LALIT's Paper for the Constitutional Review Commission

"Whereas it is essential,
if man is not to be compelled to have recourse, as a last resort,
to rebellion against tyranny and oppression,
that human rights should be protected by the rule of law,"

– Quote from the UN Universal Declaration of Human Rights Preamble (1948)

INTRODUCTION

What our Constitution is today is a product of our on-going collective social history. It is a law that is produced by "the State", reflecting the balance of class forces in society as a whole, at the time of its coming into force. Today we benefit, in our 1968 Constitution, for example, from all the uprisings and strikes, particularly in the period from 1937-43, as we shall see. "The State" that "makes" the Constitution, however, remains the totality of institutions that maintains a very small propertied class in power. It does so by taxing the vast majority of people and, in turn, ensuring them enough rights and freedoms to keep them in order for the propertied classes to continue to profit from their work. When it deems fit, the State resorts to physical violence to keep the people down. In the case like ours of a de-colonizing Constitution, the State also represents the balance of class forces in the country from which the new one is being born, so we benefit here from centuries of uprisings of the British working classes up to the Labour Party's being in power at the time.

This means "the State", with the help of its Constitution, guarantees certain minimum rights necessary to make people accept being ruled, and it also means the State holds a monopoly on physical violence to continue the rule by a very small propertied class.

This also means, paradoxically, that the State is both the organization that embodies human rights hard-won by the past struggles of the working people, while also being the very institution that is responsible for most of the infringements of human rights.

Our history and what to expect from a Constitution

A country is two things: its people and its territory. The Constitution is thus defined by the history of its people, and of its territory.

The people of Mauritius

Our collective "first generation" of forbearers were brought to Mauritius, for the most part, as "slaves". Yes, today, the immense class of people who have to work to survive are, in social terms *not blood-line terms*, the descendants of "slaves", who were legally defined as "chattels" or "*meubles"* to quote from the Code Noir. We were "owned" by other human beings who used our labour-power to make their profit.

This reminds us what a Constitution is really about. It is about: "*Who owns and controls what, and even whom.*"

Our forbearers were owned by, that means they *belonged to*, first, a private joint stock Company that was controlled by people in faraway Holland, who had invested in a Company registered according to the legal framework of the *Dutch East India Company Charter* of 1602, which acted as a sort-of "constitution". Then, after that, our forbearers belonged to another such Company, this time the *French East India Company*. We were brought here for one reason only: *to work for the profit of the owners of these two private joint stock Companies*. We were owned by the Company, and the profits we made were, in turn, owned by the Company.

We worked this way, *for private Companies*, for the first 100 years of our history. Yes, that long. At the same time, there were other people brought here as "Company servants", employed and exploited by the same colonial private East India Companies.

At the time of Company rule, Mauritian society was built on the following "framework hierarchy" of classes of humans (with the same framework persisting for a further 100 years of "slavery labour law" after Company rule, another 100 years of "indentured labourer and freed-slaves labour law", and now we are in the past 100 years of "wage slavery labour law" until today.)

Framework of Social Structure

This means the framework of the social structure of Mauritius was set during its first 100 years.

1) A tiny class of very rich "owners" of many human beings and of big Companies run for the share-holders' profits. These "owners" are people who are *invisible-to-the-rest-of-society,* socially speaking.
2) A fairly small pyramid of us were sirdars, overseers, clerks, small planters, small business people, private artisans, professionals and managers, most, but not all, free or freed people, mostly employed or otherwise servicing the private companies, in their quest for profit.
3) An immense class of us were very poor workers, controlled by the draconian legal framework named "slavery". Slavery is essentially a vicious labour law. It is an institution set up for extracting labour-power from human beings to make a profit for private individuals' private Companies. And the legal framework for slavery is the direct forbearer of present day labour law, with in-between, the first tome of Mauritian industrial law, *Labour Laws of Mauritius, 1869* that codified labour relations for the era of "immigrants and freed slaves". So, we, our ancestors, worked as "slaves" in the sectors of transport, the docks, the warehouses and workshops, the sugar cane fields, the hundreds of sugar mills, and in the households of the owners, all over the place, for the profit of the Companies. That is what slavery was. And we are all, taken together, descended from a society that was actually run by enslaved people, who did all the work.

This is the lens through which we can best see how to change the Constitution we have today, crafted in 1968, and amended a number of times since then. Let us see how the social structure then developed.

We are thus, taken as a whole, descended *socially* mainly from slaves and servants of only *two* private companies that owned and ruled Mauritius for their imperial profits. Company servants took

mistresses and wives from amongst slaves and freed slaves, and had children. The Dutch ended their occupation of Mauritius as a direct result of constant slave rebellions, coupled with slaves just taking their freedom, and leaving to set up their own new villages.

When the Dutch left, the marooned slaves ran Mauritius in the interregnum before the French East India Company arrived and ruled Mauritius. The marooned slaves are thus our collective, continued, social ancestry, and they continued to live in their villages into the French East Company era.

The *French East India Company* went bust and was nationalized. This way Mauritian society ended up with a 25-year direct reign by the French Monarchy.

Rebellions in Mauritius continued to occur, as they had in the Dutch period. Maroons made tactical military strikes like the 1724 assault on a French outpost in Savannah, and the memorable 1732 attack on the Poste de Flacq military barracks. The French used decades of brute force, raising militias for the purpose, of quelling these rebellions.

Then came the mother of all world rebellions until then: the French Revolution as from 1789.

This ended the reign in France by blood-lines. The new French state, rightly declaring "*les hommes naissent et demeurent libres et egaux*", sent emissaries to free the slaves in Mauritius. Mauritian land-owners and traders, ever-reactionary, rebelled, expelling the emissaries sent by France and, for a few years there was direct, brutal rule by the Mauritian Oligarchs, who owned the sugar estates and big import businesses. The Napoleonic State wrested back control from the Oligarchs in 1803, just in time for the French to lose the Napoleonic wars to Britain.

Our forbearers throughout this time were still, in the main, owned by and working for private enterprises, landowners, merchants, the State or Church. That was society, and we are all descended from it.

The British State then ruled Mauritius for 150 years, from 1810 to 1968. Its reign, too, was at all times on the guard against constant rebellions that shook it.

During this time, in 1835, slavery was finally abolished. The British meanwhile brought in indentured labourers and slaves freed from ships still doing the slave-trade, and they all joined the freed slaves to make up the workforce. They became our "second generation" of forbearers. Together they made up, and still make up, some 90% or more of the people. We are, as a society, descended from this immense class of semi-free people, immigrants and freed slaves. Together we produced all that the country produced, with our own sweat and tears. These forbearers worked in the fields, the mills, transport and the docks in exchange for rations-plus-wage, as one huge labour force, each tied to a sugar estate or to the docks or to some merchant for five year contracts. We worked for companies that controlled almost every aspect of our lives.

The biggest rebellions in the British period were those from 1937-43, when the sugar estate workers and dockers took the lead in rebelling for freedom, for the right to vote, for higher wages, against

the cheating sirdars and middle-men, and for Independence. Most of our rights and freedoms stem from these struggles.

Independence

In 1968, part of our country became independent with its own Constitution. The first thing a Constitution does is define its borders and its people. But the borders of our land were not defined in the Constitution. This was *intentional*. The British colonizers needed to mask their new illegal occupation of part of the country: the Chagos Archipelago, including Diego Garcia. Which they occupy illegally until today. Nearly 60 years have past since 1968 – the race wars, the State of Emergency, the 1971 working class strikes, the student uprising of 1975, the mass women's movement of the 1970s, the August 1979 general strike movement and the September 1980 gigantic mass movement, the 1981 Chagossian and Lalit women's uprising, the 1999 uprising against police violence after the death of Kaya, and earlier this year, the huge demonstration against the attack on pension rights. Over the past month, there have been the odd riot, following water distribution problems and a case of the police shooting a woman worker.

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Uprisings bring freedom and rights

When doing a "review" of the Constitution, we need to situate ourselves *within this history* described above and to do so in a *conscious way* like this. Ours is a dark history. It is enlightened only by constant uprisings by the downtrodden – rebellions that get both *quelled* at the time, and are then constantly *scrubbed* from memory ever afterwards. But it is, in fact, these uprisings never "forgotten" that brought progress. It is through rebellion that we got rid of colonization, won independence, national sovereignty, some freedoms, some collective economic rights, some individual civil rights, along with the political rights and democratic structures that are the means of protecting and expanding all the other freedoms and rights. And inside every past victory, there were always aspects of defeat. Just as inside defeated rebellions, we find the seeds of future victory.

We are all as a society "descended from" slaves and indentured workers

Our way of looking at history is the opposite of the traditional way. Paul Bérenger's very schematic way of defining it, which he did the minute he abandoned his role as a historic leader of the oppressed and the exploited, when at the end of 1981, he became a politician protecting capitalist reign, is the stereotype of this analysis of history. He sees us all along different "blood-lines", like breeds of dog or horse, or "castes" whose ancestors came from different "places of origin", instead of seeing our social history as our shared ancestry. It is the very same feudal model that produced all reign by blood (kings, lords of the manor, zaminndar and war-lords). This way of classifying us always pushes us back into categories or "communities", and "sub-communities" and sub-sub-communities *ad infinitum*.

In reality, our ancestors were brought here to what is now the Republic of Mauritius to work for the private profit of others, and we still do. That is the class reality we live in. The rights and freedoms we won, were won only one way: through struggle, most often through struggles that eventually became mass mobilization.

"Imagined histories" of someone in power "giving" us rights and freedoms, step-by-step as history books tell us, will not help much either when we are reviewing the Constitution.

It takes facing up to the class reality of today, a reality that exists in one long *fleuve* of genuine social struggle. Our own "good will" is not enough, on its own, to shake those with wealth and power into changing anything. It takes uprisings for big changes to be imposed in moments of the mobilization of the oppressed, and they reflect the new balance of class forces that the uprising produces. So, in a way, we do not expect much from the *Constitutional Review Commission*, with due respect.

