. Having a formal policy makes it easier for all employees to know what is acceptable and expected of them as individuals and as part of the organisation.

Impact of the implementation of an Equal Opportunity Policy on employees in organisations

When an organisation supports the principle of equal opportunity for all, employees can rest assured that they will not be discriminated against at the workplace. Employees are more committed to working hard when they know that they will have equal opportunities for advancement and that there are no barriers to job progression. Also, knowing that they are evaluated solely on their on-the-job performance and measurable merits empowers employees and encourages them to do their best.

J. Seegolam
Investigator
(EOC)

Statistics

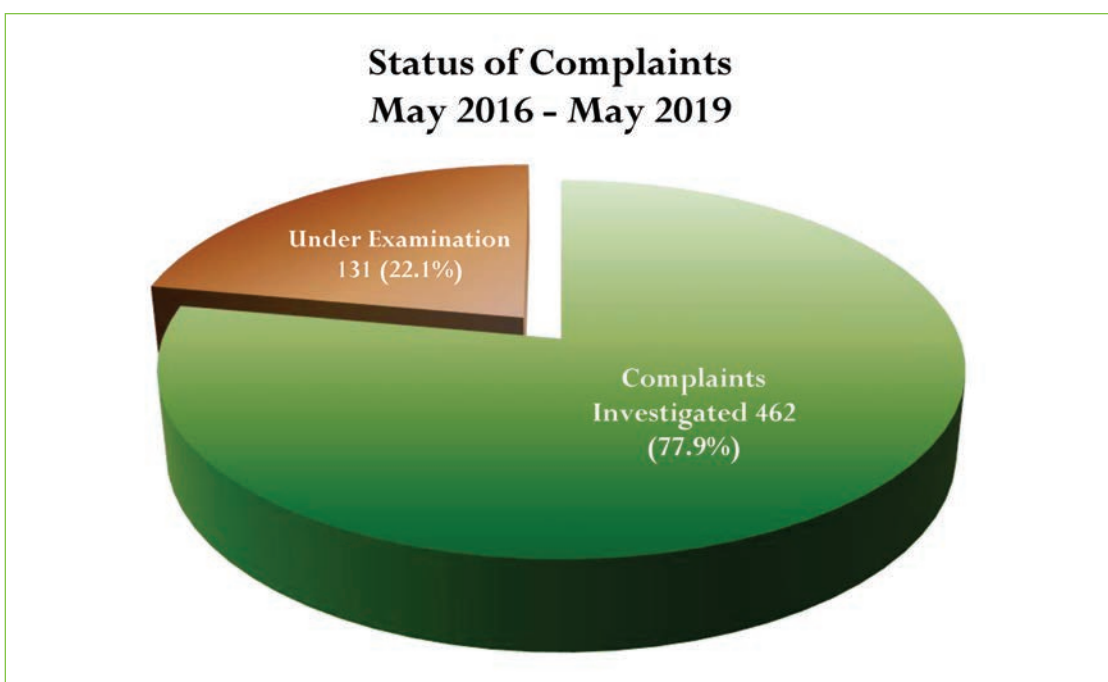


8.0 Statistics

Statistics for the period May 2016 to May 2019

Status of complaints

Status of Complaints	Number of Cases
No. of complaints investigated (including Rodrigues)	462
No. of complaints under examination	131
Total	593



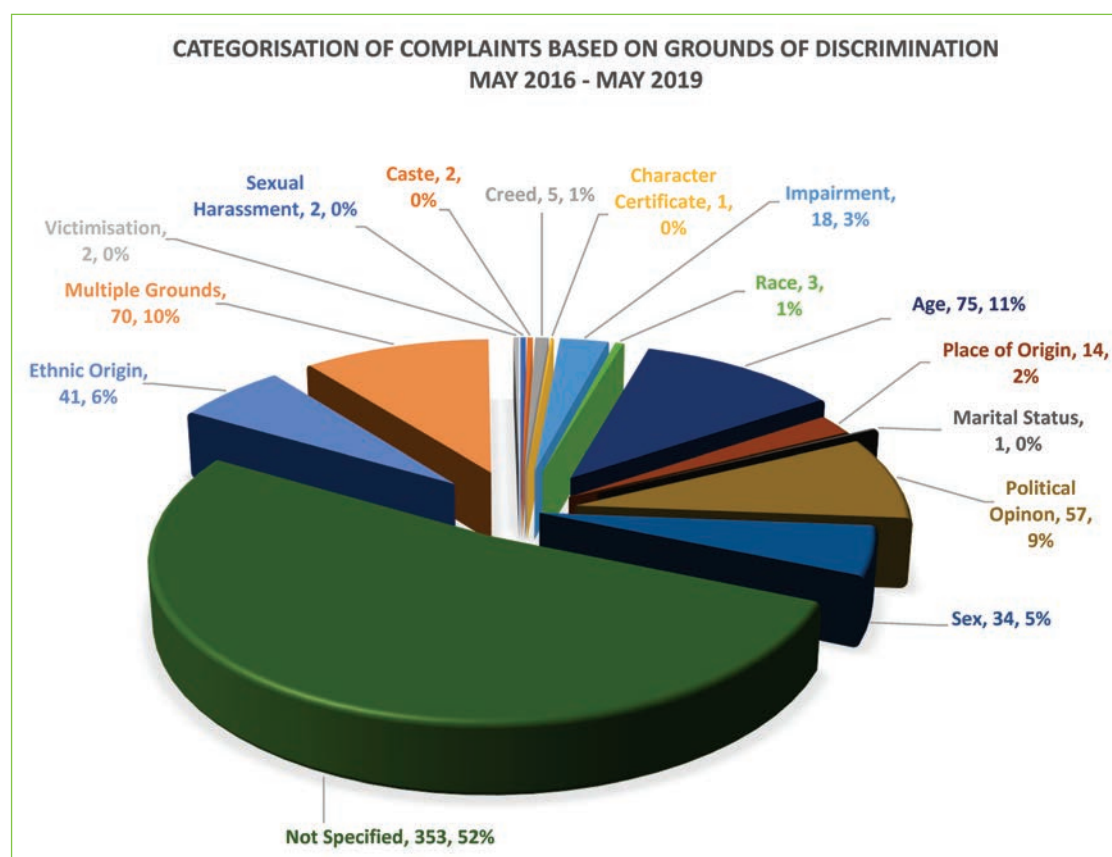
Out of a total number of 593 of complaints of alleged discrimination and sexual harassment lodged with the Equal Opportunities Commission [EOC] during the period May 2016 to May 2019, 462 complaints (78%) have already been investigated and the remaining 131 complaints (22%) are in the process of being examined to be eventually heard by the Commission.

Breakdown of cases investigated

Status	Number of cases	%
Conciliated/settled	156	26.3
Referred to Equal Opportunities Tribunal	9	1.5
Time Barred	6	1.0
Not Under Purview	120	20.2
No evidence of discrimination	85	14.3
Under Investigation	108	18.2
Additional information being sought from complainants / alleged discriminators	107	18.0
Referred to other instances	2	0.3
Total	593	100

Parties to 156 complaints received were eventually conciliated by the Commission during the period May 2016 to 31 May 2019. The 9 instances where the Commission found evidence of discrimination but could not bring the parties to reach a settlement were, with the consent of the complainants referred to the Equal Opportunities Tribunal. Upon investigation, 2 cases were referred to other instances such as the ICAC.

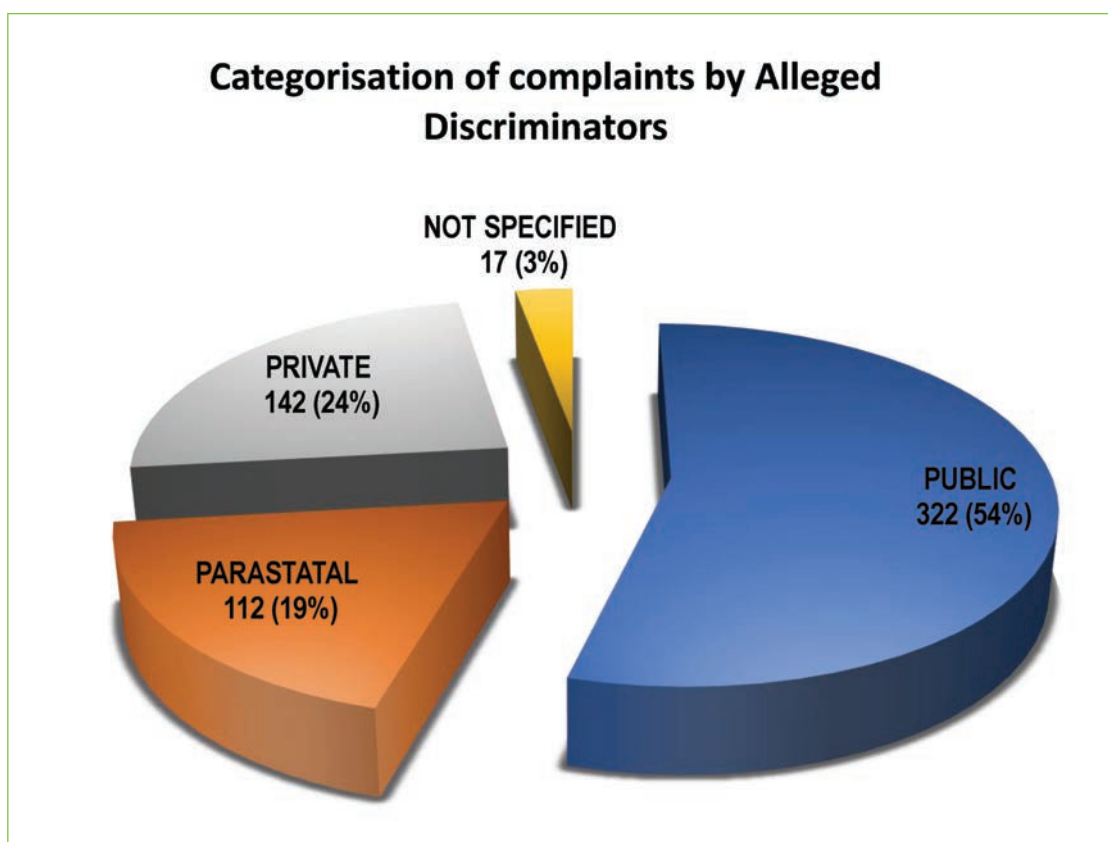
Categorisation of complaints based on grounds of discrimination



Fifty two percent of the complainants could understandably not state with certainty the status on which their complaints were based, at the time of lodging same. Consequently, the Commission amended its complaint form in October 2017 by removing the boxes representing the grounds of discrimination (status). This decision was taken as the Commission was of the view that the grounds of discrimination mentioned in the complaint form were restrictive and unfair to complainants. It was therefore, decided to do away with the boxes to be ticked so that the Commission could freely go into all facts of the cases on the basis of versions presented by the parties before the Commission at the investigation/ hearing stage. On presentation of the facts of the complaint, the Commission will decide on the status of the complaint.

