"Tousel nou al pli vit, **ansam** nou al pli lwin"

Mouvement d'action civique luttant contre les discriminations

WRITTEN SUBMISSIONS

TO THE UNITED NATIONS SECRETARY-GENERAL

ON THE IMPLEMENTATION OF THE PROGRAMME OF ACTIVITIES UNDER

THE SECOND INTERNATIONAL DECADE FOR PEOPLE OF AFRICAN DESCENT

IN MAURITIUS

It is a privilege to present, on behalf of Affirmative Action, these Written Submissions on the implementation of the programme of activities under the Second International Decade for People of African Descent in Mauritius.

The theme of the current Decade is "People of African descent: recognition, justice and development."

As you are probably aware, for historical reasons, the collection, analysis, dissemination, and publication of disaggregated demographic data remain taboo in the multi-cultural, multi-ethnic and multi-religious 21st-century Mauritius. Therefore, this submission will primarily address this most critical issue.

We trust the information provided will help the Secretary General prepare the 2025 Report.

Before diving into the matter, we consider it our responsibility to establish the historical context for a clearer understanding of the ongoing impact of colonial legacies in Mauritius.

INTRODUCTION

In 1638, the Dutch brought in enslaved people from Madagascar and Indonesia to Mauritius, but thanks to the courage and audacity of the first freedom fighters, also referred to as the maroons, the Dutch abandoned the island in 1710, leaving behind around one hundred men, women and children.

The first inhabitants lived freely in Mauritius for about five years until the arrival of the French in 1715.

In 1806, the first disaggregated data available shows that the slave community was composed of Creoles (16,784), Malagasy (11,030), Indians (6,162) and Mozambicans (26,670).[1]

Therefore, throughout these submissions, we will use the terms "people of African descent" and "Creoles" interchangeably.

In 1810, the French transferred control of Mauritius to Great Britain.

In 1833, to abolish the slave trade, the UK Parliament passed legislation for payment of a generous compensation package to 7 386 slave-owners for the loss of their 'property', i.e. 66,343 slaves. A total sum of £2.112,632 (approximately £224 million using the Bank of England Inflation Calculator) was subsequently paid out by the local Commission on Compensation.[2]

In return, the "newly freed" men, women, and children were re-classified as "Apprentices" and were forced to work for free for their masters up to 1839, when they were abandoned to themselves.

In 1846, during the first population census under British rule, the "Apprentices" were re-classified as "Ex-Apprentices."[3]

Historians contend that, it is because of the significant uprisings of the enslaved people in Barbados (1816), Guyana (1823) and Jamaica (1831), that the British colonial administrators embarked on such a racist manipulation of statistics to keep the people of African descent invisible, divided and at the bottom of the social hierarchy to assert maximum control over them.

The demographic data available reveals that thirteen population censuses were carried out between 1846 and 1962, and the Creoles have been systematically denied their right to self-identification through forced assimilation into different categories and groups, leading them to lose their culture and identity as a distinct group.[4]

Finally, in March 1968, the British issued the Mauritius Independence Order, which established that "*the population of Mauritius **shall be regarded** as including a Hindu community, a Muslim community and a Sino-Mauritian community; **and every person who does not appear, from his way of life**, to belong to one or other of those three communities **shall be regarded as** belonging to the General Population, **which shall itself be regarded** as a fourth community.*" [emphasis added]

On 12 March 1968, Mauritius adopted the said "Order" as our new Constitution and the country's independence was proclaimed on the same day.

In 1972, the first post-independence population census was conducted along the same flawed and racially biased classifications established by the British.

In 1982, the community question in the population census was allegedly abolished on the rhetoric of national unity, but in reality, the then government amended the Constitution by prescribing the 1972 community census for electoral purposes.

In 2012, the Human Rights Committee found that the colonial status quo on the arbitrary and unlawful classification of the population violated article 25(b) of the International Covenant on Civil and Political Rights (the "ICCPR").[5]

FIRST INTERNATIONAL DECADE FOR PEOPLE OF AFRICAN DESCENT – 2015-2024

The launching of the First Decade was a long overdue recognition by the international community that the human rights of people of African descent deserved protection and promotion for their full and equal participation in all aspects of society.