Our way of looking at human rights differs, too, from the usual way exemplified by Lindley Couronne of Amnesty International and DIS-MOI. He believes humans were savages until the state made laws and constitutions, which keep us in order. In LALIT, we believe that for most of human existence, over 95% of it, there was no State and that we lived in relative harmony. Scientific research indeed shows no sign of wars, until there was class inequality, which also produces a State. The State is basically the means for keeping most of us oppressed.

So, the corollary is that in LALIT we do not believe that the French people suddenly became wise and enacted a fine "*Declaration de droit de l'homme et de citoyen*". We know it was the uprising of the French masses in a huge revolution that made that document. Similarly, it is not a series of "Covenants" and other documents that are the source of our freedoms and rights; these documents reflect the outcome of the rebellions which are the sources of our freedoms and rights. The *International Covenant on Economic and Social Rights* of 1966, for example, is a direct result of the 1917 Russian Revolution and the 1927-49 Chinese Revolution. As such, they represent the minimum rights and freedoms that we, as human beings world-wide, could wrench from past struggles. Their value is that the oppressed in any one society can sometimes speed up the recognition of their rights and freedoms by their mobilization being able to rely, in part, on a Charter or Covenant. Our Constitution is the same kind of rampart on a nation-wide basis.

The dangers of the over-powerful Executive

Looking at a Constitution this way, in terms of its being a historical culmination of the gains of past struggles of the oppressed, means we see its main problem facing us: the increasingly over-powering "Executive Branch", especially but not only, relative to the elected assembly. It reflects our history.

Worse still, the Executive increasingly dominates the only branch that makes Section 1 of our Constitution mean anything: "Mauritius shall be a sovereign *democratic* country" [our emphasis]. To reflect this point, we would like to suggest members of the Commission go on to the Government of Mauritius on-line web portal. You will find the Executive Branch at the "head" when you search anything. The National Assembly, by contrast, is filed away under the heading "departments".

If the *Constitutional Review Commission* could find ways of curbing the increasing power of the Executive Branch, which is appointed (by the President and then the Prime Minister, and then all the way down the civil service nominations) this would be helpful. Any way of increasing the power

of the National Assembly which is elected would be helpful. Ways of increasing the power of the people *in the electorate* and also relative to the elected National Assembly would also help.

* We suggest one set of ways in Part 5, at the very end.

The Executive continues to dominate a shrinking Judiciary. To give one example, in order to run the Courts, instead of the State taking on more Ushers, under the "judiciary", to summon people to Court, more policemen have been taken on, in the "executive branch" to do this work, thus strengthening the Executive Branch, and *en passant* falsifying altogether the independence of the criminal Courts from the Police. (Even in civil cases involving the State, or officers of the State, this kind of "derive" poses a problem).

The Constitution should protect the independence of the judiciary to prevent this kind of gradual creep towards a "police state". The Commission may be able to suggest the precise language necessary to prevent this kind of "bureaucratic slide" into authoritarianism, in general terms.

* The Constitution should also ensure that any person appointed Magistrate or Judge should have had experience as a defendant of those accused under criminal law, so that they no longer have their now notorious "prosecution mind-set".

* *Public Interest Litigation* (PIL) should be introduced by a Constitutional Amendment. In India such litigation is possible, though there, it was the Judges who got together to re-interpret the "*locus standi*" rules. This kind of litigation then opens up the possible enforcement of more Constitutional rights via the Judiciary.

End of 500 Years of Western Colonialism

We live in times where the 500 years of Western colonial empires, now headed by USA President Donald Trump, is collapsing – economically, politically, socially, even militarily. It is rotten to the core. Past expectations from international law are being trashed by the failing giant of a Western colonial Empire. We need to prepare for all dangers during this fall. We need to prepare for hard times ahead, including revolutions, as a new multi-polar world is trying to be born. We live in times very dangerous for freedoms and rights gained during past revolutions.

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* The *Constitutional Review Commission* offers us, however, a moment to reflect on gains made, on set-backs and the challenges ahead. We have found this reflection important because, for us, it clarifies the articulation between political struggle and a Constitution. It also clarifies what we see as being the task of the *Constitutional Review Commission*. From LALIT's point of view, we submit our document, hoping you might take up some of the general guidelines we list below:

- To avoid introducing Constitutional measures, even if unintentional, that either retreat from the gains of successful, past struggles of the working classes, or create new impediments to future gains from political struggles of the oppressed;

- To preserve as far as possible Economic and Social Rights gained by past struggles, and

- To ensure that the Constitution does the maximum possible to enable working people, who form the vast majority, to control the economy and the environment that makes survival on Earth possible, collectively.

We present our proposals and argumentation in the following five Parts. You will notice that the conventions and styles of each of the five Parts of the document vary, as they were written by different members, though the whole document has been adopted by our political party. Direct proposals for Constitutional change are often either in bold font, or following an asterisk at the head of the paragraph concerned. In addition, one or two of the proposals are made more than once, in different Parts – we have intentionally not deleted the extra ones, because they are argued from a *different standpoint*, which may be helpful to the Commission understand the logic behind the proposal.

Part 1. The People, Decolonization and Sovereignty

Are we indeed sovereign or not yet? This will be the first section of our presentation. It will include looking at whether we are fully decolonized yet? (Rajni Lallah and Cindy Clelie)

Part 2. Collective Rights to land, water and air; collective rights to human development; collective rights over all capital

In this section, we will look at the degree of our "equality" as human beings, *as a whole*. We may no longer be outright "owned", but how much class equality is there? If any? This will include examining our collective economic rights, our elusive freedom from exploitation and domination by private property and by private interests, or freedom from extortion by banks and money-lenders. (Ragini Kistnasamy and Anne-Marie Joly)

Part 3. Civil and Social Emancipation

We will look at our civil emancipation in society, what protection we have for freedom and rights of the individual person, and the degree of emancipation in terms of social rights, e.g. the right to work, to water supply, to housing and social services. (Rada Kistnasamy and Lindsey Collen)

Part 4. Political Emancipation and Dangers of the over-powering Executive Branch

We will look at the state of our political emancipation. We will look at how much "democracy" we have, democracy being the means to get and increase rights and freedoms. (Alain Ah Vee *et al*)

Part 5. An adopted LALIT Document on changes proposed so as to bring more democratic accountability into electoral processes

And, finally, a conclusion of a philosophical nature on the relationship between Constitutional changes and the need for political changes of a revolutionary nature.

PART 1: The People, Decolonisation and Sovereignty

Where our proposals come from?

Our proposals are based on our understanding of the struggle of the people for continued decolonisation, to uphold independence, sovereignty and territorial integrity through our political experience as a political organisation active in these struggles from 1976 to this day.

This includes struggling with organised Chagossian women from the 1970's and later with other Chagossian organisations. This experience has taught us the inextricable links between the demands for freedom of movement to Chagos including the right for Chagossians to return in a reunified Mauritius, against the UK-US military base on Diego (which was the reason for the violent expulsion of people and dismemberment of the Chagos from the rest of Mauritius in the first place), and for reparations for this crime. LALIT for many years campaigned for successive governments to take the case to the ICJ and to other international forums which two successive governments finally did.

Our proposals are also based on our political campaigns as from the 1980's for Mauritius to be a "Democratic Republic" and at the same time, for electoral reform that does away with colonial vestiges and deepens democracy.

In our political work we have come to recognise the importance of both "citizenship" in the context of independence and at the same time recognise rights of the "person" in our history of slavery, indentured labour, colonisation and post-independence. Our last political campaign was to challenging citizenship laws giving the Prime Minister arbitrary powers to strip naturalised citizens married to Mauritians-by-birth of their citizenship. This law has now been amended.

LALIT is also known for our political work as from our creation in 1976 for more decolonisation and democracy through the recognition of the Kreol language by the State.

Our Proposals

LALIT proposes that:

(1) The sovereignty of the Republic of Mauritius be consolidated in Section 111 that defines what the Republic of Mauritius consists of:

> *"Mauritius" includes –*
> *(a) the Islands of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia and any other island comprised in the State of Mauritius;*
> *(b) the territorial sea and the air space above the territorial sea and the islands specified in paragraph (a);*
> *(c) the continental shelf; and*
> *(d) such places or areas as may be designated by regulations made by the Prime Minister,*
> *rights over which are or may become exercisable by Mauritius;"*

by adding the following words at the end:

"and shall be indivisible, inalienable and imprescriptible".

Argumentation

- The national and international recognition after the 2019 International Court of Justice (ICJ) Advisory Opinion that the UK's unlawful separation of the Chagos Archipelago from Mauritius in 1965 meant that Mauritius's decolonisation was not legally completed.

- The UK's threefold ruse – of firstly excising the Chagos Archipelago from Mauritius, then uprooting and forcibly ousting the entire population of the Chagos so as to set up a UK-US-run military base on Diego as from the early 1960's, then imposing as from 1965 a definition of "Mauritius" in the 1968 Mauritian Constitution that deliberately restricted it to "the territories which *immediately* before 12th March 1968 constituted the colony of Mauritius" – was carried out so as to exclude the Chagos archipelago; this exclusion was illegal.

- The historic December 1991 Constitutional Amendment that transformed Mauritius into a Republic defined its territory and people explicitly for the first time. This definition clarified what *territory* is, in the Constitution's foundational first clause, that "*Mauritius shall be a sovereign democratic state which shall be known as the Republic of Mauritius*", and this made clear who its *people* therefore were at that moment.

- The Mauritian State fully recognizes this, as can be seen in the 2019 ICJ "Decolonisation of Mauritius" Case in its Written Statement of 1 March 2018 that:

> "*Dismembering Mauritius' territory shortly prior to independence, without the freely-expressed consent of the people, prevented Mauritius from the effective exercise of its right of self-determination and violated its associated right of territorial integrity, with effect from 1968 and at all times thereafter.*" and that "*the entity which enjoyed the right to decolonisation in international law and U.N. practice – the unit of self-determination – was the whole of the territorial unit concerned. The "self" of self-determination was understood in largely territorial terms, so that the right inhered in a colonial people within the framework of the existing territorial unit. The principle of territorial integrity for the non-self-governing territory was (and continues to be) paramount. As General Assembly Resolution 1514 (XV) affirms in paragraph 6: Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.*"; and

- There is the continued colonisation of Chagos by UK-USA and Tromelin by the French State.