It is to be noted that out of the 593 complaints lodged with the Commission 70 were based on multiple grounds, 57 on political opinion and 41 complainants alleged that they had been discriminated on the basis of their ethnic origin.

Categorisation of complaints by Alleged Discriminators



More than 50% of the complaints of the alleged discrimination during the period May 2016 to May 2019 have been lodged against public institutions. Twenty four percent of the complaints received were against private parties including companies and 19% against parastatal bodies. Three percent of the complaints lodged were incomplete and anonymous, therefore making it difficult to ascertain the identity of the alleged discriminators.

EOC in Rodrigues

Out of the total number of 593 complaints received by the Commission during the period May 2016- May 2019, 29 were lodged by Mauritian citizens residing in Rodrigues out of which 18 have already been examined and 11 are still being investigated. Hearings pertaining to the abovementioned complaints were held in Rodrigues during the Commission's visits in 2016, 2017 and 2018. Conciliation was successful in 3 cases.

Case Studies



9.0 Case Studies

CASE 1

The complainant averred that she was treated less favourably on the basis of her ethnic origin in as much as she had been denied access to a night club on the 26 December 2015.

The Commission successfully resolved the matter through conciliation. The respondent presented his sincere apology which was unconditionally accepted by the complainant.

A conciliation agreement was drawn up by the parties at the seat of the Commission and same was signed by the parties in the presence of the Secretary to the Commission.

Both parties further undertook to end the matter and not to take any further legal action or otherwise.

CASE 2

In 2016, the complainant's workload was increased following the resignation of his colleague. As a matter of fact, it was agreed by his Project Manager that he would be entitled to an additional increment. However, the complainant's salary was never reviewed.

Feeling demotivated, the complainant requested for a transfer to work in another department of the company. However, his request was not acceded to and the terms and conditions of his contract of employment were altered. The complainant averred that he was treated less favourably as compared to his colleagues and was discriminated against on the basis of his race.

Following a complaint lodged at the Commission, the employer of the complainant agreed to compensate the latter with a sum of money for his transport allowances. Moreover, the terms and conditions of his contract were revised, accordingly, for his betterment.

The complainant thereafter withdrew his complaint and thanked the Commission for its intervention.

CASE 3

A complaint of sexual harassment was lodged by the complainant.

In or about August 2013, the complainant was referred to the workplace, where the respondent was working. Thereafter, the complainant got acquainted with the latter and he even promised her on several occasions that he would help her prepare for the interviews to secure a job.

Subsequently, the complainant met the respondent to supposedly discuss about job prospects and the preparation of the interviews. However, to the utmost dismay of the complainant, the respondent on several occasions made sexual advances to her in exchange of which he would treat her job application favourably.

The Commission attempted to conciliate the matter in accordance with the Equal Opportunities Act. Following the Commission's conciliation process, the respondent presented his sincere apologies in writing to the complainant. The complainant in turn accepted the apologies tendered by the respondent and agreed not to undertake any further legal action as the Commission's mediation proved to be fruitful.

CASE 4

Mrs X. lodged a complaint with the Commission on 26 June 2015.

She averred that she was sexually harassed by Mr. Y, her supervisor at her workplace. She felt morally harassed and traumatised by the acts and doings of Mr Y. The investigation and hearing of the complaint required several sittings of the Commission which looked into the matter thoroughly by calling most of the protagonists.

The Commission reported that its investigation has revealed a prima facie case of sexual harassment against the complainant under Section 25 of the Equal Opportunities Act 2008. The Commission, thereafter, referred the matter to the Office of the Director of Public Prosecutions as provided by Section 27 (4) of the Act.

CASE 5

A complaint was lodged by the complainant concerning discrimination on the basis of age, ethnic origin, impairment and political opinion.

The complainant claimed that he had not been appointed as Associate Professor despite having the required qualifications.

Following several meetings at the Commission, an offer for appointment to the complainant as Associate Professor was made.

Through a letter dated 11 May 2018, the complainant informed the Commission that he had accepted the offer of appointment as Associate Professor (Indian Studies) which took effect on 30 April 2018. The complainant thanked the Commission for its intervention.

CASE 6

A complaint was lodged on 6 July 2015, by the complainants alleging that they had been discriminated on the basis of their place of origin.

The complainants employed in Rodrigues claimed that following the publication of the PRB Report 2018, the grades of Prison Officer Grade 1 and Prison Officer Grade II were merged together giving effect to a new post of Prison Officer/Senior Prisons Officer. Moreover, according to the PRB Report 2018, Prisons Officers /Senior Prisons Officers should be known as "Lead Prisons Officer" upon completion of 15 years of service and should also be granted a monthly allowance equivalent to two increments.

The complainants felt discriminated as they were not paid any increment despite having the required number of years of service as compared to their colleagues in Mauritius.

After investigation and discussion, the said matter was settled in as much as the complainants were granted an allowance equivalent to two increments which was in dispute.

CASE 7

The complainant made a complaint on 5 November 2015, claiming that he had been discriminated on the basis his colour, ethnic origin and race.

On 24 October 2015, the complainant and his friends were told that they would not be allowed to accede a particular restaurant as they were wearing shorts. They were finally exceptionally allowed in the restaurant but, however, were not allowed to have seats at the best tables. The complainant also observed that there were other customers wearing shorts at the restaurants, but unlike them were white coloured people. The complainant felt discriminated and humiliated and therefore lodged a complaint with the Commission.

Following an investigation by the Commission, both parties came to an amicable settlement. The complainant was able to visit the restaurant at peak time on a Friday night and to explain on the spot to the Management the shortcomings as reported in his complaint.

The Management of the restaurant took into consideration the suggestions made by the complainant and invited him for further guidance from him in the future on how to improve customer care and service. The complainant, thereafter, withdrew his complaint.

CASE 8

The complainant lodged a complaint with the Commission on 19 February 2014.

The complainant stated that he joined the respondent authority on 15 August 1989 and was the sole automobile electrician in post. Moreover, he claimed that several recommendations made by the Public Research Bureau have been implemented by the respondent, except for the upgrading of the post of Electrician to Senior Electrician.

After several meetings held before the Commission, the matter was settled between the parties. The complainant was assigned with duties of the post of Technical Assistant (Electromechanical), in addition to the duties of his substantive post during a period of 03 January 2019 to 12 September 2019. Moreover, the complainant was informed that a monthly equivalent to 80 % of three increments at the incremental point reached in the salary scale of his substantive post would be paid to him for the above mentioned period on a pro-rata basis. The complainant was satisfied with the said outcome.

The Commission also recommended that the respondent authority does its level best so that the issue of personal salary be addressed in the next PRB Report.

CASE 9

The Commission received a complaint against the Early Childhood Care and Education Authority concerning the refund of unutilized casual leave to Pre-Primary Educators.

Several hearings were held at the seat of the Commission in the presence of the representatives of the Ministry of Education and Human Resources, Tertiary Education and Scientific Research, the Ministry of Civil Service and Administrative Reforms, the Early Childhood Care and Education Authority and members of the Government Teachers' Union, All Civil Service Employees and Other Unions Federation, and Early Childhood Teachers' Union.

The Ministry of Education, thereafter, sought the approval of the Ministry of Civil Service and Administrative Reforms for the refund of unutilized casual leaves to Pre-Primary Educators, and the latter Ministry was informed by the PRB that the request could be best looked into in the next review exercise. Following a request by the Commission, the matter was re-examined by the Ministry of Civil Service and Administrative Reforms and it was referred to the High Powered Committee.

Following the hearing held on 14 January 2019, the Commission was informed that the High Powered Committee has re-examined the request for the refund of unutilized causal leave to Pre-Primary Educators at the Early Childhood care and Education Authority and has also invited the Pay Research Bureau to submit appropriate recommendations for consideration by the Committee.

A further communication is expected from the Committee in due course by the Commission

CASE 10

Since childhood, the complainant suffers from visual impairment. In October 2013, her application for registration to teach in a private secondary school was refused by the respondent on the ground that she did not have the basic qualification for same. As a matter of fact, the complainant felt aggrieved and discriminated following such decision and sought the intervention of the Commission.

The Commission highlighted that the prerequisites for registration as qualified teacher for the private secondary schools vary and depend upon the subject sought to be taught as per the Education Regulations. The Commission concluded that the focus of the respondent was wrong as it failed to take into consideration the proper criteria as laid down in Regulation 3 (1) (b) (ii) of the Education Regulation.

The Commission requested the respondent to reconsider the complainant's application.

CASE 11

In his complaint, the complainant claimed that he had been assaulted by his subordinate, Mr X at his place of work on 20 January 2015. On 25 February 2015, the complainant was informed of his change of posting which he viewed as a punitive transfer. He felt that he had been discriminated against as a result of that decision of the respondent which was being maintained on the basis of exigencies of service.

The complainant also alleged that the respondent had turned a blind eye to his repeated S.O.S regarding the insubordination, negative attitude and behaviour of his subordinate, Mr. X at work both towards him and other staff.

In the light of the evidence ushered, the Commission came to the conclusion that the respondent, as employer, had discriminated against the complainant by transferring the latter through no fault of his, thereby causing him considerable hardship.

The Commission concluded inter alia, that sections 6, 7 and 9 of the Equal Opportunities Act 2008 had been flouted by the respondent, thereby causing substantial prejudice and damage to the complainant.

The matter was thereafter referred to the Equal Opportunities Tribunal.

CASE 12: “Head Hunting”

On 2 March 2017, Mr. X and Mr. Y lodged complaints respectively with the Commission against a bank. The subject matter of both complaints pertained to the recruitment of Mr. Z by the bank, to head its Asset Management and Financial Market division. It was the contention of the complainants that the vacancy for the said post had not been advertised by the bank and that Mr. Z had instead been headhunted for that post.

Pursuant to section 32 of the Equal Opportunities Act, the Commission convened the parties to resolve the matter by conciliation.

Further to conciliation proceedings, the parties resolved to enter into an agreement, which, pursuant to section 32(5) of the Act, was registered with the Equal Opportunities Tribunal.

CASE 13

In November 2015, the complainant was offered appointment as General Worker by the respondent, which he accepted. However, after two months, he was dismissed without any prior notice. The complainant felt aggrieved and discriminated following such decision and lodged a complaint with the Commission.