In Mauritius, we regret to inform the Secretary-General that the First Decade was never officially launched. However, one positive event was the establishment of the New Intercontinental Slavery Museum in 2020.

On the negative side, the First Decade was marked by the defiant refusal of the then government to implement the recommendations of the Committee on the Elimination of Racial Discrimination (the "CERD") with regards to (a) the provision of disaggregated data by ethnicity, (b) the inclusion of Creole language as ground of discrimination, and (c) racial discrimination against people of African descent.[6]

It is important to note that the implementation of the 2001 Durban Declaration and Programme of Action has remained a dead letter in Mauritius.

SECOND INTERNATIONAL DECADE FOR PEOPLE OF AFRICAN DESCENT

The Second Decade was also not officially launched by the new government, elected in November 2024 with a 100% majority, which they interpret as a "*broad mandate to restore public trust in institutions, reinforce the rule of law, improve access to justice, and begin a process of constitutional reform that moves beyond inherited colonial structures toward a more inclusive and egalitarian society*."[7]

On 28 April 2025, during the consideration of the combined 24th and 25th periodic reports of Mauritius under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (the "ICERD"), the new administration took a few positive steps; among others:

a) The government "*carefully reassessed*" its legal obligations under ICERD, and solemnly declared its commitment to "*more openness and accountability*";
b) to mark the 60th anniversary of ICERD, the government has promised the translation of the Convention into Kreol Morisien for public dissemination;
c) the announcement of the setting up of a Constitutional Review Commission to make recommendations on constitutional and electoral reforms, and
d) the implementation of a resettlement plan for the Chagossians in the Chagos Archipelago.

However, the common mindset with regard to disaggregated statistics based on voluntary self-identification remains a hard nut to crack.

THE INVISIBLE 400,000 CREOLES

The official position of the new government is that "*disaggregated data, ethnic identification, and racial disparities are deeply complex and sensitive*" and that "*classifying individuals along ethnic lines remains politically sensitive and socially divisive*".[8]

We therefore consider it important to connect the dots between the rhetoric on national unity and the lived realities of the Creoles in Mauritius.

According to the data submitted to the CERD, the Creole community consists of some 400,000 individuals, which equals approximately one-third of the population.[9]

The first question that springs to mind is: why then would the publication and dissemination of such data be "*politically sensitive and socially divisive*" in a multi-cultural, multi-ethnic and multi-religious society like Mauritius?

In March this year, we submitted a legal opinion to the CERD, demonstrating, in great detail, how the British colonial legacy of racism and racial discrimination has contributed to rendering the Creoles invisible as a national minority.[10]

In a nutshell, under British rule, the Creoles were classified as slaves (1833), apprentices (1835-1839), ex-apprentices (1846 - 1860), and finally, dumped into a "residual community" called the General Population.[11]

This has been recognised by the new government before the CERD: "*even before independence, **perceived demographic proportions have informally influenced** political participation, coalition-building, and resource allocation."*[12] [emphasis added]

Hence, the callous indifference of all post-independence governments to do away with that historical legacy of racism and continue to decide "*political participation, coalition-building, and resource allocation*" on fictitious racial hierarchies.

As the saying goes, 'if you are not counted, you don't count'!

We argue that the official recognition that the cornerstone of the Mauritian society remains the colonial legacy of 'divide and rule', engages the State's Responsibility of the government of Mauritius for its acts and omissions.

THE MALAISE CREOLE

In the 1990s, a Catholic priest, named Roger Cerveaux (1948-2013), coined the term "Malaise Créole" to describe the descent-based racial discrimination that prevailed against the Creoles, undermining their dignity and affecting the full spectrum of their civil, political, economic, social and cultural rights.

The Truth and Justice Commission (2009-2011), (the "TJC"), which covered more than 370 years, the longest period that a truth commission has ever attempted to cover, concluded that the Malaise Créole "*had also to do with the history of the Creoles: the dispossession and suffering associated with slavery and its aftermath, the consequences of which can be seen in the persistence of poverty, social problems and political marginalization.*"[13]

The TJC had "*no doubt that race discrimination against Creoles, in particular, is a further reason for Creole people to feel 'left behind.'*"[14]

Then, how come the second biggest national minority, who can lay claim to a much longer presence than any other group of people, is still feeling left behind in the 21st century?

