



Legal Country Mapping

Republic of Mauritius

08/2020

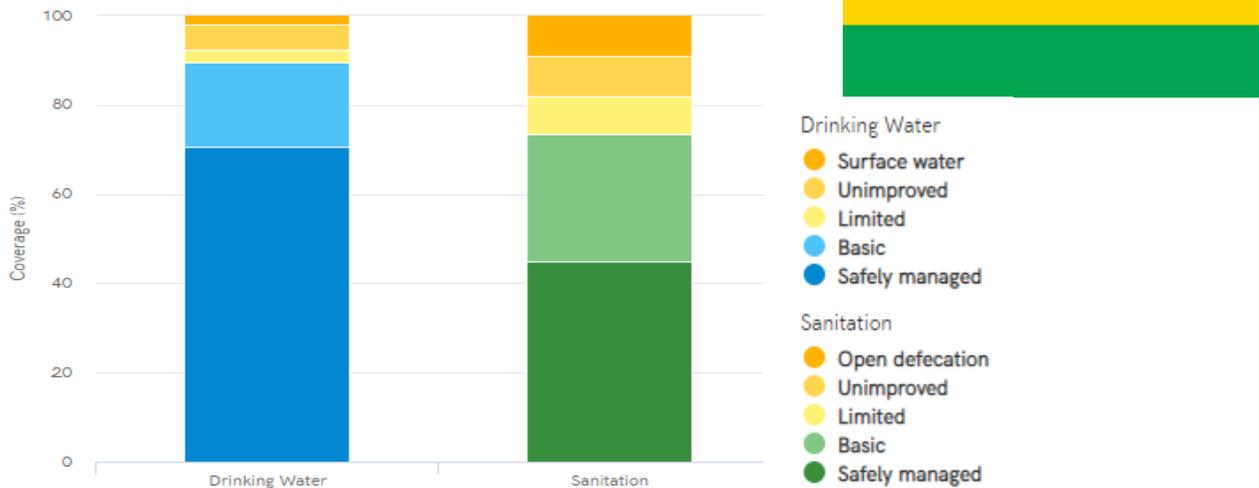
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Republic of Mauritius Country Mapping

Water and Sanitation Status



General Legislation

Member of a regional integration organisation	yes
State organisation	Parliamentary
Relationship between International and National Law	Dualist
Supreme Law	Constitution
Independent National Human Rights Institution (NHRI)	Yes
Name of Institution possessing regulation-making authority	Any
Popular consultation as part of governing/legislative process	Yes

Water Governance

Right to Water or Sanitation mentioned in Constitution	no
A water code or a law specific to water resources	yes
National Strategy, Policy, Action Plan etc. on Water and Sanitation	yes
Transboundary Water Resources	yes
Priorities in the allocation of water for different uses	yes

Legal Framework



CHAPTER 1: WATER GOVERNANCE OVERVIEW

A- Preliminary questions:

1. What type of State is the country? (e.g. Federal, Unitary, etc.)

Mauritius corresponds to a Unitary State operating under the parliamentary republic regime. (Art 1 Constitution). It is considered as a sovereign democratic State and guarantees fundamental rights to its citizens.

2. Does division of government powers exist? If yes, please elaborate on their functions.

Yes, Mauritius clearly establishes the separation of Government powers. Within this division we can find 3 functions that form the 3 branches of the Government of Mauritius, namely the legislative, the executive and the judiciary. (Chapters V, VI and VII Constitution)

- Legislative Branch: The president and vice president are elected by the National Assembly for five-year terms. They form part along with the Speaker of the National Assembly, the legislative offices which under the constitution have the final decision and last word on any legislative matter including the laws of Mauritius. Most of the work is executed by the Executive Branch which consists of the Cabinet of Ministers, Leader of the Opposition and also other members of the parliament. (Chapter V Constitution).
- Executive Branch: Another important structure of the government of Mauritius is the executive branch. The Prime Minister is appointed by the president and is responsible to the National Assembly. The Council of Ministers is appointed by the president on the recommendation of the prime minister. The Council of Ministers (cabinet), responsible for the direction and control of the government, consists of the prime minister (head of government), the leader of the majority party in the legislature, and about 24 ministers including one Deputy Prime Minister

and/or one Vice Prime Minister. The Executive branch being with the Cabinet have 4 most powerful executive offices, Prime Minister, Deputy Prime Minister and 2 offices of Vice Prime Minister. They have the executive power and authority over the cabinet and help the Prime Minister in his tasks and responsibilities. (Chapter VI Constitution).

- Judicial Branch : Mauritian law is an amalgam of French and British legal traditions. The Supreme Court—a chief justice and five other judges—is the highest local judicial authority. There is an additional higher right of appeal to the Judicial Committee of the Privy Council. Members of the Judicial Committee of the Privy Council have been in Mauritius since the end of 2008, as part of a plan to lower the costs of appeal. (Chapter VII Constitution).

3. Which institutions and levels of government have legislative powers?

In the Republic of Mauritius, the legislative power is shared between the President the Vice President and the National Assembly. (Art 31 Constitution). The legislative power is also shared with the Cabinet of Ministers, the Leader of the Opposition, and other members of the parliament. (Art 61 and 73 Constitution).

4. Who has the power to ratify treaties?

The Mauritian Ministry of Foreign Affairs, Regional Integration and International Trade has the power to ratify treaties. Some on their responsibilities imply the ratification of bilateral, regional, or international conventions.

Indeed, the Ministry of Foreign Affairs in Mauritius has as responsibilities the following:

- Ensure that the sovereignty and territorial integrity of Mauritius are safeguarded in all international fora
- Conduct our foreign policy with a view to

promoting and safeguarding the interest of Mauritius

- Deal with all matters pertaining to the conduct and administration of foreign affairs, regional integration, and international trade, including all trade and trade-related matters, patents, and trademarks
- Act as the focal point of government in its interaction with foreign governments, regional and international organisations
- Raise awareness of the benefits to be derived from bilateral, regional, and international instruments
- Act as the depositary of all bilateral, regional and international treaties, conventions, protocols and agreements
- Provide consular service and assistance as appropriate. (Part « *Our Responsibilities* » of the Customer Charter of Ministry of Foreign Affairs, Regional Integration, and International Trade).

5. Is there popular consultation as part of governing/legislative process?

Yes. There is a popular consultation as part of the governing and legislative process, but it stays marginal. Indeed, the procedure of the *referendum* exists in the Mauritian State and is embedded in the national Constitution for a unique process which is the amendment of the constitutional text. (Art 47 Constitution).

6. Has the country established a basin management agency? Is it autonomous?

No Information found

7. Does the country have transboundary water resources?

Yes. Mauritius has transboundary water resources thanks to its geographical features. Generally, the transboundary basin areas have an operational arrangement for water cooperation in Mauritius to manage these places.

8. Where transboundary water resources

exist, is there an established international institution for basin management? Does it have any responsibility in relation to drinking water?

No information.

B- The country is member of a regional integration organisation?

The Republic of Mauritius forms part of the regional integration organisation which is the African Union (AU). The main objectives of the OAU were to rid the continent of the remaining vestiges of colonisation and apartheid; to promote unity and solidarity amongst African States; to coordinate and intensify cooperation for development; to safeguard the sovereignty and territorial integrity of Member States and to promote international cooperation.

It is also a member of the Indian Ocean Commission (IOC), the Common Market for Eastern and Southern Africa (COMESA) which the objective is to support the sustainable growth in the Western Indian Ocean Islands through the regional integration. The regional integration organisation acts in some key activity areas as the regional trade and tourism promotion, the environmental protection, and the cultural heritage encouragement.

The Mauritian country is also part of the Southern African Development Community (SADC) and the Indian Ocean Rim Association (IORA). The first one has as principle goals to achieve economic development, peace and security, and growth, alleviate poverty, enhance the standard and quality of life of the peoples of Southern Africa, and support the socially disadvantaged through Regional Integration. These objectives are to be achieved through increased Regional Integration, built on democratic principles, and equitable and sustainable development. Concerning the second one it was created to promote sustainable growth and balanced development of the region and member states, to focus on those areas of economic cooperation which provide maximum opportunities for development, shared interest and mutual benefits and to promote liberalisation, remove impediments and lower barriers towards a freer

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and enhanced flow of goods, services, investment, and technology within the Indian Ocean rim.

Finally, the Mauritian Republic has joined in the Small Island Developing States group (SIDS) where it is very active, especially on subjects which deal with climate change and risk reduction.

1. Which countries form part of this organisation?

The African Union is composed of 55 States : Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cabo Verde, Central African Republic, Chad, Comoros, Congo, the Democratic Republic of Congo, Cote d'Ivoire, Djibouti, Equatorial Guinea, Egypt, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, the Kingdom of Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Saharawi Arab Democratic Republic, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Sudan, Kingdom of Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

The Indian Ocean Commission is composed of 5 countries: Comoros, Madagascar, Mauritius, Réunion (France), Seychelles. There are also seven observers: China, India, Japan, the Sovereign Order of Malta, the European Union, "La Organisation internationale de la Francophonie", and the United Nations.

The Common Market for Eastern and Southern Africa is made up of 21 Member States : Djibouti, Eritrea, Ethiopia, Somalia, Egypt, Libya, Sudan, Tunisia, Comoros, Madagascar, Mauritius, Seychelles, Burundi, Kenya, Malawi, Rwanda, Uganda, Eswatini, Zambia, Zimbabwe, Democratic Republic of the Congo.

Then, the collective Small Island Developing States (SIDS) is made up of 58 States:

- Caribbean : Anguilla, Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Cuba, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Montserrat,

Netherlands Antilles, Puerto Rico, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States Virgin Islands

- Pacific : American Samoa, Cook Islands, Federated States of Micronesia, Fiji, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, Niue, Northern Mariana Islands, Palau, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu, Vanuatu
- Africa, Indian Ocean, Mediterranean and South China Sea (AIS): Bahrain, Cabo Verde, Comoros, Guinea-Bissau, Maldives, Mauritius, São Tomé and Príncipe, Seychelles, Singapore.

The 16 Member States of the Southern African Development Community are: Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, United Republic of Tanzania, Zambia, and Zimbabwe.

Finally, concerning the Indian Ocean Rim Association (IORA), there are 14 Member countries which are : From its inception with 14 member states, the membership has expanded to 22 countries: Australia, Bangladesh, the Comoros, India, Indonesia, Iran, Kenya, Madagascar, Malaysia, Maldives, Mauritius, Mozambique, Oman, Seychelles, Singapore, Somalia, South Africa, Sri Lanka, Tanzania, Thailand, the United Arab Emirates and Yemen. IORA has also 10 dialogue partners: China, Egypt, France, Germany, Italy, Japan, Turkey, the Republic of Korea, the United Kingdom, and the United States of America.

2. Are the decisions of the organisation binding for the members?

Yes. The decisions taken by the institutions of the African Union may be mandatory.

Indeed, if a country of the African Union fails to meet the obligations provided by the organisation, they expose themselves to

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sanctions. (Art 23 Constitutive Act of the African Union: Sanctions in case of fails to comply with the decisions and policies of the Union from any Member State).

Concerning the Common Market for Eastern and Southern Africa its decision are also binding and the Member States who do not fulfil their obligations can be sanctioned (Article 171 of the Treaty establishing a Common Market for Eastern and Southern Africa (COMESA)).

Concerning the Southern African Development Community, it is important to note that its decision is also binding. Indeed « *Unless otherwise provided in this Treaty, the decisions of the Summit shall be taken by consensus and shall be binding.* », « *The decisions of the Tribunal shall be final and binding* ». (Art 10.9 and Art 16.5 of the Consolidated text of the treaty of the Southern African Development Community).