This Constitutional amendment would bring a historic consolidation of self-determination, decolonisation and sovereignty. The definition of what the Republic *is,* is inextricably bound to the foundational "Mauritius shall be a sovereign democratic state" of the Constitution. So any future attempt to dismember the Republic of Mauritius would require approval by three-quarters of the electorate in a referendum and approval in final voting by all the Members of the National Assembly as set out in Section 47 (3) of the Constitution.

LALIT also proposes that:

(2) The Constitution be amended so that the Executive's proposed treaties, agreements and contracts with other States or multi-national companies or companies allied to multinationals, be made public and be laid before the National Assembly, with a reasonable amount of time for debate, before being voted and ratified by the National Assembly so that they come into force.

Argumentation

This would mean that treaties, agreements or contracts could be challenged both in and outside of the National Assembly.

Elected representatives of the people need to be able to scrutinise any proposed treaty, agreement with other States or Contract with another State or multi-national Company to check whether they undermine sovereignty, fundamental rights and democracy. People need to know what these treaties, agreements or contracts contain so that they can challenge them politically and/or through the Courts.

If the treaty between Mauritius and India about Agalega, for example, had been made public, it would clarify exactly if, and if, how it might affect Mauritian sovereignty. If the military treaty between the US army and the State of Mauritius known as the *Acquisition and Cross Servicing Agreement* had been made public, any threat to sovereignty would become visible and people could oppose it. In this context, there is growing concern that clearance was given, too, for the USA, a state whose military illegally occupies part of Mauritian territory jointly with the UK, to set up a bunker-style high-security Embassy in Bagatelle costing $301 million (some Rs14 billion). The cost as explained by the USA is because it incorporates "defense" characteristics, but such characteristics can potentially be used for offensive action, too, and are in any case a potential menace to sovereignty.

We have included contracts with not only States but also with multinational companies (or companies allied with multinationals) too as there are at present no democratic ways to ensure that sovereignty, fundamental rights and public interest are not undermined in such contracts. There is growing international concern that "Investor-State Dispute Settlement" (ISDS) clauses have become rife in trade deal contracts. They create a parallel system of "corporate courts" allowing companies, (in particular multinational corporations) to sue governments in overseas tribunals or arbitration centres that threaten their "investment" without any regard for national sovereignty, fundamental rights and public interest. This was exposed by the Betamax (allied with a Singaporean multinational company) case in which *Singapore International Arbitration Centre* was given precedence over the Supreme Court. In other parts of the world, such neo-colonial contracts are being challenged by States, such as Colombia, Kenya, South Africa and Ecuador.

We make this proposal in a time when decolonisation and sovereignty are being undermined across the world by both neo-colonial States and companies.

LALIT also proposes that

(3) To be eligible for election to the National Assembly, or to be nominated to high office in the Civil Service or State, candidates must hold Mauritian citizenship and *only* Mauritian citizenship. Dual nationals or non-Mauritians should also be barred from nomination to top posts in essential services like the police force, the central bank, telecommunications, electricity or water services, the port or aviation services, data protection, etc.

This is to ensure that candidates to such key posts protect Mauritian sovereignty, and do not have or be seen to have, a double loyalty. Non-Mauritians or dual nationals could potentially be in a position where they defend the interests of other States.

LALIT also proposes that

(4) The oath sworn by the Prime Minister, Ministers and Junior Ministers after democratic general elections and preceding the formation of a new government be stripped of its colonial nature and transformed into an oath of allegiance to the people of the Republic of Mauritius and to defending the sovereignty and territorial integrity of the Republic.

Argumentation

This would be similar to oaths of allegiance taken by Ministers in Australia, the Russian Federation or India.

In Mauritius, as it is now, the oath that the Prime Minister and other Ministers swear right after being elected by the people and in order to come into office, is not to serve the people of the Republic nor to protect democratic sovereignty and territorial integrity. It is an oath to be of service to the President of the Republic, who let us remember, is historically descended from a Governor General in the service of the Crown before Mauritius became a Republic in 1992. Ministers (including the Prime Minister) swear to "freely give counsel and advice to the President" and for "good management of public affairs". The oath goes on for Ministers to swear *secrecy* to the "counsel, advice, opinion, vote (...) business or proceedings of Ministers" unless approved by Cabinet.

And LALIT proposes that:

(5) That Section 49 of the Constitution:

> *"Official language: The official language of the Assembly shall be English but any member may address the chair in French."*

be amended to read:

> *"Official language: The official languages of the Assembly shall be the Republic of Mauritius Kreol Language and English but any member may address the chair in French."*

Argumentation

The term "Republic of Mauritius Kreol" is deliberately used in our drafting, despite its clumsiness, to underline that people residing on the islands of Mauritius, Rodrigues, Chagos and Agalega share a common national language, though with regional variations.

There is a need to further decolonise and democratise the key "powers" of the state, the Legislature being one of them.

Kreol being the mother tongue of 90% of the people and being the vernacular for the quasi-totality of the people (the vernacular being the language spoken in public spaces) is still banned from the National Assembly. This means that on the one hand elected representatives of the people cannot express themselves freely in the mother tongue and vernacular in National Assembly proceedings

and on the other, people are barred from understanding or fully understanding with precision what their representatives say on their behalf in the National Assembly.

PART 2: Collective Democratic Economic Rights

Given that our Republic is its territory – the natural environment within the borders – and its people, this "whole" must be given Constitutional protection. Such new "collective democratic economic rights" enshrined in our Constitution would protect and develop the resources of the totality of the Republic's territory for the benefits of the totality of its citizens. By "totality of our shared territory" we mean the **land -** arable land, non-arable land and mountains, together with their forests, grasslands and all their flora and fauna; the **sea** including its territorial waters and its exclusive economic zone, islets, islands, archipelagos, continental shelves; its **water** – lagoons**,** rivers, lakes, streams, wetlands, marshes, water tables and underground water; the **air space** above its land and sea. And the Republic of Mauritius includes the Island of Moris, the Island of Rodrigues, the Islands of Agalega (over which there is the secret Mauritius-India treaty for possible naval and aerial infrastructure under the control of India), the island of Tromelin (under colonial occupation by France), the Archipelago and Islands of St Brandon (Cargados Carajos), and the Chagos Archipelago including Diego Garcia (under military occupation by UK-USA with a USA nuclear-military base on Diego Garcia) as well as all the islets around these named Islands.

LALIT, therefore, calls for:

1. Constitutional Protection from foreign wars & foreign military conflicts

There is a need for a Constitutional ban on foreign military bases and "moving military bases" from the territory of the Republic.

Argumentation

The present army of occupation by the UK-USA on and around Diego Garcia and the rest of the Chagos, must be expelled and its base dismantled. It means the Treaty with India over Agalega must be made public, and any military installations there, too, will be unconstitutional and subject to the same fate. Any foreign military base will be unconstitutional.

This includes making all warships and war planes, being mobile military installations, must be banned from all Mauritius' ports, i.e. from Port Louis, Diego Garcia, Port Mathurin, Agalega, St. Brandon and on and any other point of debarkation illegal, and banned from our waters, while our airports, too, must be closed to war planes.

The Constitution must in future make illegal:

- The presence of foreign military bases on the Republic of Mauritius;

- The presence of warships in all Mauritian ports be it in Port Louis, Diego Garcia, Port Mathurin, Agalega, St Brandon, any point of debarkation as well as in our territorial waters;

- Warplanes in all airports of the Republic;

- In particular, the UK-USA army of occupation and their military base on Diego Garcia;

- In particular, military presence of France on and over Tromelin;

- In particular, any military presence or military equipment on Agalega.

This is not new, in world-wide terms: Constitutional safeguards against military bases have been introduced in Ecuador, Bolivia, and the Philippines.

Argumentation:

- Once there is a constitutional ban on foreign military bases, the Republic of Mauritius will be able to ensure the effective exercise of Mauritian sovereignty over the whole of Chagos in line with Section 1 of the Constitution. The UK-USA occupation of Chagos is already illegal by international law, as decided by the highest court in the world on such matters, the International Court of Justice, and as confirmed by an overwhelming UN General Assembly vote. The reason given by UK-USA for continued occupation is that they need to "exercise sovereignty" on Diego Garcia and exercise control over the rest of the Chagos so that they can run their military base. The way to deal constitutionally with the need for base closure is to render all foreign military bases illegal, just as slavery was abolished. This way Mauritius will complete its decolonization in peace.

Closure of the military base on Diego Garcia:

- This will ensure that the military base on Diego Garcia no longer represents a permanent threat of war, and that war and genocide are not ever again perpetrated from the land for which we are responsible. Even now, Diego Garcia, for which we are democratically responsible, is being used in the illegal war of aggression that the USA and Israel are waging against Iran, a war in which hideous war crimes are being committed.

- This will ensure the land for which we are democratically responsible is not ever again used for illegal imprisonment, renditions or torture, or for other morally reprehensible acts by foreign powers over which we have no democratic control.

- This will ensure that Chagossians have the right to return to the Island most of them came from, Diego Garcia, as well as all the other Chagos Islands, and all Mauritians, including Chagossians, have the right of free movement over the whole of Mauritian territory.

- This will ensure that the state of Mauritius is no longer in violation of the binding Treaty, the *Pelindaba Treaty for a Nuclear Arms Free Africa,* to which we are a signatory.

- This will ensure an end to the "military base pollution"– a major source world-wide of degradation of air, land and sea – and make possible a proper *Marine Protected Area* there.

