

2013-08-16 14:45 Mission Iles Maurice 00 41 22 734 86 30 >> R PSMS GVA 41229 P 1/8



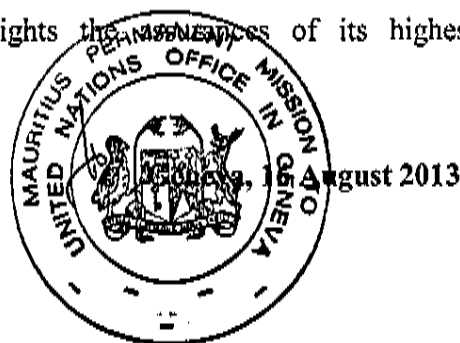
**PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED NATIONS AND
OTHER INTERNATIONAL ORGANISATIONS**

**MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES
ET DES AUTRES ORGANISATIONS INTERNATIONALES**

No. 216/2013 (MMG/HR/28/3)

The Permanent Mission of the Republic of Mauritius to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and with reference to its Note Reference: HOUSING (2013-3) dated 18 June 2013, has the honour to forward the attached duly filled-in questionnaire on Security of Tenure.

The Permanent Mission of the Republic of Mauritius to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



**Office of the High Commissioner for Human Rights
Palais des Nations
1211 Geneva**

Fax: (022) 917 9008

Legal security of tenure, including protection from forced eviction:

1. Are there laws/regulations recognizing or ensuring legal security of tenure for all the population, and/or for specific individuals or groups?

Yes.

- (i) The Constitution. Sections 3 and 8 of the Constitution guarantee the right of individuals to protection for the privacy of their home and other property and from deprivation of property without compensation. No compulsory acquisition of property is allowed, unless it is in the interests of defence, public safety, public order, public morality, public health, town and country planning, or to promote the public benefit or the social and economic well-being of the people of Mauritius.
- (ii) Land Acquisition Act. Whenever compulsory acquisition is carried out by the Government, the Act provides for the payment of adequate compensation as well as a right of access to the courts to any person having a right over the property, to challenge the legality of the acquisition of the property.
- (iii) Transcription and Mortgages Acts. The Act requires that deeds witnessing transfers of immovable property are transcribed, to guarantee a secure title to land owners.
- (iv) State Land Act. The Act provides for grant of long term building site leases to beneficiaries over State Land, for residential and other purposes. While the Act tends to discourage the illegal occupation of State Land, it also allows the regularization of squatters by the grant of a building site lease over the occupied site. The Act as well provides for sale of State Land occupied by a specific group, namely families who have acquired houses built as part of a Housing Estate commonly known as an ex-CHA Housing Estate.
- (v) Landlord and Tenant Act. The Act essentially regulates rights and obligations of landlords and tenants regarding rent and possession of tenement. The Act provides for recovery of possession of a

dwelling by the landlord but ejection of a tenant is subject to a Possession order being made by a relevant court.

The forms of tenure protected by law are freehold ownership, either individual or collective i.e, copropriété, leasehold rights as well as tenancy rights.

- 2. Are there laws/regulations offering protection from forced eviction or involuntary resettlement? Describe briefly the content of the laws/regulations.**

See reply to Question 1 above.

- 3. Which groups/individuals does the legislation mentioned in questions 1 and 2 protect? For instance:**
- a. Tenants ✓
 - b. Informal settlers ✓
 - c. Those with mortgage defaults
 - d. Other groups mentioned in question 4.

Data on those with insecure tenure:

- 4. Is there any data or estimated figure for the number of those with insecurity of tenure? For instance:**
- a. **Households living in informal settlements**
There are 955 families squatting on State Land.
 - b. **Minorities living in informal settlements (e.g. Roma)**
Not applicable
 - c. **Internally displaced persons**
Not applicable
 - d. **Undocumented migrants, refugees or asylum seekers**
Not applicable

e. Households that were evicted or are under eviction orders due to mortgage defaults:

From 2000 to 2013, 290 families had mortgage defaults regarding houses built under the Government Housing Programme. However, very few have been evicted as arrangements have been made for these families to either transfer their loans to another family member or change their tenure from ownership to rental.

Urban poor living in informal arrangements (in particular informal settlements):

5. What kind of tenure rights are foreseen or recognized in legal or administrative instruments for those informally occupying land or housing (eg. 'temporary permits', 'right to possession', leasehold rights over a definite or indefinite period' etc)?

Illegal occupiers of State Land may be granted leasehold rights over a definite period, under the State Land Act.

a. Can informal settlers accrue rights to their land or housing over time (e.g. through 'adverse possession')? Please cite relevant regulations and instruments.

The Civil Code contains clauses allowing acquisitive prescription after a period of 30 years of occupation of a plot of privately owned land. However, conditions apply regarding the occupation.

b. Are there conflicting claims between formal (private and public) owners of the land and people having informally settled on that same land, or conflicts between informal settlers and environmental or planning laws/regulations?

