

# canaries in the coal mines

An analysis of spaces for LGBTI activism in Mauritius

COUNTRY REPORT



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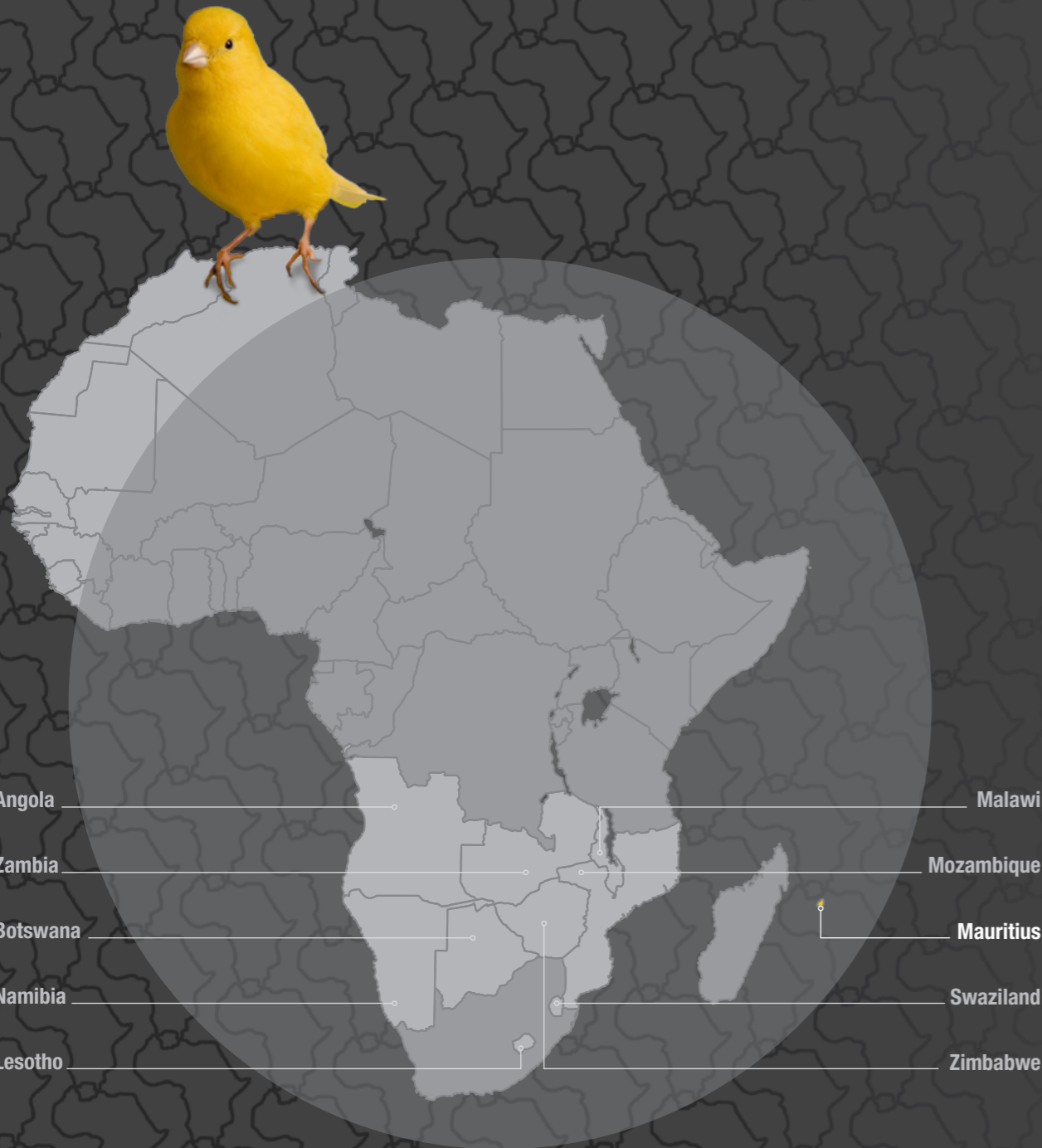
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# summary



This report tracks the evolving experiences of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) human rights movement in Mauritius. It highlights factors that have led to disparate sexual minority groups transcending legislative barriers and socio-cultural intolerance. It also engages with intersectional approaches to strengthening and expanding the struggle for LGBTI human rights and social recognition in Mauritius.

In multi-ethnic and multicultural Mauritian society, the factors that have led to the formation of the LGBTI movement and the forging of queer consciousness have been governed by cultural, religious, class and equity issues that have shaped the lives of LGBTI people. Given the strong influence of religion and ethnicity in Mauritian politics and policy making, the LGBTI movement has had to lean on external factors such as donor support to legitimate and strengthen its lobby.

The success of collaborative efforts of LGBTI groups during this period highlights the power of collaboration to maintain, extend and expand gains made, especially in a plural society that is governed by different value systems that have been obstacles to achieving LGBTI human rights, and the social inclusion of sexual and gender minorities.



## ABOUT THE AUTHOR

This country report was written for the Other Foundation by Philip Browne informed by engagement with individuals and organizations in Mauritius. Philip Browne has worked extensively across southern and eastern Africa with key populations affected by HIV/ AIDS. He is South African and has more than 15 years of research and monitoring and evaluation experience in the public health, HIV/ AIDS, and development fields. The production of the report was supported by George Murumba and benefited from editorial contributions given by Mark Gevisser. The final text of the report was edited by Sarita Ranchod and Sonja Boezak from Under the Rainbow.





# country context



Since independence in 1968, Mauritius has developed into a stable multi-ethnic democracy with regular free elections, a diversified economy and a positive human rights record. The situation for LGBTI people on the island is, however, less clear.

Despite several significant legislative and policy shifts in Mauritius in recent years, organizations advocating for LGBTI human rights continue to face significant challenges in their attempts to exercise their fundamental rights to assemble, associate and express themselves. Such challenges are particularly formidable when they come in the form of legislation, regulations and official policy prescriptions, many of which continue not only to prevent LGBTI individuals from achieving full equality, but also prevent civil society organizations (CSOs) from advocating on their behalf.

