

PARLIAMENTARY QUESTIONS

B/1061 The Honourable Third Member for the Grand River North West and Port Louis West (Mr Baloomoody)

To ask the Honourable Attorney-General, Minister of Justice, Human Rights and Institutional Reforms –

Whether, in regard to the National Human Rights Commission, he will, for the benefit of the House, obtain therefrom, information as to if all the posts thereat have been filled following the reconstitution thereof, indicating the (a) qualifications, experience held and terms and conditions of appointment of the incumbents thereof (b) number of visits effected since their appointment to date in the (i) Prisons (ii) Police cells and (iii) Detention Centres, both in mainland Mauritius and Rodrigues and (c) number of workshops organised?

B/1070 The Honourable First Member for Port Louis North and Montagne Longue (Mrs Perraud)

To ask the Honourable Attorney-General, Minister of Justice, Human Rights and Institutional Reforms –

Whether, in regard to the National Human Rights Commission, he will, for the benefit of the House, obtain therefrom, information as to the (a) composition thereof (b) number of employees posted thereat and (c) number of reported cases of breach of human rights which have been heard since 2014 to date?

SUPPLEMENTARY MATERIALS TO PARLIAMENTARY QUESTIONS

B/1061 AND B/1070

Part (a) of both Questions

1. Section 3 of the Protection of the Human Rights Act provides for the establishment of Commission and setting up of Divisions as follows –

3. *Establishment of Commission and setting up of Divisions*

.....

(3) *There shall be within the Commission –*

(a) *a Human Rights Division; and*

- (b) -
- (c) *a National Preventive Mechanism Division.*

(4) *The Commission shall consist of –*

- (a) *a Chairperson, who shall be the head of every Division; and*
- (b) *2 Deputy Chairpersons, each of whom shall be assigned to a Division.*

(5) (a) *The Chairperson shall be a person who has been –*

- (i) *a Judge;*
- (ii) *a Magistrate for not less than 10 years;*
- (iii) *a law practitioner for not less than 10 years; or*
- (iv) *a Magistrate and a law practitioner for an aggregate period of not less than 10 years.*

(b) *The Deputy Chairpersons shall be persons who have been law practitioners for not less than 5 years.*

(6)

(7) *Every Division shall consist of –*

- (a) *the Chairperson, as its head;*
- (b) *a Deputy Chairperson who shall be assigned to it; and*
- (c) *2 members with knowledge and experience in the relevant field.*

(8) (a) *The Chairperson, the Deputy Chairperson and the members of every Division shall be appointed by the President, acting on the advice of the Prime Minister, on such terms and conditions as the President thinks fit.*

(b) Before tendering advice to the President under paragraph (a), the Prime Minister shall consult the Leader of the Opposition.

2. As regards the composition of the Human Rights Division of the Commission, section 3B of the Protection of the Human Rights Act, provides as follows –

3B. Human Rights Division

.....

(2) The Division shall consist of –

- (a) the Chairperson of the Commission as its head;*
- (b) a Deputy Chairperson who shall be assigned to the Division; and*
- (c) 2 members.*

(3) The members referred to in subsection (2)(c) shall be persons having knowledge and experience in the field of human rights, law, employment, industrial relations, business administration, education, sociology, policing, social work, psychology, psychiatry, medicine or prison management.

3. (1) Regarding the National Preventive Mechanism Division, in addition to section 3 of the Protection of the Human Rights Act, section 3 of the National Preventive Mechanism Act provides that –

3. National Preventive Mechanism Division

.....

(4) The Division shall consist of –

- (a) the Chairperson of the Commission as its head;*
- (b) a Deputy Chairperson; and*
- (c) 2 members.*

(5) Of the 2 members referred to in subsection (1)(c) –

- (a) one member shall be selected from a list submitted by non-governmental*

organisations involved in social work in prisons; and

(b) the other member shall be a person having knowledge and experience in the field of human rights, law, employment, industrial relations, business administration, education, sociology, policing, social work, psychology, psychiatry, medicine or prison management.