Perhaps the answer should be sought in the two words "*resource allocation*", meaning the equal distribution of the fruits of development.

We say so because the TJC found that:

- the Creoles were the "*last to be employed and the first to be retrenched;*"[15]
- The practice of diluting the powers of the State recruitment agencies through the appointment of minor grade officers to different Ministries "*continues to give rise to frustration and has resulted in the exclusion of minorities, more particularly for creoles*";[16]
- And as a result, the "*Government services and parastatals are characterised by a marked absence of Creole persons*";[17]

The TJC found that there was "*enough evidence collected in numerous surveys, including those conducted by the Commission, which show that Creoles are discriminated against and do not enjoy the same fruits of development to the same extent as others do.*"[18]

Consequently, the TJC added that "*there are cries of Injustice, which have become louder during the past two decades. Those cries of Injustice have come mainly from Creoles who feel that they are disproportionately represented in the main seats of power*".[19]

On 2 May 2025, the UN Committee against Torture has expressed its concern regarding "*numerous reports of torture, deaths in police custody, and police violence and abuse in Mauritius, as well as allegations of police interference in investigations of complaints of their misconduct, victims' fear of reprisals, and ineffective protective measures*" and that "*only a few cases had led to investigations or prosecutions*".[20]

On 9 May 2025, the CERD expressed its concern about "*reports of racial profiling by the police, particularly targeting Creole individuals of African descent through unlawful checks, searches and detentions. It is further concerned about the significant number of pending investigations before the Independent Police Complaints Commission and the lack of information regarding the outcomes of completed cases, which undermines accountability and public confidence in law enforcement oversight mechanisms*."[21]

Since the Creoles compose 60% of the prison population,[22] it is not difficult to understand the four-day national-scale riots which broke out in 1999 after the death, in police custody, of a popular "seggae" artist known as Kaya.

We contend that the main reason for the non-collection, non-publication and non-dissemination of disaggregated data is to obscure the systemic racism which is at the core of the Mauritian society.

Therefore, the Malaise Créole is not something of the past. The hard truth is that it is still devouring the Mauritian nation from the inside.

KI ZOT PROBLEM ?

"Ki Zot Problem?" (What is your problem?) is only one of the latest cries of injustice by the young Creole artists to raise awareness of their plight through songs.[23]

Even in 2011, the situation was disturbing enough for the TJC to sound the alarm when it observed that "*political parties representing majority and minority have united to ensure victory*" and concluded that "***this is a dangerous trap because it means some minorities are absorbed***".[24] [emphasis added]

Which brings us to another "*deeply complex"* and "*socially divisive*" issue, namely, claims of land dispossession, mainly by the Creoles.

The TJC's mandate was to enquire how people have been dispossessed of their property and by what means from 1721 to 2011. The Commission "*witnessed the intense emotion expressed by deponents who felt that their ancestors have, over time, been the victims of a system whereby those in power have used their privileged position to dispossess their ancestors of their property, because the privileged could read and write, draft title deeds, using a technical jargon not accessible to the common man, draw site plans, easily 'wrap up' plots of land, deprive them of access, use the "divide and rule" strategies among family members, corrupt them with small gains, with the ultimate aim of appropriating large plots of land for their own benefit*".[25]

Today, astronomical sums of money are in play. But as the saying goes, money talks loudest.[26]

This helps to explain the persistent dereliction of international duties by all post-independence governments to take appropriate and effective measures to halt and reverse the lasting consequences of slavery and colonialism.

The rhetoric is about building a 'rainbow nation', but the reality is that the 2030 Agenda for Sustainable Development is alien to the Creoles.

In light of the foregoing, we trust that the Secretary-General would have a better understanding of why ALL past governments have been reticent to:

- fully incorporate the rights enshrined in ICERD into our domestic legal order;
- to make the optional declaration provided for in Article 14 of ICERD, recognising the CERD's competence to receive and consider individual communications;
- to take positive steps to make the selection, appointment and removal of commissioners at the National Human Rights Commission independent, fair and transparent;
- to amend the Equal Opportunities Act to make provision for special measures, to make the appointment, security of tenure and removal of commissioners impartial and transparent, and to toughen the sanctions provided by the Act to be commensurate with the gravity of the offences;
- to take effective measures to implement the bulk of the TJC's recommendations;
- to publish and disseminate the Concluding Observations of the CERD in Kreol Morisien.