- This will ensure that our country does not become the target for dangerous retaliation if war is ever waged from our territory against a country with which we are not at war. It is relevant here to quote the "Definition of Aggression" under international law, as defined by the United Nations General Assembly resolution 3314 (XXIX) 14 December 1974. The Resolution includes a list of

the specific acts that amount to "aggression" under international law. This includes the following action:

> *"The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;"* Article 3 (f)

The UN General Assembly adopted Resolution 3314 by consensus of all member states of the UN.

- This will empower us, the people of the country, to enjoy our "sovereign democratic state", as enshrined in Section 1 of the Constitution of Mauritius.

- This will help ensure peace on the basis of international law and justice.

Tromelin

- This constitutional measure would end the illegal colonial occupation of France over Tromelin.

Agalega

- This constitutional measure would make illegal any military installation or war exercise by India or any other foreign power that India is in alliance with on Agalega.

Our aim as a political party is to struggle so that one day all the land and all the sea, and all above and below it, shall be public property belonging to all those that live here. This is a political struggle which we hope will one day be enshrined in the Constitution of the Republic of Mauritius

LALIT also calls for:

2. Constitutional protection of all resources

LALIT sees economic development as one of the pillar roles of the country's people. We see it as a democratic issue.

The centre of this much-needed Constitutional protection over all resources is the "democratic collective power to have control" over production, resources, and distribution to ensure that it is *for the well-being of society as a whole*.

It is important, in the meanwhile, to keep in mind the Constitutional Amendments of 1983, after the working class swept the MMM-PSM into a 60-0 victory in 1982, amendments which did away with colonial provisions, by ensuring the possibility and the practicality of future nationalization of private property when, as the Constitution says, that the:

> *"taking of possession or acquisition is necessary or expedient in the interests of (...) the development or utilisation of any property in such a manner as to promote the public benefit or the social and economic well-being of the people of Mauritius"* (Section 8(a)).

We must thus consciously avoid changes that once again make nationalization of this kind of property more difficult;

To ensure this democratization, the Constitution must distinguish in its protection of private property between genuinely private property – one's things, one's motorcycle, and a place to stay

over which one has ownership or usufruct – and another kind of property which is produced or developed collectively, like capital and land, and which is necessary for society as a whole to survive and to flourish. Protection of private property should extend only to one's genuinely private property, and to one's dwelling. The other kind of supposed "private property", like capital that has been created by past labour, and like land that has been historically developed by past labour, of the classes that now possess nothing, should be considered "social property". This is not only because it was made valuable by labour-power of past generations, but also because it is necessary to have democratic control over how it is developed in the future.

The State ought to be under a Constitutional obligation to ensure that collectively developed or collectively created or developed property provides a "social function" in the interests of all.

Further Argumentation: When private ownership of vast tracts of arable land, for example, fail to serve a social function, then the State must exercise its power to force the private owners of this collective wealth to fulfill the social function of this land. The State must either incentivize, or oblige by law, the property owners to utilize this kind of property both *productively* and *for socially beneficial purposes*, and the Constitution should oblige the State to ensure that the State fulfills this elementary function. This positive duty of the State is to intervene in private property relations to ensure the social function of this private property is to fulfill its *social* obligations i.e. job creation, food sovereignty; energy sovereignty and environmental protection. Failing which, expropriation can follow.

LALIT therefore, believes that:

The colonial legacy of private water rights must be abolished to ensure water sovereignty. Water rights need tighter Constitutional protection.

Argumentation

The State already exercises its power to expropriate for reasons of public utility. This should extend to obliging the State to ensure that what should be public property is in fact used for the common good, that is, for the common wealth, in the true sense of these two words.

The first social function of capital accumulated and land developed through past labour-power, is to create jobs: The colonial unwritten contract that Mauritius inherited in 1968 was that sugar estate bosses control 70% of the most fertile land of Mauritius on which they planted sugar cane and produced sugar for Britain (later for Europe). This colonial "agreement" continued long after Independence with the British State, then Europe, providing, in exchange, a guaranteed price and market, thus guaranteeing profits for the sugar oligarchy. But there was more to the "agreement". The economics of the post-independence "historic bloc" pact was that the Mauritian government assured the people that the sugar estates, in exchange for their monopoly on arable land, would employ most of the working class, and the sugar oligarchs would pay the "tax sorti lor disik", a tax on exports. The sugar bosses were forced in 1964 to give cane labourers a "kart", which guaranteed inter-crop employment. Later the legally binding elements of the historic pact were as codified in the Labour Act of 1975 where sugar estates had to guarantee employment of a legally-binding percentage of seasonal workers during harvest season to become permanent workers after the end

of cane-cutting. Now the sugar industry no longer create jobs. Now the sugar industry no longer pays the "*tax sorti lor disik*". There is still the *Mauritius Cane Industry Authority* which collects a cess from total sugar sales, but this is used only for financing the sugar industry itself – research, standards, and the few existing Sugar Industry Labour Welfare Fund community centres. In fact, the State subsidizes the production costs for cane and sugar to such an extent that the cost of producing raw sugar is higher than the price of the sugar sold! It is the capitalist mode of production upside down – the State uses collective funds taken from public money to subsidise sugar production which is running at a loss – and the best land in Mauritius is monopolized for a crop that prevents food security, let alone food sovereignty.

The social function of the use of this land was through taxation, as we mentioned, to finance the welfare state and economic development of the country. The export tax known as the "*tax sorti*" mentioned above was codified in law in the *Sugar Levy Act of 1974*. A progressive tax up to 24% was pit on large sugar estates exporting 3,000 tons of sugar. This levy was abolished in the 1980's.

After the elimination of preferential trade agreements, quotas, and the "Sugar Protocol" that was part of the "Lomé Agreements", the sugar industry no longer fulfilled even this minimum social function. Instead, successive governments have allowed private capital to move to a supposed "service economy", which certainly does little or no service to the people of Mauritius. We are referring to "gambling" or "Ponzi" economy – meaning investment in what is essentially a kind of betting: on the value of "real estate", selling off supposed "smart city" developments, building huge malls with shops that seem to have as only purpose to launder money, selling off land and luxury villas to foreign billionaires. And this same speculative sector today constitutes 80% of the "Foreign Direct Investment" into Mauritius, and this foreign investment is the reason bandied about by the bosses, the Ministers, the economic "experts", for why Income Tax on the very rich has been lowered from 75% to 25%, and why there is no real wealth tax, nor any inheritance tax on the very rich. This causes a short-fall in Government revenue, which then, in turn, becomes the reason for cutting universal old-age pensions and other social services, and for selling off Government enterprises like Telecommunications.

The Effects of Private ownership of land without a social function obligation since the late 70's

The world "sugar boom" in the mid 1970's quickly became the economic crisis of the late 1970's, when the revenue from sugar was no longer enough to insure the cost of imports of basic needs, and when there were two devaluations making working people bear the brunt of the crisis. Instead of thinking about what long-term future the sugar industry really had, the ruling classes just went into textiles and tourism, while gradually giving more and more tax concessions to the sugar bosses, mainly reducing the Sugar Export Levy, before finally doing away with it. The sugar companies went on planting cane on the near-totality of the country's arable land and investing in textiles and tourism catering for the European markets, gaining short-term profits. Later these companies would take the surplus made by Mauritian workers and go and invest in other countries, where often they, indeed, both over-exploited workers there, and also sometimes lost all that social capital in failed ventures.

In the 1980's, the export levy on sugar was further reduced, until, of course, it disappeared altogether. At the same time mill concentration and mechanization of the fields went ahead full

steam, supposedly to lower production costs. Once again, just as in the 1970's, the working class was being made to bear the brunt of the crisis, because jobs themselves (not just individual workers' salaries) were being destroyed. Already, the price that sugar was bringing in was not increasing in real terms, nor in comparison with increases in the price of imports. But the sugar industry went on surviving because of the protectionism that Europe offered through the Sugar Protocol.

In Mauritius, successive Governments have initiated and encouraged a series of measures to absorb the reduction in real prices that sugar exports were fetching, and they did this with a sole aim: to maintain the profit levels of the sugar companies, that is to say of the "estates" themselves. That is the only goal they know. That is the only goal of capitalism. This is the sign that it is around the sugar and cane industries that the political parties have constructed the "historic bloc" that has ruled since Independence.

Successive governments encouraged the separation of milling and planting into different companies. They encouraged land-parcelling, they gave permits for converting agricultural land to non-agricultural status, and they encouraged the selling off of this once-agricultural land. Successive governments encouraged the acceleration of "centralisation", which involved mill closures, and getting rid of mill workers. The Government never put pressure on the estates to diversify and keep their infrastructure and workers in other agricultural production, for example in interline-cropping that had been tried and tested. Successive governments encouraged the IRS (Integrated Resorts Scheme) projects that allowed sugar estates to convert thousands of acres of good agricultural land on the coast-line and in the hills in the South into deluxe villas for the international jet-set. The government also encouraged sugar estates to produce electricity with cane bagasse in the 6-month harvest season (and with imported coal the rest of the year) and sell it to the national public Central Electricity Board at a price higher than CEB-produced electricity. The Government also encouraged the production of ethanol from the molasses by-product, but this has never produced the 10% of fuel that it was aimed at, because it makes higher profits from things like luxury rum and cosmetic products.

Resources like land, sea and water could and should be used towards achieving a *social function,* that is, full employment, food sovereignty, energy sovereignty and water sovereignty, while at the same time producing goods for export. The fact that they are not is because, as yet, there is not enough democracy to ensure that everyone has a say. Working people are still disenfranchised

LALIT also believes that:

"Labour" needs Constitutional protection against the power of money, or more accurately of "Capital". In particular, it is essential to enshrine the right to strike in the Constitution.

Argumentation

The right to strike creates a balance against the overwhelming power of the capitalist class, whose power has expanded so greatly in the neo-liberal era. And while capitalists have expanded their power, they have used it in order to pour socially-produced capital, made often on the very land that should serve the whole of the people, into an un-productive sector, that is, the dangerous sector of speculation. How does one ensure some kind of democratic control over the voracious capitalist class?

