



Home Office

Country Policy and Information Note

Mauritius: Sexual orientation and gender identity

Version 1.0

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Preface

This note provides country of origin information (COI) and policy guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country information

The COI within this note has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. IAGCI may be contacted at:

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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Policy guidance

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1. Introduction

1.1 Basis of claim

1.1.1 Fear of persecution or serious harm by the state and/or non-state actors because of the person's actual or perceived sexual orientation and/or gender identity.

1.2 Points to note

1.2.1 This note provides policy guidance on the general situation of gay men, lesbians, bisexuals and transgender persons – referred collectively hereafter as 'LGBT persons', though the experiences of each group may differ.

1.2.2 Where a claim is refused, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002 as Mauritius is listed as a designated state.

1.2.3 Decision makers must also refer to the Asylum Instructions on [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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2. Consideration of issues

2.1 Credibility

2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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2.2 Particular social group

2.2.1 LGBT persons in Mauritius form a particular social group (PSG) within the meaning of the Refugee Convention because they share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to their identity or conscience that they should not be forced to renounce it, and have a distinct identity which is perceived as being different by the surrounding society.

2.2.2 Although LGBT persons in Mauritius form a PSG, establishing such membership is not sufficient to be recognised as a refugee. The question to be addressed is whether the particular person will face a real risk of persecution on account of their membership of such a group.

- 2.2.3 For further guidance on particular social groups, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.3 Assessment of risk

a. General points

- 2.3.1 Decision makers must establish whether or not the person, if returned to their country of origin, will live freely and openly as a LGBT person. This involves a wide spectrum of conduct which goes beyond merely attracting partners and maintaining relationships with them. If it is found that the person will in fact conceal aspects of his or her sexual orientation/identity if returned, decision makers must consider why the person will do so.
- 2.3.2 If this will simply be in response to social pressures or for cultural or religious reasons of their own choosing and not because of a fear of persecution, then they may not have a well-founded fear of persecution. Decision makers should also consider if there are individual or country specific factors that could put the person at risk even if they choose to live discreetly because of social or religious pressures.
- 2.3.3 But if a material reason why the person will live discreetly is that they genuinely fear that otherwise they will be persecuted, it will be necessary to consider whether that fear is well founded.
- 2.3.4 For further guidance, see the [Asylum Instruction on Sexual Identity Issues in the Asylum Claim](#)

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b. State treatment

- 2.3.5 Consensual same-sex sexual activity is not criminalised in Mauritius. However, sodomy among both same-sex and heterosexual couples is a crime under Section 250 of the Mauritian Criminal Code. In practice sodomy cases that reach the courts almost exclusively involve heterosexual persons, especially as an aggravating factor in divorce cases. Sodomy charges are rarely used against same-sex couples, unless one of the partners cited sodomy in the context of sexual assault (see [Legal context](#)).
- 2.3.6 Although Mauritius does not have any specific legislation against hate crime, it has enacted legislation which explicitly protects people from discrimination on the basis of sexual orientation. There do not appear to be any specific laws relating to gender identity (see [Legal context](#)).
- 2.3.4 In general there is no real risk of state persecution as the authorities do not actively seek to prosecute LGBT persons and there is no real risk of prosecution even when the authorities become aware of such behaviour. Each case must however be considered on its facts with the onus on the person to demonstrate that they would be at real risk on return.

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c. Societal treatment

- 2.3.7 Despite the legal position of LGBT persons, Mauritius is amongst the most tolerant African countries towards LGBT persons. In one survey almost half of residents said they would welcome or would not be bothered having a gay neighbour. Mauritius is a small island with a conservative population and strong religious beliefs which generate a climate where homophobic attitudes persist. Such attitudes are however said by some to be in decline. Some members of the LGBT community do experience discrimination and harassment but open hostility is rare (see [Societal attitude](#)).
- 2.3.8 Many LGBT persons experience most difficulty within their own family and some LGBT persons reportedly marry members of the opposite sex as a result of family and religious pressure. Many others hide their sexuality and / or gender identity from their family for fear of ostracism or, in some cases, reprisal from family members (see [Family treatment](#)).
- 2.3.9 The LGBT community and social scene is reported to be fairly secretive, mainly existing on the internet, in private and at the occasional party. Recent awareness campaigns have highlighted the issues of LGBT rights, and raised media attention and discussions around acceptance of the LGBT community (see [Awareness campaigns](#)).
- 2.3.10 Furthermore, there are highly visible LGBT events such as an annual Pride parade which draws a large support and has passed off without incident (see [Pro-LGBT marches/gay pride](#)).
- 2.3.11 In general members of the LGBT community in Mauritius do not experience a level of discrimination or hostility that, even when taken cumulatively, reaches the level of being persecutory or otherwise inhuman or degrading treatment. However each case must be considered on its facts with the onus on the person to demonstrate that they would be at real risk on return.
- 2.3.12 For further guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.3.13 Decision makers must also refer to the Asylum Instructions on [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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2.4 Protection

- 2.4.1 Where the person's fear is of persecution or serious harm at the hands of the state, they will not be able to obtain protection.
- 2.4.2 The Mauritian police force is reported to be generally well-trained, professional, and responsive. Concern has however been expressed of corruption and abuse of suspects by some officers (see [Police: Effectiveness](#)).
- 2.4.3 The National Human Rights Commission and an independent ombudsman are empowered to investigate security force abuses, and the government do take steps to prosecute and punish officials who have committed abuses, whether in the security services or elsewhere in the government (see [Police:](#)

[Treatment of LGBT community, National Human Rights Commission \(NHRC\) and Ombudsman](#)).