The reality of the situation is that young Creoles reject the idea of growing up in the shadows of slavery and colonialism

It is in this context that the government's confession that there is a "*latent possibility for racial tensions*"[27] in Mauritius must be read.

THE FALSE DILEMMA

All post-colonial governments have perpetuated the colonial mindset of human exploitation by asserting that the only way to preserve and promote national unity is to prohibit disaggregated data by ethnicity.

However, the TJC found that there were "*two discourses: a 'Mauritianism' discourse and an 'ethnic' discourse. **Creoles have been 'mutilated' in this discourse as ethnic discourse is considered negative**. **The ethnic discourse is a reality and is not less valid than others**.*"[28] [emphasis added]

The TJC concluded that the State of Mauritius "*has never had a road map towards nation-building and reconciliation and has therefore been weak in efforts to encourage a national identity and culture and in securing more economic democracy*".[29]

The proponents of the 'Mauritianism' discourse envision a 'rainbow nation' of four communities, at the expense of the Creoles.

In support, we are going to quote the "*officially collected disaggregated data*" submitted to the CERD to the effect that:

a) the National Assembly is composed of 36 members from the Hindu community, 9 members from the Muslim community, 2 members from the Sino-Mauritian community and 19 members from the General Population; and
b) the Cabinet of Ministers is composed of 15 ministers from the Hindu community, 5 from the General Population, 4 from the Muslim community and 1 from the Sino-Mauritian community.

The new government argues that such data promotes and strengthens national unity.

But, what the data failed to reveal is that of the 5 Ministers from the General Population, only 3 Ministers are from the perceived Creole community. The remaining 2 members are from the white community, who are also classified as the General Population.

Therefore, the political representation of the Creoles in the Cabinet of Ministers is only 12%, which is far from proportionate to their numbers as the second biggest national minority.

In that regard, the CERD recently expressed its long-standing concern that "*political participation and representation do not fully reflect the diversity of the State Party's population*."[30]

Since the Creoles have been "*mutilated*", they do not have a voice and are powerless when it comes to "*resource allocation*".

Consequently, the false dilemma of allegedly "*ensuring both the fair representation of all communities and the strengthening of national unity.*"

The "Mauritianism' discourse reminds us of the 'separate but equal' ideology[31], which is the daily reality of racial discrimination and social exclusion for the Creoles in all walks of life, from cradle to grave.

The new government's proposal to rely on "*proxies such as geographic indicators, language use, and socio-economic stratification*" follows a predictable pattern. This approach is rooted in past practices, which have shown a bias against respecting international human rights law and humanitarian law.

It is a fallacy to assume that keeping the 400,000 Creoles invisible and downgrading their weight in political life and public institutions will help to alleviate the "*latent possibility for racial tensions.*"

One cannot ignore the recommendations of the Forum on Minority Issues in January 2025 that States should "*recognise the importance of minority groups in creating flourishing and stable societies and the role of celebrating diversity in contributing to societal cohesion*".[32]

We recall the Secretary-General's guidance on the ways forward for the Second Decade through "*the collection, analysis and dissemination of data disaggregated by race or ethnic origin and other factors, with strict safeguards and in accordance with the human rights-based approach to data, is necessary to improve understanding of the challenges faced by people of African descent, inform the design of sound policies and objectively monitor their effectiveness.*"[33]

Including the powerful call in 2022 on the 30th anniversary of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities that *"Thirty years on – the world is falling short. Far short. We are not dealing with gaps –* ***we are dealing with outright inaction and negligence in the protection of minority rights****."*[34] [emphasis added]

Through its latest Concluding Observations, the CERD reiterated its concerns that "*Creoles, particularly those of African descent and those residing in Rodrigues and Agalega, continue to face disadvantages in the enjoyment of economic, social and cultural rights. The Committee notes with concern reports of ongoing discrimination in employment and public services, the lack of disaggregated data, and the absence of a dedicated, consultative strategy to address the historical and structural inequalities affecting Creole communities*".[35]

The CERD has been raising alarm bells for decades, but its recommendations for the adoption of concrete policies and actions that address reparatory justice have largely gone ignored until now.