The Commission highlighted that the termination of agreement clause had been misconstrued by the respondent who treated same as a standalone and supreme instead of reading it in conjunction with other clauses of the contract.

The Commission referred to Section 11 (e) of the Equal Opportunities Act which provides that no employer shall discriminate against an employee, inter alia, by terminating the employment of that employee. Dismissing the complainant, after an incident (not work related) amounts to an unjustified dismissal as it is tantamount to no reason at all. The Commission further highlighted that same is neither fair nor transparent and that it is also arbitrary and contrary to the rules of good governance, transparency, fairness and sane administration.

The Commission reached the conclusion that the respondent has completely disregarded the provisions of the Equal Opportunities Act 2008 and the Guidelines for Employers published pursuant to Section 27 (3) (f) of the Act and that the complainant has been subject to gross discrimination.

CASE 14

The complainant worked as a General Worker for the first respondent for 8 years on a purely temporary month to month basis. There was no guarantee as to a permanent employment and the complainant's contract of work could have been terminated anytime with due notice.

The first respondent duly informed the complainant in a letter signed by the second that the services of the complainant would no longer be required as from Friday 15 September 2017 and the first respondent expressed its gratitude to the complainant for her "*good work*" and "*valuable contribution*" and mentioned that they would not hesitate to contact her, should her services be required again in the future; an undertaking that was never carried out.

The first respondent at a particular point in time decided to recruit full time work force to perform similar duties[as per advertisement] without giving priority consideration to the complainant as provided by Section 10 of the Employment Rights Act 2008:

10. Consideration for full-time employment

- 1) *Where a vacancy occurs in the full-time workforce of an employer, priority of consideration for the full-time employment shall be given, as far as practicable, to a part-time worker or to a worker on determinate contract of employment in the same category and grade.*
- 2) *Where there are 2 or more workers eligible under subsection (1), the employer shall make an offer to the more suitable worker, having regard to qualifications, merit, experience, performance and seniority*

The first respondent, instead, sought to have recourse to the Labour Office to obtain a list of job seekers to perform the work previously performed by the complainant and others thus depriving the complainant of her legitimate expectations to join the permanent work force of the first respondent.

The Commission in its report stated that the right to work is a fundamental human right and aspiration in as much as it is an assurance and means to attain freedom from want [hunger] before concluding that the above chain of events resulted in a despicable inequality of treatment and blatant discrimination towards complainant in the circumstances.

Compliments to the Equal Opportunities Commission



10.0 Compliments to the Equal Opportunities Commission

I am pleased to inform you that I have been appointed as Associate Professor.... I take this opportunity to cordially thank the President and Panel members of the Equal Opportunities Commission for carrying constant investigations and hearings from period May 2014 to March 2018, regarding my complaints, until success was attained.

The matter has been resolved. I take the opportunity to thank you and the Commission for their work. Also, I appreciate that the Commission was very pro-active. Thank you again.

Thank you for your letter dated 26 October 2018 and the excellent preliminary assessment work done by you and your team.

The Commission has shed justice to the cause of my two disabled children. We, as a family are grateful to your office for your support.


First of all, let me forward my appreciation to the highly esteemed institution and its staff for your prompt and positive action.

After attending the hearings before the EOC, I would like to place on record my thanks to the EOC for their work and their valuable contribution to the fight against any form of discrimination.

As a matter of fact, I faced bias, including overt discrimination, in one of the leading restaurants of Mauritius. The following points are worth mentioning:

- The EOC welcomed the case as an important one for a country best known for its rich cultural diversity as well as its booming hospitality sector and unique culinary experiences.
- The restaurant owners acknowledged that any type of customer complaints must be immediately addressed, not only for the good of the restaurant but for all its stakeholders, including for any guilty employee unwilling to cooperate.
- I had the opportunity of paying an incognito visit to the restaurant and I witnessed sensible changes: all due credit must be given to the owners and the management.

Equal Opportunities: A comparative study



11.0 Equal Opportunities: A comparative study

The Mauritian Constitution specifically prohibits discrimination based on race, place of origin, political opinions, colour, creed or sex¹. As a last resort, and after exhausting all domestic remedies, people can seek constitutional redress from the Supreme Court if they feel that they have been discriminated against, based on one or more of the abovementioned grounds. The year 2008 saw the advent of a new piece of legislation known as the Equal Opportunities Act.

The Act provided for a definition of 'status' as meaning age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation. A thirteenth status was included more recently, that is, criminal record in relation to sections 10 and 11 which deal with employment of persons and persons in employment respectively. The Equal Opportunities Act therefore deals with even more grounds of discrimination than the Constitution. It provides for 3 types of discrimination based on any of the abovementioned status, that is, Direct Discrimination, Indirect Discrimination and Discrimination by Victimisation.²

The Equal Opportunities Commission has been established in 2012 under the Equal Opportunities Act 2008³. Broadly speaking, the role of the Commission, as stipulated by section 27(3) of the Equal Opportunities Act, is to work towards the elimination of discrimination, reconcile both parties in a dispute, and to raise awareness in relation to issues of discrimination with the public in general.

The need for an anti-discrimination law and an Equal Opportunities Commission is often questioned. According to Vera Sacks,⁴ the reason behind could be threefold. Firstly, people who are victims of any form of discrimination are most of the time not in a position to pursue any individual legal redress either because they do not have sufficient knowledge about it or because it would be too costly for them to envisage any legal action. Therefore, a specialized anti discrimination agency constitutes a way forward for these individuals. Secondly, as per a research conducted in the United States of America, discrimination is either so covert that only experience and expertise would be able to uncover it or discrimination is so institutionalised that it seems normal and reasonable. Therefore, it would take a public agency which can gather sufficient experience and expertise to uncover these discriminations.⁵ This is reflected in Jowell's words:

*"Anti-discriminatory commissions are clearing houses for authoritative information on the problems of minority groups. The staffs soon acquire the necessary expertise to recognise the subtle and insidious forms that discrimination takes."*⁶

Thirdly, the peculiar interest the Government had in mind while legislating the anti-discriminatory laws.⁷

¹ Article 3 of the Constitution of Mauritius

² Sections 5, 6, and 7 of the Equal Opportunities Act 2008

³ Section 27(1) of the Equal Opportunities Act 2008

⁴ Senior Lecturer in Law, Kingston Polytechnic, USA

⁵ Ibid

⁶ Op. cit., p.66. And see L. Lustgarten, 'Legal Control of Racial Discrimination' (1980) ch. 21; C. McCrudden, "Institutionalised Discrimination" (1982) 2 Oxford Journal of Legal Studies 303.

⁷ Vera Sacks, The Equal Opportunities Commission - Ten Years On, 49 Mod. L. Rev. 560 (1986)

Status

The Australian Human Rights Commission has jurisdiction to look into complaints of alleged discrimination based on race, sex, disability and age and covers both persons in employment or persons not in employment. It should be noted that status is not restricted to the abovementioned grounds only. For instance, race would include colour, descent, national or ethnic origin, immigrant status and racial hatred. And so, the other three status would comprise other related aspects of discrimination. Unlike the Equal Opportunities Act 2008 of Mauritius, the anti-discrimination laws of Australia are not contained in a single piece of legislation. Instead, the federal Parliament passed several laws aiming to protect individuals from certain kinds of discrimination and also from breaches of human rights by Commonwealth department and agencies. The Australian Human Rights Commission has statutory responsibilities under the following laws: the Australian Human Rights Commission Act 1986, Age Discrimination Act 2004, Disability Discrimination Act 1992, Racial Discrimination Act 1975, and the Sex Discrimination Act 1984.

In 2007, the Equal Opportunities Commission became part of a new equality body known as the Equality and Human Rights Commission in the United Kingdom. Along with anti-discrimination laws, the new Commission looks at other aspects of human rights as well. The Equality Act 2010⁸, the latest piece of legislation on anti-discrimination laws provides a modern, single legal framework with clear law to deal with issues of discrimination. Section 4 of Chapter 1 of the Equality Act 2010 provides for the protected characteristics (same as 'status') which are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. The law is so clearly worded that it even provides a definition for each of the nine above protected characteristics. For instance section 10 of Chapter 1 defines the protected characteristic 'religion or belief' as follows:

10 Religion or belief

- 1) *Religion means any religion and a reference to religion includes a reference to a lack of religion.*
- 2) *Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.*
- 3) *In relation to the protected characteristic of religion or belief —*
 - (a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular religion or belief;*
 - (b) a reference to persons who share a protected characteristic is a reference to persons who are of the same religion or belief*

The term 'creed' appears in the Equal Opportunities Act 2008 of Mauritius as well as the Constitution, and it is one of the status under which a person could be discriminated against. No definition of the term is provided by the Equal Opportunities Act or the Constitution. 'Creed' is found neither in the Australian anti-discrimination laws nor in the Equality Act 2010 of the United Kingdom. What does creed really mean?

⁸ The Equality Act 2010 came into force in October 2010

Creed

In an attempt to define ‘creed’, the Minnesota Court of Appeal in *Rasmussen v Glass*⁹ held that the term ‘creed’ as used in the Minneapolis Civil Rights Ordinance includes only those beliefs and practices that are religious in nature.¹⁰ The decision reversed the definition given by the Minneapolis Civil Rights Commission which stated that ‘creed’ had other meaning as well. There was a dissenting opinion by Judge Klaphake who stated that ‘creed’ as used in the Ordinance should indeed be defined to prohibit the discrimination in that case since the common meaning of ‘creed’ includes more than just religious beliefs.

The term ‘creed’ has never been defined by any Court of Law in which both ‘creed’ and ‘religion’ are used in the same statutory provision, and the legislature is silent regarding its intent¹¹. It is argued that the Court has confined itself primarily to legal dictionaries and did not utilize common (non-legal) dictionaries.¹² A more comprehensive meaning of ‘creed’ is found in ‘common’ dictionaries. For instance, Webster’s Third New International Dictionary comprise, among various definitions of the term, “*a formulation or epitome of principles, rules, opinions, and percepts formally expressed and seriously adhered to and maintained.*”¹³ As a matter of fact, most of these ‘common’ definitions include a set of beliefs not based on religion while most of the legal dictionaries define ‘creed’ on religious terms.