The situation for LGBTI people in Mauritius is, however, not completely constrained and there are clear shifts on several fronts that bode well for change. Despite the criminalization of sodomy, Mauritius is one of the few African nations to explicitly protect its citizens from employment discrimination based on sexual orientation. Young people are clearly initiating change, for example through the Youth Parliament which recently stated that “This house believes that LGBT rights in Mauritius are legally complicated and vague” and that legislative change needed to happen.<sup>1</sup>

Through the national HIV response there is recognition that sexual transmission of HIV within the men who have sex with men (MSM) population, and into the general population, remains a driver of further spread of HIV.<sup>2</sup> This has resulted in increased mapping of different LGBTI communities and has facilitated the identification of sites and size estimations of particularly hidden populations. This effectively allows policy makers and programmers to target the MSM/TG population for better planning and programming of essential services.<sup>3</sup>

In 2011 Mauritius supported South Africa’s historic resolution on sexual orientation and gender identity at the UN Human Rights Council<sup>4</sup>. Since 2006 Mauritius has hosted a Gay Pride event in the small town of Rose Hill, on the southern end of the island. In 2016, the event was held at a popular waterfront precinct of Port Louis, the capital, creating greater LGBTI visibility.

**Despite several significant legislative and policy shifts in Mauritius in recent years, organizations advocating for LGBTI human rights continue to face significant challenges in their attempts to exercise their fundamental rights to assemble, associate and express themselves.**

<sup>1</sup> Youth United in Voluntary Action, 2015, <https://yuvamauritius.com/2015/10/01/gbt-rights-in-mauritius-mauritius-youth-parliament-session-2/>

<sup>2</sup> UNAIDS, Country Progress Report 2015 Republic of Mauritius, p. 10.

<sup>3</sup> Ibid, p. 31.

<sup>4</sup> Equality Network. 2014. LGBTI People of the Commonwealth, p. 22.

# legislative and policy environment



## 2.1 The Constitution

Article 3 of the Constitution of Mauritius (1968) guarantees a set of fundamental rights and freedoms for the individual, stating that:

*"It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms –*

*(a) the right of the individual to life, liberty, security of the person and the protection of the law;*

*(b) freedom of conscience, of expression, of assembly and association and freedom to establish schools; and*

*(c) the right of the individual to protection for the privacy of his home and other property and from deprivation of property without compensation, and the provisions of this chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest."*

## 2.2 The Criminal Code

Under Section 250 of the Criminal Code of 1838, sodomy is criminalized irrespective of sexual orientation, stating that "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". Sodomy cases that

have reached the courts have almost exclusively involved heterosexual persons, especially as an aggravating factor in divorce cases.<sup>5</sup> Authorities rarely use the sodomy statute against same-sex couples, unless one of the partners cites sodomy in the context of sexual assault.

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<sup>5</sup> Human Dignity Trust, 2015, [http://www.humandignitytrust.org/uploaded/Map/Country\\_Reports/Mauritius.pdf](http://www.humandignitytrust.org/uploaded/Map/Country_Reports/Mauritius.pdf)





## Faced with a complaint to the EOC in 2013, the Ministry of Health removed a controversial measure requiring blood donors to report their sexual orientation.<sup>9</sup>

### 2.3 Protection of Human Rights Act

The Protection of Human Rights Act was passed in 1998, and paved the way for the establishment of the National Human Rights Commission (NHRC) to promote and protect human rights and review the factors or difficulties that inhibit the enjoyment of human rights.<sup>6</sup>

Under the Act, allegations of discrimination are to be dealt with by the Equal Opportunities Commission (EOC).<sup>7</sup> The Act was amended in 2012 to align the legislation with the country's international human rights obligations.

### 2.4 The Equal Opportunities Act

The Equal Opportunities Act was passed in 2008 and was designed to prohibit discrimination on the grounds of status, or relating to employment, education, attaining qualifications for a profession, trade or occupation, the provision of goods, services, facilities or accommodation, the disposal of property, companies, partnerships, sociétés, registered associations, sports, clubs and access to public premises.<sup>8</sup>

An EOC Report provides detailed analysis of the Blood Donors Association and notes the following:

> That homosexuality, although implicitly recognized in other enactments, remains proscribed under the criminal laws of Mauritius;

> That sexual orientation is not recognized under the Constitution as a prohibited ground of discrimination, whereas the Equal Opportunities Act does.

Faced with a complaint to the EOC in 2013, the Ministry of Health removed a controversial measure requiring blood donors to report their sexual orientation.<sup>9</sup> The EOC's 2014 Report references a case that dealt directly with discrimination against LGBTI people, noting the following regarding blood donations by homosexuals:

*“As part of the blood screening process, those who wish to donate blood are required to fill in a questionnaire. One part of the questionnaire puts the question*

<sup>6</sup> Protection of Human Rights Act, 1998, p. 6.

<sup>7</sup> Following an amendment to the Equal Opportunities Act Section 27(3) made provision for the establishment of an Equal Opportunities Commission to work towards the elimination of discrimination, and the promotion of equality of opportunity and good relations between persons of different status.

<sup>8</sup> Equal Opportunities Act, 2008, p. 8.

<sup>9</sup> Freedom House, <https://freedomhouse.org/report/freedom-world/2015/mauritius>



*as to whether the person is engaged in homosexual activity. If a person answers in the affirmative, the latter is permanently disqualified from donating blood. [...]*

*Extensive research was carried out by the Commission in this case following which it was concluded that the question as couched on the questionnaire amounts to discrimination on the ground of sexual orientation [...]*

*The alleged discriminator has by way of conciliation agreed to reform its policy and reframe the question on the questionnaire. This has now been done and the question now targets the sexual activity considered as risky, and not a particular group of persons.*

### 2.5 Employment Rights Act

Section 4 of the Employment Rights Act of 2008 deals with discrimination and occupation and stipulates in 4 (1) (a) that no worker should be treated in a discriminatory manner by his employer in his employment or occupation. Discrimination “includes affording different treatment to different workers attributable wholly or mainly to their respective descriptions by age, race, colour, caste, creed, sex, sexual orientation, HIV status,

*It is also to be noted that the alleged discriminator has undertaken to adopt the Commission's recommendation to the effect that since homosexuality remains a criminal offence under our laws, the questionnaire will give the homosexual donor an explicit assurance that any information furnished therein shall be confidential and shall not be used in any court proceedings.<sup>10</sup>”*

The Mauritius Human Rights Report for 2014 noted that the Young Queer Alliance (YQA) group reported that Ministry of Health officials cancelled a blood donation event in Rose Hill in November due to the officials' reluctance to collaborate with an LGBTI organization.<sup>11</sup>

religion, political opinion, place of origin, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.”<sup>12</sup>

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<sup>10</sup> Equal Opportunities Commission, Report 2014, p. 29.

