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Guaranteeing the Future of Education through a Constitutional right to education in Mauritius

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Abstract

The future of education through research is primarily dependent on the right to education as a foundational basis. There is a need for the basic human right to education to be guaranteed by the laws of Mauritius. As matters stand, education is arguably said to be provided as part of the welfare state system. Indeed, free education from the primary level up to the tertiary level is provided by way of political decisions and funded by the welfare system similar to other social facilities. Without undermining the importance of this system, it should be pointed out that no legislation in Mauritius makes provision for education as a basic human right. The Constitution of Mauritius, the supreme law of the land, is devoid of the right to basic education, thus leaving this fundamental human right without any constitutional guarantee. This article argues that guaranteeing the future of education through research is only arguably possible through a constitutional guarantee of the right to education. The nexus between education as a right and research is highlighted. A comparative case study is undertaken with countries which have guaranteed education through research from a human rights-based approach. The article finally recommends the critical need for enshrining the right to education in the Constitution of Mauritius, training and educating the judiciary on the correct interpretation of this right as

well as encourage the executive to formulate policies and plans related to education on a rights-based approach premised on the right to education as spelt out by key international human rights standards.

Keywords: *Constitution of Mauritius; Right to Education; Welfare state; Right to research, Constitutional guarantees.*

Introduction

Before the early 20th century, access to education was reserved for particular social classes. While some countries, such as Germany, made compulsory public education a primary objective in the 18th century in view of educating the people, this was only partially executed and formally established by law (Delbruck, 1992). Even worse, states use education to instill authoritarian ideologies. This was a problem that international law was unable to effectively address prior to the United Nations Charter and the 1948 Universal Declaration of Human Rights (UDHR), which establishes a human right to education under Article 26. Additionally, the United States does not recognise the right to education in its federal legislation or Constitution (instead, U.S. law reserves the authority to grant each state a right to education, indicating that the protection of this right is meaningless and inconsistent throughout the six U.S. states (Weishart, 2016). According to Lee (2020), in view of gaining a deeper comprehension of the right to education, reference must be made to international law, particularly human rights instruments. These legal frameworks provide a more harmonized interpretation of the right to education across nations and enhance global human rights protection. To fully understand the right to education, one must also consider the laws of other jurisdictions and how principles of human rights are applied. While it is impossible to overstate the importance of education in improving and developing human potential, consciousness, identity, integrity, and even power, no body of literature or tool offers the definition of education that is both thorough and reliable (Halvorsen, 1990).

When it comes to application and implementation, this approach to human right to education, arguably contradictory in nature, causes more harm than good (Lee, 2020; 762). Education should be defined through the lenses of positive and negative rights, just as the International Bill of Human Rights divided human rights into two categories: civil and political rights and economic, social, and cultural rights. Additionally, the

definition of education should control the uniform indoctrination of authoritarian ideologies, whether they are communist, religious or racial. The objective, function, amount, quality, access, subjects, and contents that the human right to education seeks to safeguard, forbid, and provide should all be reflected in the revised definition of education (Lee, 2020; 762).

Yet, the proper understanding of the meaning of education and its corresponding human right to education is crucial in the context of educational research. Indeed, the future of education through research is primarily dependent on whether there is a guarantee that is provided to the right to education, whether constitutionally or otherwise. This article attempts at examining the extent to which such a legal framework exists in Mauritius in order to ensure a bright future of education through research. As things stand, one may argue that education is a component of the welfare state framework. In fact, similar to other social amenities, free education is paid and supported by the welfare system and is made possible by political decisions for pupils in elementary schools through tertiary education. Without diminishing this system's significance, it should be noted that Mauritius does not have any legislative framework that guarantees education as a fundamental human right. The supreme law of the land, the Mauritian Constitution, does not guarantee the right to a basic education, leaving this essential human right unencumbered. This article attempts at making the case that a constitutional guarantee of the right to education is a prerequisite for using research to foresee the future of education.

Education under the Welfare State system in Mauritius

It has to be stated that the Mauritian legal framework is devoid of any meaning or definition of education and the human right to education. Despite being a member state to the above mentioned human rights instruments, there is a lack of domestication of the substantive and procedural definition of education and the right to it. Additionally, the right to education, similar to all other socio-economic rights is not enshrined in the Constitution of Mauritius (Mahadew, 2016). In this context, it is argued that the future of education through research is devoid of any constitutional guarantee. Legislation and policies created by policy-makers on education and research for the future may not easily be challenged before a court in Mauritius from a right to education viewpoint. This is the underlying rationale for this article to consider the

importance of enshrining the right to education in the Constitution as a fundamental right. At this juncture, there may be an argument about the need for such a right given that education in Mauritius, from pre-primary, primary, secondary and tertiary (first degree) is free in Mauritius. The next section attempts at countering this argument.