The right to strike partly does this, if it is strongly enough protected by the Constitution. It gives a voice to all workers, in particular to low paid workers who are the most voiceless. It empowers "Labour", the working people, to use the withholding of their labour-power as an act of collective resistance against capitalist exploitation and the extraction of surplus value. The right to strike thus potentially protects the resources of the Republic and can force "Capital" to develop the Republic's resources for its people.

LALIT also believes that:

The Constitution must continue to ensure that "everyone" in all our Islands, including workers from abroad and other visitors, are assured fundamental rights, and this, without discrimination.

Argumentation:

Many existing clauses of our Constitution rightly refer specifically through careful drafting to "everyone" and not only to the more restricted category of "citizens", or "residents". This is important to preserve and to maintain in any amendments or new constitution. The existing Constitution already says, for example, "... 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" a series of "rights" and "freedoms" listed, meaning for everyone. Or the drafting is "No person shall be deprived of his life", or "No person shall be deprived of his personal liberty" or "No person shall be held in slavery or servitude," and "No person shall be required to perform forced labour." The carefully chosen words ensure the rights are for all humans. It would be a serious error to restrict rights only to "citizens" leaving unprotected a category of "non-citizens", as some well-meaning people unthinkingly seem to propose.

Mauritius has a total history of immigrant labour – from slavery through indenture until today. The owners of enterprises have always sought the "cheapest" humans to exploit for their profits. Today we need to address the exploitation of migrant labour. Migrant workers are the most powerless people in Mauritius. Today there are some 50,000 migrant workers, who have no political rights here, while the massive emigration from Mauritius means an estimated 189,000 Mauritians working abroad, often with few or no political rights, either. About half are estimated to be working "without papers"; while another set of workers are ever on-the-move – on luxury liners, oil tankers, fishing vessels, container ships; while the off-shore elites with brief-cases wander over the globe for the IMF-WB, the UN and its organizations, and for well-heeled NGO's, etc.

For us as a political party, the disenfranchisement of foreign workers here, and of Mauritians working abroad, is problematic for working class organization and represents structural weaknesses in the working class consciousness.

LALIT also believes that:

The Constitution must ensure, free and universal health services (using, whenever they exist, generic medicines and vaccines), social security (including pension rights), education for everyone living here, and access to land for Government social housing and the right to a safe dwelling. Universal pension rights must be a constitutional right.

Argumentation:

Let us start with pensions. Universal old age pension at 60-years is a historic pact between the State-and-Capital, on one side, and "Labour", on the other, reached during the movement towards Independence, mainly after the 1937-1943 uprisings, and it represents the deferred payment to the working class for work and unpaid work for the reproduction of the labour as well as for indirect taxes paid by all. The reason it is universal is that it is easier and less cruel to "target" the rich and tax them, than to humiliate hundreds of thousands of people from working families who then have to manage to produce "proof" of their poverty.

LALIT proposes that:

The Constitution must ensure stable employment for every person, and if it cannot, then the right to a sufficient guaranteed monthly revenue.

This is how to prevent a good deal of the rioting, the drugs problem, the theft, and mental illness in our country.

In addition,

The Constitution must guide legislators to preserve and develop the welfare state "for the People" through proper financing.

Argumentation

Wealth needs to be taxed. Most taxes ought to be levied by means of a graduated progressive form of tax on income, moving from a negative income tax (for the very low earners) through "0" towards a 1% income tax, upwards, to 80% of the last Rs1,000 after a certain revenue. (Smooth steps are easy now with computers and Automated Intelligence, as we call AI.) In the past the highest level of tax in most countries was 75%. Even in the USA, when it was "great" (we refer to the USA Presidents' *Make America Great Again* slogan), its highest tax bracket was 75%.

LALIT proposes the Commission, too, that:

We need specific constitutional protection to preserve the social function of land, which must include a ban on selling off land to foreigners, and a refusal to allow any land (or any form of real estate) to be put on the international market.

We need constitutional amendments to help sustainable scientific "agriculture", based on the articulation of traditional agricultural knowledge with scientific and ecological knowledge, and to guarantee safe food production, ensuring food sovereignty through tight controls on production of organic, non-OGM seeds, and keeping profit-only interests out of the production of food. We need constitutional assurance that the land, water and sea and air are free from pesticides and other harmful chemicals.

As human productivity increases through AI and other automation, and as other major improvements in the means of production take place, **constitutional ways must be found to ensure that the gains are shared in terms of less work-hours for the same pay, and to a higher minimum revenue for all,** rather than squandered in private profits.

As a political party, our ultimate aim it to transform isolated, competitive workers into a unified class with collective consciousness. Economic struggles and political action are inseparably linked; the ultimate goal is not a permanent accommodation with Capital, but the revolutionary overthrow of capitalism itself.

And LALIT has a third major concern in this Part 2 of our submission, concerning:

3. The Central Bank and the Collective Development of Resources in the interest of the Working People of the Republic

The *Constitutional Review Commission* must consider giving guidance on the legal framework necessary to ensure that the Central Bank, through its policies, guides the collective development of resources so that it is *in the interest of the working people* of the Republic.

Argumentation

The Bank of Mauritius acts as "the banker to Government, its adviser on monetary and financial matters and the depository of the official foreign exchange reserves of Mauritius and of Government funds." (*Bank of Mauritius Act (2004)* Section 56).

The Bank of Mauritius is an independent organ of the State free from political interference but which remains accountable to the people through the Legislature to report on how its monetary policies have directly affected the protection and development of the Republic's territory resources for the benefit of its people in terms of gearing capital investment in the productive sectors to achieve food sovereignty, energy sovereignty and stable job creation.

The Central Bank of Mauritius must not serve the interests of private finance capital nor the bailing out of lame-duck private companies through institutions like the MIC (*Mauritius Investment Corporation*).

The governance of the Bank of Mauritius must structurally be independent from global finance capital and institutions such as the International Monetary Fund (IMF), the World Bank (BM), and Moody's. Central Bank Governors with a professional background in IMF or private banking jobs tend to lean heavily on financial sector *de*regulation, which suits the interests of predatory finance capital from abroad. The composition of the Central Bank Board of Directors and Monetary Policy Committee must reflect a balanced representation of the different productive economic sectors so as to neutralize, and minimize, the influence of private finance capital, the most dangerous of all kinds of capital.

The key role of a Central Bank should be to encourage capital to move towards productive sectors, not finance capital, and within productive sectors, those that create employment, assure food and energy security. It should prevent the exodus of capital. It should discourage, or interdict, speculative real estate, the sale of futures, and other forms of speculative investment and high-risk finance capital ventures. It should also do its traditional work of setting interest rates and guarding against inflation.

Therefore, LALIT proposes:

For a start, constitutional protection should be assured of individual working people's savings and the savings of small enterprises, co-operatives and non-profit associations.

In addition,

There should be a Constitutional requirement for a return to the separation of the retail banking sector from the investment banking sector, as it was world-wide from the Great Crash and Great Depression until 1999.

Argumentation: In Mauritius the 2004 Banking Act actually allows the unification not only of retail and finance capital, but of offshore and national banking, too, which adds to the risks for working people's savings and their pension and other collective funds.

The BOM and FSC working in synergy should closely monitor market rates in the financial sector as a whole (establishing maximum margins and spreads as necessary) so as to prevent the financial, banking and insurance sectors from extracting exorbitant profits at the expense of working people and ensure economic stability.

The BOM and FSC need to issue guidelines with a view to monitoring and controlling the exorbitant profits of banks and financial institutions, including in the insurance sector, and to articulate policies with anti-cartel and competition institutions.

PART 3: Civil and Social Emancipation – Our Rights and Freedoms

Our civil and social rights have come a long way: From us having been no more than the "free-of-cost labour-power" *physically owned* by private companies operated from across the oceans, having *no rights whatsoever* except the right to flee into a maroon village, which many of us did, or to rise up in rebellion against the Company, as Ana de Bengal and her slave-workmates did, to refer to just one of many slave uprisings. But our emancipation is far from over. Young people, even today as everyone complains on Radio programs, end up either fleeing the country, or burning tyres on the Royal Roads in rebellion!

Freedom of the person, protection of the person

Our Constitution ensures, to some still limited extent, that we have greater "freedom of the person" than we had as slaves, indentured workers or colonized "subjects".

Let us begin with something in the existing Constitution that is good. It uses the words *"Every person ..."* or *"Any person ..."* not the limited formulation *"Every citizen",* or *"Any citizen".* Some misguided amongst us may call for this wording to be changed to "citizens". This would be a regressive move. LALIT believes that a resident, a mere visitor or a stranded sailor should **continue** to be protected from e.g. police violence or arbitrary arrest. Persons, as "citizens", then have additional rights, even in the present Constitution. That is how it should be.

Already nobody is allowed to inflict bodily harm on another person.

However, the State and its officers can perpetrate violence against another person's body, although supposedly within constitutional limits. The violence of officers of the State remains a major cause of anger in the country. **Can the Commission consider limiting this violence?**

In addition, we notice increasingly that: 1) private "security" companies have somehow come to share this monopoly on violence with officers of the State, and this, too, will increasingly be a cause of anger. 2) The USA may, though it is illegal under international law, house military on its "Base at Bagatelle" disguised as its new "Embassy", and they may be armed. **Against this, too, we need Constitutional protections.**

We are protected from arbitrary arrest and detention. But, the Commission will be aware that the prisons are full of poor people locked up, deprived of freedom, for petty theft. This happens, while importers and/or supermarket owners can, with impunity, rob the poor by over-charging thousands of customers on basic items, and rarely, if ever, get locked up. Millionaires and other white collar criminals walk free. This, a Constitution cannot change. It demands political change to bring equality.

But, the prisons are also full of young men locked up because they do not have money to pay bail. In an unequal society, bail must be waived if someone is too poor to raise it.