<sup>11</sup> United States Department of State, Mauritius 2014 Human Rights Report, p. 16.

<sup>12</sup> Employment Rights Act. 2008, p. 11.



**Without making explicit reference to the gendered inequalities facing LGBTI people the policy encourages the creation of spaces for questioning and rethinking assumptions, for challenging existing norms, stereotypes, double standards and cultures of silence, for addressing controversial issues such as sexual and reproductive rights, for changing values and mindsets, for dialogue and negotiation about such gender-responsive transformation**

## 2.6 National Gender Policy Framework

The revised draft National Gender Policy Framework (2008) states that “development actors and practitioners cannot assume a priori, that they are treating everybody the same, without distinction of sex, age, family status, colour, religion, ethnic affiliation and sexual orientation.” The policy stresses that lack of understanding in this regard can lead to a violation of human rights and a state of disempowerment, exclusion, deprivation and injustice.<sup>13</sup>

Without making explicit reference to the gendered inequalities facing LGBTI people the policy encourages the creation of spaces for questioning and rethinking assumptions, for challenging existing norms, stereotypes, double standards and cultures of silence, for addressing controversial issues such as sexual and reproductive rights, for changing values and mindsets, for dialogue and negotiation about such gender-responsive transformation.<sup>14</sup>

## 2.7 HIV and AIDS Act

The HIV and AIDS Act came into effect in 2006 with the purpose of providing “for measures for the prevention and containment of HIV and AIDS”. The act includes an affirmation of confidentiality and human rights, guaranteeing those living with HIV equal rights to dignity, employment and health care. The Act also makes it illegal to impose HIV testing as a precondition for employment

or continued employment, including penalties for HIV discrimination. Section 3 (1) of the Act states that “any person who is HIV-positive or has AIDS shall not be considered as having a disability or incapacity by any enactment and his status or presumed status shall not be used as a ground to discriminate against that person.”<sup>15</sup>

## 2.8 Civil Code and Civil Status Act

Regulations regarding marriage in Mauritius are determined by the Civil Code (1870, last amended 2016) and the Civil Status Act (1981). The regulations are heteronormative and limits marriage to a man and a woman. Section 4 (1) states,

that “the spouses shall on marriage adopt the surname of the husband after which the wife may add her maiden surname or the surname of her predeceased spouse”.<sup>16</sup>

<sup>13</sup> National Gender Policy Framework, 2008, p. 15.

<sup>14</sup> Ibid., p. 18.

<sup>15</sup> HIV and AIDS Act, 2006, p. 3.

<sup>16</sup> Civil Code, 1870, p. 10.

## 2.9 Universal Periodic Review and Adherence to International Human Rights

The Universal Periodic Review (UPR) processes shows that, as a country heavily reliant on external investment, the government of Mauritius is sensitive to criticism of its human rights standing from partner countries, big business and international NGOs. From 2006 to 2012 the Government passed legislation and established statutory bodies that have significantly strengthened the country’s human rights apparatus and extended rights to a broader section of the population including sexual minorities. Stating a commitment to addressing the issue of sexual orientation, the

Equal Opportunities Bill was introduced in November 2008, incorporating the grounds of discrimination covered under Sections 3 and 16 of the Constitution, as well as age, pregnancy, mental and physical disability and sexual orientation in areas dealing with employment, education, the provision of accommodation, goods, services and other facilities, sports, the disposal of immovable property, admission to private clubs and premises open to members of the public.<sup>17</sup>

## 2.10 UN Declaration on Sexual Orientation and Gender Identity

Although same-sex relationships are not recognized in Mauritius it was, nevertheless, one of the 66 signatories at the Human Rights Council that supported the UN declaration on sexual orientation and gender identity. The relevance of this decision was to ensure that LGBTI people were to be protected from any kind of discrimination with the constitution guaranteeing the right of individuals to a private life. Despite taking this proactive step, the country abstained from voting on a subsequent decree on the accreditation of the International Lesbian

and Gay Alliance (ILGA) to the UN. The Collectif Arc-en-Ciel (CAEC) noted that this action followed “considerable socio-political pressure that ensued from the endorsing of the June 17th 2011 resolution.”<sup>18</sup> Heavily influenced by electoral processes that bring different political groupings into power, Mauritius was one of the signatories supporting the UN Declaration on Human Rights, Sexual Orientation and Gender Identity at the Human Rights Council Seventeenth Session in 2011.

<sup>17</sup> Human Rights Council, National Report Submitted in Accordance with Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1, p. 17.

<sup>18</sup> CAEC, 2015, Strategic Framework 2105-2018, p. 6.

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# public discourse

# 3



Public discourse on SOGI are shaped within the tensions that exist between progressive and conservative sectors of a multi-ethnic, multi-religious society. Inward-looking public mores and morality about sex, sexuality and prescribed codes of conduct and practices are framed by rigid moral values espoused by faith-based organizations, political parties and voluntary ethno-socio-cultural organizations.<sup>19</sup>

**The political narrative on LGBTI rights in Mauritius swings from cautious endorsement of sexual minority rights to indifference and inaction.**

## 3.1 Political Narratives

The political narrative on LGBTI rights in Mauritius swings from cautious endorsement of sexual minority rights to indifference and inaction. The 2011 Declaration Mauritius supported was based on the annual report of the United Nations High Commissioner for Human Rights on discriminatory laws and practices, and acts of violence against individuals based on their sexual orientation and gender identity. In 2011, the Prime Minister announced that the UN Human Rights Committee would review

Mauritian legislation in order to identify the laws and practices that discriminated against persons because of their sexual orientation and gender identity. Further to this, a Select Committee comprising Members of the Parliament (MPs) were scheduled to analyze the recommendations of the UNHRC and propose changes in legislation so that Mauritius could ensure its compliance with international commitments.<sup>20</sup>

<sup>19</sup> Rambaree, K. 2011, *Young People and Cybersex in a Sexually Conservative Society: A Case Study from Mauritius*, p. 172.