- 2.4.4 The Equal Opportunities Act 2008 specifically prohibits discrimination against persons based on, amongst other things, their sexual orientation. The Equal Opportunities Commission (EOC) investigates allegations of discrimination and promotes equality of opportunity in both the private and public sectors (see [Equal Opportunities Commission \(EOC\)](#)).
- 2.4.5 It is reported that LGBT victims do not generally report complaints to the police for cultural or societal reasons or due to fear of ostracism or, in some cases, fear of reprisal from family members. They do however report such incidents to local NGOs (see [Family treatment](#)).
- 2.4.6 In general effective state protection from non-state actors is likely to be available. A person's reluctance to seek protection does not mean that it is not available. Decision makers must consider each case on its facts. The onus is on the person to demonstrate why they would not be able to seek and obtain state protection.
- 2.4.7 For further guidance on internal relocation on assessing the availability of effective protection see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.5 Internal relocation

- 2.5.1 Where the threat is from the state, internal relocation is not a viable option.
- 2.5.2 Where members of the LGBT community do encounter local hostility from family or other non-state actors they may be able to avoid this by moving elsewhere in Mauritius, but only if the risk is not present there and if it would not be unduly harsh to expect them to do so.
- 2.5.3 Mauritius is a small island roughly 800 square miles in area with a population of 1.3 million. This factor increases the possibility of the persecutor, if they were so motivated, being able to pursue the person, and limits the scope for internal relocation. Decision makers must consider each case on its individual facts.
- 2.5.4 Internal relocation will not be an option if it depends on the person concealing their sexual orientation and / or gender identity in the proposed new location for fear of persecution.
- 2.5.5 For further guidance on internal relocation, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.6 Certification

- 2.6.1 Where a claim based on a person's sexual orientation is refused it is likely to be certifiable as 'clearly unfounded' because in general the mistreatment feared, even if it did occur, is unlikely to reach the threshold of persecution or serious harm and effective state protection is likely to be available.

- 2.6.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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3. Policy summary

- 3.1.1 Consensual same-sex sexual activity is not criminalised in Mauritius. Sodomy among both same-sex and heterosexual couples is however a crime. In practice the sodomy cases that reach the courts almost exclusively involve heterosexual persons. Sodomy charges are rarely used against same-sex couples, unless one of the partners cited sodomy in the context of sexual assault. In general LGBT persons are not at real risk of state persecution.
- 3.1.2 Mauritius is a conservative society where homophobic attitudes persist shown through discrimination and harassment though open hostility is rare. LGBT persons experience most difficulty within their own family resulting in fear of ostracism or, in some cases, reprisal from family members. In general the level of discrimination is not such that it will reach the level of being persecutory or otherwise inhuman or degrading treatment.
- 3.1.3 Although Mauritius does not have any specific legislation against hate crime, it has enacted legislation which explicitly protects people from discrimination on the basis of sexual orientation.
- 3.1.4 In general effective state protection is available. Internal relocation may be an option depending on the particular circumstances of the person.
- 3.1.5 Where a claim is based on a person's sexual orientation or gender identify, it is likely to be certifiable as 'clearly unfounded'.

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4. Legal context

4.1 Constitution

- 4.1.1 Article 3 (Fundamental rights and freedoms of the individual) and article 16 (Protection from discrimination) of the [Mauritius Constitution](#) prohibit discrimination based on race, place of origin, political opinions, colour, creed or sex.¹ The Mauritius National Human Rights Commission stated in its annual report for the year ending 2015 that the term 'sex' in the Constitution can be construed to encompass sexual orientation.²

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4.2 Criminal Code

- 4.2.1 Section 250 of the Mauritian Criminal Code defines the punishment for the crime of sodomy as follows: "(1) Any person who is guilty of the crime of sodomy or bestiality shall be liable to penal servitude for a term not exceeding 5 years"³
- 4.2.2 The US State Department's (USSD) Country Reports on Human Rights Practices covering events in 2016 noted:

'The law does not specifically criminalize consensual same-sex sexual activity. It criminalizes sodomy, however, among both same-sex and heterosexual couples. Sodomy cases that reached the courts almost exclusively involved heterosexual persons, especially as an aggravating factor in divorce cases. Authorities rarely used the sodomy statute rarely against same-sex couples, unless one of the partners cited sodomy in the context of sexual assault.'⁴
- 4.2.3 The 2016 ILGA State Sponsored Homophobia report stated:

'In 2007, the Government introduced the Sexual Offences Bill, which would delete the crime of sodomy and set an equal age limit of 16 years for sexual acts ...

'However, the bill was never passed in the Parliament and the Government announced in 2013 its decision to amend the Criminal Code instead, "in order to make better provisions for the criminalisation of various acts of sexual perversion".