The reason in the difference in definition may be found in Black’s Law Dictionary where the definition of the word ‘creed’ is given as “*confession or articles of faith, formal declaration of religious beliefs, any formula or confession of religious faith, and a system of religious beliefs*”. The dictionary then goes on to cite a case law [*Cummings v Weinsfield*]¹⁴ as its source of definition¹⁵. It is to be noted that the definition in Black’s Law Dictionary comes with a caution that such a definition is merely a starting point, and indicating an acknowledgement of the publisher of the limited scope of the definitions contained in that dictionary.¹⁶ Indeed, some scholars have advocated for a broader definition which would include political or scientific beliefs as a prohibited criteria for discrimination.¹⁷

The Policy on preventing discrimination based on creed has been recently released by the Ontario Human Rights Commission, thereby updating their creed related policy which was dated since 1996. As is the case with *Rasmussen v Glass* above, ‘creed’ has often been treated as synonymous with religion in Canada. However, the updated Policy notes that in addition to religious system of beliefs, ‘creed’ “*may also include non-religious beliefs that, like religion, substantially influence a person’s identity, worldview, and way of life.*”¹⁸

The Policy goes on to provide guidance for determining whether a belief system amounts to a creed, by providing that a creed¹⁹:

- is sincerely, freely and deeply held
- is integrally linked to a person’s identity, self-definition and fulfillment

⁹ *Rasmussen v. Glass*, 498 N.W.2d 508, 511-14 (Minn. Ct. App. 1993).

¹⁰ *ibid*

¹¹ James E. Tanner, *Discrimination Based on Belief: The Minneapolis Civil Rights Ordinance and the Definition of Creed: Rasmussen v. Glass*, 17 Hamline L. Rev. 243 (1993)

¹² *ibid*

¹³ *Rasmussen v. Glass*, 498 N.W.2d 508, 511-14 (Minn. Ct. App. 1993) (quoting WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 533 (1986)).

¹⁴ 30 N.Y.S.2d 36 (N.Y. Sup. Ct. 1941). See *infra* notes 94-96 and accompanying text for discussion of *Cummings*.

¹⁵ James E. Tanner, *Discrimination Based on Belief: The Minneapolis Civil Rights Ordinance and the Definition of Creed: Rasmussen v. Glass*, 17 Hamline L. Rev. 243 (1993)

¹⁶ *ibid*

¹⁷ Arthur E. Bonfeld, *The Substance of American Fair Employment Practices Legislation I: Employers*, 61 N.W. L. REV. 907, 913-14 (1967); Auerbach, *supra* note 68, at 245.

¹⁸ Policy on preventing discrimination based on creed, Ontario Human Rights Commission

¹⁹ Understanding Creed by Rubin Thomlinson LLP (February 11 2016)

- is a particular and comprehensive, overarching system of belief that governs one's conduct and practices
- addresses ultimate questions of human existence, including ideas about life, purpose, death, and the existence or non-existence of a Creator and/or a higher or different order of existence
- has some "nexus" or connection to an organization or community that professes a shared system of belief

It should be noted, however, that the Policy is non-binding on the Human Rights Tribunal of Ontario and other decision makers.

While the Minnesota Court of Appeal has adopted a restrictive approach to defining 'creed', the Policy of preventing discrimination based on creed released by the Ontario Human Rights Commission, on the other hand, went for a broader approach in their definition of 'creed'. It should be noted however that, several scholars in the USA have advocated for a broader definition²⁰, the purpose of which would be to "*more fully protect freedom of speech and conscience against unwarranted pressures from the private sector of our society*".²¹

Procedure

In Mauritius, when a complaint is lodged at the Equal Opportunities Commission, there is firstly an information gathering process from both parties. When the Commission is satisfied that there is enough ground to go forward with the complaint, a meeting is scheduled which is presided over by the Chairperson and two of the members of the Commission. This is where the Chairperson and the two members will investigate further into the matter. The main mandate of the Commission is conciliation. If the complaint is not well founded, it will be set aside. However, if one of the parties does not wish to conciliate, then the Commission will write a report and the matter may be referred to the Equal Opportunities Tribunal where an aggrieved party may be awarded damages of up to Rs 500,000. It should be noted, however, that in accordance to its main mandate, the Commission will endeavour to conciliate the parties in an idea of bringing people together.

Similarly, the Australian Human Rights Commission [AHRC], after a complaint is lodged and provided that the complaint has substance and is within the jurisdiction of the said Commission, will attempt to resolve the complaint using the Alternative Dispute Resolution.²² Most of the complaints are resolved confidentially or withdrawn²³. The AHRC acts as a gatekeeper in that it must handle the complaint before the federal courts can hear the complaint²⁴.

²⁰ Arthur E. Bonfeld, The Substance of American Fair Employment Practices Legislation I: Employers, 61 N.W. L. REV. 907, 913-14 (1967); Auerbach, supra note 68, at 245.

²¹ Bonfeld, supra note 90, at 913-14.

²² Australian Human Rights Commission Act 1986

²³ Dominique Allen, 'Behind the Conciliation Doors: Settling Discrimination Complaints in Victoria' (2009) 18 Griffith Law Review 778, 780.

²⁴ AHRC Act s 46PH(1)(i).

The Equality and Human Rights Commission [EHRC] is the equality commission for England, Scotland and Wales. Unlike Mauritius and Australia, the EHRC does not handle discrimination complaints; it is an advocacy and enforcement body²⁵. It has a range of powers including providing advice and guidance, publishing information and undertaking research. When these methods are ineffective, the EHRC has a range of enforcement powers as contained in the Equality Act 2006. For instance, the EHRC can commence and conduct investigations if an unlawful act is suspected.²⁶ It can also enter into a binding enforceable agreement with a person who it believes has acted in breach of the law in lieu of further action.²⁷

The common ground between the Equal Opportunities Commission of Mauritius, the Australian Human Rights Commission and the Equality and Human Rights Commission is that all three provide information about the law with a view to raising public awareness and encouraging voluntary compliance.

The issue which arises, therefore, is which of the models is best suited. The Australian and Mauritian model are flat and are focused on encouraging voluntary compliance whilst the British model is more inclined towards enforcement. However, it should be noted that the EHRC has not used its enforcement powers as anticipated²⁸. The success of such a model would depend on the fact that there is a real threat that if an organization or institution does not comply voluntarily, sanctions will be imposed.²⁹ The threat of a sanction increases the motivation for respondents to comply, which leads to a more positive outcome much earlier. Sacks³⁰ writes:

“The enforcement of the law by a state agency educates the community both as to the law itself and on the importance accorded by the state to the elimination of discrimination.”

According to some regulatory theorist, in order to curb discrimination more effectively, equality commissions need to follow their ‘loud bark’ with a ‘punitive bite’ if necessary. It is suggested that the Australian model be modified so that the AHRC has a range of upper level powers to use.³¹

Equality Commissions play a vital part in their role as educators, watchdogs and enforcers of anti-discriminatory laws. There are indeed valuable reasons for having a public organization bestowed with enforcing anti-discrimination laws because it will encourage compliance since a threat of sanctions will be looming against non-compliant organisations. The presence of a regulator is a reminder to the community as a whole that something is being done to tackle discrimination. In conclusion, the laws would be easily interpreted if it were clearly defined; and furthermore, thoughts need to be devoted to ways ardently addressing discrimination rather than waiting until it has already happened.

Ghirish Ramsawock
Staff (EOC)

²⁵ The Equality Advisory and Support Service is a separate service which provides advice to complainants.

²⁶ Equality Act 2006 (UK) c 3, s 20(2).

²⁷ Equality Act 2006 (UK) c 3, ss 23, 24(2). Alternatively, the EHRC can seek an injunction to prevent a person from committing an unlawful act: at s 24(1).

²⁸ Dominique Allen, Breaking and Biting: The Equal Opportunity Commission as an Enforcement Agency, 44 Fed. L. Rev. 311 (2016)

²⁹ *ibid*

³⁰ On the early history of the EOC see Vera Sacks, 'The Equal Opportunities Commission Ten Years On' (1986) 49 The Modern Law Review 560

³¹ Smith has also suggested changing the regulatory model so that the AHRC better reflects other regulators.

Gender Equality- A women's issue?

*"It is not our differences that divide us.
It is our inability to recognize, accept,
and celebrate those differences."*

-Audre Lorde

American civil rights activist

12.0 Gender Equality- A women's issue?

If we show emotion, we are called drama queens; if we want to play against men, we're losing it; if we dream of equal opportunity, we're delusional; if we stand up for what we believe, we have not been raised properly. When we get angry, we are hysterical, irrational or just being crazy, crazy and crazy. But then, could a man doing all these be as crazy as a woman? Meanwhile, "Dude, stop getting so emotional over your heartbreak. Boys are not meant to cry. Come on now, man-up". Would a girl have been comforted in the same terms?

It is an undeniable fact that women have, since time immemorial, been subject to countless brutal forms of discrimination in all sorts of cultural settings. Feminism, a movement set up to establish political, economic, personal and social equality of sexes has been responsible for redressing profound sexist injustices to a great extent. For there is absolutely no reason why, women should not be allowed to vote, to have access to education and healthcare or to be paid the same salary as their male counterparts for the same work done. However, it is also true that some forms of feminism have been harmful in that they have fostered an ideological foundation that is anti-male. Feminism, originally based on the equality of sexes, might somehow have ended up segregating men and women by portraying that men are dominant in the society, hence accentuating discrimination between them.

Mention of gender equality evokes, for many, visions of greater corporate and political female representation. In fact, gender equality is the vision that women as well as men, should be treated equally in all aspects of society and not be discriminated against on the basis of their gender. According to the International Labour Office, *"Gender equality, equality between men and women, entails the concept that all human beings, both men and women, are free to develop their personal abilities and make choices without the limitations set by stereotypes, rigid gender roles and prejudices. Gender equality means that the different behaviour, aspirations and needs of women and men are considered, valued and favoured equally. It does not mean that women and men have to become the same, but that their rights, responsibilities and opportunities will not depend on whether they are born male or female."*

Gender equality has in fact historically been contextualized as a "women's issue". Most of the literature on gender equality focuses on girls and women whilst men victims of violence, harassment and discrimination do also exist. Not only women but even men face rigid gender norms and unconscious biases. If on the one hand women face pressures to be good home managers, men on the other hand face pressures to be "manly" and to earn more than their wives for instance. Gender equality therefore includes and is a concern for both sexes. It in no way involves the attribution of rights to a gender at the expense of the rights of the other.

How men think, behave, and how they relate to women and to other men, all play an important part in keeping gender inequalities alive. Even so, women's attitudes and behaviours may support the sexist status quo. After the 1995 Beijing World Conference on Women, there was a shift from women-specific programs to a more integrated gender mainstreaming agenda. New thinking within the discipline of gender studies has also potentially opened up more space for men and boys to be included. However, we are not completely there yet.