<sup>20</sup> Gender Links, 2011, <http://genderlinks.org.za/barometer-newsletter/mauritius-signs-the-un-resolution-on-human-rights-sexual-orientation-and-gender-equality-2011-08-31/>



51% of respondents



state they would be opposed to having LGBTI neighbours, and

45% of respondents



state they would not care either way

### 3.2 Public Attitudes

The public are either actively opposed to homosexuality, or are indifferent. The Afrobarometer survey of Mauritian public perceptions published in 2015 indicates this trend, with 51% of respondents stating that they would be opposed to having LGBTI neighbours and 45% of respondents stating that they would not care either way.<sup>21</sup>

Along with religious and cultural conservatism the other argument voiced against the protection of LGBTI rights is that homosexuality is not part

of “Mauritian culture” as part of the “homosexuality as un-African” narrative. This rationale has been paving the way for discrimination and the criminalization of SOGI. Mauritian culture presents itself as homogenous. That the Afrobarometer data shows that 45% of people interviewed are indifferent to LGBTI people, suggests either a shift in opinions and beliefs, or an already-existing tolerance and acceptance of same-sexuality.

### 3.3 Sexuality Education in Schools

The Protection of Human Rights Act states that the government must “assist in the formulation of programmes for the teaching of, and research into, human rights and take part in their execution in schools, universities and professional circles.”<sup>22</sup> The Minister of Education, Culture and Human Resources (MoECHR) announced the introduction of sexuality education as a stand-alone subject in both primary and secondary schools in 2014. According to the Ministry the aim was to give students appropriate access to sexuality education and sexual and reproductive health services so that they can make informed choices in life. The Ministry proposed that sexuality

education should be cross-curricular at the primary level and that the Mauritius Institute of Education would need to consider this element when revisiting the National Curriculum Framework. At the primary level a range of sexuality education-related concepts, such as safe and unsafe touch and sexual health, including HIV and AIDS education, are taught under the subject Health and Physical Education. At secondary level sex education is a stand-alone subject on the time table with structured programmes and a standardization of teaching materials. A range of sex-related concepts have been mainstreamed across the curriculum, particularly in

subjects like Health, Physical Education, Integrated Science and Biology.<sup>23</sup>

The MoECHR is in the process of finalizing newly developed guidelines on comprehensive sexuality education (CSE), aligned with the UNESCO international technical guide on CSE, and is also coordinating a sex education writing panel for learning resources for students at secondary level, along with a teacher’s guide. In line with its National Curriculum Framework the Ministry is also working on the integration of Human Rights Education into the school curricula at primary level.

The move to introduce comprehensive sexual education in Mauritian schools has faced the challenge of conservative cultural values and sensitivity around sex and sexuality, and reluctance by teachers to teach topics with which they themselves are uncomfortable.



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24 Human Rights Council. 2011. Report of the Special Rapporteur on the sale of children, child prostitution and child pornography Mission to Mauritius, p. 6.

21 Times of Swaziland (8 April 2012) Pastors say God said no man should have sex with another man

22 Interview with Thuli Ruddy (10 April 2016)

23 UNESCO. 2015. Comprehensive Sexuality Education in Teacher Training in Eastern and Southern Africa (Mauritius Report), p. 105.





## The media in Mauritius is emerging as a significant ally for the LGBTI movement.

### 3.4 Media

“At a time when interest in the yearly rainbow parade is fading, the first anti-homophobia campaign ever to be carried out in Mauritius breathes new life into the movement. Weekly met some members of the new, unapologetic generation of Mauritian gays who have lent their faces to the billboards, hoping that their love will soften hearts and open up minds.”

*Newspaper Headline*

The media in Mauritius is emerging as a significant ally for the LGBTI movement. LGBTI people had remained largely absent from public discourse in Mauritius, and where there was coverage, it was often negative, using discriminatory or stereotypical language, and failing to incorporate the voices of those affected. There has, however, been a move away from this type of journalism, with the media having become more progressive and more open to covering LGBTI issues in a positive light.<sup>25</sup> The media appear to be more concerned about violations of all human rights. As one editor noted this “feeds into the ethos of the newspaper as one cannot have a modern society if there is still discrimination.”<sup>26</sup> But because Mauritius does not have a press ombudsperson or a Freedom of Information Act, media houses remain cautious in their reporting of more controversial issues such as homosexuality.

Increasingly newspapers expose their journalists to sensitization training around human rights issues to inform their reporting. The Weekly magazine

ensures that its journalists can write in ways that avoid any explicit or implicit homophobia or transphobia. A sample of recent newspaper articles on LGBTI issues shows the need to avoid harmful reporting on homosexuality or sensationalizing the lives of transgender people.

La Sentinelle ran an investigative series of articles about sex education in schools that demonstrated how the Catholic Church has played a significant role in the development of the curriculum. In an article published on May 31st 2012 by the online Mauritian newspaper Le Mauricien, a CAEC representative stated that the subject of homosexuality had “started to be less taboo”. The LGBTI magazine Têtu reported that some families confined their children to prevent them from having same-sexual sex. The Indian Ocean Times reported on a Gay Pride event noting that “homosexuals as well as heterosexuals were hand in hand, in a rainbow procession, walking together to fight against the homophobia, that gangrene, in the shadow of Mauritian society.” (June 2013)

<sup>25</sup> This perspective was shared by the editor-in-chief of the magazine “Weekly”

<sup>26</sup> Ibid.

# the LGBTI movement:

organizations advancing the human rights of LGBTI people

# 4







## Improved data collection would provide a clearer perspective on levels of discrimination and homophobia faced by the LGBTI community,

Given its size, there are relatively few organizations working to address LGBTI human rights issues in Mauritius. Those that do exist are working to advance recognition of human rights based on sexual orientation and gender identity at the national level. They promote the articulation of clear international SOGI norms, and mobilize domestic pressure when the government fails to live up to these standards. They are also creating local networks to ensure groups and individuals working on LGBTI human rights do so as part of an effective, coordinated national movement.

### 4.1 Collectif Arc-en-Ciel (CAEC)

The Collectif Arc-en-Ciel (CAEC) is the primary LGBTI organization in Mauritius. Established in 2005, and registered as an association. CAEC's mission is to address homophobia and all forms of discrimination based on sexual orientation. A significant part of its work is advocacy, information-sharing and movement building, designed to facilitate a "culture shift" to change public attitudes and assumptions. CAEC is also working to improve research on LGBTI populations for evidence-based programming. Improved data collection would provide a clearer perspective on levels of discrimination and homophobia faced by the LGBTI community, particularly in relation to suicide, rape, addiction, depression, and the overall wellbeing of LGBTI people.