¹ Constitution of Mauritius http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_126778.pdf Date accessed 21 February 2017

² Mauritius National Human Rights Commission. Annual Report 2015. <http://nhrc.govmu.org/English/Documents/annrep2015.pdf> Date accessed 26 February 2017

³ Mauritius Criminal Code 1838. Available on World Intellectual Property Organization (WIPO) website at <http://www.wipo.int/edocs/lexdocs/laws/en/mu/mu008en.pdf> Date accessed 7 March 2017

⁴ US Department of State: Country Report on Human Rights Practices 2016 - Mauritius, 3 March 2017. Section 6. Discrimination, Societal Abuses, and Trafficking in Persons. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265280> Date accessed 7 March 2017

'It it's second UPR cycle in 2013, the State of Mauritius received three recommendations (Ireland, Australia and Canada) to decriminalise sodomy, but responded that further consultations on the matter were necessary.'⁵

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4.3 Equal Opportunities Act

4.3.1 The [Equal Opportunities Act 2008](#) (EOA) - which has been in force since 1 January 2012 - prohibits discrimination against persons based on, amongst other things their sexual orientation, with "sexual orientation" being defined to mean "homosexuality (including lesbianism), bisexuality or heterosexuality".⁶

4.3.2 The Equal Opportunities Commission describes the scope of the law as follows:

'The EOA 2008 encompasses both the public and the private sector, thus giving the commission a very wide outreach. The law covers the following areas:

- (a) Employment activities
- (b) Education
- (c) Provision of goods and services
- (d) Accommodation
- (e) Disposal of immovable property
- (f) Companies, partnerships, "sociétés" or registered associations
- (g) Clubs
- (h) Access to premises
- (i) Sports

'A distinctive feature of the law is that it also includes within its ambit sexual harassment. As such, a person may lodge a complaint with the Commission if he/she feels humiliated, offended or intimidated by

- (a) An unwelcome sexual advance;
- (b) An unwelcome request for a sexual favour; or
- (c) Any unwelcome conduct of a sexual nature.'⁷

4.3.3 A Human Rights First report from July 2014 noted that Mauritius is one of the few African nations to explicitly protect its citizens from employment discrimination on the basis of sexual orientation.⁸

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⁵ International Lesbian, Gay, Bisexual, Trans and Intersex Association. (ILGA). State Sponsored Homophobia 2016. June 2016. http://ilga.org/downloads/02_ILGA_State_Sponsored_Homophobia_2016_ENG_WEB_150516.pdf Date accessed 21 February 2017

⁶ The Equal Opportunities Act 2008. <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/81533/88611/F747375996/MUS81533.pdf> Date accessed 21 February 2017

⁷ Mauritius. Equal Opportunities Commission. Scope of The Law. Undated. <http://eoc.govmu.org/English/Know%20Your%20Rights/Pages/Scope-of-the-Law.aspx> Date accessed 21 February 2017

⁸ Human Rights First. Report: The state of human rights for LGBT people in Africa. July 2014 <http://www.humanrightsfirst.org/sites/default/files/HRF-HRC-Africa-Report.pdf> Date accessed 21 February 2017

4.4 Legislation on homophobic 'hate' crimes

- 4.4.1 Section 282 of the Mauritian Criminal Code, makes it an offence "...with intent to stir up contempt or hatred against any section or part of any section of the public distinguished by race, caste, place of origin, political opinions, colour or creed". The provision does not encompass sexual orientation or gender identity.⁹
- 4.4.2 The Immigration and Refugee Board of Canada, in a response dated 15 August 2014, citing various sources, stated that 'In correspondence with the Research Directorate, a representative from the Collectif Arc-en-ciel (CAEC), a Mauritian LGBT NGO said that there is currently no law that penalizes [translation] "homophobic crimes"¹⁰
- 4.4.3 Further information on whether there is legislation criminalising homophobic crimes could not be found among the sources consulted by the Country Policy and Information Team or through a Google search¹¹.

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4.5 Laws relating to gender identity

- 4.5.1 Country Policy and Information Team were unable to find any reliable information on any specific laws relating to gender identity among the sources consulted or through a Google¹² search.

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5. State treatment and attitudes

5.1 Political attitude

5.1.1 According to Human Dignity Trust:

'Mauritius has taken several positive steps on the international stage at the UPR [Universal Periodic Review – a mechanism of the UN Human Rights Council (UNHRC)] and in support of some of the major Resolutions and Declarations at the UN on Sexual Orientation and Gender Identity but progress on decriminalisation appears to have stalled.