Contrary to popular belief, neither women nor men have starring roles in this struggle for gender equality. It's all about what both can do as allies to achieve gender justice. Equality is only possible if men and women work together. Engaging men on gender equality is hence fundamental and all this will not happen without creating some discomfort. But then, may be, we have to learn to be more comfortable in making others a little less comfortable so that in a decade we may look back and say, "yes, we made a difference".

**Mirabye Narroo-Dajee (Mrs.)
Investigator (EOC)**

The role of the Equal Opportunities Commission in the fight against sexual harassment

"We must send a message across the world that there is no disgrace in being a survivor of sexual violence.

The shame is on the aggressor."

-Angelina Jolie

Actress

13.0 The role of the Equal Opportunities Commission in the fight against sexual harassment

There are several forms of harassment. Amongst others, sexual harassment is the most common type that exists. No form of harassment is permitted. The law prohibits sexual harassment and offers protection to employees.

13.1 Definition

Section 25 of the Equal Opportunities Act defines sexual harassment as follows-

“(1) A person sexually harasses another person where, in circumstances in which a reasonable person would have foreseen that the other person would be humiliated, offended or intimidated, he –

(a) makes an unwelcome sexual advance, or an unwelcome request for a sexual favour, to another person; or

(b) engages in any other unwelcome conduct of a sexual nature towards another person.

(2) For the purposes of subsection (1) (b), "conduct" includes making or issuing an unwelcome oral or written statement of a sexual nature to a person or in the presence of a person.”

13.2 Victims of sexual harassment

Both men and women can be victims of sexual harassment. Likewise, the person perpetrating the act of a sexual nature can either be a man or a woman. Both the victim and alleged harasser can also be of the same sex. However, most of the sexual harassment claims and charges are brought by women alleging that they are being sexually harassed by men.

13.3 Who can be the perpetrators of sexual harassment?

Sexual harassment can take place between:

- Co-workers, that is colleagues of the same or opposite sex;
- A higher-ranking officer and a member of his staff;
- A third party or stakeholder connected with the firm (an agent, a supplier or customer for instance) and an employee of the firm.

Around 35 % of the cases of sexual harassment committed are by someone occupying a higher position in the organisation.

13.4 Settings in which sexual harassment can occur

Sexual harassment can occur in different social settings including the workplace, schools, universities, playgrounds and home.

13.5 Negative impacts of sexual harassment

Sexual harassment affects the dignity and self esteem of the victim. It brings disgrace. The worker suffers in his/her work and general well-being. Low morale prevails at the workplace which becomes more tense. The environment is intimidating, offensive and more hostile. There is lesser job satisfaction leading to a higher rate of absenteeism. Team conflict increases and efficiency is negatively affected. It soars down the rate of productivity of the company thereby, impacting its profitability. In its package, it will bring more lawsuits, eventually affecting the image of the firm in the eyes of the public. Altogether, it gives a serious blow to the economy.

The Equal Opportunities Commission (EOC) has a well-established complaint procedure to encourage any employee in reporting a case of sexual harassment. Every employee has a legal right to complain about sexual harassment without fear of any retaliation.

It is a legal obligation upon any firm to keep its employees protected from sexual harassment. Every firm or organisation must have an elaborate written policy on issues related to sexual harassment. Another important element is that such a document must be widely circulated within the enterprise and be made known to every stakeholder concerned. The procedure and disciplinary actions that follow in such cases must be properly spelt out in the manual. More importantly, the sanctions taken against any eventual harasser must be seen being enforced and that there is zero tolerance.

It is noted also that those persons reporting cases of sexual harassment are scared and apprehensive because of the treatment received has been hostile. They are victimised when such cases are reported. Victims prefer to make complaints and have the matter settled “in house” rather than let the case go public.

The EOC does not only work on complaints lodged. It has also launched a vast sensitisation campaign. *“Prevention is better than cure”*, through this campaign, the EOC reaches the workers and the public in general. It disseminates information and creates awareness. It helps eventual victims to report cases of sexual harassment before matters become worse at the workplace.

Firms must have at their disposal a policy which clearly defines the term sexual harassment, the procedure and investigation process or any complaint which is well founded and the sanctions that are imposed.

13.6 Anti-sexual harassment training performances

As prevention is the best medicine, regular effective training programmes for employees must be carried out to generate constructive? discussions about which behaviours are acceptable or not.

It is important that-

- Separate training sessions for supervisors and managers must be conducted;
- A good communication system and proper monitoring process must be developed;
- Confidentiality is being respected;
- Protection and support is provided to persons who feel they are being harassed;
- Complaints are to be properly dealt with;

Sexual harassment and assault can be prevented by educational programmes at schools, universities, workplace and in other social settings

Sexual harassment has always lurked in the shadows of workplace. There is a need for change in the cultural transformation which will of course not occur overnight. The common standard must be: Must Report- Must Investigate-Must Punish. Employers are prohibited from retaliating against employees who file complaints on sexual harassment. It must not result into adverse employment decisions of the victims, demotion, firing or being forced to quit.

Gunneswar Shibchurn
Member, EOC

Sensitisation/ Awareness Programme



Discrimination.

It stops with you.

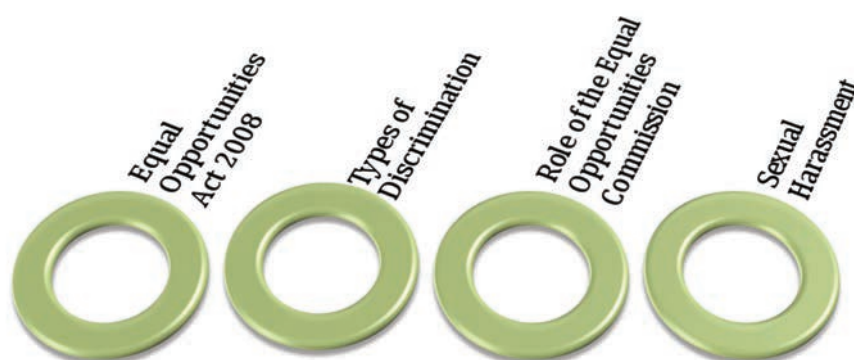
If not you, then who?

14.0 Sensitisation/Awareness Programme

The Equal Opportunities Commission is mandated by law to conduct sensitisation programmes for the purpose of eliminating discrimination and promoting equality of opportunity and good relations between persons of different status. Awareness campaigns are accordingly organised across Mauritius and Rodrigues throughout the year.

Sensitisation Programme	Number of Participants	Number of Participants	Number of Participants	Number of Participants	Total
	Year 2016	Year 2017	Year 2018	Jan–May 2019	
1 Women's Centres	161	270	41		472
2 District Councils	158				158
3 Municipal Councils	155				155
4 Public Sector Organisations and Departments	70	103	351	160	684
5 Private Sector Organisations	170			32	202
6 Secondary Schools			2143	186	2329
7 Rodrigues		11	480	250	741
TOTAL	714	384	3015	628	4741

TOPICS COVERED



With a view to encouraging adherence to principles of fairness, equal opportunity and transparency, sensitisation sessions are held with staff of organisations in both public and private sectors. During those interactions, emphasis is laid on the significant role that ought to be played by HR cadres in the promotion of equal opportunity for all at the workplace.

14.1 Public Sector Organisations and Departments

Target Audience –HR cadres and other employees

Date	Name of Institution	Targeted Group	Number of audience (Approx.)
26.05.16	Police Training School	Newly promoted Police Sergeants	70
24.03.17	Ministry of Technology, Communication and Innovation	Staff	25
31.03.17	Ministry of Energy and Public Utilities	Staff	20
26.05.17	Prison Headquarters, Prison Training School, Beau Bassin	Staff	43
26.05.17	Road Development Authority	Staff	15
01.09.17	Rodrigues Regional Assembly (Les Cocotiers Hotel Rodrigues)	Departmental Head & HR Cadre	11
22.06.18	Police Force, Rodrigues	Staff	30
20.07.18	Central School of Nursing, Ministry of Health & QL	Students & Educators	100
07.09.18	Commission for Health, Rodrigues	Nursing Officers	20
15.02.19	Ministry of Business Enterprise and Cooperatives (Business and Enterprise Division)	Staffs	20
21.03.19	Fire and Rescue Services - Rodrigues	Fire Services Officers	20
22.03.19	Commission for Health, Rodrigues	Nursing Officers	18
22.03.19	Police Force, Rodrigues	Police Officers	15
03.04.19	School of Nursing Candos	Student Nurses	62
24.05.19	Mauritius Prison Department	Prison Officers	78
		TOTAL	547

14.2 Private Sector Organisations

Target Audience –Human Resources cadres and other employees

Date	Name of Institution	Targeted Group	Number of audience (Approx.)
16.06.16	CCI France	HR Cadre & Staff	300
29.07.16	Standard Bank	HR Cadre & Staff	150
15.09.16	Constance Belle Mare Plage	HR Cadre & Staff	50
30.09.16	Confident Asset Management	Staff	78
15 .02.19	The HSBC Ltd	Line Managers	32
		TOTAL	610

14.3 Municipal and District Councils

Target Audience –HR cadres and other employees

Date	Name of Institution	Targeted Group	Number of audience (Approx.)
03.10.16	District Council of Flacq	Staff	32
11.10.16	District Council of Moka	Staff	75
14.10.16	Municipal Council of Beau Bassin/ Rose Hill	Staff	45
17.10.16	District Council of Riviere du Rempart	Staff	10
24.10.16	District Council of Grand Port	Staff	20
27.10.16	District Council of Pamplemousses	Staff & Councillors	13
11.11.16	Municipal Council of Vacoas Phoenix	Staff & Councillors	60
17.11.16	District Council of Black River	Staff	40
25.11.16	Municipal Council of Quatre Bornes	Staff & Councillors	50
		TOTAL	345

14.4 Secondary Schools

Considering that young people are assets in the paradigm shift towards a discrimination free society, the Commission has been conducting awareness campaigns about the provisions of the Equal Opportunities Act in various educational institutions in Mauritius and Rodrigues.