CAEC has benefitted significantly from a recent Global Fund grant for HIV prevention interventions to scale up prevention activities: the provision of free medical consultations for all LGBTI people, and a peer educator programme geared to MSM and transgender people with prevention messaging, counselling and advice.

CAEC has achieved several important gains including:

- > Coordinating the annual Gay Pride event, that has been held since 2006 to coincide with the International Day Against Homophobia and Transphobia (IDAHOT). It has grown in impact year by year, from a small-town event to the high-profile Port Louis Waterfront.

- > CAEC completed the first national awareness campaign in 2015 (using billboard, digital, radio spots, press and TV) to defend the right to be and the right to love. Key personalities were asked to wear CAEC t-shirts with the "I love" slogan and to pose for photographs while holding their personal statement on why they support universal love. Photos were shared on Facebook, and the CAEC website.<sup>27</sup> CAEC forged a partnership with a local women's magazine, Essentielle, to showcase a series of portraits of women (famous and unknown) supporting the initiative.
- > CAEC is engaging with law reform, focusing on strategies for decriminalizing the sodomy law and drafting an action plan to take the issue forward.
- > CAEC recognizes the transgender community is further marginalized, particularly regarding medical and psychosocial support for gender transition, and for hormone replacement therapy and sex reassignment surgery. CAEC provides support for transgender people to develop competencies to deal with their situations, and have created support groups for transgender people.

<sup>27</sup> <http://www.collectifarcenciel.org/le-i-love-project/>



## Working with the media has extended to working with high-visibility celebrities and opinion leaders in the entertainment world, in sport, and in the private sector, to support LGBTI human rights issues.

- > CAEC has a private sector project on using the Employment Rights Act as a strategic entry point in shifting attitudes and policy around homosexuality.
- > CAEC has been reaching out to school-going adolescents, especially during project-related community consultations where they establish youth groups for young LGBTI people. The discussions focus on bullying in schools and any other forms of explicit and implicit discriminations based on sexual orientation.
- > 2015 CAEC organized workshops with different media institutions to sensitize them on how to cover LGBTI-related matters fairly.
- > Working with the media has extended to working with high-visibility celebrities and opinion leaders in the entertainment world, in sport, and in the private sector, to support LGBTI human rights issues. Recently opinion leaders have been speaking about LGBTI issues in a positive light. While there are no local TV shows that feature 'gay' themes, such programming is available through international channels.



## 4.2 Young Queer Alliance

The Young Queer Alliance (YQA), a youth-led organization, founded in 2014, was established primarily to support, empower and protect young LGBTI people between the ages of 14 and 29. In 2014, YQA was a sub-recipient of a Global Fund Grant to enable the organization to scale-up its activities working with MSM. YQA provides safe spaces where LGBTI people can meet and share experiences. YQA's primary networking tool is social media platforms including a Facebook page that provides a virtual meeting space for members.

During 2016, YQA and the National AIDS Secretariat trained 80 inspectors of the Mauritius Police Force (MPF) on SOGI and human rights.<sup>28</sup>

YQA is in the process of setting up a residential programme on human rights and leadership for LGBTI and non-LGBTI groups.

YQA is in an advanced stage of establishing a shelter for young LGBTI people rejected by their families, or who have run into difficulties with substance abuse. The shelter is to serve those in need, while they find other means of supporting themselves.

YQA has, through members and allies created several videos on LGBTI issues featuring soundtracks in Creole. It has facilitated the production of a video entitled Equality for All that portrays discriminations based on sexual orientation, gender, sex, HIV status, disability and age. They have collaborated with others to produce the first LGBTI-themed song with Creole lyrics in Mauritius, and in 2015 organized a poster competition with the theme "Equality" for young people aged 15 to 27 to encourage young people from diverse backgrounds to depict their emotions, aspirations, wishes and ideals for a better and more equitable society.

## 4.3 VISA G

VISA G was established in 2011 to meet the needs of transgender people, although currently the organization only works with transmen. VISA G receives funding through the Global Fund, with its current programme focusing on legal support and empowerment of transmen.

Most transmen are poorly educated, do not have access to decent employment, and many are sex workers. There is anecdotal evidence that transgender individuals are increasingly engaged in drug use. VISA G focuses on providing training and skills for transgender

individuals in self-management, personal empowerment and entrepreneurship to better equip them for self-employment. In part this approach emerged from a concern that many transgender people are self-stigmatizing and may not even understand their own sexuality in a way that can inform positive decision-making.<sup>29</sup>

One of the major constraints for transgender programming is that there is little reliable data in Mauritius on transgender individuals or the size of the transgender population. A 2014 mapping and size estimation survey undertaken by the Ministry of Health and Quality of Life mapped all geographical locations where transgender sex workers (TGSWs) look for clients, and estimated a total number of 1,038 TGSWs, which is the

smallest typology of key populations in Mauritius. The report stressed that not all transgender populations in Mauritius were involved in sex work, and that the overall transgender population would be higher than the numbers presented in the report.<sup>30</sup>

Following the creation and strengthening of homophobic laws in several African states, the African Commission on Human and Peoples Rights issued a resolution calling for the protection of the human rights of LGBTI persons. At the 55th session of the Commission, members called for an end to acts of violence and abuse because "human rights violations continue to be committed on individuals in many parts of Africa because of their actual or imputed sexual orientation or gender identity."

**One of the major constraints for transgender programming is that there is little reliable data in Mauritius on transgender individuals or the size of the transgender population.**



<sup>29</sup> This point was raised by Sonia Hippolyte during discussions with the researcher.

<sup>30</sup> Programmatic Mapping and Size Estimation of Key Populations in Mauritius, 2014, p. 66.