The evidence lies in the answer provided to the CERD that there is "*no definite plan*" yet, under the Second International Decade for People of African Descent in Mauritius.

The heart of the matter lies in the latest findings of the Working Group of Experts on People of African Descent, which concluded that "***reparatory justice is inherently political*** *due to the centrality of the primary responsibility of states in fulfilling the redress sought. Repair is for wrongs perpetuated through the exercise of state power or in complicity with governments, often characterized by intergovernmental collaborations, state succession of systems of oppression, development of empires and institutional frameworks that continue to benefit from the long-established systems and frameworks of deprivation*".[36] [emphasis added]

Indeed, the journey from enslavement to freedom, economic security and justice might be long, but the international community remains a door of salvation for all people of African descent around the world.

We sincerely thank the United Nations' anti-racism mechanisms for their unwavering commitment to promoting equal rights and dignity for all of humanity.

Together, we shall overcome.

José Moïrt
Barrister at Law
15 May 2025

---

[1] Milbert, *Voyage pittoresque a L'Ile de France*, paris, 1812, pp 162-169

[2] https://www.lemauricien.com/le-mauricien/the-compensation-paid-to-slave-owners-in-mauritius/401056/

[3] https://statsmauritius.govmu.org/Documents/Census_and_Surveys/Archive%20Census/1POPULATION%20CENSUS/REPT_0390_0001.pdf

[4] https://www.ohchr.org/sites/default/files/documents/hrbodies/cerd/cfis/gr-reparations/subm-cerd-general-recommendation-cso-affirmative-action.pdf

[5] United Nations, CCPR/C/105/D/1744/2007

[6] file:///C:/Users/HP/Downloads/G2225567.pdf at paras. 4 and 5

[7] https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FSTA%2FMUS%2F62926&Lang=en

[8] Ibid;

[9] Statistics provided during the 3147th Meeting of CERD on 28 April 2025

[10] https://www.ohchr.org/sites/default/files/documents/hrbodies/cerd/cfis/gr-reparations/subm-cerd-general-recommendation-cso-affirmative-action.pdf

[11] Parvez Carrimkhan v/s Tin How Lew Chin & Ors. 2000 SCJ 264

[12] https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FSTA%2FMUS%2F62926&Lang=en

[13] Report of the Truth and Justice Commission, Vol 1 at page 379

[14] Ibid at page 12, para 7;

[15] Ibid at page 11, papa 4;

[16] Ibid at page 47, para 143;

[17] Ibid at page 264, para. 5;

[18] Ibid at page 296;

[19] Ibid at page 386;

[20] https://www.ohchr.org/en/press-releases/2025/05/un-committee-against-torture-publishes-findings-armenia-france-mauritius

[21] CERD/C/MUS/CO/24-25 at para 34;

[22] As per proxy data submitted to the CERD;

[23] https://www.youtube.com/watch?v=YmJuosn8t6I

[24] Ibid at page 497;

[25] Report of the Truth and Justice Commission, Volume 2 at page 12;

[26] Expropriation de terres : des milliards de roupies en jeu | Defimedia

[27] Statement made during the 3147th Meeting of CERD on 28 April 2025

[28] Ibid, Vol 1 at page 497

[29] Ibid, Vol 1, Appendix 2, at page 18;

[30] CERD/C/MUS/CO/24-25 at para.20

[31] Plessy v. Ferguson, 163 U.S. 537 (1896)

[32] A/HRC/58/69

[33] A/79/290

[34] https://www.un.org/sg/en/content/sg/speeches/2022-09-21/secretary-generals-remarks-the-high-level-meeting-the-30th-anniversary-of-the-adoption-of-the-declaration-the-rights-of-persons-belonging-national-or-ethnic-religious

[35] CERD/C/MUS/CO/24-25 at para.24

[36] https://www.ohchr.org/en/events/sessions/2024/35th-session-united-nations-working-group-experts-people-african-descent