However, the Executive Secretary can make some consultations which are not binding but only indicative. (Art 15.1 a) of the Consolidated text of the treaty of the Southern African Development Community).

3. What is the mandate of the organisation?

The mandate of the African Union is based on several purposes which are promoting the unity and solidarity of the African States, coordinating and intensifying their cooperation and efforts to achieve a better life for the peoples of Africa, defending their sovereignty, their territorial integrity and independence by eradicating all forms of colonialism from Africa and promoting international cooperation, within the framework of the United Nations. (Art 3. Constitutive Act of the African Union).

The Common Market for Eastern and Southern Africa (COMESA) are resumed in the article 3 of the Treaty establishing a Common Market for Eastern and Southern Africa (COMESA). These one are :

- to attain sustainable growth and development of the Member States by promoting a more balanced and harmonious development of its production and marketing structures

- to promote joint development in all fields of economic activity and the joint adoption of macro-economic policies and programmes to raise the standard of living of its peoples and to foster closer relations among its Member States
- to co-operate in the creation of an enabling environment for foreign, cross border and domestic investment including the joint promotion of research and adaptation of science and technology for development
- to co-operate in the promotion of peace, security, and stability among the Member States to enhance economic development in the region
- to co-operate in strengthening the relations between the Common Market and the rest of the world and the adoption of common positions in international fora; and
- to contribute towards the establishment, progress, and the realization of the objectives of the African Economic Community.

4. Does the regional organisation have the authority to regulate or make decisions, which affect water and sanitation?

Yes, the African Union has the authority to regulate or take decisions which affect water and sanitation. Water resources and irrigation are part of the functions of the Executive Council. (Art 13 Constitutive Act of African Union).

The Indian Ocean Commission also has a competence in the fields of water and sanitation (Art III Request for expressions of interest for the selection of an Individual Consultant for consultancy for the preparation of a sensitization strategy and a communication plan for the reduction of use of plastics to promote circular economy, and to fight against marine pollution, in the AIODIS.).

The collective Small Island Developing States (SIDS) has also an impact on water and sanitation ([Article *Disaster-Risk, Water Security Challenges and Strategies in Small Island Developing States*](#))

(SIDS) of 2019 of Jana Gheuns, Nidhi Nagabhatla, Duminda Perera.

Concerning the Common Market for Eastern and Southern Africa (COMESA) has competence in these fields relating to water and sanitation. (Art 89 of the Treaty establishing a Common Market for Eastern and Southern Africa (COMESA)).

The mandate of the Indian Ocean Rim Association arena a certain extent :to promote sustainable growth and balanced development of the region and member states, to focus on those areas of economic cooperation which provide maximum opportunities for development, shared interest and mutual benefits, and to promote liberalisation, remove impediments and lower barriers towards a freer and enhanced flow of goods, services, investment, and technology within the Indian Ocean rim. (Art 3 of the Charter of the Indian Ocean Rim Association (IORA)).

Concerning the Southern African Development Community, its main objective are to achieve economic development, peace and security, and growth, alleviate poverty, enhance the standard and quality of life of the peoples of Southern Africa, and support the socially disadvantaged through Regional Integration. These objectives are to be achieved through increased Regional Integration, built on democratic principles, and equitable and sustainable development.

Finally concerning the Indian Ocean Commission its mandate is to promote sustainable development of its members that share the same geographical position, history, culture, etc...

C- Water governance and administration:

1. What is the structure of the government water administration (provide relevant organizational charts whenever available) and what power, role and responsibilities does the Government have at each level?

On the one hand, The Central Water Authority (CWA) is responsible for potable water distribution, and to a certain extent, the management of water supply infrastructure. (Central Water Authority Act of 1971)

On the other hand, the Irrigation Authority (IA), under Ministry of Agro-Industry and Food Security, is responsible for government supported irrigation schemes. (Irrigation Authority Act of 1979).

Finally, Wastewater Management Authority (WMA), responsible for managing wastewater in sewerred areas. (Wastewater Management Authority Act of 2000).

2. Which government ministries/agencies are directly or indirectly involved in governance of water and sanitation?

The Ministry of Energy and Public Utilities is in charge of the governance of water and sanitation by managing the Water Resources Unit which operates within the Ministry and is responsible for implementation of water mobilization projects and which is responsible for the assessment, development, management and conservation of water resources in the Republic of Mauritius.

Actually, the main activities of this ministry is to « *revolve around the formulation of policies and strategies in the energy, water and wastewater sectors and the establishment of a responsive legal framework to govern the development of these sectors.* » (Part « The Ministry » of the Customer Charter of the Ministry of Energy and Public Utilities).

3. Which agency is responsible for drinking water? What are its responsibilities?

In the Mauritian Republic, the body responsible for drinking water is the Central Water Authority (CWA). the CWA is considered as being responsible for the control, development and conservation of Water Resources and the Treatment and Distribution of water to domestic, industrial, and commercial purposes throughout Mauritius. It is also responsible for water resources administration and the treatment as well as the distribution of potable water for domestic, commercial, and industrial usage. (Part IV Central Water Authority Act)

4. Which agency is responsible for sanitation? What are its responsibilities?

The agency responsible for sanitation in

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Mauritius is the Wastewater Management Authority (WMA). It is responsible for responsible for all matters relating to the

collection, treatment, and disposal of wastewater throughout Mauritius. (Part II the Wastewater Management Authority Act).

CHAPTER 2: INTERNATIONAL AND REGIONAL TREATIES

1. Has the country ratified the following international or regional treaties and declarations? Please insert the date of the signature/ratification/accession.
2. Has the country made any declaration or reservation to the following instruments?

A. Regional Multilateral/Bilateral Treaties

Table 1.a Regional multilateral and bilateral treaties¹

Instrument	Countries	Entry into force
General Cooperation Agreement of Victoria (IOC)	5 member states: Comoros, Mauritius, France (Reunion), Madagascar and Seychelles.	10/01/1984
Southern African Development Community Treaty (SADC)	16 member states: Angola, Botswana, Comoros, Democratic Republic of the Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia, Zimbabwe	28/08/1995
Treaty on the Common market for Eastern and Southern Africa (COMESA)	21 member states: Djibouti, Eritrea, Ethiopia, Somalia, Egypt, Libya, Sudan, Tunisia, Comoros, Madagascar, Mauritius, Seychelles, Burundi, Kenya, Malawi, Rwanda, Uganda, Eswatini, Zambia, Zimbabwe, Democratic Republic of the Congo	21/12/1981

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Instrument	Countries	Entry into force
Charter of the Indian-Ocean Rim Association (IORA)	22 member states : Australia, Bangladesh, Comoros, India, Indonesia, Iran, Kenya, Madagascar, Malaysia, Maldives, Mauritius, Somalia, Mozambique, Oman, Seychelles, Singapore, South Africa, Sri Lanka, Tanzania, Thailand, United Arab Emirates, Yemen 10 dialogue partners: China, Egypt, France, Germany, Italy, Japan, United Kingdom, United States, Turkey and South Africa	06/03/1997

Table 1.b. Bilateral Agreements entered into by "ACTO"

Instrument	Participating States	Signature
Trade and Investment Framework Agreement (TIFA)	Mauritius and United States	18/09/2006
Free Trade Agreement (FTA)	Mauritius and Turkey	09/09/2011
The Preferential Trade Area (PTA)	Mauritius and Pakistan	30/07/2007

B. International Treaties

Table 2. International binding instruments

Instruments	Signature (dd/mm/yyyy)	Ratification (dd/mm/yyyy)
International Covenant on Civil and Political Rights (1966) <u>Reservation/Declaration:</u>	No.	Accession : 12/12/1973
Optional Protocol to the International Covenant on Civil and Political Rights (1966) <u>Reservation/D</u> <u>eclaration:</u>	No.	Accession: 12/12/1973
International Covenant on Economic, Social and Cultural Rights (1966) <u>Reservation/Declaration:</u>	No.	Accession: 12/12/1973
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008) <u>Reservation/Declara</u> <u>tion:</u>	No.	No.
Convention on the Elimination of All Forms of Discrimination against Women (1979) <u>Reservation/Declaration:</u> <i>« The Government of Mauritius does not consider itself bound by paragraph 1 of article 29 of the Convention, in pursuance of paragraph 2 of article 29. »</i>	No.	Accession: 09/07/1984
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999) <u>Reservation/Declaration:</u>	11/11/2001	30/10/2008
Convention on the Rights of the Child (1989) <u>Reservation/Declaration:</u> On 4 June 2008, the Government of the Republic of Mauritius informed the Secretary-General that it had decided to withdraw the reservation made upon accession in respect to article 22 of the Convention. The text of the reservation reads as follows: <i>"[Mauritius] having considered the Convention, hereby accedes to it with express reservation with regard to Article 22 of the said Convention."</i>	No.	Accession : 26/07/1990

<p>Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000) Reservation/Declaration : <i>“The Government of the Republic of Mauritius declares, in accordance with article 3 (2) of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, that the minimum age for voluntary recruitment of persons into its paramilitary force is 18 years.”</i></p>	11/10/2001	12/02/2009
<p>Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000) Reservation/Declaration:</p>	11/10/2001	14/06/2011
<p>Optional Protocol to the Convention on the Rights of the Child on a communications procedure (2011) Reservation/Declaration:</p>	13/08/2012	No.
<p>The Convention on the Rights of Persons with Disabilities (2006) Reservation/Declaration:</p> <p><u>Reservation made upon signature:</u></p> <p><i>« The Government of the Republic of Mauritius makes the following reservations in relation to Article 11 of the United Nations Convention on the Rights of Persons with Disabilities which pertains to situations of risk and humanitarian emergencies.</i></p> <p><i>The Government of Mauritius signs the present Convention subject to the reservation that it does not consider itself bound to take measures specified in article 11 unless permitted by domestic legislation expressly providing for the taking of such measures. »</i></p> <p><u>Reservations:</u></p> <p><i>“The Republic of Mauritius declares that it shall not for the time being take any of the measures provided for in Articles 9.2 (d) and (e) in view of their heavy financial implication.</i></p> <p><i>With regard to Article 24.2 (b), the Republic of Mauritius has a policy of inclusive education which is being implemented incrementally alongside special education.”</i></p>	25/09/2007	08/01/2010
<p>Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006) Reservation/Declaration:</p>	25/09/2007	No.
<p>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) Reservation/Declaration:</p>	No.	Accession : 09/12/1992

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<p>Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2002) <u>Reservation/Declaration:</u></p>	No.	Accession : 21/06/2005
<p>Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998) <u>Reservation/Declaration:</u></p>	No.	No.
<p>Geneva Convention (III) relative to the Treatment of Prisoners of War (1949) <u>Reservation/Declaration:</u></p>	No.	Succession: 12/03/1968
<p>Geneva Convention (IV) relative to the protection of Civilian Persons in Time of War (1949) <u>Reservation/Declaration:</u></p>	No.	Succession : 12/03/1968
<p>Protocol Additional (I) to the Geneva Conventions relating to the Protection of Victims of International Armed Conflict (1977) <u>Reservation/Declaration:</u></p>	No.	Accession : 22/09/1981
<p>Protocol Additional (II) to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts (1977) <u>Reservation/ Declaration:</u></p>	No.	Accession : 22/09/1982
<p>Convention on the Law of the Non-Navigational Uses of International Watercourses (1997) <u>Reservation/ Declaration:</u></p>	No.	No.
<p>International Convention on the Elimination of All Forms of Racial Discrimination (1966) <u>Reservation/ Declaration:</u></p>	No.	Accession : 30/05/1972
<p>Convention on the Prevention and Punishment of the Crime of Genocide (1948) <u>Reservation/Declaration:</u></p>	No.	Accession : 08/07/2019
<p>International Convention against Apartheid in Sports (1985) <u>Reservation/Declaration:</u></p>	No.	Accession : 26/06/1990