Measures and Policies

It would be inaccurate to argue that the legislative and normative framework in Mauritius on education is devoid of substantive and procedural provisions. While a constitutional guarantee to the right to education is absent from the Constitution, as would be discussed later, the welfare state system of the country has provided significantly with regards to education in Mauritius. This section is inspired from the Midterm progress report on the implementation of the fourth phase of the World Programme for Human Rights Education submitted to the Office of the High Commissioner for Human Rights by the Human Rights Division of the Ministry of Foreign Affairs of Mauritius hereafter referred to as the Midterm Report.

Indeed, all children are required to attend school until they are sixteen and there is no exemption from this requirement. Furthermore, all public universities provide free education up to the tertiary level. Its goal is to guarantee an inclusive educational system that is completely tailored to the changing demands on development of our society and economy. Sustained endeavours are underway to guarantee that no youngster is excluded from the educational system, be it from urban or rural areas, Rodrigues, or the Outer Islands. The Special Education Needs Authority implements strategies to guarantee that children with special needs receive an education, and that kids from disadvantaged households receive sufficient support in the form of free meals, school supplies, or scholarship programs. Human rights education is effectively provided starting at a very young age, and the establishment of a National e-Learning Platform demonstrates how education and digitization work hand in hand (Midterm Report, p.1).

The World Programme for Human Rights Education's Resolution: On September 26, 2019, the Human Rights Council accepted the plan of action for the fourth phase (2020–24). The Plan of Action places a strong emphasis on the Human Rights Education program for "youth," which is defined as those between the ages of 15 and 24. The Plan of Action consists of four (4) parts, specifically: Regulations and associated

execution strategies; Methods and Resources for Teaching and Learning; Education Training and; a supportive setting.

Legislation and policies that have been developed and put into effect to guarantee the inclusion of human rights and human rights education in youth education (secondary, higher education, and vocational training) as well as to support and encourage the work of civil society, including youth groups and youth-led organisations, in delivering human rights education in non-formal settings, are included in policies and related implementation measures. There is no particular law that mandates that human rights and human rights education be taught in youth formal education. In its Human Rights Action Plan 2012-2020, the State of Mauritius identified 100 priority initiatives, of which two specifically addressed human rights education, namely: Priority Actions 93 and 95 are the integration of human rights into the education sector and the development of a comprehensive human rights education strategy after a needs assessment of different groups (Midterm Report, p. 2).

Through learner-centered approaches, teaching and learning processes and tools include activities and programs to build young people's competences (in the areas of knowledge, skills, and attitudes) that enable them to exercise, respect, and maintain human rights. Human rights education is to be integrated across the curriculum, including teacher training, textbooks, and extracurricular activities at the pre-primary, primary, and secondary levels, according to the Ministry of Education, Tertiary Education, Science, and Technology (MOETEST). In order to advance human rights via instruction and learning, the MOETEST created a Toolkit on Human Rights Education in 2015 with help from the Commonwealth Secretariat. Teachers could effortlessly incorporate the useful framework offered by the Toolkit into their current pedagogical approaches. It was easy to use and had helpful tools that teachers could use to successfully incorporate Human Right Education into their classes (Midterm Report, p. 4).

With the implementation of the Nine-Year Continuous Basic Education Reforms in 2018, significant advancements have been realized. The human rights education curriculum has been reviewed for use in the classroom. Human rights education is offered in special education needs schools as well as at the elementary and secondary levels. Human Rights Education (HRE), as suggested by the toolbox, has been incorporated into a number of subjects, primarily Social Modern Studies (SMS). Moreover, a significant portion of HRE is covered by new courses like Citizenship Education and Life Skills and Values. The exercises

suggested in the Commonwealth toolkit have been modified and added to the curriculum for the pupils. The goals of SMS and Life Skills are to better equip learners to comprehend and decide on important social and civic issues that impact them and their families. Through the lenses and methodologies of various disciplines, such as history, geography, sociology, human rights education, citizenship education, values education, education for sustainable development, and multicultural education, the learners are endowed with knowledge about themselves, the people and society around them, the country, and the world (Midterm Report, p. 6).