Target Audience – Students, Teaching and Non-Teaching Staff

Date	Name of Institution	Targeted Group	Number of audience (Approx.)
20.04.18	Royal College Port Louis	Students & Teachers	300
27.04.18	Keats College	Students	150
04.05.18	Hamilton College Boys	Students & Teachers	50
11.05.18	Cosmopolitan College (Boys)	Students & Teachers	78
11.05.18	Rabindranath Tagore Institute	Students & Teachers	90
18.05.18	Dr Maurice Cure State College	Students & Teachers	100
18.05.18	Modern College	Students & Teachers	250
25.05.18	Bambous SSS (Boys)	Students	55
25.05.18	Hindu Girls College	Students & Teachers	400
01.06.18	New Eton College	Students & Teachers	60
08.06.18	Lady Sushil SSS	Students	355
15.06.18	Universal College	Students	100
18.06.18	Pamplemousses SSS	Students & Teachers	80
20.06.18	Marechal College, Rodrigues	Students & Teachers	200
20.06.18	Grande Montagne College, Rodrigues	Students & Teachers	85
21.06.18	Mont Lubin College, Rodrigues	Students & Teachers	70
22.06.18	Le Chou College, Rodrigues	Students	75
25.06.18	Patten College	Students & Teachers	25
04.07.18	Queen Elizabeth College	Students & Teachers	75
10.08.18	MITD Piton	Staff	20
17.08.18	MITD Beau Bassin	Staff	23
24.08.18	MITD Ebene	Staff	28
06.09.18	MITD Le Chou	Staff	30
21.09.18	MITD Mahebourg	Staff	23
20.03.19	Rodrigues College	Students	125
29.03.19	France Boyer de la Giroday SSS	Students	126
31.05.19	Mahatma Gandhi Institute	Students & Teachers	60
		TOTAL	3033

14.5 Empowering Women

The aim of the sensitisation campaigns held by the Commission at various Women Centres was to assist women in understanding their rights with regards to discrimination and in so doing, to help them have better tools to deal with discrimination and sexual harassment issues.

Target Audience – Women

Date	Name of Institution	Number of audience targeted (Approx.)
23.09.16	Lallmatie Women Centre	75
07.10.16	Triolet Women Centre	10
11.10.16	Bambous Women Centre	20
16.02.17	Floreal Women Empowerment Centre	20
05.04.17	Trois Boutiques Triolet Women Centre	15
07.04.17	Rose Hill Women Empowerment Centre	33
13.04.17	Indira Gandhi Women Empowerment Centre (Riviere du Rempart)	20
30.06.17	Abercrombie Women Empowerment Centre	22
14.07.17	Dagotiere Women Empowerment Centre	17
28.07.17	Flacq Women Empowerment Centre	16
04.08.17	Rose Belle Women Empowerment Centre	41
18.08.17	Baie du Tombeau Women Empowerment Centre	17
22.08.17	Richelieu Women Empowerment Centre	19
08.09.17	Surinam Women Empowerment Centre	30
TOTAL		355

14.6 Feedback on the Sensitisation Campaigns

Good Initiative for the awareness session. The session can be done as a workshop to help trainee teachers to better understand the objective of the Commission and also on how to educate the children.

A very interesting & interactive session! Well appreciated by all participants. Enlightened many legal issues related to workframe context in Nursing. It would be highly appreciated if it would be conducted in hospitals too.

Most students expressed their appreciation with regards to this sensitisation programme as it was highly instructive and interactive. The issues dealt with are directly linked to the themes they have to work on in General paper and French at HSC Level.

It contributes in student awareness of the workings of Equal Opportunities Commission and how it contributes in justice and equity for one and all in our multi-racial society.

Very Lively! Students very much appreciated the talks of Messrs. Toulouse and Shibchurn. The use of Creole and examples in everyday life situations gave another dimension to the speech. Pupils like to hear what is 'terre à terre', the reality. No lecturing. Good response from the audience.

Very informative and fruitful experience for our students! Response has been very high from our critical-minded and inquisitive students. Looking forward for such interaction in the future for other batches of students.

There has been a great deal of information provided. Same has been noted and, henceforth, we shall be even more alert to the necessity of promoting equal opportunities in the workplace, and certainly see to the discrimination guideline of the organisation's equal opportunity policy.

The exposé made by Mr. R. Dookhony was very interesting and instructive for we, employers, have heard about the Equal Opportunities Act and Equal Opportunities Commission but, however, we were not aware of its importance in our day to day working world and the legal content of same for employees as well as employers. This talk will foster, henceforth, and make us realize the importance of indirect discrimination, or any type of discrimination at work.

The sensitisation programme has enhanced our knowledge on various forms of discrimination, procedure on how to lodge a complaint in case of victimization, how to promote equality of opportunity and good relations between person of different status and also on the provision of EOA and the duties of the Commission.

The campaign was very interactive. The resource person was down to earth and made the audience at ease. The subject delivered was explained in a clear and simple way. Women who attended the talk appreciated it and grasped information about the subject explained.

We are thankful to the Chairperson of the Commission for having taken the pain to come to the Municipality to address the Mayor, Councillors and officers of the Council on several pertinent issues having to do with equal opportunities amongst others partially in respect of people with disabilities, discrimination, inequalities and need for equality. The working session with concrete examples explained including emphasis laid on equality, change in mindset, paradigm shift and good governance has been enriching for all of us. We now have a clearer and better idea of the provisions of the law and we shall spare no effort in ensuring compliance with the provision of the law.

14.7 Gallery – Sensitisation Campaigns



France Boyer de la Giroday SSS



HSBC Ltd



Rodrigues College



Fire Services Officers, Rodrigues



Nursing Officers, Rodrigues



Royal College, Port Louis





MIE, Reduit



Keats College



Police Officers, Rodrigues



Queen Elizabeth College



Constance Belle Mare Plage



Municipal Council of Quatre Bornes



14.8 Team Building Activities – 2018

In an idea to cultivate team spirit and cohesion, the EOC staff met around team building activities in 2018.



Press Cuttings



Audiovisuel

L'EOC enquête sur la nomination d'un Manager à la MBC

L'Equal Opportunities Commission (EOC) a démarré une enquête à la Mauritius Broadcasting Corporation (MBC). Elle se penche sur la nomination d'une *IT Officer* au poste d'*Administrative Manager*. Un des candidats à ce poste a saisi la commission. Celle-ci a convoqué le plaignant, le lundi 8 avril, pour enregistrer sa version des faits.

Dans la plainte logée en juillet 2018, la personne qui se sent lésée explique qu'elle est employée à la MBC depuis 18 ans et qu'elle occupe le poste de *Plant and Maintenance Officer* depuis 17 ans. Le plaignant est également responsable du département de *Health and Safety* depuis cinq ans.

L'employé concerné avance qu'il a répondu à un appel à candidatures en 2017 et que la MBC avait présélectionné une dizaine de postulants. Chaque candidat devait alors passer par deux entretiens. Lors du premier entretien, indique-t-il, la direction lui avait fait comprendre qu'il était surqualifié pour ce poste. Il n'a ainsi pas été retenu pour la deuxième audition.

Il se dit « pénalisé », car le rapport du Pay Research Bureau définit l'*Administrative Manager* comme celui qui est responsable de la *Plant and Maintenance Unit*



Le plaignant est employé à la MBC depuis 18 ans.

et du département de *Health and Safety*. L'*Administrative Manager* doit également être détenteur d'un Master of Business Administration (MBA). Toutefois, selon le plaignant, la personne embauchée en février 2018, ne posséderait pas de MBA ni d'expérience en maintenance ou dans le *Health and Safety*. Cette personne, ajoute-t-il, est une ancienne réceptionniste qui a été, par la suite, promue à la *IT Support Unit* avant de se voir confier le poste d'*Administrative Manager*.

Du côté de la commission, on avance que la plainte avait été déposée en juillet 2018. Mais comme il manquait certaines informations au dossier, le plaignant avait été invité à

fournir des renseignements supplémentaires. La décision de démarrer une enquête a été prise en janvier 2019 et le plaignant a été appelé à venir donner sa version des faits le lundi 8 avril. Il a demandé un renvoi afin de pouvoir retenir les services d'un homme de loi.

À la MBC, on indique que les toutes les procédures ont été suivies pour la nomination de l'*Administrative Manager*. On ajoute cependant que quiconque se sent pénalisé a le droit de se tourner vers l'Equal Opportunities Commission. « On laisse à la commission le soin d'enquêter », souligne un responsable de la corporation.

Danny Ip Kai Yuen

NOMINATION CONTESTÉE

L'EOC enquête sur la rectrice du collège New Devton

DANS quelles circonstances Sharmila Roy a-t-elle été maintenue à son poste de rectrice du collège New Devton, suivant un appel à candidatures ? C'est ce que devra déterminer l'Equal Opportunities Commission (EOC), qui a ouvert une enquête le 24 juillet.

Enquête qui fait suite à une plainte d'un employé. Il soutient avoir les qualifications requises par le *Pay Research Bureau* (PRB) pour le poste de recteur. Ce qui, selon lui, ne serait pas le cas de Sharmila Roy. Ses qualifications n'équivaldraient pas, semble-t-il, au BSC Honours en comptabilité et management octroyé par l'université de Maurice. Pour en avoir le cœur net, l'EOC a demandé à l'administration du collège de lui remettre un résumé de l'exercice de sélection suivant l'appel à candidatures.

C'est en 2008 que Sharmila Roy est nommée rectrice du collège, sis à Beau-Bassin, par son père, qui en était alors le directeur. Elle travaillait alors comme enseignante au

sein de l'établissement. Deux ans après, elle prend poste.

Après le décès de son père, en 2016, les ennuis commencent pour la rectrice. Elle essuie plusieurs reproches de la direction en raison de sa façon de faire. Et finit même par être suspendue après une grève des collégiens, qui protestaient contre sa gestion de l'établissement. Informée de la situation, la *Private Secondary School Authority* – désormais connue comme la *Private Secondary Education Authority* (PSEA) – lui impose un long congé.

Dans la foulée, le directeur du collège New Devton, qui n'est autre que le frère de Sharmila Roy, jure un affidavit contre elle. Affirmant qu'elle n'a pas les qualifications requises pour assumer les fonctions de rectrice. Il lance, en outre, un appel à candidatures pour trouver un nouveau recteur. Entre-temps, un employé de l'établissement, répondant aux critères du PRB, assure l'intérim. Rebondissement en

décembre 2017, lorsque Sharmila Roy réintègre son poste à l'issue de l'appel à candidatures.

Sollicité, le directeur du collège New Devton s'est contenté de préciser qu'il n'a rien à voir avec cette nomination. Soulignant que cela relève de la responsabilité de la PSEA. Il ajoute néanmoins que Sharmila Roy « *ne satisfait pas les critères du PRB. C'est la PSEA qui l'a recrutée. Nous, on respecte les procédures* ».

Du côté de la PSEA, on renvoie la balle à l'administration du collège. Le directeur, Shiv Luchoomun, avance ne pas être au courant de cette affaire. « *We don't recruit teachers. On s'assure qu'ils ont des critères and then we endorse the recruitment* » Il nous a également demandé de lui envoyer un mél avec nos questions, auxquelles il n'a pas encore répondu.