Table 3. ILO conventions

Instruments	Ratification
Discrimination (Employment and Occupation) Convention (No. 111) (1958) Reservation/Declaration	18/12/2002
Equality of Treatment (Accident Compensation) Convention, (No. 19) (1925) Reservation/Declaration	02/12/1969
Migration for Employment Convention (Revised),(No. 97) (1949) Reservation/Declaration : Has excluded the provisions of Annexes I to III	02/12/196
Occupational Safety and Health Convention, (No. 155) (1981) Reservation/Declaration :	25/07/2014
Workers with Family Responsibilities Convention, (No. 156)(1981) Reservation/Declaration :	05/04/2004
Vocational Rehabilitation and Employment (Disabled Persons) Convention, (No. 159) (1983) Reservation/Declaration :	02/12/1969
Maternity Protection Convention, (No. 183)(2000)	13/06/2019
Maritime Labour Convention,(MLC, 2006)(2006) Reservation/Declaration : Amendments of 2016 to the MLC, 2006 : 08/01/2019 Amendments of 2016 to the MLC, 2006 : 08/01/2019	30/05/2014
Promotional Framework for Occupational Safety and Health Convention, (No. 187)(2006) Reservation/Declaration :	23/11/2011
Domestic Workers Convention, (No. 189) (2011) Reservation/Declaration :	25/07/2014

C. Regional/Africa

Table 4. Instruments open for ratifications in the Americas

Instruments	Signature	Ratification
African Charter on Human and Peoples' Rights (1981) Reservation/Declaration:	27/02/1992	19/06/1992
Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights (1998) Reservation/Declaration:	09/06/1998	03/03/2003
African rehabilitation institute (ARI) (1985) Reservation/Declaration:	No	02/10/1987
African Charter on the Rights and Welfare of the Child (1990) Reservation/Declaration:	07/11/1991	14/02/1992
Protocol on the Statute of the Court of the African Union (2003) Reservation/Declaration (2003):	16/12/2003	23/02/2004
Protocol on the Statute of the African Court of Justice and Human Rights (2008) Reservation/Declaration	No.	No.
Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights (2014) Reservation/Declaration	No.	No.
Statute on the Establishment of Legal Aid Fund for the African Union Human Rights (2016) Reservation/Declaration	No.	No.

D. Transboundary freshwater resources agreements

1. Has the country agreed to any international convention or treaty regulating the uses of its transboundary watercourses? Please specify.

Mauritius agreed the uses of its transboundary watercourses through international convention and treaties.

Indeed, the Revised Protocol on Shared Watercourse Systems in the Southern African Development Community (SADC) of 7 August 2000 is an international instrument with which Mauritius negotiates the use of such transboundary watercourses. .

The SADC views water management as a pivotal instrument for promoting peace in the Southern African region through transboundary and regional cooperation and harmonisation of legislation, policies, and strategies. The SADC Water Division, part of the Infrastructure and Services Directorate, addresses water resources management issues through the Revised Protocol on Shared Watercourses (2000), the Regional Water Strategy (2006) and a series of Regional Strategic Action Plans for the Water Sector. SADC is active in supporting Member States to address the challenges of water resources management, particularly those of a transboundary nature. In turn, SADC also receives considerable support from its International Cooperating Partners. (Article 2 Protocol on Shared Watercourses in the Southern African Development Community (SADC)).

2. If so, what are the norms in those agreements, regulating access to water and/ or sanitation, if any?

The articles 2 and 3 of the Revised Protocol on Shared Watercourse Systems in the Southern African Development Community (SADC) regulate the access to water and sanitation. Indeed, this protocol specified that « *the overall objective of this Protocol is to foster closer cooperation for judicious, sustainable and coordinated management, protection and utilisation of shared watercourses and advance the SADC agenda of regional integration and*

poverty alleviation »

This protocol is bearing in mind the Helsinki Rules on uses of the waters of International Rivers and the work of the International Law Commission on the non-navigational uses of international watercourses.

Moreover, is recognizing the relevant provisions of Agenda 21 of the United Nations Conference on Environment and Development, the concepts of environmentally sound management, sustainable development and equitable utilisation of shared watercourse systems in the SADC Region. Then, is considering the existing and emerging socio-economic development programs in the SADC region and their impact on the environment and it is desirous of developing close cooperation for judicious and coordinated utilisation of the resources of the shared watercourse systems in the SADC region.

Finally, this regional convention is convinced of the need for coordinated and environmentally sound development of the resources of shared watercourse systems in the SADC region to support sustainable socio-economic development. It would be relevant to understand also that this act recognizes that there are as yet no regional conventions regulating common utilisation and management of the resources of shared watercourse systems in the SADC region and that is mindful of the existence of other Agreements in the SADC region regarding the Common utilisation of certain watercourses. (PREAMBLE Revised Protocol on Shared Watercourses in the Southern African Development Community of 2000).

3. Do those agreements adopt an integrated water resources management approach to water governance? Please specify which norm.

Yes. the Revised Protocol on Shared Watercourse Systems in the Southern African Development Community (SADC) adopt an integrated water governance as it is evoked in the article 3.3 directed by the Water Resources Technical Committee as mentioned in the article 5.2.d). This norm

specified that « *State Parties undertake to respect the existing rules of customary or general international law relating to the utilisation and management of the resources of shared watercourses* ».

CHAPTER 3: DOMESTIC LEGISLATION ON WATER

A-Water law

1. Is the right to water or the right to sanitation mentioned in the Constitution?

No. The right to water or the right to sanitation are not mentioned in the Mauritian Constitution.

2. Does the Constitution otherwise reference water and sanitation?

Yes. The Mauritian Constitution makes reference to water under the aspect of the protection from deprivation of property by explaining that « *Nothing in this section shall affect the making or the operation of any law so far as it provides for the vesting in the state of the ownership of underground water or unextracted minerals.* » (Art 8 Constitution).

3. Is there a water code or a law specific to water resources? Please specify.

Yes. In Mauritius it exists a law specific to water resources which is the Environment Protection Act. It was adopted in 2002 and corresponds to an Act to provide for the protection and management of the environmental assets of Mauritius so that their capacity to sustain the society and its development remains unimpaired and to foster harmony between quality of life, environmental protection and sustainable development for the present and future generations; more specifically to provide for the legal framework and the mechanism to protect the natural environment, to plan for environmental management and to coordinate the inter-relations of environmental issues, and

to ensure the proper implementation of governmental policies and enforcement provisions necessary for the protection of human health and the environment of Mauritius.

4. Is there national strategy / policy, action plan or similar document on water?

The public powers in Mauritius have drafted the Mauritius National Water Policy (NWP) which is based on Government socio-economic policies and development strategies, as well as national objectives and targets defined for the water and sanitation sectors. The NWP was established by the Ministry of Energy and Public Utilities in July 2014.

Moreover, the Mauritian Ministry of Agro-Industry and Food Security Mahen Kumar Seeruttun has adopted in May 2017 the National Biodiversity Strategy and Action Plan 2017-2025.

In the Mauritian national policy on water we can find other documents such as the Central Water Authority Act (1971). This Act establishes the Central Water Authority, defines its functions and powers, contains rules relative to its internal organization and prohibits the construct waterworks without the permission of the Authority and the discharge of polluted water into any canal, river, stream, lake, reservoir or lagoon.

There is also the Environment Protection Act (2002) and the Ground Water Act (1970). The Ground Water Act provides general rules for the abstraction of ground water (as defined). It declares all ground water to vest in the State and

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prescribes that no person shall: a) abstract, divert, obstruct, measure or use any ground water; or (b) construct or erect any works in or over any ground water, unless he or she has obtained a license under this Act. It also declares alteration of the composition or quality of ground water that it is likely to cause injury to any person, animal or plant using such water, he or she shall commit an offence.

We can cite here also the Irrigation Authority Act (1978). The text of the Act consists of (inter alia) the following sections: Establishment of the Authority (sect. 3); Objects of the Authority (sect. 4); Powers of the Minister (sect. 5); The Board (sect. 6); General Manager (sect. 8); General Fund (sect. 12); Irrigation Areas (sect. 14); Preparation of Irrigation Projects (sect. 15); Implementation of Irrigation Projects (sect. 16); Compulsory Acquisition of Land (sect. 18); Irrigation due in favor of the Authority (sect. 19); Privilege to Secure Pay.

Another document that can be useful there is the Planning and Development Act (2004) which is an Act to modernise town and country planning and make comprehensive provision with respect to land use planning and development in Mauritius. Public Health Act (1925) can also be considered as one of those documents.

The Rivers and Canals Act (1863) help also to establish a national strategy and policy on water. It is An Act to regulate the drawing of water of rivers and canals and the conservation of water resources with 99 articles. The 99 articles are divided into 3 Parts: Rivers (I); Canals (II); General Provisions (III).

There is also the Wastewater Management Authority Act (2000). This Act establishes the Wastewater Management Authority, defines its functions, and powers, contains rules relative to its internal organization and contains some provisions regarding the discharge of effluent or wastewater, drains, sewers, and other works for the discharge of water.

The Local Government Act (2011) is important there also. In Mauritius, it provides the legislative framework for a democratic, efficient, effective, inclusive, and accountable system of local government permitting local communities to manage autonomously, through elected local authorities, the economic and social well-being of their areas.

At the environment level the national strategy and policy is established by the Forest and Reserves Act (1983) and the Fisheries and Marine Resources Act (2007). The first one is a law to amend and consolidate the law relating to forests, reserves, and related matters. Concerning the second one is an Act to amend and consolidate the law relating to the management, conservation, protection of fisheries and marine resources and protection of the marine ecosystems.

5. Are there any other major regulations, decrees, orders, circulars, or similar official documents (such as pricing, water policing, utility easements, public domain occupation...etc.) related to the rights to water and sanitation?

Yes. In the Republic of Mauritius, it exists others major acts and regulations related to the right to water such as the Ground Water act of 1969. It corresponds to an act which provides general rules for the abstraction of ground water. It declares all ground water to vest in the State and prescribes that no person shall: a) abstract, divert, obstruct, measure or use any ground water; or (b) construct or erect any works in or over any ground water, unless he or she has obtained a license under this Act. It also declares alteration of the composition or quality of ground water that it is likely to cause injury to any person, animal, or plant

the Ground Water Regulations of 2011, which are made by the Central Water Board with the approval of the Minister under section 16 of the Ground Water Act, provide rules for the abstraction and use of groundwater and the metering of water used by the Central Water Authority, can be mentioned related to the rights to water.

The Central Water Authority (Census of Water Rights) Regulations of 2013 are also important there. These Regulations, made by the Central Water Board under section 49 of the Central Water Authority Act, make provision with respect to a census of water rights, i.e. the right to draw water from any river, stream, canal or spring, under Part I or II of the Rivers and Canals Act. Every person who has or claims to have a water right shall fill in the form set out in the Schedule and submit it, together with copies of all documents specified in the form, to the Central Water Authority.

Concerning the sanitation, it is regulated through 3 other major act which are the Utility Regulatory Authority Act of 2004, the Utility Regulatory Authority Act of 2008 (amended version) as well as the Regulatory Authorities Appeal Tribunal Act of 2005.

The first act provides for the establishment as a body corporate of a public body denominated the Utility Regulatory Authority, which shall carry out such regulatory functions as may be assigned to it under this Act or a relevant utility legislation. The Authority shall principally regulate, control and supervise utility services as specified (Part B of the First Schedule Utility Regulatory Authority Act).