Any conflicting claim between private owners of the land and people having informally settled on that same land is normally solved before the courts. Regarding informal occupation of State Land belonging to the State, the informal settlers may either be regularized or evicted under the provisions of the State Land Act.

- 6. Are there any policy, project or programme in place or being developed to recognize, record, register or regularize tenure rights of urban poor living in informal tenure arrangements, including in informal settlements?**

Yes.

- a. Do these policies/projects/programmes include "slum upgrading" or other "in-situ" urbanization investments?**

One international development aid programme is the PSUP, Participatory Slum Upgrading Programme (PSUP), which is a three phased EU-ACP programme to facilitate poverty eradication and social integration strategies. The programme involves in situ upgrading.

In 2004, a Government policy was introduced towards regularizing pre-July 2001 residential squatters by the grant of building site leases expiring in the year 2060.

- b. What have been results of such policies/programmes? For instance number of households who have been regularized/whose rights were registered; types of tenure rights acquired after regularization (eg individual ownership; long term formal rental; collective ownership).**

The 1st phase of the PSUP has ended with the finalisation of the Mauritian Urban Profile Report – and the selection of three areas for urban profiling. Phase II of the PSUP has recently been launched and is about action planning and programme formulation, in view of upgrading within the three areas chosen for profiling. The second phase will have five main outputs, namely:

- (1) Slum situation analysis;
- (2) Review of urban and housing policy and regulatory framework;
- (3) City-wide slum upgrading and prevention strategy;
- (4) Resource mobilization strategy, and
- (5) Concept notes and/or project documents.

Some 2700 squatters have been regularized and now hold longterm formal leases over the sites occupied. They have also been given wooden and corrugated iron sheet structures for free.

- c. Provide information on private/community initiatives aiming at regularizing tenure rights of informal settlers which are supported by the Government.**

Not applicable.

- 7. Is there any land reform programme or policy in place or being developed (for instance, land management systems, changing land regimes)? Does it include specific provisions or processes to recognize and register the rights of urban poor, in particular those living in informal settlements?**

One major ongoing project is the setting up of a modern "Land Administration and Valuation Information Management System" (LAVIMS) for an effective land administration within the island. Land titling and the creation and maintenance/updating of a cadastral map are two of the three components of the said LAVIMS project. Under the project, all parcels of land would be indentified by a unique Parcel Identification Number (PIN). The LAVIMS project, with the PIN and coordinates positioning, would thus bring benefits such as prevention of double land transactions through an improved and up-to-date monitoring of land transactions and parcels in Mauritius. The system is mainly focused on security of freehold rights.

To give effect to the above, the Cadastral Survey Act 92011) and several related regulations have been proclaimed.

For those States with international development aid agencies/programmes:

- 8. Does the State development agency/programme finance and support the development and implementation of policies/projects/programmes that explicitly recognize, record, register or regularize the tenure rights of urban poor, in particular those living in informal settlements? Please refer to relevant initiatives and programmes.**

The PSUP - (see reply to Question 6b)- promotes the improvement of existing settlements at their current location and considers resettlement only under specific conditions. One of the main criteria for slum selection is security of tenure.

Urban planning and housing policies

- 9. Do urban planning laws/regulations at national or local level include pro-poor land use instruments such as inclusionary zoning, quota for social housing in residential developments or other?**

Local Planning Instruments provide policies regarding affordable housing for low income groups

- 10. Please provide information on any housing policies or programmes aimed at promoting forms of tenure alternative to individual freehold, such as rental, communal or cooperative tenure.**

The Ministry of Housing and Lands has a National Housing Programme for the next ten years. The programme will provide access for housing to the low income groups, mainly targeting families earning a monthly household income of up to Rs 25,000. The programme comprises four mixed housing development schemes consisting of the construction of housing units of 39m² and 57m² and the provision of serviced plots, to help inclusion and equality among the low income groups and to strengthen social and cultural integration through the provision of appropriate social and recreational facilities in social housing development.

While all beneficiaries are granted a long term residential lease regarding the plot of land, beneficiaries of serviced lots have to construct their own house and beneficiaries of housing units become individual freehold owners of same.

Long term residential leases expiring in year 2060 are also granted to families who are facing hardships, such as fire victims, cyclone victims, victims of floods, landslides and other natural calamities, families being evicted from their home and other social cases.

Other programmes lay emphasis on self-help and financial assistance, via the introduction of a grant scheme for the casting of roof slabs and the purchase of building materials.

- casting of roof slabs: Government grants up to Rs 65 000 as a one-off cash grant for the casting of roof slab of up to 100m² either to the first time house owner earning up to Rs 8 500 monthly or for a second housing unit to another member of the same family.
- purchase of building materials: Government grants up to Rs 55 000 to households who own a plot of land, earn up to Rs 5000 monthly and cannot afford to start constructing their own house.

Some 44,000 families have benefited from that self-help and financial assistance scheme. This scheme is more geared towards freehold owners.