'Mauritius supported UNHRC Resolution 17/19: Human rights, sexual orientation and gender identity (14 July 2011), A/HRC/RES/17/19, but neither supported, opposed nor abstained from the most recent UNHRC Resolution on 26 September 2014 (A/HRC/RES/27/32). Mauritius supporting the joint statement on human rights, sexual orientation and gender identity delivered at the UN General Assembly in December 2008, on behalf of 66

⁹ Mauritius Criminal Code 1838. Available on World Intellectual Property Organization (WIPO) website at <http://www.wipo.int/edocs/lexdocs/laws/en/mu/mu008en.pdf> Date accessed 7 March 2017

¹⁰ Canada: Immigration and Refugee Board of Canada, Mauritius: Situation of sexual minorities, including treatment by society and authorities; state protection and services, 15 August 2014. Modified 5 January 2016. MUS104935.E, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455470&pls=1> Date accessed 21 February 2017

¹¹ Using the search terms 'Mauritius hate crime law'; 'Law against homophobia Mauritius'; 'Hate crime Mauritius'; 'Homophobic crimes Mauritius' on 27 February 2017.

¹² Using the search terms 'Mauritius transgender rights'; 'Gender recognition Mauritius'; 'Mauritius gender identity'; 'Mauritius gender identity laws'; 'Right to change legal gender in Mauritius'; 'transgender Mauritius' on 27 February 2017.

States from all 5 UN regions. Amongst other things, this statement urged States to take all the necessary measures ‘to ensure that sexual orientation or gender identity may under no circumstances be the basis for criminal penalties’.¹³

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5.2 Public servants

5.2.1 The 2016 ILGA State Sponsored Homophobia 2016 noted that non-discrimination on grounds of sexual orientation is specifically listed in the section “Personal and Professional Behaviour” of the 2015 “Code of Ethics for Public Officers”.¹⁴

5.2.2 A copy of the “Code of Ethics for Public Officers” can be accessed at: <http://amb.intnet.mu/English/Downloads/Documents/Code%20of%20Ethics%20for%20Public%20Officers.pdf>

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5.3 Judiciary

5.3.1 According to the 2016 US State Department human rights report: “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. ... 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.”¹⁵

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5.4 Police: Effectiveness

5.4.1 The 2016 US State Department human rights report stated:

‘The police force is headed by a police commissioner, who has authority over all police and other security forces, including the Coast Guard and Special Mobile Forces (a paramilitary unit that shares responsibility with police for internal security). The police commissioner reports directly to the prime minister. Police corruption and the abuse of detainees and suspects were a problem. The NHRC and an independent ombudsman, appointed by the president in consultation with the prime minister, and the leader of the opposition are empowered to investigate security force abuses. Police have accepted public complaints and referred them to the NHRC since the government disbanded the Police Complaints Investigation Bureau in 2013; however, in July [2016] the Independent Police Complaints Act established a new commission, which has the power to investigate allegations against police officers in the discharge of their duty. The law stipulates that the

¹³ Human Dignity Trust. Criminalisation of Homosexuality. Updated 25 October 2015. http://www.humandignitytrust.org/uploaded/Map/Country_Reports/Mauritius.pdf Date accessed 21 February 2017

¹⁴ International Lesbian, Gay, Bisexual, Trans and Intersex Association. (ILGA). State Sponsored Homophobia 2016. June 2016. http://ilga.org/downloads/02_ILGA_State_Sponsored_Homophobia_2016_ENG_WEB_150516.pdf Date accessed 21 February 2017

¹⁵ US Department of State: Country Report on Human Rights Practices 2016 - Mauritius, 3 March 2017. Section 1. Civil judicial procedures and remedies. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265280> Date accessed 7 March 2017

chairperson and members of the commission, who are not members of the police force, be appointed by the president, following advice from the prime minister and consultation with the leader of the opposition.’¹⁶

- 5.4.2 The same source also stated: ‘The government took steps to prosecute and punish officials who committed abuses, whether in the security services or elsewhere in the government; but enforcement was inconsistent, and sometimes politically motivated, resulting in the appearance of impunity.’¹⁷
- 5.4.3 In May 2016, the US Overseas Security Advisory Council described the Mauritian police force as a well-trained, professional, and generally a responsive national police force by regional standards and whilst ‘petty corruption does not plague the public’s daily interaction with police...it does exist’..¹⁸

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5.5 Police: Treatment of LGBT community

- 5.5.1 A 24 August 2010 article in Têtu, an LGBT publication, reported that a young LGBT person was confined by her parents, and the police refused to investigate the complaint made by the person's friend.¹⁹
- 5.5.2 The USSD 2015 human rights report noted that:
‘On September 18 [2015], police officers of Sodnac police station, accompanied by police officers of the Criminal Investigation Division of Quatre Bornes, arrested a young transvestite allegedly for no reason. Police took the victim to the Sodnac police station where police strip-searched him and forced him to parade naked in front of police officers who mocked him. The victim filed a complaint with the NHRC [National Human Rights Commission], and at year’s end the investigation was ongoing.’²⁰ [Country Policy and Information Team could find no further information on the case or the outcome of the investigation among the sources consulted or through a Google search.]
- 5.5.3 In an interview in February 2017, Pauline Verner, Co-ordinator of the Collectif Arc-en-Ciel, said
“.... In 2015, one couple rented a bungalow in the north and the police came to check if they were smoking weed.