Finally, concerning the Regulatory Authorities Appeal Tribunal Act of 2005, it establishes the Regulatory Authorities Appeal Tribunal under section 3 and defines its jurisdiction in section 6. The Act further makes provision with respect to proceedings of the Tribunal and appeal against decisions of the Tribunal and defines regulation-making powers of the Attorney General for the purposes of this Act. As for the jurisdiction of the Tribunal, it shall hear and dispose of any appeal against a decision of a regulatory authority in respect of its functions under the relevant Regulatory Authorities Act. On the basis one of those Acts, the Tribunal shall hear appeals in the field of supply of water and electricity.

B. Extraction and/or use of water

1. Does the legislation regulate the right to abstract water? (surface, groundwater, etc.)?

Yes. In Mauritius, the legislation regulates the right to abstract water.

Indeed, the Ground Water Regulations of 2011, which was made by the Central Water Board with the approval of the Minister under section 16 of the Ground Water Act, provides rules for the abstraction and use of groundwater and the metering of water used by the Central Water Authority by regulating this right. (Art 3 of the Ground Water Regulations of 2011).

2. Does the legislation distinguish between the extraction of drinking water and water for other uses?

Yes. The law of the Mauritian Republic distinguishes between the extradition for agricultural, for industrial and for domestic purposes. These Regulations made by the Central Water Authority under section 16 of the Ground Water Act 1969 specifies that:

« Use of ground water for agricultural purposes » means the use of ground water for the purpose of agriculture including irrigation, breeding of livestock, poultry rearing and camaron hatchery.

« Use of ground water for domestic purposes » means the use of ground water for drinking, washing, or cooking or for any other purpose of domestic life.

« Use of ground water for industrial purposes » means the use of ground water for the purpose of manufacturing goods. (Ground Water Regulations 1973). » (Art 2 Ground Water Regulations of 1973).

Moreover, theses Mauritian regulations say that *« Every licensee shall pay:*

(a) in respect of the use of ground water for agricultural, domestic or

industrial purposes, the annual licence fee specified in paragraph 1 of the Fourth Schedule.

(b) in respect of the use of ground water for agricultural or industrial purposes, the monthly charge specified in paragraph 2 of the Fourth Schedule. » and that show that the extraction of drinking water and the extraction of water for other use are distinguished in the Mauritian legislation.

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In the legislation of Mauritius, even the annual licence fee and the monthly charges are different if it concerns the drinking water or the use of water for industrial or agricultural uses. (FOURTH SCHEDULE (regulation 5)).

3. Is the right to use water connected to land ownership?

Yes. The right to use water is connected to land ownership. In the Mauritian legislation it is specified that:

- *« Any proprietor who wishes to have any water, which he has a right to use or dispose of, brought to his land for any purpose, may have the water taken through intermediate lands, with the authority of the Supreme Court, and upon payment of a fair compensation to be previously fixed by arbitration »*
- *The water shall be conveyed in the way arranged by the proprietors, or, where they do not agree, in the way decided by the Supreme Court, after receiving the report of one or more experts ».* (Art 17 Rivers and Canals Act)

The law states that:

- *« A proprietor who wishes to have his property irrigated by any water which he has a right to use, or dispose of, may subject to the prior payment of a fair indemnity, have such works laid on the property of the opposite riverain as may be necessary for his obtaining his portion of water.*
- *The works must be so constructed and kept up by the proprietor as not to injure any neighboring property.*
- *No building, yard or garden adjacent to a dwelling house, shall be subject to the servitude of subsection (1).*
- *A riverain on whose property works are laid under subsection (1) may, on contributing one half of the cost of construction and repair, claim the right to use the works in common with the*

proprietor by whom they were constructed.

- *No compensation shall be due to either party under subsection.*
- *Where the right to use the works in common is not claimed until after they have been commenced, the party making the claim shall be liable to bear any additional expense that may arise from any alteration made in the works, to apply them towards the irrigation of his land. »* (Art 20 Rivers and Canals Act)

4. Are permits/licenses required for water use (e.g. domestic, agricultural, and industrial)?

Yes. Permits and licenses are required for domestic, agricultural or water use. (Ground Water Regulations 1973, Environment Protection (Effluent Discharge Permit) Regulations 2003) and the Wastewater (License for Discharge of Industrial Effluent into a Wastewater System) Regulations 2019).

5. Can permits/licenses be suspended? Under what circumstances?

Yes. Concerning the permit for water use which secretes effluent discharge where the holder of a permit fails to comply with the Environment Protection (Effluent Discharge Permit) Regulations 2003, the enforcing agency may revoke the permit. (Art. 9.1 Environment Protection (Effluent Discharge Permit) Regulations 2003 made by the Minister under Section 96 of the Environment Protection Act of 2002).

Concerning the licenses for water use which let escape discharge of industrial effluent, it can be suspended when the Waste Water Management Authority considers that there is a reason, to believe that the licensee has failed to comply with a condition of his license, the Authority may revoke the license, after having given the licensee an opportunity to show cause in writing within a period of 30 working days why his license should not be revoked. (Art 3.8 Wastewater (License for Discharge of Industrial Effluent into a Wastewater System) Regulations 2019 made by the Minister under section 47 of the Wastewater Management Authority Act).

6. Can water abstraction licenses be transferred? Is transferability subject to restrictions?

No. The permits/licenses obtained for water abstraction is not transferable in Mauritius. (Third Schedule. 2. Ground Water Regulations 1973)

7. Are there priorities in the allocation of water for different uses?

Yes. There is an order of priority concerning the allocation of water for the different uses in the Mauritian Republic. Indeed the socio-economic policies and development strategies of the Government of Mauritius is based on the ideas that « *the Government will prioritize the allocation, access and utilisation of water resources for basic human needs over any other allocation, access and utilisation.* » and that « Sustainable access to potable water will be a priority when allocating water resources under competing water demands. ». (Art 3.1.2 of the National Water Policy of 2014).

CHAPTER 4: THE HUMAN RIGHTS TO WATER AND SANITATION:

A. Availability and accessibility

1. Does the law ensure that a minimum essential level of water is available to all?

No Information.

Mauritius shall follow the level considered by the World Health Organisation (WHO). According this international institution, between 50 and 100 liters of water per person per day are needed to ensure that most basic needs are met, and few health concerns arise.

2. What are the standards on the amount of water to be made available/is there any guidance in the law in this respect?

The Master Plan for Water Resources identified the need to ensure an additional 224 Mm³ of water mobilization capacity by 2050 to be able to increase the present water use from 500 Mm³/year to 724 Mm³/year. To meet this objective, some challenges related to how water is currently managed need to be addressed, coupled with efforts to increase the amount of available water resources. The main challenges in this regard are of a regulatory and financial nature, with technical aspects playing a comparatively minor role. (Article 2.2 of the National Integrated Water Resources Management (IWRM) Plan). The piped potable

water distribution network has over the years, been extended to cover the whole island. All the population of Mauritius now have access to piped potable water.

According to the 2000 Housing and Population Census survey (CSO), 99.6 % of the population have access to piped potable water within their premises, with 85 % having piped water inside their houses.

3. Does the law ensure continuous supply of water for all?

Yes. The Customer Charter of the Central Water Authority, which established rules for a better understanding of the rights and obligations of the customer with regard to the duties and responsibilities entered to the Central Water Authority, provides that it « *shall strive to provide a 24-hour water supply service to the population of Mauritius and to reduce the Non-Revenue Water to an acceptable level* ». (Art VII of the Customer Charter of the Central Water Authority).

4. Does the law prioritize water for domestic uses over other uses?

Yes. There is an order of priority concerning the allocation of water for domestic uses in front of the other uses in the Mauritian Republic. Indeed

the socio-economic policies and development strategies of the Government of Mauritius is based on the ideas that « *the Government will prioritize the allocation, access and utilisation of water resources for basic human needs over any other allocation, access and utilisation.* » and that « Sustainable access to potable water will be a priority when allocating water resources under competing water demands. ». In the concept of « *basic human needs* » we can suppose that it is included water for domestic uses. (Art 3.1.2 of the National Water Policy of 2014).

5. What are the grounds for disconnecting, interrupting, or altering water supply and sanitation services (e.g., authorities may alter water supply in case of droughts or emergencies, in which cases are disconnections possible...)?

If the customer has effected the payment of water by dud cheque the water supply and sanitation can be disconnected (Art XIII. D Customer Charter of the Central Water Authority)

The water supply and sanitation in Mauritius can be suspended or altered after the clearance for road excavation from the Road and/or Local Authorities and after receipt of application for. (Art XIX Customer Charter of the Central Water Authority).

In case of any unforeseen or sudden plant/pipe breakdown, the Central Water Authority can interrupt with emergency the water supply for technical reason (Art VIII. E.b) Customer Charter of the Central Water Authority).

6. What are the procedural standards/criteria for permitting interruption, disconnection or alteration of water supply and sanitation services?

In case of planned large disruption of service, it shall notify the customers concerned in advance through the media, giving the names of the affected regions, the date/s and start time/s, the anticipated restoration of supply/ending time/s and the reasons thereof. This will be broadcast on at least 2 radio channels, preferably in the morning and/or evening at fixed time (e.g. at 6.55 hrs and 18.15. hrs respectively).

In case of any unforeseen or sudden plant/pipe breakdown, the CWA shall, as far as practicable, notify the customers concerned through the media, of the emergency interruption of water supply. (Art VIII.E.a) y b) Customer Charter of the Central Water Authority)

7. Are alternative ways of water supply and sanitation services provided for in case of alteration of supply and/or service?

No Information found.

8. Does the law provide guidance on: the number of water outlets? the safety, distance and time from a dwelling or structure to reach water outlet or sanitation facilities (e.g., laws that specify water outlets must be available within a certain distance from a school or household)? technical safety of water outlets or sanitation facilities (e.g. law requiring that certain standards be applied in the constitution of those facilities or of buildings)?

No information found.

9. Is there provision in the law for availability and accessibility of water and sanitation facilities in non-domestic places such as schools, hospitals, workplaces, prisons, refugee camps, etc.?

Yes. There are some provisions in the national Mauritian law concerning the availability and accessibility of water and sanitation in non-domestic places. (Central Water Authority (Water Supply for Non- Domestic Purposes) Regulations 2011).

It corresponds to Regulations made by the Central Water Board, with the approval of the Minister, under section 49 of the Central Water Authority Act.

B. Quality and safety

1. Are there parameters of quality and safety for drinking water established under law?

Yes, there are some parameters of quality and safety for drinking water established and

applicable in Mauritius².

Indeed, even if Mauritius does not have establish its proper parameters, the parameters built by the office of the World Health Organization (WHO) apply in the territory of the Mauritian Republic by following the Guidelines for drinking-water quality set by this international institution for potable water.

In the national Mauritian laws and regulations, there is no more information about these specific parameters.

2. Is monitoring of drinking water quality or wastewater required by law? If so, which actor is required to monitor it and how often (according to the law)?

Yes. The Mauritian law requires a monitoring of drinking water quality or wastewater. (Part VI-Art 38 Environment Protection Act of 2002 amended in 2008). Indeed this norm specifies that « *The Minister shall prescribe standards for water quality to protect the public health, welfare and the environment, and to provide adequate safeguard for the quality of water.* » and that « *Any regulations made under subsection (1) may provide for different standards for water quality, having regard to the use and value of water for domestic supply, propagation of fish, flora, fauna, and wildlife, recreational purpose, agricultural, industrial and other uses.* »

The actor required by the law to monitor it is the Wastewater Management Authority which operates under the aegis of the Ministry of Energy and Public Utilities. (Part II-5.2 e) Wastewater Authority Management Act). Indeed, the duties of this Authority shall be to « *undertake, wastewater treatment to such, predetermined quality as may be prescribed for safe disposal of the effluent and sludge to the environment or re-us* ».