<sup>28</sup> <https://youngqueeralliance.wordpress.com/2016/04/28/training-with-members-of-the-mauritius-police-force-on-sexual-orientation-and-gender/>





# strategies

used by LGBTI groups and allies

5



The approach of LGBTI organizations have been shaped by a recognition that providers of social and community services such as education, health, policing and justice often discriminate. Interventions are directed at the following sectors:

- > **Education:** Working with the national Ministry of Education and Human Resources, Tertiary Education and Scientific Research to address policy gaps that compromise LGBTI people's access to education, work with educational institutions to ensure the Student Behaviour Policy is adhered to, in particular regarding its 'Principles of Best Practice' which state that a positive school culture and climate is welcoming of difference and diversity, supportive and based on inclusivity, free from any form of violence, coercion and discrimination, and promotes respectful interpersonal relationships across the school community.<sup>31</sup> There are also efforts to address issues such as cyber-bullying and harassment of LGBTI people through the internet and social media.
- > **Health:** Working with the National AIDS Secretariat in the Ministry of Health and Quality of Life and other health providers such as PILS<sup>32</sup> to address gaps in the provision of sexual and reproductive health and psychosocial services to LGBTI people, aimed specifically at MSM and transgender people.
- > **Access to Justice:** Working with the Mauritius Human Rights Commission, the Ministry of Justice and Human Rights, and the Equal Opportunities Commission to promote a rights-based approach to managing cases of discrimination and human rights abuses against LGBTI people.
- > **Social Protection:** Work is being carried out with the police department to set up a unit that specializes in providing help and support to victims of discrimination based on sexual orientation, as is already the case for victims of domestic violence.

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<sup>31</sup> Ministry of Education and Human resources, Tertiary Education and Scientific Research. 2015. Student Behaviour Policy, p.8

<sup>32</sup> PILS - Prévention Information et Lutte contre le Sida - works on the HIV response in Mauritius, and was founded in 1996. Its goal is to provide a support structure for people living with HIV. Since 2012, PILS is the PR of the Global Fund for the Fight against AIDS, Tuberculosis and Malaria, and since 2013, member of Coalition PLUS.





**A key element in LGBTI strategy is to ‘normalize’ the discourse around homosexuality and the lives of sexual minorities by positioning it firmly within the constitutional and human rights commitments of the country.**

Alongside these interventions are programmes aimed at engaging with opinion shapers at both national and local levels:

- > **Religious Leaders:** CAEC highlighted the need to better analyze under what conditions religious traditions form a barrier to the achievement of social justice, and under which circumstances it can be used as a resource for social transformation. The organization is harnessing multi-faith understandings through dialogue to shape the way religious leaders and communities interpret religious dogma to include LGBTI human rights. In discussion with the Council of Religions it was clear, however, that while certain groupings within

the Christian, Hindu and Muslim faith communities are willing to engage with LGBTI advocates, the general position across the faiths remains antagonistic.

- > **Private Sector:** In response to advocacy and outreach done by LGBTI groups, many local and foreign companies are increasingly willing to lend both in-kind and direct financial support to initiatives such as the annual Gay Pride event.

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# the needs and experiences

of LGBTI people: social in/ exclusion

# 6





**Ongoing challenges for the LGBTI community relate to socio-legal ambiguities where homosexuality is not illegal but where identifying oneself as LGBTI can directly result in discrimination and prejudice.**

**Sexual minorities live in tightly-knit ethnic and religious communities that are generally conservative and intolerant of sexual diversity. Discussions with groups of young LGBTI people and other sympathetic non-LGBTI youth demonstrated the constraints and vulnerabilities that affect the lives of LGBTI people.**

The following testimony appears to be indicative of the experiences of sexual minorities in Mauritius: “I was indeed most shocked and aghast to see a hell hole like Mauritius, posted on your site. I was born there, sadly enough, raised up there, sadly enough, and above all was gay there, tragically and traumatically enough. Let’s say that Mauritius ruined my life, as I had to flee the place as a gay teenager. Mauritius ruined my education and prospects of a good career. I was lucky enough to come from a well-off family who had the means to offer me an escape to South Africa.”<sup>33</sup>

Ongoing challenges for the LGBTI community relate to socio-legal ambiguities where homosexuality is not illegal but where identifying oneself as LGBTI can directly result in discrimination and prejudice. The effects of this on LGBTI individuals is that their human rights to health, employment and education can be restricted or denied based on sexuality and sexual identity.

MSM and transgender individuals described problems with police accusing them, and in some cases detaining them, due to possession of syringes or condoms, or subjecting them (and their residences) to searches due to previous arrests for drug use or sex work.

There were also reports of violence towards transgender women, including from police, especially towards those operating as sex workers. The sodomy provision of the Criminal Code, while generally not used to prosecute LGBTI people, nevertheless enables police and others to threaten or intimidate these communities.<sup>34</sup> LGBTI human rights activists say those who are open about their sexual orientation are often refused jobs or promotions in the workplace and some even face death threats.<sup>35</sup> LGBTI victims of verbal abuse or violence within the family have consistently reported incidents to CAEC, and more recently, to the Young Queer Alliance (YQA).<sup>36</sup>

33 GlobalGayz, 2008, <http://archive.globalgayz.com/africa/mauritius/gay-mauritius-news-and-reports-2008/#article8>  
34 UNAIDS, Country Progress Report 2015 Republic of Mauritius, p. 46.  
35 GlobalGayz, 2006, <http://archive.globalgayz.com/africa/mauritius/gay-mauritius-news-and-reports-2008/>  
36 76 Crimes, <https://76crimes.com/2016/05/03/tally-of-lgbt-rights-wrongs-in-29-sub-saharan-countries/>



**It is extremely difficult for lesbian women to live openly, and they are confronted with significant expectations and pressure around marriage, children and managing a home. There are cases where lesbian girls and women have been forced into marriage or into mental care as there is a high degree of “family shame” attached to having a gay child.**

At the social level, the dynamics of LGBTI lives are complex and challenging.<sup>37</sup> The socio-cultural environment means that family networks can be more powerful than the state in regulating sexual identities and expressions. Many gay men choose to live heterosexually, marrying women, and having relationships with other men in secret. This increases the risk of HIV and STI infections within sexual networks, as well as the possibility of blackmail.

Bisexuality is generally hidden from the broader LGBTI community, and the prevailing view is that few MSM view themselves as bisexual. It is extremely difficult for lesbian women to live openly, and they are confronted with significant expectations and pressure around marriage, children and managing a home. There are cases where lesbian girls and women have been forced into marriage or into mental care as there is a high degree of “family shame” attached to having a gay child. Gay and lesbian individuals are referred to in derogatory terms such as the Creole expression pilon.

Transgender people are marginalized both socially and in terms of access to health care. There are few endocrinologists in Mauritius and none have the requisite knowledge or skills to work with transgender individuals. Transgender people struggle to find work and many are involved in sex work. Those transgender individuals who have access to resources may travel to Reunion for hormone therapy, or Thailand or Malaysia for reassignment surgery.