*** We need Constitutional protection from being locked up for being too poor to pay bail money.**

*** We need better protection from the inequality of punishment**, too. A fine of Rs20,000 is a very different punishment for someone earning that sum per month, and another person convicted of the same offense who earns, Rs200,000 or a third person whose revenue is Rs2,000,000 a month. Is there a way for a Constitution to limit this inequality? As Mauritius becomes more unequal, in terms of revenue of individuals and of property owned by individuals, the fixed penalty fines become more grotesque, as a proportion of an individual's revenue, or of their wealth, and the people in prison for not paying fines rightfully becomes a greater source of resentment. Could Magistrates be constrained to question those found guilty and about to be fined and ask them to reply, under oath, about their income and wealth, before imposing the fine? The Commission should recommend doing away with all minimum fines, and specify only maximum fines.

Other people are in prison simply because they made recreational use of a drug, as a way to decrease the stress of daily life as a working person, or because they were found having a beer under a tree somewhere that is now illegal, or driving while having over-shot the harsh limits on alcohol consumption. Others are locked up because, having succumbed to the physical addiction to an "opiate" drug, they have a health problem, and they break the draconian drug laws merely to calm the pain of withdrawal symptoms.

* **The State ought not to interfere with people's freedom to use recreational drugs**. We may need Constitutional protection against "prohibition-type laws". Social control works better, anyway, than state punishment does. The State imprisoning someone both fails to address the original problem, and produces a host of new problems, including police violence.

* **We need constitutional protection against imprisonment of those amongst us, who are physically ill from habituation to a hard drug**. It is cruel and unusual punishment to lock them up.

* Every person who has a criminal charge against them must have, as well as **the right to a fair trial, Constitutional protection against being tried without being offered a legal representative, paid for by the people's taxes, and organized by a part of the State, independent of the prosecution or police services.**

Here we would like to quote from a document by JUSTICE: Association Against Violence by Officers of the State, which said we should:

> "Remind the police that our legal system, after centuries of peoples' struggles against inquisitions that rely on confessions, is now based on the right to silence of the accused. The reason for this principle is that it prevents torture. The prosecution thus has to prove its case without the help of an accused. The right to silence needs to be protected by the presence of a lawyer, called in the minute a detainee is arrested. Government must pay a lawyer from a list in cases where a detainee has no lawyer. Natural law holds that the family be immediately informed of an arrest and of the place of detention. Magistrates and judges should be legally bound to reject a confession until it be made before them, as in India, and to place the onus on the prosecution to prove that any confession presented in Court was freely made, as in the USA since the Miranda judgment in 1966 that ended the third degree practices notorious in the USA until that date."

* **Could the *Constitutional Review Commission* adopt the suggestions in this paragraph**?

* **The Constitution should set up a body completely separate from the Police with powers to investigate cases of violence by officers of the State**, or human rights violations by officers of the State.

There are other ways in which the State is interfering unduly in the physical "body" of individuals. The State has retained the power, left over from the days of theocracies, to force women, who are unable to or unwilling to, to continue with unwanted pregnancies. This kind of state penetration into private health issues ought not to be allowed.

* **Women therefore need Constitutional protection against police and judicial intrusion into decisions concerning the privacy of their bodies**, and against being forced to continue pregnancies they cannot or will not continue. The time limit should be up until the expected independent viability of the foetus, except in obvious cases like danger to the life of the woman patient, or the discovery of serious health or developmental issues of the foetus, when it can be later.

The right to have a name

* **Every child must have the right to have a name** and to have their birth registered. This right must over-ride any bureaucratic rules.

Freedom to marry and to divorce

* **Every person over 18 must have the right to marry the person they want to marry**. The State must recognize marriage between two adults who wish to marry and are not already married to someone else.

* **Every married person must have the ability to file for a divorce** freely, and without cost nor legal representation, and the divorce must be granted in a reasonable period of time.

The Right to free education

LALIT believes the Commission can propose:

* **The right to equal and free education including basic adult education should be enshrined in the Constitution.**

Argumentation

This point hardly needs argumentation. Everyone in Mauritius agrees. However, quotations from two Constitutions may be helpful to the Commission.

> *CONSTITUTION OF INDIA*
> *21A. Right to education.—The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.*

and

> *CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA - Chapter 2: Bill of Rights*
> *29. Education*
> *1. Everyone has the right*
> *a. to a basic education, including adult basic education; and*
> *b. to further education, which the state, through reasonable measures, must make progressively available and accessible.*

LALIT proposes that, as part of the right to education,

The Commission should ensure Constitutional protection so that children's mother tongues, when they are the mother tongue of the vast majority of children and when they are the country's vernacular, are not excluded from being the medium of instruction in schools.

Protection of Privacy and Freedom of Information

* And today, increasingly, private data companies and the State also have access to the "privacy of our bodies" through digital data: there is a need for constitutional protection against the digital storage of private bio-information, whether by the State or private companies. Data, when stored for reasonable reasons, for example health records, this too should only be able to be shared when strictly relevant to treatment.

* There should be Constitutional protection for individual data, and the default should be that "people have a right to individual data about themselves".

* And, there should be freedom for every person to have access to data on themselves, whether stored by the repressive branch of the State, or by the health or other services of the State, or by a private company.

* The Constitution should assure the "freedom of information", concerning individuals' right to information that does or could affect him, or others like him. The same provision should also ensure access of the Press, including Radio/TV/online publications, to data held by the State that affects people collectively, other than personal data which can be "redacted".

Secular State

In LALIT, we commend the enlightened language of the existing section of the Constitution protecting freedom of conscience and freedom of thought, including freedom of religion. We propose that this section "Section 11 on the Protection of Freedom of Conscience" be amended to begin with the introductory phrase: **"Mauritius shall be a secular state, and**" and then continue with the Section.

Protection against Colonization by land-acquisition

* The Constitution should prevent the sale for money, or any other form of disguised sale, whereby millionaires from abroad get "residence", and even "citizenship" because they have invested money in the country. Citizenship is not for sale. It is also an open window for massive corruption. In time, this may risk Mauritian Independence and sovereignty, by the country becoming a "settler colony".

* No non-citizen should be allowed to buy land in Mauritius, as rightly used to be the case. This also prevents re-colonization. This now needs Constitutional protection.

Protection of the "common" wealth of the people

The Constitutional protection of "private property" must be made on the basis of two different kinds of property that are, in the existing Constitution, conflated: only property that is truly and wholly personal must be protected from confiscation or nationalization. However, property created by past labour-power of those enslaved or indentured or cowed into wage slavery, and then expropriated by private individuals, and which property constitutes the means of survival for us all today, must no longer be protected as "private" property. It never was "private". We refer, in particular, to land, water rights and capital.

Anti-Slavery Law

* Employers should not hold the power to force their employees to work, as they did under slavery and indenture. This implies that the Constitution protect the "freedom of association" sufficiently so as to protect also "the right to strike", that is to say, the right of workers, collectively, to withhold their labour-power as a means of putting pressure on the employers and/or the State. In addition, if workers go on strike this should result in neither criminal procedure nor sacking or other punishment by the employer.

Illegality of Non-Disclosure Agreements

* Non-Disclosure agreements, whether between employers and employees, or between any two individuals or private companies, or between companies and the State, should be barred by the Constitution to the extent that the secrecy extends to covering potentially illegal or potentially immoral acts.

Enshrining International Covenants in the Constitution

*** The "civil and political rights", and the "social and economic rights" outlined in the UN International Covenants should be enshrined in the Constitution**, as part of national legislation.

* **Civil rights should protect individuals from residual colonial State classification by race**, **ethnicity or so-called "community", or by being obliged to self-classify in order to qualify for democratic or other rights.** This will need an amendment to the communal Best Loser System, to the best-loser system that is no longer communal but, if it is not revoked, it is instead applied as part of "proportional representation by political party". [See Part 5, dealing with curbing the authoritarian powers of the Executive Branch.]

* **The right to work** or, if not, to receive social security payments should be a Constitutional right.

* **The right to free health care** for all should be enshrined in the Constitution.

* **The right to safe shelter**, to a house or flat to live in, should be in the Constitution.

* **The right to a universal old-age pension at 60** will now need Constitutional protection, since the present Government has broken the "social pact" of the Independence struggle that enshrined this right until 2025 and 2026 budgets.

* **A Constitutional protection of the working people by making the State impose taxation on the rich at a higher percentage rate of their revenue than the working peoples' rate of taxation of their revenue.** In particular, it should be illegal for the state to tax the rich at a lower percentage of their income than the poor. This would make many taxes unconstitutional, because they punish the poor.

* In addition, the Constitution should protect the people from exploitation by ensuring that there are **taxes upon accumulated wealth**.

* In addition, there should be a Constitutional duty of the State to **reclaim part of the hoarded wealth expropriated in the "labour system" by companies in colonizing States**, over the past 400 or so years, and claimed from them internationally.

Reparations for Slavery and illegal occupation

In addition, the colonial powers owe reparations. In order to pay for the civil and social emancipation of working people, and as part of the restitution after slavery, the Constitution might

be amended to encourage the State to seek reparations for slavery, on the basis of the following arguments in this petition that LALIT coordinated:

"Petition addressed to the Head of State of Mauritius, copies to Governments of Netherlands, France & Great Britain, the three States which colonized Mauritius [submitted to these States and the Mauritian State in 1994],

"Bearing in mind the immense scale of the human suffering caused by slavery and the vast scale of the social destructivity of this system, and given the universal denunciation of slavery, and

"Bearing in mind the fact that there are some nation states whose owning classes benefitted directly in the form of capital accumulation from slavery, and still stand advantaged by the initial riches made through slavery,

"Bearing in mind that there are some nation states whose working classes suffered directly from the confiscation of their means of subsistence and the annihilation of their social economy as a result of the ravages of slavery, and suffered directly from the humiliation and degradation of this system,

"Bearing in mind that the only compensation that has hitherto been paid by States responsible for upholding and allowing slavery, is that compensation paid to slave owners in respect of their so-called 'property rights' having been infringed, we, the undersigned,

"Knowing that the quasi-totality of Mauritian working class organizations have signed this petition, sent to the President of Mauritius and three heads of state [of colonizer countries],

"Knowing that the petition has been widely signed by peoples' organizations from countries all over the world and already sent to the President and three heads of state,

"Call on States whose peoples suffered the direct effects of slavery, to put in claims to those States responsible for slavery, for material and moral damages, and we, the undersigned,

"Call on those States responsible for slavery to pay the damages claimed, and to pay these damages not from the usual government revenue, which includes working peoples' direct and indirect taxes, but from a special 'anti-slavery levy' to be levied on the propertied classes and their companies and corporations, and we

"Call on the States claiming damages to create a special 'post-slavery fund' to be used for health and housing programmes in poor and working class neighbourhood and areas, and for the educational advancement, in its broadest sense, of all poor and working class neighbourhoods and areas, but without any recall to the perpetuation of race or ethnic classification of individuals, and we, the undersigned,

"By our signature, I/we endorse this petition being circulated by LALIT demanding that the government of the Republic of Mauritius, in the spirit of the above arguments, prepare and submit a claim for compensation for the material and moral damage suffered by the working people of Mauritius through the slavery system from 1568 to 1835 and in the decades following the liberation of slaves and until today."