3. Do laws/regulations include guidance on the safe construction of water and sanitation Infrastructure (e.g. to ensure no contact with excreta, ventilation, respect

construction guidelines)?

Yes. The Mauritian laws and regulations provide guidance in relation to the safe construction of water and sanitation infrastructure.

For instance in the Mauritian Republic it is prohibited or restricted « *building operations permanently on the ground that by reason of the situation or nature of the land the erection of buildings thereon would be likely to involve danger or injury to health or excessive expenditure or public money in the provision of roads, sewers, water supply or other public services;* » (Art 19.4.h) of the TOWN AND COUNTRY PLANNING ACT of 1954 as subsequently amended).

Moreover, as says the article 1.3 of the National Integrated Water Resources Management (IWRM) Plan « *the Central Water Authority (CWA), responsible for potable water distribution, and to some degree the management of water supply infrastructure* ». The Mauritian laws and regulations specified that « *No person shall, except with the written permission of the Central Water Authority, construct any irrigation works or other water works.* ». This Authority may, in granting this permission, impose such conditions as it thinks fit and if a person make a water or sanitation infrastructure without this permission shall commit an offense and shall, on conviction, be liable to a fine not exceeding 2,000 rupees. (Art 46 of the Central Water Authority Act of 1971)

4. Do laws/regulations include requirements or guidance on safe emptying of latrines as well as safe treatment and disposal of treated sludge?

Yes. The Mauritian law includes requirements and guidance on safe treatment and disposal of treated sludge. (Part II-5.2.e) Wastewater Management Authority).

As we saw the Wastewater Management Authority has to take care of the quality of water by monitoring the elimination of the effluent. One of its obligation is « *undertake wastewater treatment to such, predetermined quality as may*

² LEGAL SUPPLEMENT to the Government Gazette of Mauritius No. 72 of 22 June 1996

be prescribed for safe disposal of the effluent and sludge to the environment or re-use »

5. Do laws/regulations establish requirements on household water treatment and storage (e.g. quality requirement with respect to water containers, rainwater harvesting limitations, etc.)?

No, the legislation of Mauritius does not regulate the quality requirements for drinking water storage, or rainwater harvesting.

C. Water pollution control

1. Are there legislative provisions concerning waste disposal activities? Which authorities are responsible for monitoring to determine if waste has caused pollution of bodies of water?

Yes. The current legal framework in Mauritius for the environmentally sound waste management comprises the Environment Protection Act (EPA) of 2002, as amended in 2008 (Articles 42, 43 y 48), and the Local Government Act (LGA) of 2011 as amended in 2018 (Articles 59 and 60).

In the Republic of Mauritius, the Wastewater management authority is responsible for monitoring to determine if waste has caused pollution of bodies of water (Part II. 4. f) and 5.g) Wastewater Management Authority Act)

2. Is there legislation which regulates the contamination of groundwater?

Yes. The Ground Water Act of 1970 regulates the contamination of groundwater. This legal text mentioned the fact that « *Where any person licensed under this Act, by any physical, chemical or biological means or process, so alters the composition or quality of ground water that it is likely to cause injury to any person, animal or plant using such water, he shall commit an offense.* ». (Art 4) Ground Water Act of 1970).

The contamination of groundwater is considered as an infraction so.

3. Is permission required to discharge effluents? What are the criteria used for considering applications and granting permits?

Yes. In the Mauritian country it is required a specific permission to discharge effluents. (Art 3.1 Environment Protection (Effluent Discharge Permit) Regulations 2003.). The Mauritian legislation specifies that « *No person shall discharge or cause to be discharged any effluent from any*

of the activities set out in the First Schedule into a watercourse, waterbody or onto any land unless he has an Effluent Discharge Permit from the appropriate enforcing agency. »

The criteria used for considering applications and granting permits are : the maximum volume of effluent that may be discharged daily, the maximum rate at which any effluent may be discharged at any time, the method of sampling and location of sampling points of the effluent and the frequency of analysis to be conducted in respect of the effluent (Art 5.2 Environment Protection (Effluent Discharge Permit) Regulations 2003.)

4. Can waste discharge permits be lost/suspended/modified during their lifespan? Under what circumstances? Is compensation payable?

The enforcing agency shall not revoke a permit unless it has requested the holder thereof to submit reasons in writing why his permit should not be revoked and when the holder of a permit fails to comply with these regulations (Art 9 Environment Protection (Effluent Discharge Permit) Regulations 2003.).

For instance, according to the article 3 of this law of the Republic of Mauritius, it would be the case if a person who detains a license discharge or cause to be discharged any effluent from any of the activities.

5. Are instances of pollution of water sources subject to penalties / fines? Which institution is in in charge of the administration of the penalties?

Yes. In Mauritius cases of pollution of water can be subject to penalties and fines. The authorized officer and the affiliated Court or Tribunal are the institutions which oversee the administration of these penalties. (Art 88 and Ninth Schedule of the Environment Protection Act of 2002).

Indeed, « *Notwithstanding any other enactment, where a person commits an offense specified in the Ninth Schedule, the authorized officer who detects the offense may, as soon as is reasonably practicable, and not later than 14 days after the commission of the offense, serve on that person a notice in the form set out in the Tenth Schedule calling upon him to pay in respect of the offense the fixed penalty provided in the Ninth Schedule.* »

D. Affordability

1. How does the law address affordability of water supply and sanitation services?

The law of the Republic of Mauritius addresses affordability of water supply and sanitation services by securing and providing a sustainable water supply service of appropriate quality at an affordable price. (Art IV Customer Charter of the Central Water Authority).

This is its principal mission.

2. What mechanisms must be established by law to ensure affordability of water and sanitation services?

The Government will promote affordable and sustainable techniques for small-scale irrigation as a measure to increase production of food and was crops for sustainable livelihoods. The absence of alternative sources of water supply for agricultural purposes leads to loss of revenue especially for the vulnerable groups. Opportunities will be provided to farmers for crop diversification with a view to enhancing production which would generate revenue and promote economic growth. (Art 3.1.3 of the National Water Policy Plan of 2014).

Moreover, through full-cost recovery would be the goal, there will be options for water pricing that would enable sustainable cost recovery for the operation and maintenance and renewal of water sector assets. Cross-sectoral subsidization and affordability would be explored to satisfy the requirement of vulnerable groups. Indeed, the price for water services shall consider full cost recovery and the affordability criteria. (Art 3.7.1 and 3.7.4 of the National Water Policy Plan of 2014).

3. How are tariffs established under law and what is the process for updating these tariffs?

Under law the tariffs of water are established following a volumetric system.

Each customer is provided with a meter, which is read monthly and the consumption is billed according to the readings recorded by the meter. A meter rental is also payable, and the amount claimed varies according to the size of the meter. (Art XX Customer Charter. Tarif 10 - Tarif 91)

4. Does the tariff vary depending on the regions/circumstances?

Yes. The tariff varies depending on the circumstances in Mauritius. For instance, if it is a domestic, a business Consumers or a Commercial Consumers supply, the fixation of the price will be different. (Art XIII. D of the Customer Charter).

On the other hand, the geographical aspect plays its role there because there is a special tariff for the Concession Prices in Port Louis, and that supposed that it is different for some others city. (Art XX Customer Charter of the Central Water Authority).

5. Which actor is responsible for and involved in setting and/or approving tariffs for water supply and sanitation services?

The actor responsible for involved in setting and/or approving tariffs for water supply and sanitation services is the Central Water Authority. (Art XX Customer Charter of the Central Water Authority).

Each customer is provided with a meter, which is read monthly. Consumption is billed according to the readings recorded by the meter. A meter rental is also payable, and the amount claimed varies according to the size of the meter. The present Water Tariff came into force 01 January 2012. (Cf Annex 1)

6. Does the law allow disconnection from water supply and sanitation services for non-payment? What procedures must be followed in such cases prior to disconnecting the supply and service?

Yes. The Mauritian law allows disconnection

from water supply and sanitation services if it is noticed a lack of payment. Indeed, if a water bill is not paid within 60 days of its date of delivery, the water supply is likely to be disconnected without notice. (Art XIII. D of the Customer Charter).

E. Acceptability

- 1. Is there provision in the law or contracts with service providers that relate to the need to consider cultural and social dimensions of acceptability (e.g. color or odor of water, or the positioning of a facility)?**

Yes. The Mauritian Government has established provision in the law that relates to the need to consider cultural and social dimensions of acceptability (Schedule (regulation 3) Environment Protection (Drinking Water Standards) Regulations 1996). (Cf Annex 2)

- 2. Is there provision in the law or contracts with service providers that relate to the need to ensure dignity and privacy (e.g.in workplaces, but also in the design of shared sanitation facilities for certain communities)?**

No. In the Mauritian Republic it does not exist any provisions in the law or contracts with service providers that relate to the need to ensure dignity and privacy.

These rights appear in the National Human Rights Action Plan (2012-2020) (Art 148).

F. Non-discrimination, equality, and universal access

- 1. Is there any legislation about the prohibition of direct and indirect discrimination (on all grounds) and promotion of equality in accessing water and sanitation services?**

Yes. It exists some legislation which protect people from direct or indirect discriminations on all grounds in Mauritius.

Indeed the fundamental norm specified that « *it is hereby recognized and declared that in Mauritius there have existed and shall continue*

to exist without discrimination by reason of race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms.(Art 3 Constitution).

Moreover this instrument protect the Mauritian people from any discriminations by saying that « *no law shall make any provision that is discriminatory either of itself or in its effect.* », « *no person shall be treated in a discriminatory manner by any person acting in the performance of any public function conferred by any law or otherwise in the performance of the functions of any public office or any public authority.* » explaining some exceptions. (16 of the Constitution)

Finally, another national law of Mauritius defend the people from discriminations and it is the Equal Opportunities Act of 2008 in several fields as in the sport, labour market or education and which remembers the different forms of Discrimination in its Part II.

- 2. Are there any specific provisions that address that seek to ensure (physical) access to water and sanitation services for persons with disability, children, or the elderly?**

No. There are not any specific national legislations that seek to ensure access to water and sanitation services for persons with disability, children, or the elderly.

However, Mauritius is one of the State Party to the Convention on the Rights of the Child which was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 entering into force 2 September 1990 since its ratification by this country 1990 by accession. And this international instrument records that « *States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: To combat disease and malnutrition, including within the framework of primary health care, though, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;* » (Art 24.c of the

Convention on the Rights of the Child of 1990)

Concerning the disabled persons, the Mauritian country has signed the Convention on the Rights of Persons with Disabilities the 25 September of 2007 and has ratified it the 08 January of 2010 becoming one of its members. It is important to know that this international convention provides that « *States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures: To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs; »* (Art 28 of the Convention on the Rights of Persons with Disabilities

G. Right to information.

- 1. Is there any specific legislation about the right to seek, receive and impart information held by public authorities? Does the law expressly set out the right to seek, receive and impart information on water related issues?**

No. In the Republic of Mauritius it does not exist a specific law which regulates the right to seek, receive and impart information held by public authorities. While some believe that a Freedom of Information Act based on the English model has to be implemented in the Mauritian legislation, Mauritius is still in the process of enacting one.

This right is only recorded indirectly by the Constitution (Art 12 Constitution). This article reveals that

« (1) Except with his own consent, no person shall be hindered in the enjoyment of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question

makes provision -

(a) in the interest of defense, public safety, public order, public morality, or public health.

(b) for the purpose of protecting the reputations, rights or freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainment; or

(c) for the imposition of restriction upon public officers, except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society. »

- 2. Does the right to information require the payment of a fee? Is there a provision on the affordability of such fee?**

No. In Mauritius, the right to information does not require the payment of any fee, because it is considered as a constitutional freedom (Art 12 Constitution).