¹⁶ United States Department of State, 2016 Country Reports on Human Rights Practices – Mauritius. 3 March 2017. Role of the police and security apparatus. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265280> Date accessed 7 March 2017

¹⁷ United States Department of State, 2016 Country Reports on Human Rights Practices – Mauritius. 3 March 2017. Role of the police and security apparatus. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265280> Date accessed 7 March 2017

¹⁸ United States. Overseas Security Advisory Council. Mauritius 2016 Crime & Safety Report. 26 May 2016. <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=19765> Date accessed 21 February 2017

¹⁹ Têtu. Mauritius: kidnapped to "cure" their homosexuality. 24 August 2010. <http://madikazemi.blogspot.co.uk/2010/08/mauritius-kidnapped-to-cure-their.html> Date accessed 21 February 2017

²⁰ US Department of State: Country Report on Human Rights Practices 2015 - Mauritius, 13 April 2016 Section 6. Discrimination, Societal Abuses, and Trafficking in Persons. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252707> Date accessed 21 February 2017

"They weren't, but were arrested on suspicion of practising sodomy. The couple said yes, they're gay and they have sex – they pleaded guilty. The case wasn't pursued. It was just intimidation," the project head says.²¹

- 5.5.4 The USSD 2016 human rights report stated: "In April [2016] police officers arbitrarily arrested a transgender person for wearing women's clothing. She was slapped, threatened, and later released without any charges against her. She filed a complaint at the National Human Rights Commission against the police officers. There were no further developments at year's end."²²

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5.6 Ombudsman

- 5.6.1 According to the 2016 US State Department human rights report:

'The president appoints an ombudsman to investigate complaints against public servants, including police officers and prison guards. Individual citizens, council ministers, or members of the national assembly may request the ombudsman initiate an investigation. As an alternative to filing judicial charges, the ombudsman makes recommendations to the appropriate government office for administrative responses to offenses committed by a public officer or other authority carrying out official duties. The ombudsman is independent, adequately resourced, and effective.'²³

- 5.6.2 The Immigration and Refugee Board of Canada, in a response dated 15 August 2014, citing various sources, stated that:

'In correspondence with the Research Directorate, the Ombudsman of Mauritius said that they can receive complaints based on sexual orientation and gender identity... The Ombudsman is appointed by the president of Mauritius to address complaints against public officials, including police officers ... The Ombudsman said that their mission is to "make recommendations to redress wrongs that may be found to have been committed"... He also said that they have not dealt with any complaints based on sexual orientation or gender identity since 2012.'²⁴

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5.7 Equal Opportunities Commission (EOC)

- 5.7.1 The 2016 US State Department report observed that 'The Equal Opportunities Commission (EOC) investigates allegations of discrimination

²¹ traveller24. No paradise for Mauritian queers. 19 February 2017.

<http://m.traveller24.news24.com/Traveller/Explore/no-paradise-for-mauritian-queers-20170218>. Date accessed 27 February 2017.

²² US Department of State: Country Report on Human Rights Practices 2016 - Mauritius, 3 March 2017. Section 6. Discrimination, Societal Abuses, and Trafficking in Persons. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265280> Date accessed 7 March 2017

²³ US Department of State: Country Report on Human Rights Practices 2016 - Mauritius, 3 March 2017. Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265280> Date accessed 7 March 2017

²⁴ Canada: Immigration and Refugee Board of Canada, Mauritius: Situation of sexual minorities, including treatment by society and authorities; state protection and services, 15 August 2014. Modified 5 January 2016. MUS104935.E, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455470&pls=1> Date accessed 21 February 2017

and promotes equality of opportunity in both the private and public sectors. The EOC is independent, adequately resourced, and effective.’²⁵

5.7.2 According to the Equal Opportunity Commission (EOC) website:

‘The Commission is a body corporate, established under the Section 27 (1) of the Equal Opportunities Act 2008, and became operational in April, 2012.

‘As per Section 27(3) of the Equal Opportunities Act 2008, the duties of the Commission are as follows:

- work towards the elimination of discrimination, and the promotion of equality of opportunity and good relations between persons of different status;
- keep under review the working of the Equal Opportunities Act and any relevant law and submit to the Attorney-General proposals for amending them, if required;
- of its own motion or following a complaint, carry out an investigation;
- attempt to reconcile the parties to whom and against whom a complaint relates;
- conduct and foster research and educational and other programmes for the purpose of eliminating discrimination and promoting equality of opportunity and good relations between persons of different status; and
- prepare appropriate guidelines and codes for the avoidance of discrimination and take all necessary measures to ensure that the guidelines and codes are brought to the attention of employers and the public at large.’²⁶

5.7.3 The Immigration and Refugee Board of Canada, in a response dated 15 August 2014, citing various sources, stated that: ‘In its 2014 report, which covers the entire period the EOC has been operating, the EOC indicates that 1 percent of the 1,058 complaints they received was related to sexual orientation.’²⁷

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5.8 National Human Rights Commission (NHRC)

5.8.1 According to the 2016 US State Department report: ‘The NHRC, an independent parastatal organization, enjoyed the government’s cooperation

²⁵ US Department of State: Country Report on Human Rights Practices 2016 - Mauritius, 3 March 2017 Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265280> Date accessed 7 March 2017

²⁶ Mauritius. Equal Opportunity Commission. About EOC. <http://eoc.govmu.org/English/AboutUs/Pages/Mission-and-Vision.aspx> Date accessed 21 February 2017