There is a view that family acceptance of transgender people is greater than for gay or lesbian individuals. There is no available data on the number of intersex people in Mauritius and CAEC reports they have had no contact with intersex individuals.

The experience of living in a “shadow world” is experienced by transgender individuals as psychologically stressful, and socially alienating. VISA G pointed out that there is a suicide hotline in Mauritius called Befrienders and that they receive a high number of calls from transgender people. CAEC has taken a position on this issue, calling on the Government to facilitate change of gender at the civil status.<sup>38</sup>

37 These observations were shared with the researcher during key informant interviews and focus group discussions with LGBTI individuals and allies.  
38 Briefing Note for the 2009 UPR Process, [http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/MU/CAC\\_MUS\\_UPR\\_S4\\_2009\\_CollectifArcenCiel.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/MU/CAC_MUS_UPR_S4_2009_CollectifArcenCiel.pdf)



**The closed, tightly-knit nature of Mauritian society creates a lack of openness to discussion of SOGI issues, and common community responses tend to be poorly informed and often derogatory. Myths and stereotypes about homosexuality reinforce stigma and discrimination, pushing most LGBTI individuals into a life of secrecy and fear of being outed.**

### 6.1 Desire for Legal Recognition

The biggest challenge for LGBTI people, particularly gay, bisexual and transmen, is the fact that sodomy remains criminalized. Although it has been rarely used, the fact that it remains on the statute books leaves LGBTI people feeling criminalized and vulnerable to arrest and conviction. The Criminal Code continues to reinforce the anti-homosexuality discourse; while the Equal Opportunities Act that

prohibits discrimination based on sexual orientation. The legal rights of sexual minorities remain unclear and untested. Homosexual couples have limited legal status and cannot benefit from the rights or advantages granted to heterosexual couples, such as marriage, adoption, inheritance, or legal recourse to claim alimony, custody or visitation rights, in the case of couples with children.

### 6.2 Broad Acceptance, Respect and Dignity

A blog post on GlobalGayz sums up the feelings of many LGBTI people in Mauritius: "If someone is gay here, he may be regarded as a freak, and made fun of, no matter how straight he may look! Blending in seems to be the only way to get through the day. You may not care what others think, but many gay people in Mauritius are afraid someone may recognize them as a gay. The island is too small. Many gay guys want to leave the island at some point, and many go to South Africa or Europe as soon as they can afford the journey. There's little appetite for fighting public attitudes.

Coming out as gay brings shame on the family as well as personal risk, which most Mauritian gay men aren't willing to experience."<sup>39</sup>

The closed, tightly-knit nature of Mauritian society creates a lack of openness to discussion of SOGI issues, and common community responses tend to be poorly informed and often derogatory. Myths and stereotypes about homosexuality reinforce stigma and discrimination, pushing most LGBTI individuals into a life of secrecy and fear of being outed.

<sup>39</sup> GlobalGayz, 2010, <http://www.globalgayz.com/gay-mauritius/>



### 6.3 Social Media

Social media has been a significant catalyst in enabling LGBTI people to network and communicate with one another. LGBTI individuals use Facebook, Twitter and Whatsapp, as well as gay dating apps such as Grindr or internet sites such as OnlyLads. A scan of the

Grindr and OnlyLads sites in Mauritius revealed a significant number of profiles (seventy-five on Grindr on 10 May 2016). The profiles on the site were a combination of local Mauritian men as well as tourists.

### 6.4 Abuse/Exclusion

LGBTI victims of verbal abuse or violence within the family have reported incidents of harassment, intimidation and violence to CAEC and YQA. Victims generally refuse to file complaints with police for fear of ostracization or reprisal from family members. In September 2015 police officers of Sodnac police station, accompanied by police officers of the Criminal Investigation Division of Quatre Bornes, arrested a young trans person for no apparent reason. Police took him to the Sodnac police station where he was strip-searched and forced to parade naked in front of police officers who

mocked him. The victim filed a complaint with the NHRC, but according to YQA the investigation is still ongoing.<sup>40</sup>

Integrated Biological and Behavioural Surveys carried out in 2010 and 2012, have found that "17% of MSM were refused service, 10% were refused employment, 8% refused housing, and 8% were hit or kicked in the past year because of their sexual orientation." Among MSM, "84% reported receiving verbal insults and 7.4% were assaulted because they were perceived to be MSM."<sup>41</sup>

**Victims generally refuse to file complaints with police for fear of ostracization or reprisal from family members.**

<sup>40</sup> Embassy of the United States of America. 2015. Mauritius 2015 Human Rights Report at <http://photos.state.gov/libraries/mauritius/890/public/HRR-Mauritius.pdf>

<sup>41</sup> AIDS Unit, Ministry of Health and Quality of Life, 2010, Integrated Behavioral and Biological Surveillance Survey among Men who have Sex with Men.





**Despite incremental shifts in attitudes, LGBTI people remain alienated and stigmatized with many experiencing high levels of rejection and trauma. This includes the severing of family ties, and rejection and threats by close family members.**

### 6.5 Better Understanding of LGBTI Communities

The Council of Religions argued that their focus was increasingly on “love” and “acceptance” rather than on sexuality and judgement. There is a more accepting and informed attitude to sexual minorities among young people, who despite traditional upbringings, have had greater access to information than their parents’ generation.

The ‘choice’ issue remains a contested one with those who oppose homosexuality believing that it is wrong and that it is a choice that people make. Some families

resort to religious and medical ‘cures’ to ‘normalize’ their child’s sexuality.

Despite incremental shifts in attitudes, LGBTI people remain alienated and stigmatized with many experiencing high levels of rejection and trauma. This includes the severing of family ties, and rejection and threats by close family members. Family ties play an important role in the lives of Mauritians, and many LGBTI people remain economically dependent on their relatives, further constraining and problematizing disclosure.

### 6.6 Support from Non-LGBTI Allies

One respondent talked about their journey of making LGBTI friends at college. As a result, he started to film Gay Pride events and felt strongly that straight filmmakers can communicate a positive perspective on LGBTI issues. Another respondent, a medical practitioner, felt that her education and exposure to a rights-based ethics of care had opened her mind to the need to serve all members of the community in

an equitable manner regardless of their sexual orientation.

Informants felt that one of the most powerful messages for changing attitudes was to be a visible LGBTI ally to change the public narrative, despite the risks involved. Respondents highlighted hostility and abuse that they had experienced because of their support for LGBTI human rights.