The revised SMS and Life Skills curriculum materials were implemented in Grade 9 in 2020. In 2021, the updated Grade 9+ SMS and Life Skills curriculum materials were unveiled. These resources aim to strengthen a global culture of human rights while expanding on the knowledge that students learned in Grades 7 and 8, when they were taught HRE components related to respect of human dignity. Every activity in Life Skills either directly or indirectly addresses HRE concerns. Values and Citizenship Education (VACE) curriculum materials for Grades 1, 2, and 3 were reviewed by the Mauritius Institute of Education (MIE) in 2021.

Training educators involves taking steps to guarantee that educators employed in formal education (teachers, higher education instructors, and other types of education staff) and non-formal education (especially young trainers, leaders, and activists) receive ample instruction in human rights and human rights education methodologies. The promotion of human rights education and ideas connected to human rights has been the focus of teacher training programs run by the Mauritius Institute of Education (MIE) from 2020. The MIE has persisted in providing pre-service and in-service primary and secondary educators with modules covering Human Rights, Life Skills, and Citizenship Education. For in-service teachers, there is a module on human rights education for the (B Ed) (PT) primary. Approximately 100 educators have utilized the module thus far. Human rights-related topics are included in a citizenship education curriculum available to PGCE students. The goal of the module is to equip secondary school teachers to include civic and values education into their lessons using a project-based learning approach. Since 2020, over sixty educators have used this module (Midterm Report, p. 13).

In an effort to assist educators in implementing peace education, MIE initially partnered with South Korean-based Heavenly Culture

World Peace Restoration of Light (HWPL) in 2021. Dedicated to world peace and the abolition of conflict, the HWPL is an international peace organisation that was established in South Korea. This non-governmental organisation is linked to the UN Department of Global Communications (DGC) and has Special Consultative Status with the UN Economic and Social Council (ECOSOC). In order to better empower educators in building the knowledge, skills, and attitudes necessary to teach Values Education, HRE, and Citizenship Education, as well as to support teachers in figuring out how to incorporate Peace Education into their lessons, the HWPL and the MIE (whose MOU is now being completed) have partnered.

Education as a human right

Basic definition of education

The right to education can be contested against states and their agencies because it has been acknowledged as a human right and defined in a number of human rights instruments in a variety of settings. According to the 1948 UDHR's article 26(1), everyone has the right to education. This suggests that everyone has the right, not only children. The right of parents to direct their children's religious and moral education is safeguarded by Articles 18 of the 1966 International Covenant on Civil and Political Rights (ICCPR) and Article 12 of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC). The right to education is acknowledged by state parties in article 13(1) of the 1966 International Covenant on Economic, Social, and Cultural Rights (ICESCR). The right of a child to education is also guaranteed in article 28(1) by the UN Convention on the Rights of the Child. The 1962 Convention against Discrimination in Education, which is enforced by the United Nations Educational, Scientific, and Cultural Organization (UNESCO), forbids discrimination with regard to conditions surrounding the delivery of education, standards and quality of education, and access to education. States are urged not to practice racial discrimination when their citizens have the right to education and training under Article 5(v) of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

All of the aforementioned formulations of the right to education, however, do not define education precisely. Access, quality, and quantity

are not properly taken into account. Depending on the situation, education can have a mysteriously complex meaning. Education is associated with the negative right of the first generation to be free from state interference. It can also refer to the abstract freedom to educate or be educated (Lee, 2020; 764). It is acknowledged as an international custom that states are negatively prevented from engaging in discriminatory practices by equal access to education and the ban of discrimination (Hodgson, 2006). As an alternative, the definition of education can be made more precise and detailed by including ideas like the materials, equipment, and financial requirements needed for it. This definition is connected to the social right of future generations to request that states provide for certain needs—a positive right. Education can also refer to a process that may be linked to both positive and negative rights and that aims to achieve specific objectives and purposes through institutional instruction, such as personality, capacities, and dignity.