²⁷ Canada: Immigration and Refugee Board of Canada, Mauritius: Situation of sexual minorities, including treatment by society and authorities; state protection and services, 15 August 2014. Modified 5 January 2016. MUS104935.E, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455470&pls=1> Date accessed 21 February 2017

and operated without government or party interference. The NHRC had adequate resources.’²⁸

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5.9 Access to services

5.9.1 According to the US State Department:

‘Following a complaint about the questionnaire used by the Ministry of Health and Quality of Life to prohibit blood donation from LGBTI persons, the ministry amended its policy and website in 2013 to indicate individuals who have had same-sex sexual activity could donate blood. There were anecdotal reports, however, that health officials still prevented LGBTI persons from donating blood.’²⁹

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6. Societal treatment

6.1 Societal attitude

6.1.1 The Immigration and Refugee Board of Canada, in a response dated 15 August 2014, citing various sources, stated that:

‘According to a 2011 report prepared by the CAEC [Collectif Arc-en-ciel – the main organisation for the gay community in Mauritius], the fact that Mauritius is a small island with a strong religious presence generates a climate [translation] "where homophobia remains a real problem". The report notes that homosexuality is viewed as a [translation] "sin" and as "unnatural behaviour". In correspondence with the Research Directorate, the Director of DIS-MOI, a regional human rights NGO based in Mauritius similarly said that Mauritius "is a puritan society and a highly religious one as well, so homosexuality is not really accepted".

‘In an article published in 2012 by the online Mauritian newspaper *Le Mauricien*, a first CAEC representative stated that the subject of homosexuality has [translation] "started to be less taboo". However, in correspondence with the Research Directorate, another CAEC representative stated that homosexuality is [translation] "still very taboo". In an article published in the Mauritian newspaper *Le Défi Quotidien*, the first CAEC representative said that [translation] "there remain individuals for whom [homosexuality is] ... a disease".³⁰

6.1.2 The Mauritius National Human Rights Commission (NHRC) stated in its most recent annual report (for the year ending 2015) that.

²⁸ US Department of State: Country Report on Human Rights Practices 2016 - Mauritius, 3 March 2017 Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265280> Date accessed 7 March 2017

²⁹ US Department of State: Country Report on Human Rights Practices 2016 - Mauritius, 3 March 2017. Section 6. Discrimination, Societal Abuses, and Trafficking in Persons. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265280> Date accessed 7 March 2017

³⁰ Canada: Immigration and Refugee Board of Canada, Mauritius: Situation of sexual minorities, including treatment by society and authorities; state protection and services, 15 August 2014. Modified 5 January 2016. MUS104935.E, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455470&pls=1> Date accessed 21 February 2017

'The LGBT community in Mauritius now claims wider recognition and has the support of the press. The Mauritian population generally practices tolerance and has not openly persecuted LGBTs. It is equally true that LGBTs have been the subject of mockery. With the advent of TV and films which feature LGBT actors and actresses, there seems to be more acceptance that such conduct is not a sign of any abnormality.'³¹

6.1.3 In an article in March 2016, Erasing 76 Crimes listed Mauritius amongst the most tolerant African countries with laws against homosexual activity, stating that 49% of residents say they would welcome or would not be bothered having a homosexual neighbour.³²

6.1.4 The US Overseas Security Advisory Council stated in May 2016 that while there is a Lesbian, Gay, Bisexual and Transgender (LGBT) community, LGBT rights are generally ambiguous, and same-sex couples are not legally recognized. Discrimination against the LGBT community is prevalent, though open hostility is not common.³³

6.1.5 In an interview in February 2017, Pauline Verner, Co-ordinator of the local NGO, Collectif Arc-en-Ciel, said:

"I can walk around with my girlfriend without getting arrested. We can even hold hands and kiss. But you are open to harassment.

'Transgender Mauritians, like everywhere else in the world, face the blunt end of the stick.

"A trans woman was walking in a skirt and a long-sleeved top. The police arrested her for being a vagrant because 'she's a man and she's not supposed to wear women's clothes'.

"She argued with them and was slapped, assaulted. The case was written off, but she's still trying to get compensation from the state. She won't win because there are no witnesses ...

"The people most affected by physical violence are the trans community. They are abused by the steamers [the clients of those trans women who are sex workers]. They are not allowed in the ladies' toilets. They get groped or slapped in the men's toilets."³⁴

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6.2 Family treatment

6.2.1 The Immigration and Refugee Board of Canada, in a response dated 15 August 2014, citing various sources, stated that:

³¹ Mauritius National Human Rights Commission. Annual Report 2015. <http://nhrc.govmu.org/English/Documents/annrep2015.pdf> Date accessed 26 February 2017

³² Erasing 76 crimes. Africa's most and least homophobic countries. 9 March 2016. <https://76crimes.com/2016/03/09/africas-most-and-least-homophobic-countries/> Date accessed 21 February 2017

³³ United States. Overseas Security Advisory Council. Mauritius 2016 Crime & Safety Report. 26 May 2016. <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=19765> Date accessed 21 February 2017

³⁴ traveller24. No paradise for Mauritian queers. 19 February 2017. <http://m.traveller24.news24.com/Traveller/Explore/no-paradise-for-mauritian-queers-20170218>. Date accessed 27 February 2017.