- 3. Are there any exceptions about who or what type of water and environment related information held by public authorities can be accessed?**

No Information found.

- 4. Which institutions are required by law to make information on water public? Does the law reference only the right to access information or also the obligation to make public such information on water related issues (e.g., are institutions obligated to provide information only upon demand, or are they obligated to publish or make available information at certain periodic intervals, on the occurrence of certain circumstances, etc.)?**

In Mauritius, the Central Water Authority who is in charge to ensure information public and the Ministry of Energy and Public Utilities (Preamble Customer Charter of the Central Water Authority and Art 28.2 Central Water Authority Act of

1971).

In the national laws it is specified that the Central Water Authority « *shall furnish to the Minister such information and returns relating to its activities as the Minister, may, from time to time, require and shall afford him such facilities for the verification of the information so furnished* ». ,(Art 28.2 Central Water Authority Act of 1971).

5. What are the requirements listed in the law in relation to the language, locations, format, timing and means used for providing water related information to the public? How does the law ensure that information is made available to all including to minorities?

Any information found in the national law and regulation of Mauritius concerning the requirements listed in the law in relation to the language, locations, format, timing and means used for providing water related information to the public and how this information is made available to all including minorities.

6. Are there any legal provisions requiring certain authorities to educate the population on water related issues?

Yes. There are some legal provisions concerning the education of the population on water related issues. (Art 2.1 National Water Policy and Art 6 National Integrated Water Resources Management (IWRM) Plan).

7. Are the legal requirements concerning informing the population about regulations, restrictions, prohibitions, and discontinuations in water services? Does the law require that information be made available about the existence of complaint mechanisms for water supply and sanitation services to users of such services?

No Information found about any legal requirements which inform the population about regulations, restrictions, prohibitions, and discontinuations in water services.

8. Are there any requirements in relation to access to information in contracts with water and sanitation operators?

Yes. There are some requirements in relation to

access to information in contract with water and sanitation operators. (Art XIII. D. Customer Charter of the central Water Authority). This article deals with the important information available to the customers, it says that «

- *Payment effected by dud cheque (chèque sans provision) may result in the disconnection of the supply and the matter would be referred to the Police for prosecution. The customer account would be tagged, and future payment should be made by cash only.*
- *If a water bill is not paid within 60 days of its date of delivery, the water supply is likely to be disconnected without notice.*
- *If a customer wants to challenge the amount shown on his water bill, he should contact an officer of the appropriate Customer Service Centre.*
- *Customers seeking information on their account or on water supply generally should address themselves to an officer of the appropriate Customer Service Centre, or phone the Hot Line / Call Centre telephone number 170.*
- *Customers who fail to receive their bill for any current month should inform the appropriate Customer Service Centre without delay or phone the Hot Line / Call Centre telephone number 170.*
- *Every customer is provided with a meter, which is read monthly. The customer is billed according to the consumption recorded by the meter. »*

H. Public participation

1. Is there a law which addresses public participation?

Yes. The Mauritian Government has established some laws which address public participation. For instance, the Constitution of the Republic of Mauritius Amendment, 2003 (Act 124 of 2003) and the New Local Government Act, 2005 (Act 23 of 2005) which have an impact on public participation in the making and implementation in Mauritius. (PUBLIC PARTICIPATION IN THE

MAKING AND IMPLEMENTATION OF POLICY IN MAURITIUS WITH REFERENCE TO PORT LOUIS' LOCAL GOVERNMENT by SANJIV KUMAR BABOOA Submitted in accordance with the requirements for the degree of DOCTOR OF ADMINISTRATION in the subject PUBLIC ADMINISTRATION at the UNIVERSITY OF SOUTH AFRICA of 2008).

2. **What are the criteria listed in the law in relation to participation in water-related issues (e.g. allocated time to provide comments, invitation to public hearings, etc.)?**

The requirements for responsiveness to public needs are as follows:

- members of the public must express their needs.
- policymakers must consider and take the needs expressed by the public; and
- there must be good mechanisms for receiving expressed public needs.

The modes of public participation are used in the making and implementation of policy at the Port Louis' local government are:

- Questionnaire to make some research findings and analysis among the population. That make the Mauritian citizens to be able to understand what goes on in the Port Louis' local government council, and make the Mauritian citizens to have a view on communication of policy-making processes at the Port Louis' local government and a view on information provision regarding political decision at the Port Louis' local government
- Participation at public hearing
- Public participation in radio talk that deals with activities to by-laws of the Port Louis' local government
- Participation to enquiries to councilors or officials of the Port Louis local government
- Possibility to protest against officials and/or councilors of the Port Louis' local

government. (5.2 and the followings PUBLIC PARTICIPATION IN THE MAKING AND IMPLEMENTATION OF POLICY IN MAURITIUS WITH REFERENCE TO PORT LOUIS' LOCAL GOVERNMENT by SANJIV KUMAR BABOOA Submitted in accordance with the requirements for the degree of DOCTOR OF ADMINISTRATION in the subject PUBLIC ADMINISTRATION at the UNIVERSITY OF SOUTH AFRICA of 2008).

3. **Do the contracts between governmental authorities and operators of water and sanitation services impose upon the operators an obligation to ensure or provide for public participation at any levels at which the applicable services are delivered?**

No Information found about this question which deals with the eventual imposition to provide public participation at any levels upon the operators in the contracts that they have concluded with the governmental authorities.

4. **Is the establishment of regional or local associations or other groupings of water users provided for and regulated by laws or regulations? How do they interact with or connect into other agencies or regulators?**

Yes. The Government of the State of Mauritius has provided an association of water users which is the Water User's Association. (Part « *Organisation* » of the Irrigation Area (Declaration) Regulations 2006.)

These Regulations declare irrigation areas in accordance with sections 14 and 21 of the Irrigation Authority Act, give a description of the water irrigation project, requires the area to be occupied by small planters growing mainly sugar cane and vegetables and require those planters to be grouped in a Water Users' Association. The Water User's Association shall be responsible for the day-to-day operation and minor maintenance of the irrigation network.

I-Sustainability

1. **How does legislation ensure that water and sanitation services are delivered in a sustainable manner, considering the availability of water resources, competing**

demands and generally the needs of present and future generations?

A Water Resources Monitoring Committee is in existence with members from relevant sectors and meets to discuss relevant strategies with regards to drought management, water conservation and other associated issues. This inter-agency mechanism is primarily concerned currently with sustainable resource allocation and meet on an ad hoc basis, primarily during the dry season.

In addition, a national IWRM Steering Committee has been set up as part of the oversight arrangements required to advise the UNDP/UNEP IWRM program. It includes the following stakeholders:

- Ministry of Energy and Public Utilities.
- Wastewater Management Authority
- Central Water Authority
- Water Resources Unit
- Mauritius Meteorological Station
- Ministry of Social Security, National Solidarity, Environment and Sustainable Development.
- Ministry of Finance and Economic Development

The Secretariat support to the IWRM Steering Committee was provided through the UNDP/UNEP program funded staff but to ensure long-term sustainability and coordinated implementation of an IWRM plan, such support would probably need to be institutionalized, perhaps within the Water Resources Monitoring Committee. (Part 1, 1.3 of the National Integrated Water Resources Management (IWRM) Plan).

2. How does the legislation ensure that delivery of water and sanitation services are economically sustainable, with sufficient expenditure for operation and maintenance?

The Mauritian legislation ensure that delivery of water and sanitation services are economically sustainable with sufficient expenditure for operation and maintenance by establishing a specific policy.

Indeed, the Government shall manage its reserves to ensure sustainable access to safe water supply for basic needs because he has a social and economic responsibility. For that it has to establish an order of priority in the allocation of water by prioritizing he allocation, access and utilisation of water resources for basic human needs over any other allocation, access and utilisation.

Moreover, the Mauritian « Government will ensure that the poor have access to safe water and sanitation facilities which are considered as basic human rights. To ensure sustainability of water supply and sanitation services to all areas, cost recovery will underpin all infrastructural developments and operation, that is, beneficiaries will pay an appropriate amount towards the cost for providing the services taking into account Government's social responsibilities to the poor. ». So, one of the technics of the government to ensure that delivery of water and sanitation services are economically sustainable, with sufficient expenditure for operation and maintenance is to decide on level of subsidies to support the poor and vulnerable groups. Cost recovery does not negate the provision of grants or subsidies to poorer segments of society. The challenge is to design effective measures to ensure that all users contribute their share to ensure sustainable services.

Finally, the last measure that takes the Mauritian Government to ensure this sustainable access economically is to reserve some provision of sanitation services is integrated into the provision of water supply for basic human needs. Indeed, pprovision of water supply alone is not sufficient to improve public health. Most waterborne and water-based diseases are the result of poor sanitation. The implementation of the National Sewerage Program will be ensured to reach an island wide coverage within a reasonable time frame. (Art 3.1.2 of the National Water Policy of 2014).

CHAPTER 5: JUDICIARY SYSTEM

A. Preliminary questions

1. **What is the relationship between international law and national law (i.e. is the state a monist or dualist system--how is international law interpreted in relation with domestic law)?**

The Mauritian State uses a dualist system in relation to the international law. The political Constitution is considered as the supreme law of Mauritius and if any other law is inconsistent with this Constitution, that other law shall, to the extent of the inconsistency, be void. (Art 2 Constitution)

2. **What is the hierarchical structure of the legal system?**

Mauritius has a single-structured judicial system consisting of two parts, the Supreme Court and the Subordinate Courts. (CHAPTER VII of the Constitution).

Concerning the Supreme Court, it shall have unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law other than a disciplinary law and such jurisdiction and powers as may be conferred upon it by the Mauritian Constitution or any other law. It corresponds to the Chief Justice, so it is head of the judiciary. (Art 76 Constitution)

Then concerning the appeal decision, they are ensuring by the Courts of Appeal of Mauritius. « *There shall be a Court of Civil Appeal and a Court of Criminal Appeal for Mauritius, each of which shall be a division of the Supreme Court* ». « *The Court of Civil Appeal shall have such jurisdiction and powers to hear and determine appeals in civil matters and the Court of Criminal Appeal shall have such jurisdiction and powers to hear and determine appeals in criminal matters as may be conferred upon them respectively by this Constitution or any other law.* » (Article 80 Constitution).

In Mauritius it is possible to make an appeal before the Judicial Committee. Indeed, an appeal shall lie from decision of the Court of Appeal or

the Supreme Court to the Judicial Committee as of right in some cases. (Art 81 and 82 Constitution).

Concerning, the Subordinate Courts they consist for example of the Court of Rodrigues, the Intermediate Court, the Industrial Court, the District Courts, the Bail and Remand Court, the Criminal and Mediation Court and the Commercial Court. It is important to know that « *The Supreme Court shall have jurisdiction to supervise any civil or criminal proceedings before any subordinate court and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of ensuring that justice is duly administered by any such court.* » (Article 82 Constitution).

3. **Has the State ratified the relevant international conventions establishing regional or international complaint mechanisms?**

Mauritius had accepted 2 individual complaints procedures by ratifying two international conventions which are the Optional Protocol to the International Covenant on Civil and Political Rights on the 12th of December of 1973 and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on the 31st of October of 2008.

Moreover, the Mauritian Republic had accepted some inquiry procedure in its territory by ratifying some international instruments such as the inquiry procedure under the Convention against Torture (Art 20 Convention Against Torture) the 9th of December of 1992 and Inquiry procedure under the Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Art 8.9 Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women) the 31st of October of 2008.

B. Remedies and complaint procedures/accountability

1. **Are there remedies provided by law to file**

complaints or other ways of accessing justice about water and sanitation? Who may file them? Are the decisions appealable?