La principale concernée n'avait, elle, « *pas le temps* » pour répondre à nos questions. Par le biais d'un employé, Sharmila Roy a déclaré qu'elle compte entamer des poursuites pour diffamation.

jeudi 14 février 2019 **13**

RELATIONS INDUSTRIELLES

Pravita Demunger exige sa réintégration au MES

Elle dit avoir été injustement démise de ses fonctions alors qu'elle a travaillé pendant plus de neuf ans, et ce sans reproche. Pravita Demungur, qui exerçait en tant que "General Worker" au Mauritius Examinations Syndicate (MES) sur une base contractuelle, exige qu'elle soit réintégrée au plus vite à son ancien poste. Elle a été remerciée en septembre 2017.

Cette habitante du sud reconnaît avoir pris du retard pour retrouver son emploi car « je ne savais pas quels sont les moyens pour faire entendre ma voix ». Ayant pris connaissance des institutions qui existent, elle a écrit à l'Equal Opportunities Commission (EOC), au ministère de l'Emploi et à l'Ombudsman. Elle attend un verdict de l'EOC.

« Mes collègues ont obtenu leur lettre de recrutement, mais pas moi. Comment cela peut-il se faire ? Je suis la première personne à avoir été recrutée sur une base temporaire au MES », dit-elle, ajoutant qu'elle a pris de l'emploi suivant les procédures de cette institution. Pravita Demungur fait ressortir que, chaque année, elle voit défiler de nouvelles personnes qui travaillent temporairement. « Certaines restent et d'autres partent. J'ai choisi de rester et j'ai accepté toutes les conditions du travail », dit-elle.

Cette mère de famille dit que c'est après six mois que le MES a eu recours à « un prétexte pour dire que je n'ai pas les qualifications requises ». Elle affirme qu'on aurait dû l'informer que son nom n'est pas sur la liste du ministère de l'Emploi envoyée au MES pour

recruter ceux qui ont travaillé sur une base contractuelle. Pravita Demungur indique qu'elle ne travaille pas et que son mari n'a pas d'emploi non plus. Malgré le fait qu'elle soit sur une base temporaire, elle avait obtenu une augmentation graduelle de son salaire. Pravita Demungur avance qu'elle n'a pas obtenu son boni de fin d'année en 2018 alors qu'elle en recevait toutes les années durant lesquelles elle a travaillé. « Je dois retourner à mon ancien poste. Qui me donnera un travail à cet âge ? Je dois marier ma fille et j'ai un prêt à payer pour la construction de ma maison », dit-elle.

Contactée pour sa version sur cette affaire, la directrice du MES, Brenda Thanacoody Soborun, avance que Pravita Demunger travaillait sur une base contractuelle. « On recrute quelques personnes sur une base contractuelle à l'approche des examens. Toutefois, ces personnes n'ont pas le droit de demander d'être recrutées pour ce poste sur une base permanente », explique la directrice générale. Par ailleurs, elle fait ressortir que, lorsque le MES recrute, personne n'a le contrôle car les recrutements sont effectués sur des critères auxquels doivent répondre les candidats. « Nous travaillons selon la liste que nous donne le bureau de l'emploi », précise-t-elle. Brenda Thanacoody Soborun fait également ressortir que Pravita Demungur n'a pas le CPE alors que le poste de "General Worker" en exige. Par ailleurs, elle souligne que, depuis trois ans, le MES a cessé de recruter des contractuels mais des personnes sur une base permanente.

Port-Louis

chances fait débat

■ Richard Toulouse de l'Equal Opportunities Commission: "Est-ce que tous les enfants de Maurice, Rodrigues, Agaléga ont les mêmes opportunités ?"

joindre au débat organisé par l'Equal Opportunities Commission alors que deux ou trois élèves semblaient confus, au point de vouloir d'abord assister à la conférence avant de se prononcer. D'un « ki ete sa ? », d'autres, comme Ryman Abdooll (16 ans), Pascal Lee (18 ans) et Sakthivelan Ramen (17 ans) se sont immédiatement prêtés au jeu. Sakthivelan Ramen explique : « Il est très important que la société prospère et au niveau des classes sociales, il faut une juste redistribution. Le concept de l'égalité des chances longuement prôné n'est pas suffisant, il faut revoir le système et amener une prise de conscience des droits auprès de tout un chacun. »

Pascal Lee, lui, trouve qu'on est actuellement dans une mouvance qui annonce la transition vers l'égalité des genres. « Le concept est là, il faut juste qu'on l'applique. Les femmes peuvent aujourd'hui assumer des postes clés, elles ont prouvé qu'elles pouvaient être à la fois mères, épouses et professionnelles. » Quant à Ryman Abdooll, il est d'avis que l'Equal Opportunity vient donner à chaque personne la chance qu'elle mérite. « C'est une excellente initiative de l'Equal Opportunities Commission d'avoir choisi notre collège. On n'a pas que des lauréats, mais cette interaction nous pousse à mieux connaître nos droits. »

Lors de ce débat, les trois intervenants de l'Equal Opportunities Commission ont tenu à sensibiliser les jeunes au rôle de la commission, à l'application de la loi et au fonctionnement du tribunal. M. Dookhony a ainsi expliqué à l'assistance que : « It is our duty to ensure that these rights are a living reality, that they are known and understood. It is often those who most need their human rights protected who also need to be informed that the declaration exists and that it exists for them. »

Richard Toulouse a lui parlé de la nécessité, voire l'urgence, que chacun prenne conscience du rôle joué par l'Equal Opportunities Commission. « C'est un des mandats de la Commission : faire des enquêtes et mettre en place une zone de sensibilisation. Est-ce que tous les enfants de

Maurice, Rodrigues, Agaléga ont les mêmes opportunités ? Vous, les élèves du Royal, vous êtes les futurs leaders de demain et la Déclaration universelle des Droits de l'Homme dit qu'on est tous nés égaux. C'est pourquoi en 2008, on est venu avec l'Equal Opportunity Act qui est entrée en vigueur en 2012. » Il a aussi mis l'accent sur la discrimination. D'où, a-t-il dit, la création de deux instances : l'Equal Opposition Commission et l'Equal Opposition Tribunal. « Nous avons le pouvoir de faire des enquêtes et de voir s'il y a eu acte de discrimination. »

Gunneswar Shibchurn a, quant à lui, axé son intervention sur le harcèlement. « Le harcèlement sexuel au travail est un combat collectif. Not only victims suffered but the whole family. »

Interaction avec les jeunes

Par la suite, les élèves des Form V et VI ont commencé à réagir et à dire haut et fort qu'il fallait dénoncer les coupables. Le débat étant suivi avec intérêt, ils étaient nombreux à lever le bras pour faire entendre leurs voix. L'un d'eux a ainsi fait état de la discrimination : « On est dans une société à deux vitesses, les personnes au bas de l'échelle doivent subir les actes de discrimination alors que les hauts gradés s'en sortent aisément. Ou bien zot ne dir demisione. » Un autre dira que l'Equal Opportunity sème davantage la discorde. « C'est une guerre ouverte entre l'équité et l'égalité. Ou donn zenfan pov mai ou donn osi zenfan riss. Parfois des discriminations se terminent en accord à l'amiable... »

Un autre dira que le Premier ministre a émis le souhait qu'il y ait plus de jeunes sur le marché du travail. Or, a-t-il demandé, pourquoi on veut que l'âge de la retraite passe à 65 ans. « Kifer gard bann vie en post alor ki zot lor retireman plan, li pa enn discriminasion anver bann zenn ? » Une autre question était axée sur l'ex-ministre du Logement Soodhun, précisément en ce qui concerne l'exclusion d'un certain groupe pour les maisons de la NHDC. Pour ce jeune, il est trop facile de réclamer des démissions

sans que ces mêmes personnes rendent compte au public de leurs actes. « C'est de la discrimination ! On se demande aussi si lorsque le PM passe le pouvoir à son enfant il ne s'agit pas d'une autre forme de discrimination ? Le public aussi doit pouvoir s'exprimer, on ne peut pas juste attendre des débats parlementaires et ne pas pouvoir réagir en tant que citoyen », martèle un autre.

Gunneswar Shibchurn a demandé aux élèves, après cette riche et fructueuse ren-



Belle interaction entre les élèves du RCPL et les membres de l'Equal Opportunities Commission

contre, de devenir des ambassadeurs et d'expliquer à leurs autres camarades leurs droits. « N'importe quelle plainte doit

être faite en écrit et déposée auprès de la Commission. Les "Complaint Forms" sont disponibles au siège de la Com-

mission. Le document peut aussi être téléchargé sur le site internet de la Commission, être imprimé ou soumis en ligne. »

ASSEMBLÉE NATIONALE | Ce mardi

23.04.18

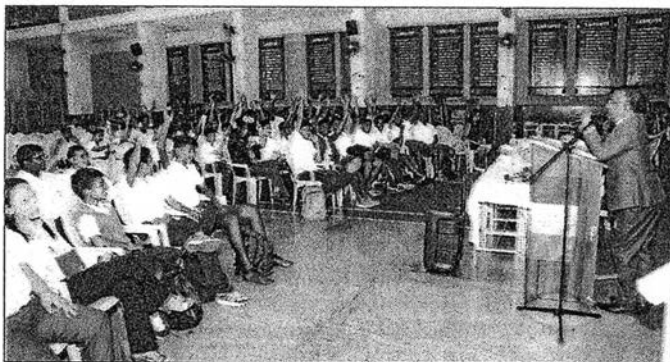
le mauricien

SENSIBILISATION | Au Collège Royal de

L'égalité des

Trois représentants de l'Equal Opportunities Commission – nommément Gunneswar Shibchurn, Richard Toulouse et M. Dookhony – ont animé un débat interactif avec les élèves du Collège Royal de Port-Louis vendredi. Ces derniers ont montré une bonne maîtrise du sujet en n'hésitant pas à poser des questions pertinentes, notamment sur l'accession de Pravind Jugnauth au poste de Premier ministre et l'affaire Soodhun.

L'ambiance était palpable dans le hall du Collège Royal de Port-Louis. Certains élèves étaient motivés et prêts à se



Les points d'embarquement

Les règlements de 2017, proclamés en janvier 2018, établissent une liste de 44 points d'embarquement pour les plaisanciers détenteurs d'un permis à travers le pays. Cependant, il peut y avoir plusieurs points d'embarquement dans la même zone, par exemple il y a deux points à Trou-d'Eau-Douce, trois au Morne, trois à Grand-Baie, etc. Un bateau ne peut embarquer un client d'un site autre que celui stipulé sur son permis, mais il peut reprendre son client qu'il a lui-même déposé ailleurs. Les points d'embarquement, c'est comme les *taxi stands* où chaque taxi opère à partir de sa base d'opération officielle. Or, si tous les taxis de l'île veulent travailler à la Place d'Armes, il y régnerait une anarchie.