‘The LGBT magazine *Têtu* reports that some families confine their children to prevent them from having same-sex relationships...’

‘Sources report that LGBT people are subjected to verbal abuse ... and violence within the family’

‘The CAEC representative stated that there have been "many" cases of LGBT persons (both male and female) who, due to family and religious pressure, married members of the opposite sex. The same source notes that many LGBT persons hide their sexuality from family and in their workplace. The 2011 CAEC report also explains that it is difficult to be open about one's sexual orientation or sexuality without [translation] "falling prey to scandal" and that there is "no recognition of non-heterosexuals couples in society," citing the example that a same-sex couple cannot obtain a loan to purchase property.³⁵

- 6.2.2 The US State Department report covering events in 2016 stated that “LGBTI victims of verbal abuse or violence within the family reported such incidents to local NGOs including Collectif Arc-en-Ciel and Young Queer Alliance. Victims generally refused to file complaints with police, however, for fear of ostracism or, in some cases, fear of reprisal from family members.”³⁶

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6.3 LGBT ‘scene’

- 6.3.1 The Lonely Planet guide on Mauritius, aimed primarily at people visiting the country, stated:

‘Mauritius has a paradoxical relationship to homosexuality. On one hand, much of the population is young and progressive, gays and lesbians are legally protected from discrimination and individuals have a constitutionally guaranteed right to privacy.... At the same time, 'sodomy' is illegal and there remains a rigidly conservative streak to the Mauritian character.

‘As a result of the latter, gay life remains fairly secretive, mainly existing on the internet, in private and at the occasional party. While there were no gay or lesbian bars or clubs on the island at the time of writing, there are monthly underground club nights organised by text message. La Mariposa, close to Tamarin, is the only place we found that openly advertises itself as gay-friendly.’³⁷

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6.4 Awareness campaigns

- 6.4.1 In a January 2016 media release, the Canadian High Commission in South Africa stated:

³⁵ Canada: Immigration and Refugee Board of Canada, Mauritius: Situation of sexual minorities, including treatment by society and authorities; state protection and services, 15 August 2014. Modified 5 January 2016. MUS104935.E, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455470&pls=1> Date accessed 21 February 2017

³⁶ US Department of State: Country Report on Human Rights Practices 2016 - Mauritius, 3 March 2017. Section 6. Discrimination, Societal Abuses, and Trafficking in Persons. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265280> Date accessed 7 March 2017

³⁷ Lonely Planet. Gay & Lesbian Travellers. Undated. <http://www.lonelyplanet.com/mauritius/gay-and-lesbian-travellers#ixzz4ZPPbFDiO> Date accessed 21 February 2017

'The High Commission of Canada to South Africa recently funded Collectif Arc En Ciel (CAEC) to launch a promotional campaign to support understanding and acceptance of the LGBT community in Mauritius.

'Targeted billboards, newspaper ads, and roundtable discussions on popular radio stations brought the issues of LGBT rights to the forefront of people's minds. As the first country-wide LGBT rights campaign in Mauritius, CAEC was successful in its goal of raising unprecedented media attention and discussions around acceptance of the LGBT community.

"For nearly 20 days, we were able to speak freely about the living conditions of people in the LGBT community: discrimination, exclusion, violence, etc," said CAEC coordinator Pauline Verner.

'Exceeding the campaign's expectations, CAEC received numerous messages conveying support, and professionals from different fields offered to volunteer their services to support the campaign.

'The campaign was not met without resistance from some members of the public. Although Verner says the campaign received some adverse reactions, a public platform for discussing LGBT issues is necessary for progress.'³⁸

6.4.2 Reporting on the campaign, the Daily Xtra, a Canadian based gay and lesbian media outlet, stated:

'On the small African island nation of Mauritius, a former British and French colony near Madagascar that's home to 1.2 million people, a CFLI [Canada Fund for Local Initiatives] grant helped the country's fledgling LGBT rights organization, Collectif Arc-en-Ciel (CAEC) launch an awareness and sensitivity campaign about LGBT people.

'An attempt in 2011 to update Mauritius's sexual offences law to remove the sodomy provisions fizzled despite other successful pro-LGBT initiatives, including a ban on workplace discrimination that passed in 2008. Still, the country lacks hate crime laws, and gays routinely face violence and ostracism.

"It is still very difficult for homosexual people to come out because family and social pressures are very strong," says CAEC coordinator Pauline Verner.

'CAEC responded to a call for projects from the Canadian embassy in South Africa and received \$19,807 to launch its campaign. The funds went toward purchasing 31 billboards on the island's main roads, ads in four of the most-read newspapers and radio spots on the two most popular stations, for a month-long campaign in February 2015. CAEC also received money from the European Union to complement the campaign with a web and social media component.