First, the first remedy that can be not there is the complaint before the Tribunal of Mauritius. This one « *shall not hear and determine a complaint under this Act unless the person making the complaint has voluntarily made a sworn statement, in such form as may be prescribed, that he has waived his right to initiate civil proceedings before any Court in Mauritius in respect of the facts that form the subject matter of the complaint.* » and a waiver referred to this subparagraph constitute a bar to subsequent civil proceedings being initiated by the complainant before any Court in Mauritius in respect of the subject matter of the complaint. (PART VIII Art 54.3 of the Environment Protection Act of 2002)

The Ministry of Environment and Sustainable Development attends to complaints received from the public on environmental issues. A protocol for dealing with complaints has been devised by the Pollution Prevention and Control Division of the Department of Environment to address and manage the environmental complaints. (Cf Annex 3)

It is important to note that the Environment Protection Act (2002) has made provisions for different Ministries/organisations to be responsible for specific medium (example air, water, solid wastes, odor, noise etc.). These Ministries/organisations are referred to as Enforcing Agencies. The Ministry of Environment and Sustainable Development, apart from being the coordinating institution with the different Ministries, is also an Enforcing Agency for matters relating to air pollution. (Cf Annex 3)

Any person wishing to make a complaint pertaining to environmental problems may contact directly the relevant enforcing agencies at the phone and fax numbers indicated in the table link below.

Yes. The decisions are appealable. (Article 54 Environment Protection Act 2002)

2. Are such complaint procedures required to be provided in conformity with human

rights principles (such as non-discrimination, equity)?

No information found in the national legislation of Mauritius concerning if for the validity of this complaint procedures it is required or not the conformity with human rights principles such as non-discrimination and equity.

3. Does the law provide for financial assistance for legal counsel in cases concerning water and sanitation?

Yes. The Mauritian legislation provides that any person can benefit from an economic assistance for legal counsel under some conditions. Indeed « any person who wishes to obtain legal aid to be a party to civil or criminal proceedings shall:

- make a written application to the Authority, stating his cause of action or ground of defense or appeal, or the nature of the extra-judicial matter in respect of which the application is made
- excluding his wearing apparel and tools of trade and the subject matter of the proceedings, he is not worth 500,000 rupees; and
- his total monthly earnings are less than 10,000 rupees. (Article 4 of the Legal Aid Act)

It is possible to obtain this economic assistance for the criminal appeal (Article 5 of the Legal Aid Act of 1974)

4. Who monitors the administrative level bodies and/or service providers?

In Mauritius, the Ministry of Energy and Public Utilities oversees monitoring administrative level bodies and/or service providers. It is one of its obligation (Part « *The Ministry* » of the Customer Charter on the Ministry of Energy and Public Utilities). This text specifies that:

The following organisations fall under the purview of the Ministry:

- Energy Efficiency Management Office (EEMO) – Promotion of Energy Efficiency.
- Radiation Protection Authority (RPA) –

Regulation of Ionizing Radiation.

- Water Resources Unit (WRU) – Mobilization and Development of water resources.
- Central Electricity Board (CEB) – Generation, Transmission, Distribution and Sale of Electricity.
- Central Water Authority (CWA) – Treatment and Distribution of potable water.
- Wastewater Management Authority (WMA) – Collection, Treatment and Disposal of wastewater.
- Mauritius Renewable Energy Agency (MARENA) – Promote Renewable Energy Projects.

5. Is there a possibility to appeal against the decisions of service providers? With whom would such an appeal be lodged, and under which conditions is such an appeal possible.

Yes. There are some possibilities to appeal against the decisions of service providers in Mauritius.

The person who wanted to appeal one of the decisions made by the service providers can make a petition to the Environment and Land Use Appeal Tribunal for some cases. It can hear and determine appeals:

- under section 54 of the Environment Protection Act.
- from a decision of a Municipal City Council, Municipal Town Council or District Council under section 117(14) of the Local Government Act 2011.
- under section 7B of the Morcellement Act; and
- under sections 7 and 25 of the Town and Country Planning Act.

Moreover, it can make appeal against the decision of the Central Water Authority about a compulsory acquisition of water rights.

Indeed, the Mauritian law specifies that any

person aggrieved by this decision or by the compensation given can make an appeal to the Supreme Court. (Art 43 and 44 of the Central Water Authority Act of 1971)

Moreover, concerning the decisions of the Central Water Authority, it is possible to make another type of appeal. Indeed « *If the customer is still not satisfied with the decision of the Debt Dispute Resolution Committee, he can make an appeal to the Public Complaints Bureau of the Prime Minister's Office or to the Ombudsman.* » (Art XII. F of the Customer Charter of the Central Water Authority.

It is important to know that “*The Court will not, however, on a judicial review application act as a “court of appeal” from the body concerned; nor will the court interfere in any way with the exercise of any power or discretion which has been conferred on that body, unless it has been exercised in a way which is not within that body’s jurisdiction, or the decision is Wednesbury unreasonable. The function of the court is to see that lawful authority is not abused by unfair treatment*” [1173]

The above have been cited with approval *A. Lutchuman v. The Mauritius Sugar Terminal Corporation* 1990 SCJ 241; 1990 MR 343. So, the judicial review cannot be considered really like an appeal strictly speaking.

It is important to note that Judicial review is not available so as to permit the enforcement of private rights, such as rights of particular employees’ vis à vis their employers.

6. What remedies are available at an administrative level?

In the Republic of Mauritius the judicial review which is concerned with reviewing, not the merits of the decision in respect of which the application for Judicial Review is made, but the decision - making process itself, is one of the remedies available at the administrative level. (Law Reform Commission Discussion Paper on the Judicial Review of 2009)

Based on the common law system. *Cf Chief Constable of N.W Police v. Evans 1982 1 WLR 1155:*

- « *This remedy [judicial review] ..., is intended to protect the individual against the abuse of power by a wide range of authorities, judicial, quasi-judicial, and, administrative* »

7. Who monitors these administrative level bodies?

In Mauritius, the Ministry of Energy and Public Utilities oversees monitoring administrative level bodies.

It is one of its obligation according the norm which specifies the responsibilities of this Mauritian Ministry. « *The Water Resources Unit, the Energy Efficiency Management Office and the Radiation Protection Authority. The Central Water Authority, the Central Electricity Board, the Wastewater Management Authority, the Mauritius Renewable Energy Agency and the Utility Regulatory Authority* » adding that they are parastatal bodies under the aegis of the Ministry. (Part « *The Ministry* » of the Customer Charter on the Ministry of Energy and Public Utilities)

8. Are such administrative bodies legally independent entities according to the law?

As we saw, such administrative bodies are act under the aegis of the Ministry of Energy and Public Utilities who monitors them, so there are not independent.

In case of disagreement with the administrative decision of one of the service providers it is possible to make a judicial review.

9. Is there any evidence (e.g., case law) that courts in the country have (or may have) jurisdiction to enforce any economic, social, or cultural rights?

Yes. In the Republic of Mauritius, it exists some evidence that proves the Mauritian jurisdictions try to create a jurisprudence in favor of an enforcement of the economic, social, or cultural rights.

For instance, the decision of the Supreme Court of Mauritius (committee of the privy council) *Matadeen and Others v. M.G.C. Pointu and Others (Mauritius) [1998] UKPC 9 (18 February 1998)* shows that recording the right to keep

home language and the place of origin for example.

10. Do courts in the country have jurisdiction to hear cases regarding the obligations to respect, protect and fulfill the human rights to water and sanitation? Is there any existing case law?

Yes, the Mauritian Courts have had jurisdiction to hear cases regarding the obligations to respect, protect and fulfill the human rights to water and sanitation.

Indeed, « *Notwithstanding the section 114 of the Courts Act and the section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try any offense against this Act and may impose any penalty provided by this Act.* » (Art 14 of the Protection of Human Rights Act of 1998).

So, there is there only two exceptions which concern the District and Intermediate Court.

11. Provide a brief overview of the judicial procedure involving a human rights violation case.

There is an independent and impartial judiciary for civil matters. The law provides access to a court to bring lawsuits seeking damages for human rights violations. It also provides for individuals to seek civil remedies for such violations.

As an alternative to the judicial system, the constitution provides for an ombudsman to investigate complaints from the public and members of the National Assembly against government institutions and to seek redress for injustices committed by a public officer or other authority acting in an official capacity. The ombudsman can make recommendations but cannot impose penalties on a government agency. After exhausting all local appeals, individuals or organizations can appeal decisions to the United Kingdom's Privy Council, which is the highest court of appeal. The government respected courts' decisions. (Chapter IX Constitution)

12. Is there a Constitutional/Supreme Court? Cases are heard as the last appeal or may

cases be referred directly?

Yes, in the Mauritian Country it exists a Supreme Court. (Article 76 Constitution).

The cases are heard principally by the Supreme Court of Mauritius as the last appeal, but it can be seized directly by the persons when the case concerns constitutional questions. (Article 83 Constitution)

13. Have domestic courts applied international human rights law in past cases or have they referred to decisions from international human rights bodies?

Yes. In Mauritius the domestic courts applied international instruments on human rights such as in the Decision of the Mauritian Supreme Court *Madhewoo (Appellant) v. The State of Mauritius and another (Respondents)* where the judges make reference to the Decision of the European Court of Human Rights *Raninen v. Finland*.

« Notwithstanding the section 114 of the Courts Act and the section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try any offense against this Act and may impose any penalty provided by this Act. » (Art 14 of the Protection of Human Rights Act of 1998)

14. Are court proceedings conducted in only one principal language, or are they also conducted in local languages, including minority and indigenous languages? Does the law require that information is made available in local languages?

English is generally accepted as the official language of Mauritius as it is the language of government administration, the courts and business sector.

In the past, despite winning the Battle of Grand Port, the only French naval victory over the British during these wars, the French could not prevent the British from landing at Cap Malheureux during 1810. They formally surrendered the island on the fifth day of the invasion, 3 December 1810, on terms allowing settlers to keep their land and property and to use the French language and law of France in

criminal and civil matters.

It is important to know that the official language to be used in the Supreme Court of Mauritius shall be English. But there is an exception because where a person appearing before the Court satisfies the Court that he does not possess a competent knowledge of the English language, he may give his evidence or make any statement in the language with which he is best acquainted. (Art 14 of Courts Act of 1945)

Moreover, the language to be used in the Intermediate Court or in any District Court shall be English, but any person may address the Court in French. Where any person who is required to give evidence, satisfies the Court that he does not possess a competent knowledge of English or French, he may give his evidence in the language with which he is best acquainted. Finally, where any person gives evidence in a language other than English or French, the proceedings shall, if the Court so directs, be translated. (Art 131 of Courts Act of 1945)

To put in a nutshell concerning the jurors, no person who has made an oath or affirmation that he is not sufficiently acquainted with the English language to serve as a juror shall be called upon to act as a juror in any criminal case, nor shall the name of that person be inserted by the Master and Registrar in the Jury Book compiled by him, so long as such person continues not to be sufficiently conversant with the English language to serve as a juror. A Judge in Chambers may, ex officio, direct the Master and Registrar to re-insert, and it shall also be competent for the Master and Registrar, ex officio to re-insert, in the Jury List of any year, the name of any person under subsection (1), who, there is reason to believe, has become sufficiently conversant with the English language to serve as a juror. (Art 57 Courts Act of 1945).

15. Have domestic courts applied (or referenced) recommendations of national human rights institutions?

No. Domestic courts do not apply or referenced recommendations of national human rights institution.

However, after investigations into the complaint, the Division can make such decisions:

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- Can set aside the complaint if it is frivolous or vexatious.
- Attempt to resolve the complaint by conciliation.
- Refer the complaint to the appropriate authority, for instance, to the Ombudsman, the Equal Opportunities Commission, etc...
- Take any decision deemed appropriate
- But also make recommendations, accordingly to the Minister responsible for Human Rights.