Not only do national and regional laws employ education in confusing and conflicting ways, but international human rights legislation also defines education differently. Education is "a principal instrument in awakening the child to cultural values, in preparing him for later professional training,... in helping him to adjust normally to his environment," and in enabling a child to succeed in life, according to the *U.S. Supreme Court in Brown v. Board of Education* 347 U.S. 483. The court views education as a means, not an end in to itself. Instead, education is defined as "the whole process whereby, in any society, adults endeavour to transmit their beliefs, culture, and other values to the young, whereas teaching or instruction refers in particular to the transmission of knowledge and to intellectual development" by the European Court of Human Rights in the case of *Campbell v. United Kingdom Application No. 13590/88 (1990)*. Apart from their incongruous definitions (one emphasizing methods, the other process), both approaches are narrow in scope, concentrating solely on the youth without giving particular thought to the beliefs and cultural values they seek to impart.

Education can also concentrate on topics that are legal. Adults, parents, and vulnerable groups including the elderly, women, individuals with impairments, and members of minority groups like indigenous people can all be subjects. Human rights instruments presuppose that every person has the right to education, but they only apply that right to the specified group of individuals. This vague, general categorization meant that a child's right to an education was not expressly safeguarded. Children and other young people have essentially been the objects of the

ideological and cultural values that parents and the state have forced onto them (Lee, 2020; 766).

The Social Right to Receive Education

Rather than restricting or prohibiting states from interfering with people's choice to pursue an education, the second generation social welfare right to education affirmatively imposes obligations on them to offer education (Delbruck, 1992). Free education, which includes higher education as well as training in technology and vocational skills, requires states to proactively supply these advantages. The social right to an education under the 1966 ICESCR article 13 (2) is said to have the "interrelated and essential features" of availability, accessibility, acceptability, and adaptation. A sufficient number of operational educational facilities and programs, such as buildings, sanitary facilities, clean drinking water, qualified instructors, instructional materials, a library, computer facilities, and information technology, are indicated by availability.

Economic, physical, and nondiscriminatory accessibility are all included in accessibility. "The form and substance of education, including curricula and teaching method, have to be acceptable," is what is meant by acceptance. Flexibility that takes into account both the "needs of students within their diverse social and cultural settings" and the "needs of changing societies and communities" is what is meant by adaptability. These four pillars of the social right to education are articulated as principles of education in different ways: (1) education is conducted in a democratic, fair, and non-discriminatory manner by upholding human rights, religious and cultural values, and national pluralism; (2) education is organised as a systemic entity with an open and multi-sense system; (3) education is organised as a lifelong process of culture and learner empowerment; (4) education is organised by providing models, fostering willingness, and developing learners' creativity during the learning process; (5) education is organised by cultivating a culture of reading, writing, and math for all citizens; (6) Its structure involves giving all societal members a voice in the execution and oversight of educational programs (Limpo, 2018).

The 1957 Education Act of Mauritius

The various policies and measures regarding education in Mauritius have been explored in the previous section. It is now appropriate to turn the focus on the legislative framework on education. The main legislation that regulates the sector of education is the Education Act 1957. It regulates various key elements of education in Mauritius. Part 2 of the Act entitled Ministry of Education and Education Authorities deals with aspects such as powers and duties of Minister, delegation of powers by Minister, National Education Council, National Curriculum Advisory Board, Regional Education Boards, Consultative Committee and Education Authorities. Part 3 of the Act is dedicated to control and inspection of schools. Major provisions under this part are about the Private Secondary School Authority, registration of schools, registration of managers and principal, registration of teacher, Appeals Tribunal, powers of inspection and offences and penalties. Part 4 of the Act concerns scholarships whereas Part 5 entitled Miscellaneous contains provisions such as power to close education institutions temporarily, compulsory primary education and control of private tuition.

Though the immense importance of this Act, it is obvious from its provisions that the primary focus is the administrative aspects of the educational system of Mauritius. It does not have any provision which is making reference to the right to education or other educational rights from both the substantive and the procedural aspects. For instance, section 37 of the Act provides for compulsory education in the following terms: (1) every child who has attained such age as may be prescribed for admission to a primary school shall attend a primary school. (2) It shall be compulsory for every child to attend school up to the end of the academic year in the course of which he attains the age of 16. It is important to note that a human rights-based approach is not adopted, even from a linguistic perspective of the provision, to provide for compulsory education. This is in sharp contrast with the Indian legislation which provides for compulsory education through the Right to Children to Free and Compulsory Education Act in the following terms: Every child has a right to full-time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.