Signed by hundreds of Mauritian organization including trade union federations, village councils, women's associations, municipal councillors, Parent-Teacher Associations (PTAs), and workers' organizations. Also signed by dozens of international organizations, like union federations in India and the US, women's organisations in Uganda, Tanzania, Senegal, Nigeria, Zimbabwe, political organisations in South Africa and Brazil, doctors' and lawyers' associations in Greece, academics in South Africa, Namibia, Sweden and India.

Reparations for illegal occupation

Secondly, in order to pay for social rights, and as part of the restitution after the illegal colonial occupation of Chagos including Diego Garcia for 58 years, the Mauritian State should have a **Constitutional duty to prepare an international claim for reparations** for the people of Mauritius, including Chagossians, from the UK-USA for this illegal occupation, and for additional reparations for Chagossians for the cruel and brutal displacement they suffered.

Social and economic rights now need to be expanded to include the protection of our natural environment, of which we are a natural part.

The Constitutional Protection for Nature that we are part of: For a Country and a Planet in Harmony with Nature

We call on the Constitutional Review Commission to think about legal formulations that can give Constitutional protection to serious new environmental needs. In particular:

Environment and Pollution

*** The worst pollution in the Republic of Mauritius is that caused directly by the Diego Garcia USA-UK military base.** The abolition of foreign military bases, already referred to above, would resolve future pollution, nuclear, fossil fuel burning and other military pollution.

*** The second-worst pollution in our Republic is pesticides and herbicides** from the sugar cane industry and in vegetable fields. This will be better controlled when there are laws ensuring that "social property" like arable land be used for the good of all, and not for private profit. But are there other Constitutional guidelines that could be legislated?

* Constitutional amendment to the following effect: **"The State has a duty to prevent for-profit businesses from running the risk of permanently wrecking the environment."**

In broader terms, here are some examples of existing Constitutional protection for nature, in other jurisdictions:

In Ecuador (2009), a Constitutional right was instituted on the following lines:

> "*Nature, or Pacha Mama, where life is reproduced and occurs,* ***has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes.*** *All persons, communities, peoples and nations can call upon public authorities to enforce the rights of nature*."

South Africa's Constitution ( ) offers protection for the individual and their health:

> *"Everyone has the right—(a) to an environment that is not harmful to their health or well-being; and (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that – (i)* ***prevent pollution and ecological degradation****; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development."*

In MAURITIUS, we could add protection of biodiversity in South Africa's wording in (b)(ii) above.

In India, the judiciary was used. Relying on the Constitutional protection that reads as follows: "No person shall be deprived of his life or personal liberty except according to procedure established by law," a series of Public Interest Litigation cases known as "the Mehta Case" finally helped forced the Government to change the Constitution.

The Constitution of India was then amended in India to add: "right to life" inherently includes the right to enjoy pollution-free water and air. **The Mauritian Constitution could easily be amended to include this right.**

Renewable Energy

*** The Constitution should put the onus on the Executive branch to assure the democratization of the energy sector**, which, in present circumstances means nationalization, and with an onus to seek out non-polluting and renewable energy – from the sun, wind and waves/tides/temperature differential of the oceans. Today's technology already allows this kind of development, so there is no reason not to aim for complete conversion to renewable.

Integrated Agriculture – agro-ecology

As, in Mauritius, we move towards planting more food crops on sugar estate land, this will allow the re-introduction of a certain degree of bio-diversity in agriculture, and an "agro-ecological" approach. Agricultural production – when using traditional and organic methods – re-enriches the soil, increases the numbers of different insect species that help in food production, and limits or removes altogether the need for pesticides and chemical fertilizers. Peoples' health will no longer be endangered by these substances, and at the same time food security will be ensured. An integrated approach takes into account existing local biodiversity, and agricultural development does not endanger the already depleted forests, already threatened rivers and other indigenous and endemic resources that cane monoculture threatens.

*** Biodiversity and food sovereignty should be given Constitutional protection.**

Marine Resources

Marine resources need to be protected in favour of ordinary people, workers and fishermen, and not just in favour of the capitalist class. Protected zones in the lagoons must be looked after by the people there, and access to beaches and the sea must be kept free, in terms both of access and no charges. There needs to be investment in a genuinely sustainable fishing industry for outside the lagoons and in the Mauritian economic zone, which is huge – literally millions of square kilometers.

If aspects of the protection of marine resources are not covered by other more general new Constitutional changes, these issues should be considered.

International

Given that the environment of the earth is a global issue, the Executive must, as well as being **Constitutionally bound to protecting the environment, be bound to take initiatives at an international level** to protect the environment. This could be part of the Constitutional duty of the Executive, and then the Judiciary.

PART 4: POLITICAL EMANCIPATION

Class struggle throughout history has brought political rights and freedoms such as the right to vote and the freedom of expression, freedom of conscience, freedom of association, which are guaranteed and protected in the Constitution. These rights and freedoms in fact reflect the balance of power between social classes produced by ongoing class struggle at the particular moment in history that the Constitution was adopted. Under capitalism, formal political rights or even political equality, such as "one person, one vote", create the illusion that all people are equal and free before the law and often mask deep economic inequality.

In reality these rights are deliberately limited and restricted. There are practical obstacles that do not allow everyone to enjoy these freedoms.

For example, there are a series of Mauritian laws and regulations that added together constitute a legal framework that imposes the use of two foreign languages, inherited from colonisation, English and French, in all state institutions. This official language policy still prevails in the National Assembly, in all ministries and government departments and even in Court. While being the mother tongue of the vast majority of people and also the vernacular used in all public places, Kreol is not recognized and is largely suppressed.

People in the working class are the most affected by this repressive policy. The official language policy is one important obstacle to the enjoyment of full political rights. The suppression of Kreol as medium in school, the imposing of literacy in English for candidates in elections, the obligation for associations to keep their accounts, documents and minutes in English or French, taken together constitute a major obstacle to the full enjoyment of political rights.

In class society the system of law is not "neutral". It aims at ensuring that the dominant class, in this case the capitalist class, continues to hold power, so that its reign is not threatened and it can continue to exploit workers and dominate the whole society.

Government after government has deliberately put these obstacles in place to ensure that the capitalist system continues to reign. And in times of mass mobilisation, general strikes and rebellions we should ensure that governments do not use emergency repressive laws to narrow these acquired fundamental rights further still. We should use political and democratic rights (such as freedom of expression, free assembly, voting, and the right to unionize) as a terrain of struggle to organize workers, build class independence and class unity at grassroots level. Our reflection and political work, therefore, aims at the ongoing struggle for economic and political emancipation.

LALIT's Proposals

Freedom of expression

* **Everyone should have the right to engage in politics freely**, including running for office.

Currently, people who work in the civil service and in many parastatals are not allowed to engage in public politics or run for office. Over recent decades, employment contracts for parastatal employees began to prohibit active politics, or even prevent employees from taking positions on

"controversial" issues. All this is a major obstacle to democracy. And it is repressive on the fundamental right to do politics. We propose that all civil servants, workers in parastatal bodies and academic staff be given Constitutional protection of their right to stand for election. This will enfranchise teachers, nurses, postal workers, government and district council clerks and labourers, and all department workers to engage in active politics.

In Australia, civil servants have the right to do politics, including standing for office. The only proviso is to keep the civil service neutral. Senior civil servants we believe, resign to stand, and if not elected have a statutory "right of return" to their post.

Currently, many private sector employers, too, impose employment contracts that are anti-democratic. They silence their employees, if not by beating as they did in the days of slavery, by not allowing them to exercise political rights like standing for an election. In some cases, contracts prohibit an employee from taking part in "controversial" debates. The Constitution should ensure that this type of clause in an employment contract be made void, and any employer imposing such a clause be criminally liable.

Use of Kreol in Parliament

* The Constitution must be amended so that MPs have the freedom to express themselves in their mother tongue in the National Assembly.

* The Constitution, Section 49 allows for only English or French to be used in the National Assembly. We propose the following Amendment of the Constitution be made so that the section reads as follows: "Official language: The official languages of the Assembly shall be the *Republic of Mauritius Kreol Language* and English but any member may address the chair in French or Mauritian Bhojpuri." We draw attention to the need to refer to the language in the somewhat elaborate form used in our drafting, so as specifically to include the part of our nation that resides in Rodrigues, Chagos and Agalega and shares a common national language, though with regional variations.

Kreol is the first mother tongue of 90% of the people of Mauritius, and is also the vernacular language used by almost the entire population of Mauritius. It is important to note that according to official census figures Bhojpuri is the second largest language that people speak usually at home. In the past, it was also a village vernacular, in half of the country, and in some areas still is. It deserves a place, alongside

Literacy and language qualifications

* We call for the repeal of Section 33(d) of the Constitution that imposes language and literacy qualifications for candidates.