So, the Commission shall, on the completion of its enquiry, send a written communication setting out its conclusion and any recommendation to the Minister who shall, as soon as practicable, report to the Commission the action taken or proposed to be taken. (Art 4.5 The Protection of Human Rights Act of 1998)

C. National human rights institutions

1. Is there an independent national human rights institution?

Yes. In the Republic of Mauritius, it exists an independent national human rights institution. It corresponds to the National Human Rights Commission of Mauritius (NHRC).

Indeed, « *There is established, for the purposes of this Act, a National Human Rights Commission, which shall be a body corporate and which shall consist of a Chairman and 3 other members* ». (Art 3 Protection of Human Rights Act).

2. Does the mandate of the national human rights institution cover the entire human rights framework, including economic, social, and cultural rights?

Yes. The National Human Rights Commission deals with complaints relating to economic, social and cultural rights, such as the right to work, the right to an adequate standard of living, the right to education, the right to health services, the right to social security, etc. Indeed it enquires into written complaints made by any

person who deals that any of the human rights enshrined in Chapter II of the Constitution (Art 2 of the Protection of Human Rights Act of 1998 - Interpretation - : « *“human rights” means any right or freedom referred to in Chapter II of the Constitution* » has been violated or is likely to be violated by the act or omission of a public officer or employee of a public body. (Art 4 Of the Protection of Human Rights Act of 1998).

By analysing the chapter II of the Constitution of Mauritius it is clear that the economic, social and cultural rights are taken into account as the protection of freedom of assembly and association for example. (Chapter II Constitution)

These rights are also catered for by local legislation (e.g the Education Act, Social Aid Act, National Pensions Act) and other measures provided for under our welfare state system.

3. Is the national human rights institution authorized to receive and adjudicate complaints of violations of human rights to water and sanitation?

Yes. The Mauritian National Human Rights Institution authorized to receive and adjudicate complaints of violations of human rights to water and sanitation.

Indeed, one of its functions it is study complaints and its principle one is to promote and protect human rights without any distinction or specification. (Articles 3 and 3A of the Protection of Human Rights Act of 1998.)

4. Does the national human rights institution have a legal basis or authority to initiate an action to address systemic human rights violations?

Yes. The National Human Rights Institution in the Mauritian country has a legal basis and the authority to initiate an action to address systemic human rights violations. (Art 4.1. c) Protection of Human Rights Act of 1998).

Indeed it is specified that one of the function of this institution is to act « *where it has reason to believe that an act or omission such as is referred to in paragraph (a) or (b) has occurred, is occurring or is likely to occur, of its own motion enquire into the matter* » without any written

complaint who comes from a person.

5. What type of remedies does the national human rights institution have the authority to impose?

Where at any stage of an enquiry, the Commission?

- considers it necessary to enquire into the conduct of any person; or
- is of the opinion that the reputation of any such person is likely to be prejudicially affected by the enquiry,

it shall give to that person a reasonable opportunity of being heard in the enquiry and of producing such relevant evidence as that person deems appropriate.

However, this rule shall not apply where only the credibility of a witness is being impeached. (Art 9 The Protection of Human Rights Act of 1998).

6. Is the institution allowed to initiate investigations/hearings?

Yes. The National Human Rights Commission of Mauritius is allowed to initiate investigations. (Art 7 Protection of Human Rights Act).

« The Commission may, for the purposes of conducting any investigation pertaining to an enquiry, utilise the services of any police officer or other public officer designated for the purpose by the Commissioner of Police or the Secretary to the Cabinet, as the case may be » and « The officer whose services are utilised under subsection (1) shall investigate any matter pertaining to an enquiry held by the Commission and submit a report thereon to the Commission within such time as may be specified by the Commission. »

7. Does the national human rights institution have the authority to monitor how remedies for violations of rights to water and sanitation are implemented by governmental authorities, service providers or other agencies/entities?

Yes. The National Human Rights Commission Act of Mauritius has the authority to monitor how remedies for violations of rights to water and

sanitation are implemented by governmental authorities, service providers or other agencies/entities.

The law of Mauritius specified that the Commission may monitor « where the enquiry discloses a violation of human rights or negligence in the prevention of such violation, refer the matter to:

- the Director of Public Prosecutions where it appears that an offense may have been committed.
- the appropriate Service Commission where it appears that disciplinary procedures may be warranted.
- to the chief executive officer of the appropriate public body where it appears that disciplinary action is warranted against an employee of a public body who is not within the jurisdiction of a Service Commission; (Art 4.a) for the Protection of Human Rights Act of 1998)

We have to understand that the term « public body » means : a Ministry or Government department, a local authority, a statutory corporation or any other company, partnership or other entity of which the Government or an agency of the Government is, by the holding of shares or some other financial input or in any other manner, in a position to influence the policy or decisions. (Art 2 for the Protection of Human Rights Act of 1998).

D. Regulation

Is there a water regulator established by law?

In Mauritius there is no regulator established by law.

1. Is the water regulator an independent entity?

No information found

2. What are the oversight mechanisms and responsibilities related to drinking water supply and sanitation services of the regulator?

No information.

- 3. How are the actions of those entities or institutions monitored and by whom? As much as possible, please inform on the different aspects of water and sanitation services: e.g. water quality, tariff setting, availability of water resources, service delivery, etc.?**

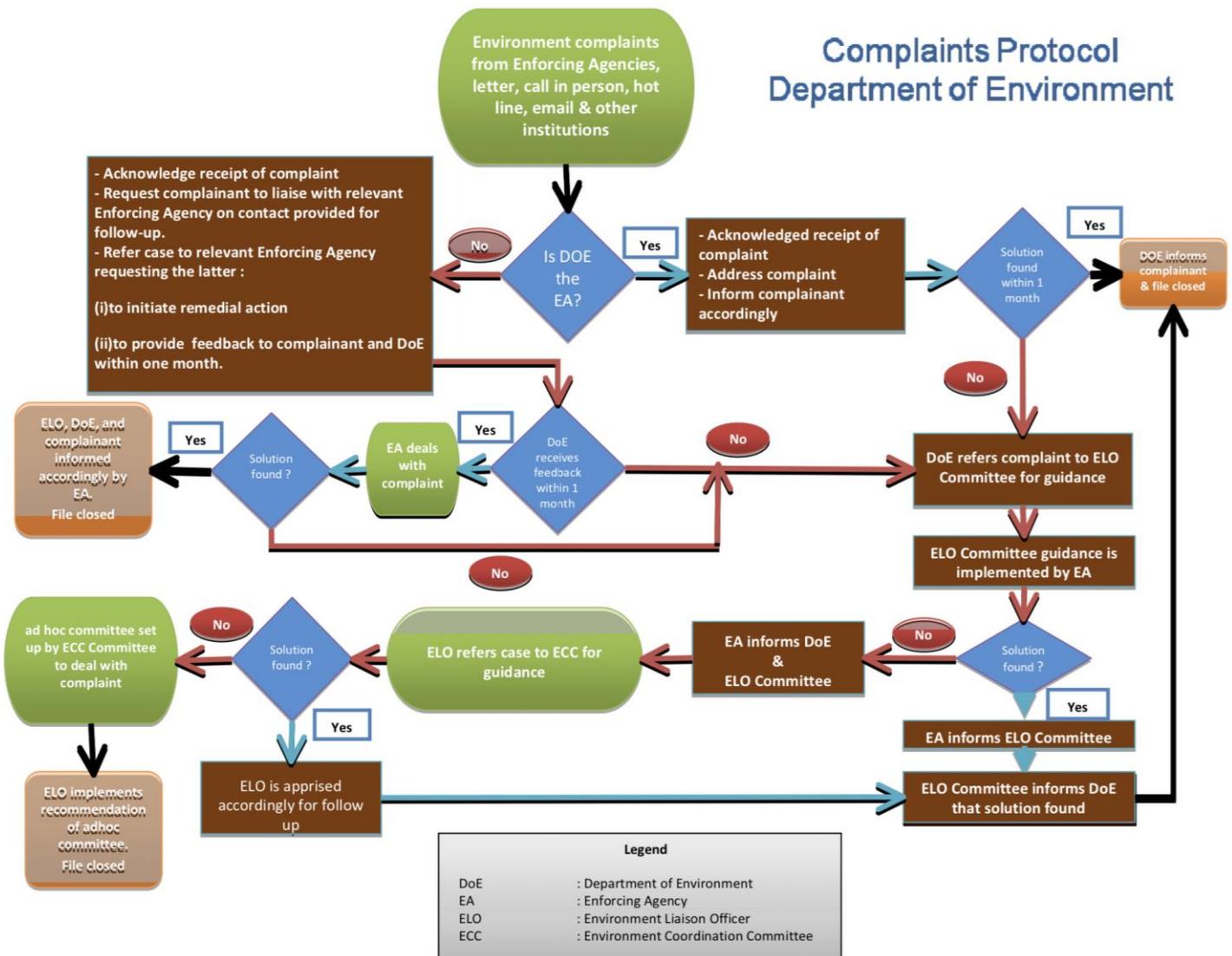
No information found

Annex 1:

TYPES OF SUPPLY	TARIFF NO.	MINIMUM CHARGE
Domestic	10 & 11	45.00
Prise supply acquired before the commencement of ordinance No. 26 of 1891	12	245.00
Acquired Prise Supply after the commencement of ordinance No. 26 of 1891 but before 14 January 1895	13	245.00
Business Consumers	14	1122.00
Commercial Consumers	18	391.00
Concession Prises in Port Louis	23	Nil
Industrial Consumers	16	450.00
Agricultural Consumers (Vegetable, Flower, Fruit trees or other crops Growers & Livestock or Poultry Producers)	17	220.00
Public Sector Agency	15	391.00
Religious & Charitable Institutions	53	60.00
Raw water (Compagnie Thermique de Belle Vue)	71	Nil
Raw Water (Irrigation Authority)		
Aquaculture Consumers	81	Nil
Unchlorinated Water	91	Nil

Annex 2

Complaints Protocol Department of Environment



*Government Notices 1996***SCHEDULE**
(regulation 3)**Drinking Water Standards**

The standards set out in the Second Column are maximum limits for the corresponding parameters set out in the First Column, except where upper and lower limits are specified:-

<i>First Column</i>	<i>Second Column</i>
<i>Parameter</i>	<i>Standards</i>
Microbial	
<i>E. coli</i>	must not be detectable in any 100ml sample
Coliform Organisms	0 in 95% of samples examined throughout the year. In the case of quantities of water needed for distribution throughout the year, when not less than 50 samples are examined for each period of 30 days, 3 in an occasional sample , but not in consecutive samples
Physico-chemical	
pH	6.5-8.5
Total dissolved solids	1000 mg/l
Turbidity	5 NTU
Organoleptic	
Colour	20 Pt-Co
Taste and Odour	not objectionable
Trace metals	
Aluminium	0.2 mg/l
Arsenic	0.01 mg/l
Cadmium	0.003 mg/l
Copper	1 mg/l
Lead	0.01mg/l
Mercury	0.001 mg/l
Total chromium	0.05 mg/l
Zinc	3.0 mg/l
Nickel	0.02 mg/l
Anions	
Chloride	250mg/l
Fluoride	1.5 mg/l
Sulphate	250 mg/l
Nitrate	50 mg/l (as NO ₃)
Nitrite	3 mg/l (as NO ₂)
Pesticides	
Aldrin and dieldrin	0.03 microgram/l
DDT	2 microgram/l
Lindane	2 microgram/l
HCB	1 microgram/l
Methoxychlor	20 microgram/l
Heptachlor and Heptachlor oxide	0.03 microgram/l