It is argued that the Mauritian education system has adopted more of a needs-based approach to education rather than a rights-based approach. According to the UNICEF, to date, needs-based development approaches to education have not succeeded in meeting the objectives of Education for All. While undoubtedly not without conflicts and

difficulties, a rights-based approach has the potential to help governments, parents, and kids achieve their objectives since it is inclusive and offers a shared language for collaboration (United Nations Children's Fund, 2006). For example, it will be easier to fulfil girls' rights to education if policies are also put in place to protect them from discrimination, safe haven from forced labor, physical and sexual abuse, and access to a living wage. On the other hand, achieving other rights depends on the right to education. For instance, research suggests that for every 1,000 women, an extra year of education can help avert two maternal fatalities (United Nations Girls' Education Initiative, 2007).

While education under the welfare state system of Mauritius has arguably served a good purpose so far, it is argued that it is now time for the authority to adopt a rights-based approach to education premised on the right to education. The next section deals with the need and relevance of having a constitutional right to education that would ensure the future of education in Mauritius.

A Constitutional Right to Education

A number of important jurisdictions around the world have adopted the right to education in their constitutions. For instance, article 205 of the 1988 Brazilian Constitution states that "education, which is a right of all and the duty of the State and of the family, must be promoted and fostered with the cooperation of society, seeking the full development of the person, his preparation for the exercise of citizenship and qualification for work. In addition, article 206 guarantees equal conditions for access to school; freedom to learn, teach, research and express thought, art and knowledge; pluralism of pedagogic ideas and conceptions and coexistence of public and private teaching institutions; free public education in official schools, appreciation of teaching professions; democratic administration of public education and a guarantee of standards of quality. The Indian Constitution was amended by the Constitution (Eighty-sixth Amendment) Act, 2002, adding Article 21A, which states that all children between the ages of six and fourteen are entitled to free and compulsory education as a fundamental right under Part III of the Constitution, in a way that the State may, by law, determine. Article 26 of the Japanese Constitution provides that all people have the right to receive an equal education correspondent to their ability and the 1996 South African Constitution, through section 29, provides that everyone has the right to a basic education, including adult

basic education; and to further education, which the state, through reasonable measures, must make progressively available and accessible.

While many other socio-economic rights in the South African Constitution, such as the right to "further education," are subject to progressive realisation over time given available means, the right to basic education can be realized immediately. The Constitution does not, however, specify the right to a basic education, and there has been disagreement concerning the extent of this right. In *Moko v. Acting Principal Malusi Secondary School*, the Constitutional Court (the "CC") provided some clarification in this area by stating that the right includes the ability to get the National Senior Certificate (the "NSC"), which is granted upon completing the last high school examination. In South Africa, there has long been a legal dispute over what constitutes basic education. The National School Nutrition Program, textbooks, basic furnishings and infrastructure, scholar transport, post-provisioning, and adequate sanitation facilities are among the things that the courts have already determined as part of the right. Where basic education ended and additional education began, however, was still somewhat unclear. In *Governing Body of the Juma Masjid Primary School v. Essay N.O.*, the CC had declared that basic education, at the very least, comprised education up to Grade 9 (Arendse, 2020). Furthermore, Nicholls stated that primary school was unquestionably a part of basic education in the minority ruling in *AB and Others versus. Pridwin Preparatory School CCT 294/18 [2020] ZACC 12* (Fawole, 2022). Therefore, it was unclear if the right extended to higher grades.

In the case of Moko, the CC has now dispelled some of the rumours. Mr. Moko was deprived of the opportunity to write the final exam required in order to receive his NSC. The principal forbade Mr. Moko from entering the school on November 25, 2020, when he arrived to take the exam, citing his failure to attend additional sessions. When Mr. Moko visited with the principal the following day, he was informed that he would need to take the May 2021 supplemental exam (Mateus & Shange, 2021).

Mr. Moko brought the issue up with the provincial administration because he wanted to pursue further education and knew that having to write the exam in May 2021 would cause him to miss a year of school. Even when the Principal was found guilty, it was determined that Mr. Moko would only be permitted to take the test in May 2021. In order for his results to be announced concurrently with those of other students and for him to be aware of whether or not he had received the NSC, he

so went to the CC and requested permission to take the exam before May 2021. Mr. Moko claimed that the state's refusal to permit him to take the exam before May 2021 and the Principal's conduct had infringed his right to basic education and higher education.