DARSAN RACKTOO : « Il faut saluer le courage des autorités »

Darsan Racktoo, président de l'Eastern Federation of Pleasure Crafts Operators, se dit très satisfait de la volonté de la Tourism Authority d'assainir la situation à Trou-d'Eau-Douce. Selon lui, ce problème ne date pas d'hier. *« Nous luttons contre les opérateurs illégaux depuis bientôt 15 ans. Cela a été un très long combat »*, dit Darsan Racktoo, qui félicite la Tourism Authority d'avoir eu le courage de venir de l'avant avec des règlements sévères. *« Je pense que la Tourism Authority, sous la férule de Madame Boodhoo, fait son travail comme il se doit. »* Il révèle que ce combat l'a même mené aux portes de l'Equal Opportunities Commission. *« Il faut absolument mettre de l'ordre. Bien sûr, il y aura des récalcitrants, mais la loi est la loi. Tout le monde doit la respecter »*, clame-t-il. Il compare la situation avec les marchands ambulants de Port-Louis. *« Les autorités ont sévi afin de mettre de l'ordre, de*

Demande de reconnaissance d'un diplôme

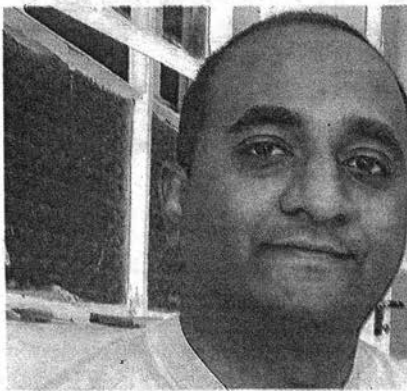
Un médecin se bat pour pouvoir exercer comme spécialiste

Le Dr Vikram Kumar Nunkoo souhaite exercer comme spécialiste en obstétrique et gynécologie. Mais le Medical Council refuse de reconnaître son diplôme, estimant qu'il a terminé sa formation de résident en trois ans, contre la durée de deux ans imposée.

Cela fait plus de 20 mois que le Dr Vikram Kumar Nunkoo, âgé de 36 ans, est rentré au pays après des études en Russie. Sauf qu'il se heurte à un obstacle de taille : alors qu'il souhaite exercer comme spécialiste en gynécologie, le Medical Council refuse de reconnaître le diplôme en *Obstetrics and Gynecology* qu'il a obtenu de l'université de Volgograd. Résultats des courses : il est en difficulté financière, ayant des traites à payer, dont le remboursement d'un emprunt. En attendant qu'une solution soit trouvée, il exerce comme généraliste en ce moment.

Le Dr Vikram Nunkoo affirme que le Medical Council a rejeté en deux occasions la demande de reconnaissance du diplôme de spécialiste qu'il a formulée. « I am directed to inform you that Council has, at its sitting of April 12, 2016, decided to reject your application on the ground that the said clinical residency course has a prescribed duration of 2 years although you completed the course in Obstetrics & Gynecology in 3 years. You may wish to refer to section 2 of the Medical Council Act regarding to the definition of 'specialist qualification' », lit-on dans la première réponse du Medical Council, en date du 10 mai 2017 et signée par le Dr K. Deepchand, Registrar du conseil.

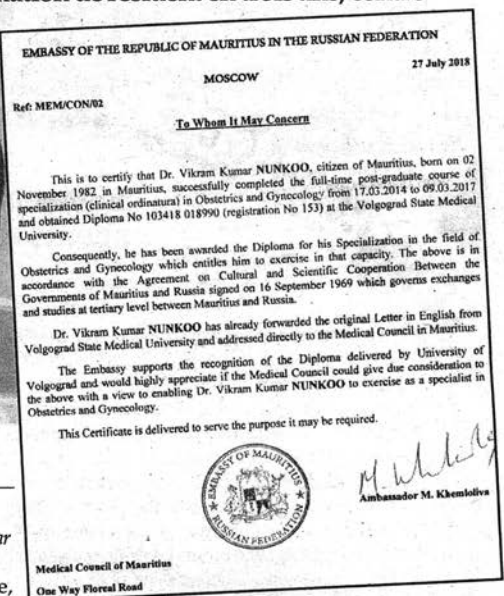
Dans un second courrier en date du 17 juillet 2017, le Medical Council déclare ceci : « It is noted that you intend to lodge a complaint to ICAC, EOC, Prime Minister's Office and the media concerning the non-recognition of the clinical ordinatura course as a specialist degree by the Medical Council. I have to inform you that the case is presently subjudice before the Supreme Court, hence your request for a reconsideration of your application for registration as specialist cannot be acceded to. » Cette lettre



Le Dr Vikram Nunkoo exerce en ce moment comme médecin généraliste.

a été signée par le Dr V. D. Basant Rai, Ag. Registrar du Medical Council.

L'ambassadeur de Maurice en Russie, Maheswarsingh Khemlolia, a écrit une lettre au Medical Council. Dans cette missive, il explique que le Dr Vikram Nunkoo a complété avec succès un *full-time post-graduate course of specialization (clinical ordinatura)* in Obstetrics and Gynecology dans la période du 17 mars 2014 au 9 mars 2017. Il précise que le médecin a ensuite obtenu son diplôme à la Volgograd State Medical University pour une spécialisation en *Obstetrics and Gynecology* qui l'autorise à exercer comme tel. Tout ceci, précise l'ambassadeur, est conforme à l'*Agreement on Cultural and Scientific*



Fac-similé de la lettre que l'ambassadeur de Maurice en Russie aurait écrite au Medical Council.

Cooperation signé le 16 septembre 1969 par Maurice et le gouvernement russe. L'ambassadeur de Maurice en Russie souhaiterait que le Medical Council reconnaisse le diplôme du Dr Nunkoo afin que ce dernier puisse exercer comme spécialiste.

Raj Bissessur
rai@defimedia.info

CARDIAC CENTER

Un médecin porte plainte à l'Equal Opportunities Commission

Mécontent de n'avoir pas été recruté au poste de cardiologue au Cardiac Centre, à Pamplemousses, un médecin a porté plainte à l'*Equal Opportunities Commission* la semaine dernière. Ayant obtenu son diplôme de cardiologue en juillet 2012, le plaignant travaille déjà comme *Specialised Medical Officer* au centre cardiaque depuis 2016 après avoir été affecté, depuis 2012, à l'hôpital de Flacq. C'est ainsi qu'il a décidé de participer à l'appel à candidature pour le poste de cardiologue lancé le 9 mars par le *Trust Fund for Specialised Medical Care* (TFSMC), qui gère le Cardiac Centre. Ce centre cherche alors à recruter quatre cardiologues. Quatre médecins postulent, dont le *Specialised Medical Officer*. Le 2 mai, le TFSMC l'informe que sa candidature n'a pas été retenue. Dans sa plainte, le médecin soutient qu'il était pourtant méritant, car trois des quatre personnes retenues exerçaient dans un hôpital régional, alors que lui y officie depuis deux ans. Il souligne aussi qu'il n'a jamais fait objet d'un rapport défavorable de ses supérieurs depuis qu'il a pris de l'emploi comme généraliste en 2007 dans le service civil.

Le plaignant soutient que même s'il était un *Specialised Medical Officer*, il faisait un travail directement lié à celui d'un cardiologue, comme par exemple remplacer le cardiologue au département *Outpatient*, faire des échocardiographies dans ce département mais aussi aux urgences. Il a également été en charge d'un département. Il montre également du doigt un des médecins retenus, en soulignant que celui-ci effectuait du travail administratif depuis un certain temps et n'était pas dans l'opérationnel.

Patrick Hilbert

Fausses notes au Conservatoire de musique

Des enseignants accusent la direction de discrimination

Les relations entre certains enseignants et la direction du Conservatoire de musique François Mitterrand sont loin d'être harmonieuses. Des enseignants accusent la direction de ne pas respecter leurs conditions de travail, de réduire leur nombre de cours et leurs salaires et ont porté plainte auprès de différentes autorités et à l'Equal Opportunity Commission.

Parmi les enseignants qui se disent victimes de la direction se trouve le guitariste classique Gérard François dont la réputation a depuis très longtemps dépassé nos frontières. En 2006, après un long séjour en Australie, il est approché par la direction du conservatoire qui lui demande de mettre sa compétence reconnue au service de l'institution pour rehausser son niveau. Il lui est proposé de donner des cours aux élèves. Désireux d'aider son pays dans son domaine de compétence, Gérard François accepte de revenir à Maurice, mais découvre, après son retour, qu'au lieu du poste permanent promis, il sera un part *time teacher* payé par cours. Ce qui lui fait perdre pratiquement la moitié de la somme qui lui avait été promise. Pour pallier le manque à gagner, la direction du conservatoire lui promet de lui trouver des engagements dans les hôtels, promesse qui ne sera jamais tenue. Ayant déjà déménagé à Maurice, le musicien est obligé d'accepter cette situation

qui va prendre fin en 2013 quand la direction décide, unilatéralement, d'arrêter de rétribuer les enseignants par cours pour les payer à l'heure, sensément à la demande du ministère de l'Education et du PRB. Les enseignants protestent à travers leur syndicat et le ministère de l'Education dément avoir donné de telles instructions et écrit en ce sens au PRB et au conservatoire. Dès lors, les relations, déjà mauvaises, entre la direction du conservatoire et certains enseignants deviennent de plus en plus tendues. Ce que les enseignants appellent des mesures de rétorsion sont prises contre eux. Les heures de cours sont changées unilatéralement et réduites de 6 à 3 jours par semaine pour certains et considérablement augmentées pour d'autres. En dépit de plusieurs plaintes aux différentes autorités, les problèmes n'ont toujours pas été résolus à la satisfaction des enseignants et de leur syndicat. En derniers recours, Gérard François a logé une plainte à l'Equal Opportunity Commission pour décrire la situation discriminatoire créée par la direction du conservatoire, et dont il se dit une des victimes. Le musicien demande à l'Equal Opportunity Commission d'intervenir pour corriger les « *many malpractices which are occurring at this institution, and which have caused most of the talented teachers to leave* ».

Affaire à suivre.

“

Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world ... Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.

”

**Eleanor Roosevelt,
American political figure, diplomat,
activist and First Chair of the United Nations Commission
on Human Rights**

*Extract from “Courage in a Dangerous World: The Political Writings
of Eleanor Roosevelt” by Allida Mae Black (2013).*



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