### 6.7 Social Inclusion of LGBTI People in Mauritius

In the labour market, most LGBTI people continue to hide their sexual orientation or endure harassment out of fear of losing their work. Young LGBTI people who experience estrangement from family and friendship networks are particularly

vulnerable to harassment and bullying at school leading to underachievement, school dropout, mental ill-health and homelessness.

Where they exist, same-sex couples

are denied access to social protection schemes, such as healthcare and pensions. The heteronormative family, both nuclear and extended, is core to ethno-religious communities in Mauritius. There is little appetite for ‘non-traditional’ families and there is a powerful expectation that children will transition from the home directly to their marital home. Individualistic choices like leaving the family home to go into other accommodation and live a single life is generally frowned on, especially regarding young women.

Few young LGBTI feel able to come out to their families, for the following reasons:

- > Adolescent girls who are perceived to be lesbian or trans may be forced into

marriage to avoid family ‘shame’ and possibly an attempt to ‘cure’ them;

- > Adolescent and young lesbian and gay individuals who leave their homes have been known to be kidnapped by family members and forcibly brought home so they can be ‘married off’;
- > Exorcisms to extract the ‘illness’ or ‘demon’ are still performed;
- > Young LGBTI individuals may experience violence within family units;
- > Most gay or bisexual men will get married to maintain the façade of heterosexuality, but continue to engage in same-sex sexual activity in secret.

### 6.8 Access to Services

The CAEC and YQA receive funding from the Global Fund grant to deliver HIV prevention services to MSM and transgender communities. This has enabled them to mobilize small teams of outreach coordinators and peer educators distributing condoms and lubricants, providing prevention information, counselling services and making referrals where required. For purposes of privacy and confidentiality services are generally provided through personal networks within the LGBTI community, and peer educators are often contacted for support through social media.

Health services for transgender people remain a challenge. It is common for

transgender individuals in transition to self-medicate, without understanding the side effects of hormonal treatment. Going to hospital is a challenge for trans people as there is no recognition of transgender issues and medical staff are not sensitized to the needs of transgender people.

- > **Psycho-Social Support:** The outreach and peer educator programmes currently being rolled out by CAEC, VISA G and YQA include guidance, counselling and referral services. YQA is working to establish a centre that will provide support structures for LGBTI victims of physical or psychological abuse.

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# key potential non-LGBTI allies/

strategic entry points

# 7



There are a range of NGOs and development agencies that actively support LGBTI communities in Mauritius, or who have the potential to do so.

## 7.1 PILS (Prévention Information Lutte contre le Sida)

PILS is the primary agency leading the national HIV/AIDS response and is the principal recipient for the current Global Fund grant in Mauritius. The primary objective of PILS is to reduce the number of HIV cases, address stigma through advocacy, information and communication, and improve the quality of life of People Living with HIV and AIDS (PLHIV) by contributing to the improvement of medical care and psycho-social support.

As an ally to the LGBTI community, PILS plays a strategic role in providing funding support to YQA and VISA G. PILS is also obligated to ensure that the Global Fund policy on SOGI is applied through each grant provided; and to drive a rights-based agenda in the provision of HIV-related health and psychosocial programming, including for LGBTI people.

## 7.2 National Human Rights Commission

The National Human Rights Commission (NHRC) has consultative powers to advise the government, carry out research on human rights, produce studies and make general recommendations on human rights issues. It also has quasi-judicial powers in that it can carry out investigations, summon witnesses, call for documents and hold hearings pertaining to alleged breaches of human rights.

The NHRC enquires into written complaints made “by any person who feels that any of the human rights enshrined in Chapter II of the Constitution has been violated or is likely to be violated by the act or omission of a public officer or employee of a public body.”<sup>42</sup>

The NHRC remains the principal human rights body in the country and has the potential to be a strong ally for organizations promoting the human rights of sexual minorities.

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<sup>42</sup> National Human Rights Commission, Functions, <http://nhrc.govmu.org/English/Pages/default.aspx>



**The religious sector is divided on the issue of homosexuality, with groupings within different faiths voicing strong condemnation, while others are reaching out proactively to the LGBTI community. Given its pre-eminence in Mauritian society this is a sector that the LGBTI movement needs to engage with, however challenging this may be.**

### 7.3 Council of Religions

The Council of Religions is the main multi-faith coordinating body in Mauritius, committed to interreligious dialogue that will contribute to building a more consensus-oriented Mauritian religious unity. The Council is prepared to agree as a collective that SOGI issues should be dealt with in a compassionate manner, and to develop a common position on anti-discrimination. The Council is represented on the country's HIV and AIDS Country Coordinating Mechanism, where they have a role to play in programming for MSM and transgender people. The national HIV response has presented an entry point for the religious sector to engage with LGBTI issues and

to interact with LGBTI organizations such as CAEC.

The religious sector is divided on the issue of homosexuality, with groupings within different faiths voicing strong condemnation, while others are reaching out proactively to the LGBTI community. Given its pre-eminence in Mauritian society this is a sector that the LGBTI movement needs to engage with, however challenging this may be. While the Council of Religions could appear to be "fence sitting" on the issue of LGBTI rights, there is also a sufficient level of pragmatism from some religious leaders that offers scope for constructive dialogue.

### 7.4 Universal Rights Group

The Universal Rights Group (URG) is a small, independent think tank dedicated to analyzing and strengthening global human rights policy. The URG works with ARC International and through a programme entitled "In Focus: human

rights and religion" the organization works on human rights linked to sexual minorities. URG has recently opened an office in Mauritius and will be looking at strategies for promoting the rights of sexual minorities.



### 7.5 Diplomatic Missions

Most respondents and key contributors noted that the US Embassy has been very supportive of the LGBTI movement in Mauritius, and has remained a strong ally. The United Kingdom ambassador, Jonathan Drew, is an openly gay man who is in a same-sex marriage. He presented his credentials to the President of the Republic of Mauritius in August

2014. He is willing to speak openly about sexual orientations and the human rights of LGBTI people. Many respondents felt that he served as a particularly good champion for the LGBTI movement given his high profile, but also in terms of his ability as a diplomat to challenge prevailing notions of sexual minorities commonly held by the Mauritian public.





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canaries in the coal mines – an analysis of spaces for LGBTI activism in Mauritius



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