The CC ruled that taking final exams and getting into the NSC are covered under the entitlement to a basic education. Interpreting basic education as limited to primary school or Grade 9 would be "unduly narrow," especially in light of the right's transformative intent. The decision has significant implications since it establishes access to final exams as an immediately enforceable right. This means that any restriction on the right must pass under the constraints clause found in section 36 of the Constitution. Should the Court have ruled that the right to final exams constituted part of the right to higher education rather than the right to a basic education, access would have been subject to progressive realisation within the means at hand, leading to less scrutiny of access restrictions.

There is an important judicial decision from the Supreme Court of India that has highlighted the importance of the constitutional right to education. In the case of *Mohini Jain v. Karnataka State And Ors* 1992 AIR 1858, 1992 SCR (3) 658, the Supreme Court of India stated that:

Unless the right to education was put into effect, basic rights will be beyond the control of an illiterate large majority. Capitation fees are only a sales price, and that leads to the promotion of preparation. The Court observed that capitation charges are nothing more than a premium for the selling of education which would mean that education is commercialised. The court considered that the State's obligation to educate all people at all levels was extremely expanding. This strategy created functional obstacles for private education institutions and the state to address everyday economic problems. In the court's analysis, it was presumed that teaching was not a career under subparagraph (g) in Article 19 of clause (6).

In *The State of Andhra Pradesh V. Unni Krishnan And Ors* 1993 AIR 2178, 1993 SCR (1) 594, the Court was of the following view:

If Article 21 is read with Articles 41, 45, and 46 the right to education is inferred, but merely relying upon the principles of Directive per se means that any duty placed on the principles of Directive is immediately included in Article 21. The obligation of the State to provide education shall be limited until the infant reaches the age of 14 years and beyond, and shall be subject to economic capacity limits and state development. State schools or private aided schools shall be free to discharge the responsibility of the state. Article 14 exists and its operation cannot be omitted by extra

intervention of State agencies. The Court developed a system for the level of fees charged by private schools. In the case of TMA Pai foundation, the scheme set up by the court in the Unni Krishnan, enforced by the Legislature, was deemed an arbitrary restriction in Article 19, clause 6

With the above as background, it must be stated that it is quite alarming that 56 years after independence, the right to education is yet to be enshrined in the Mauritian Constitution. As discussed in the previous section, the educational system is premised on the welfare state system and administratively organised through legislation such as the Education Act 1958 and related regulations. It is argued that these legislation do not have any constitutional guarantees as these provisions can be amended with a simple majority in the National Assembly. Having a right to education in the Constitution would imply that the right is entrenched and only amendable by a qualified majority. This confers more protection to the right to education.

Additionally, there is a lack of judicial challenges to several policy decisions regarding education in Mauritius. Parents for example may not be agreeable or may not find relevant a particular decision taken by the executive or the legislature but they do not have any judicial avenue to challenge such decisions on the basis of the right to education. It should be noted here that the term judicial challenge is to be perceived in positive light as it does not infer challenging the government of the day, but rather seeking judicial interpretation based on human rights for a better educational future of an entire country for generations to come. It is well documented that such judicial challenges have allowed countries such as South Africa and India to enhance their educational systems on a lot of fronts. To ensure a more dynamic educational system in Mauritius, it is mandatory to introduce such legal possibilities to judicially assess policies and decisions taken in this field.

Conclusion and Recommendations

It is undeniable that the future of education in Mauritius goes through a guaranteed and constitutional right to education. Having the right to education enshrined in the country allows for a judicial assessment of the substantive and procedural contents of the right to education. This is an aspect that seems less probable today in Mauritius given that education related decisions and policies are needs-based rather than rights-based and often the fruit of negotiations and lobbying. Amending the Constitution of Mauritius to include the right to education will also allow the judiciary to engage in judicial activism which is mandatory to

maintain the dynamics of the educational sectors, an ever-changing sector especially with the advent of technology of information and artificial intelligence.

In light of the above discussion, it is recommended that the government of Mauritius consider the amendment of the 1968 Constitution of Mauritius to include the right to education aligned with the 1966 ICESCR and corresponding general comments by the UN CESCR. Inspiration should be drawn from key jurisdictions as discussed above which already have the right to education entrenched in their supreme laws. Additionally, it is recommended that the judiciary in Mauritius be appropriately trained and be acquainted with the rich jurisprudence that the South African judiciary has developed regarding the interpretation of the right to education. At the level of the executive, it is recommended that relevant authorities including the Ministry of Education in Mauritius make policies and regulations in relation to education from a rights-based approach premised on the right to education.

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