³⁸ High Commission of Canada in South Africa. Supporting understanding and acceptance of the LGBT community in Mauritius. 8 January 2016. http://www.canadainternational.gc.ca/southafrica-afriquedusud/eyes_abroad-coupdoeil/ea-LGBT_community-communaute.aspx?lang=eng Date accessed 21 February 2017

“This was the first Mauritian campaign for LGBT rights. We are very pleased to have been supported by Canada for this project,” Verner says. “The buzz has allowed us to get unprecedented media coverage, and power to bring to the forefront the issues of LGBT rights. For nearly 20 days, we were able to speak freely about the living conditions of people in the LGBT community: discrimination, exclusion, violence, etc.”

‘The ultimate goals of the campaign are to repeal the sodomy law, create a hate crime law, and intervene in public schools to talk about sexuality and safer sex. Verner says that the campaign sparked some hostile and even threatening reactions from the public, but was an invaluable contribution to the dialogue on LGBT rights.

“Lots of people outside the LGBT community have sent us messages of support and relayed the campaign on social networks,” she says. “But our greatest joy is that this campaign has allowed some people in need to know the CAEC and contact us for help or counselling. The need is real and this campaign also allowed us to make clear to these people that they were not alone.”³⁹

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6.5 Pro-LGBT marches/gay pride

6.5.1 According to LGBT Mauritius, an information centre for LGBT life in Mauritius, the first gay parade in Mauritius took place on May 2006 in the city of Rose Hill.⁴⁰

6.5.2 The Immigration and Refugee Board of Canada, in a response dated 15 August 2014, citing various sources, stated that:

‘Sources report that the LGBT community holds an annual gay pride parade, the "Rainbow Parade," in the city of Rose-Hill. According to sources, the Rainbow Parade has been held since 2005 and is organized by the CAEC. Le Défi Quotidien indicates that the parade has been held each year without incident.’⁴¹

6.5.3 In an interview in June 2016, Pauline Verner, Co-ordinator of Collectif Arc-En-Ciel (CAEC), when asked what remains to be done about the acceptance of people with different sexual orientations, said:

‘The Mauritian population is moving very positively on this issue. We were more than a thousand citizens gathered on the Place du Caudan last Saturday [for the annual Pride parade]. This number far exceeds our estimates! Tourists, Caudan guests and other passers-by were surprised to see the climate very "peace and love" of the event! Yet that's what it's all about ... allowing lesbian, gay, bisexual and trans people to love and to exist freely. As long as there is verbal or physical violence, as long as there is

³⁹ Daily Xtra. How Canada is funding global LGBT rights. Jun 25, 2015. <http://www.dailyxtra.com/world/news-and-ideas/news/canada-funding-global-lgbt-rights-110057> Date accessed 7 March 2017

⁴⁰ LGBT Mauritius. Undated. <http://www.lgbt.mu/> Date accessed 21 February 2017

⁴¹ Canada: Immigration and Refugee Board of Canada, Mauritius: Situation of sexual minorities, including treatment by society and authorities; state protection and services, 15 August 2014. Modified 5 January 2016. MUS104935.E, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455470&pls=1> Date accessed 21 February 2017

discrimination in hiring for LGBT people, we will continue to educate the Mauritians. We are convinced that no one can decently think that this or that human being has more rights than another.⁴²

- 6.5.4 A number of videos of the 2016 Rainbow Parade festivities are on You Tube and show large crowds dancing and celebrating gay pride. The videos can be accessed at:

https://www.youtube.com/watch?v=kiPGRyO_R-8

<https://www.youtube.com/watch?v=5DITTePQ9L8>

<https://www.youtube.com/watch?v=tvsgR4conG4>

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7. LGBT civil society groups

- 7.1.1 According to LGBT Mauritius, an information centre for LGBT life in Mauritius:

'There are two main associations in Mauritius for the LGBT community, "Collectif Arc en Ciel" (Meaning Rainbow Collective) and "Pils".

'Founded in 2005, Collectif Arc en Ciel is the main organisation for the gay community. It is fighting homophobia and discrimination based on sexual orientation. Every few months a party is being organised by the Collectif.

'Founded in 1996, Pils is the prevention, information & fight against center for HIV and AIDS in Mauritius.⁴³

- 7.1.2 In addition, the Young Queer Alliance (YQA) is a non-governmental, youth-led and apolitical organisation registered in Mauritius. According to its website, YQA was founded on the 1st February 2014 and was officially registered on the 1st September 2014 after a successful complaint at the Equal Opportunities Commission and aims to empower youth, promote equality and lead change in the field of sexual orientation, gender expression and gender identity.⁴⁴

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⁴² Defi Media Group. Pauline Verner: "It was a good time to include gender in the broad sense". 12 June 2016 <http://defimedia.info/pauline-verner-cetaut-le-moment-opportun-pour-inclure-le-genre-au-sens-large> Date accessed 26 February 2017

⁴³ LGBT Mauritius. Undated. <http://www.lgbt.mu/> Date accessed 21 February 2017

⁴⁴ Young Queer Alliance. About. Undated. <http://www.youngqueeralliance.com/en/about.html> Date accessed 7 March 2017

Version control and contacts

Contacts

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Clearance

Below is information on when this note was cleared:

- version 1.0
- valid from 21 March 2017

Changes from last version of this note

First version

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