(6) The Division may, where it considers necessary, co-opt any expert with the relevant professional expertise, experience and knowledge, to assist it in the discharge of its functions under this Act."

(2) Section 7 of the National Preventive Mechanism Act provides as follows –

7. Staff of Division

The Commission shall provide the Division with adequate staff and facilities for the proper discharge of its functions.

4. Section 5 of the Protection of the Human Rights Act provides as follows –

5. Staff of Commission and Divisions

(1) The Secretary to the Cabinet shall make available to the Commission an officer of the rank of Deputy Permanent Secretary, who shall be the Secretary of the Commission, and such other administrative and other staff as the Commission and any Division may require.

(2) The Secretary of the Commission shall be the chief executive officer of the Commission and shall exercise such powers and discharge such administrative functions as the Commission may delegate to him.

(3) The appropriate Service Commission may approve the transfer, promotion or secondment of any officer in the public service to any office within the Commission or any Division and any public officer so transferred, promoted or seconded shall, in relation to any gratuity, pension or other allowance, be treated as continuing in the public service.

(4) The Commission may, on such terms and conditions as it may determine, engage on contract such suitably qualified person or body as may be necessary for the proper discharge of the specific functions of each Division.

Answer to part (c) to B/1070

Section 7 of the Protection of the Human Rights Act provides as follows –

7. Investigation

(1) The Human Rights Division may, for the purpose 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.

(2) The officer whose services are utilised under subsection (1) shall investigate any matter pertaining to an enquiry held by the Human Rights Division and submit a report thereon to the Human Rights Division within such time as may be specified by the Human Rights Division.

Answer to part (b) to B/1061

1. Pursuant to Section 3(2) of the National Preventive Mechanism Act, the National Preventive Mechanism Division is the National Preventive Mechanism, for the purposes of Part IV of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 18 December 2002 and acceded to by the Government of Mauritius on 21 June 2005.

2. Sections 4 and 5 the National Preventive Mechanism Act provide for the functions and the powers of the National Preventive Mechanism Division, respectively, as follows –

4. Functions of Division

The functions of the Division shall be –

(a) to visit places of detention on a regular basis so as to examine the treatment of persons deprived of their liberty with a view to ensuring their protection against torture and inhuman or degrading treatment or punishment;

(b) to investigate any complaint which may be made by a detainee and, where the detainee so requests, investigate the complaint privately;

- (c) *to make to the Minister recommendations regarding the improvement of the treatment and conditions of persons deprived of their liberty in places of detention, taking into consideration the relevant norms of the United Nations;*
- (d) *to submit to the Minister and other relevant authorities proposals and observations concerning legislation relating to places of detention and the treatment of persons deprived of their liberty;*
- (e) *to work, where appropriate, in co-operation or consultation with any person or body, whether public or private, in connection with the discharge of any of its functions under this Act and the Optional Protocol.*

5. Powers of Division

(1) *The Division shall have such powers as may be necessary to effectively discharge its functions under this Act and the Optional Protocol.*

(2) *Without prejudice to the generality of its powers under subsection (1), the Division shall, notwithstanding any other enactment, be given –*

- (a) *full access to all information concerning the number of persons deprived of their liberty in places of detention, as well as the number of places and their location;*
- (b) *access to all information referring to the treatment of those persons as well as their conditions of detention;*
- (c) *access to any place of detention and its installations and facilities;*
- (d) *the opportunity to have private interviews with persons deprived of their liberty, personally or with a translator where necessary, as well as with any other person whom they have reason to believe may supply relevant information;*
- (e) *the freedom to choose the places they want to visit and the persons they want to interview;*
- (f) *the freedom to determine its own procedures, including its programmes of visits;*

- (g) *the freedom for its members to be accompanied, if needed, by such expert with the relevant professional expertise, experience and knowledge as the Chairperson may determine, on visits to detention centres;*
- (h) *the right to have contacts with the Subcommittee and to exchange information with it.*