We in LALIT have long struggled at the grassroots, and still do, for everyone to be allowed to be elected for Parliament as a democratic right. Section 33(d) of the Constitution imposes on candidates for election to the National Assembly to be able to speak and also read a foreign language, English. Many working-class candidates are excluded from the democratic process because of this clause.

The right to education in the mother tongue

Colonization leaves cruel scars. One of the worst forms of colonial insult, in fact a form of racism, is the idea that the colonized do not have a real, or a "truly functional" language. This erroneous assumption led to Kreol being banned from schools. Even now, it is only a "subject" not the medium. We in LALIT believe that one of the reasons for the rioting in 1999 and for the October 2026 smaller rioting is the suppression in schools of the mother-tongue of over 90% of the children. Kreol, which is also the vernacular. Finnish and Norwegian education, to name two small population countries with the best education in the world, use their respective languages as medium. Kreol is the mother tongue of the vast majority of Mauritians and, importantly it is the vernacular, and yet it is still not the medium through which education is dispensed to our children. This continued, colonized education framework causes cognitive harm. It causes emotional distress. And, it causes poor educational outcomes. Even with a huge, very well organized education system, nearly 3/4 of children, 71% to be precise, leave school without getting an HSC. Many, maybe 30% are not literate by the UNESCO definition. We believe that the suppression of the mother tongue, and its banning as medium, is a form of institutional violence, and as such, it is *a major underlying cause of young people's anger*, expressed in the recent riots over water and police violence.

The main reason for the failure of the education system is the suppression of the Creole language as medium of instruction in schools. Children are forced to learn through English, a foreign language, and now the Government, under Minister Gungaparsad, is starting to impose a second foreign language, French, as medium in Government schools and Government-subsidized schools. English, and even more so, French, are structurally totally different languages from Kreol. This language policy continues to do cognitive, emotional and cultural harm to all children of the Republic. This policy of using foreign languages as medium excludes the majority of working class people from access to literacy and also act as a barrier to participation in parliamentary life.

The use of Kreol as a medium has been advocated since the 1950s by UNESCO. Mother-tongue education is a reality in a majority of countries around the world, particular in countries with good educational outcomes. In its Annual Report 2025, the National Human Rights Commission recommends the use of mother tongue as medium in early education. It proposes "a progressive and evidence based approach to integration of mother-tongue instruction, particularly in early years." More recently, in May this year the Supreme Court of India gave a judgement (Padam Mehta v. State of Rajasthan), recognizing a child's right to receive primary education in their mother tongue is a fundamental right. The Court held that this flows from freedom of speech and expression and should be read together with the Right to Education as enshrined in the Indian Constitution.

*** Constitutional protection must be given to the use in schools of the mother tongue of the vast, vast majority of children, as well as being the vernacular. As medium for teaching "content subjects" as part of the right to education.**

Freedom of artistic and creative expression

* Art and creativity must be protected from state censorship.

In the past, the State has made use of censorship to interdict plays, books, slide shows. The right to publish creative thoughts in print, in audio version, or online, and the right to create and share art, music, literature, film and theatre should be protected by the Constitution.

Right to strike

* Freedom of association must include the Constitutional guarantee of freedom for workers to withhold their labour power i.e. to go on strike. Infringement must be an offense under an Anti-Slavery Clause in the Constitution.

For an effective right to strike all lay-offs due to participation in the strike should be declared illegal.

Freedom of Association

* The Registrar of Association Act should be amended to allow for registered associations to keep all their books, documents, and records in the Kreol language.

This Act obliges all associations, trade unions to keep their books of accounts, documents and minutes in English or French. This is an obstacle for the majority of people to actively participating in the running of their organization. Constitutional protection needs to be given to associations, unions and cooperatives to keep their "collective memory" in the language we all speak. This amendment will help more working class people participate more actively in the running of their associations and unions.

Freedom of Information

*** Freedom of Information must be given constitutional force**, meaning every person has access to any information or data held by the State or by any private company about them, and every journalist is entitled to all information of public interest.

Judiciary

*** Constitutional protection of the right to a free and fair trial should extend to making laws like the Courts Act unconstitutional to the extent that they do not provide interpretation into Kreol and/or Bhojpuri,** for procedure and legal argument, except for direct quotations, as well as witness testimony.

Academic Freedom

*** "Academic Freedom", should be guaranteed in the Constitution**. It forms part of a long tradition of maintaining freedom of thought, freedom of speech, freedom of action for staff in all universities and all research institutions. Intellectual creativity thrives only in an atmosphere of freedom.

In favour of more democracy by more guarantees on decentralised power

*** The Constitution should be amended to ensure that extended powers be given to Municipalities, District councils and Village Councils** to decide on (a) use and development of land (b) environmental development and protection (c) implementation of sports policy (d) artistic

and cultural development (e) development and management of energy resources such as water, electricity and others. Protection should also be assured for the regularity of elections.

PART 5: Democratic Accountability: LALIT's Proposals

The Constitution should be amended to make way for an electoral reform that will bring in more democracy. For LALIT, this is our aim. This means, in particular, avoiding any traps of decreasing democracy by mistake or by ignorance, or of increasing bureaucracy inadvertently and thus decreasing democracy.

The people as a whole should have much more power than we have today over Government i.e. the executive branch, which has become so dominant, with much of this power resting with the Prime Minister.

This democratization of power can then also be increased by political mobilization within our parties – the only real way to bring in change. People who are not in political parties working towards more democracy should be encouraged to join one and become politically active.

The ideas below have been developed in debate and discussion with hundreds of LALIT people and others over decades, during political work at the grassroots. We have learnt from the democracy practiced in associations, formal and informal, in co-operative shops and farms, as well as in health and education co-operatives, in trade unions, and in common fronts amongst the people. We have 300 years of struggle for freedom from slavery and indenture, and modern wage slavery, and for the democracy that helps guard it.

The present system has the following faults, amongst others:

1. Qualifications for MPs are anti-democratic and represent colonial remnants.

2. The Legislature (elected deputies) which personifies the Republic being a "sovereign democratic" state is dominated by an all-powerful executive (PM & Cabinet), which descends from the British monarchy.

3. The electorate has no power of revocation between general elections, allowing the executive Branch to deviate, become corrupt, and end up representing those who finance their parties, not those who elect them to the National Assembly democratically.

4. Island of Rodrigues needs to have an equal number of MPs to Island of Mauritius' constituencies.

5. Agalega must obligatorily have its own Constituency with one representative. The distance from the main Island compensates for its low number of inhabitants.

6. Chagos, including Diego Garcia, now supposedly sovereign since the Treaty with the UK, must obligatorily have a Constituency the same as Agalega, with one representative.

7. The fact that the best loser system is communal is problematic in many ways, and there is a way to resolve the problem the present communal system purports to address.

8. Nominations made by the executive are opaque and lead to nepotism.

9. Overspending in election campaigns is the problem. It is undemocratic.

What is Good about the Electoral System

So as not to throw the proverbial baby out with the bathwater, here are good existing traditions:

- Every MP stands for election in a specific Constituency. This is a vital part of our democracy: it is decentralized, and works, with other measures, to prevent the monarchical tendencies of a "presidential-style" Prime Ministership creeping in. It is what permits revocation.

- Political parties have a constitutional and absolute right to exist and need only to register with the Electoral Commissioner for each election. This freedom is a vital element of our democracy. It prevents a bureaucracy developing around some new "Czar" or "Registrar of Political Parties", and other state-imposed undemocratic, bureaucratic mechanisms – e.g. insisting on parties having compulsory recourse to expensive, often corrupt, chartered accountants – instead of depending on party members simply to control leaders democratically. There is no short-cut to democracy.

- There are not bureaucratic or repressive state controls over parties' finances, but importantly there are controls over electoral spending. This is of the essence. It needs to be tightened up to be effective.

Here are LALIT's proposals, summarized:

Democratizing Who can be an MP

*** The Constitution should state that every Mauritian has a right to stand as MP without any literacy or language qualification. We propose that the Kreol of the Republic of Mauritius and English be official languages of Parliament, and that Bhojpuri and French should also be able to be used to address the Speaker.**

We in LALIT have long struggled at the grassroots, and still do, for everyone to be allowed to be elected for Parliament – as a democratic right – and we thus call for the repeal of the colonial language and literacy qualifications the Constitution imposes. We also reject, as mentioned above, the absurdity of speaking only in the languages of the past two colonizing powers in Parliament, and we support the Speaker's efforts to introduce Republic of Mauritius Kreol in the National Assembly.

How *not* to deal with dynasties

LALIT proposes that the political problem of dynasties reigning in Mauritius, and other forms of politicians supposedly clinging to power, cannot, and, therefore, should not, be solved by cheap short-cuts like limiting the number of mandates someone can be elected for. This kind of limitation can work *against* the people's will. History has lessons. It should be remembered that in the USA, it was only when President F.D. Roosevelt introduced his New Deal, which gave

the people of the USA their first and almost only social security, and he was elected four times, that the richest bosses funded and ran a decades-long campaign to limit Presidential mandates. Democracy means people choose for whom to vote. It is anti-democratic, and also patronizing, to attempt to legislate candidates off the slate from before Nomination Day. This measure, in practice, has caused political debate, for decades, to remain fixated on it, to the exclusion of all other important issues. In literally dozens of African countries, it has become like the proverbial treadmill for rats in a laboratory. In addition, it is eminently avoidable by clever politicians: Vladimir Putin, to name one among many leaders, put his nephew Dmitri Medvedev in his place for a term, then stood again and got elected again. So, it was, the same family. This case in Russia is not the only case. We believe that dynasties need to be opposed politically, if that is deemed necessary, not by depriving individuals of their right to stand for office, nor depriving the electorate of its power to decide whether to elect them or not.

Revocability at different levels

We also propose, inter alia, that all those elected as MPs should be revocable by the same "constituency" that elected them. We have been calling for this, as a party, since 1982, so the proposal is one that has stood the test of time. Slowly, all political parties have agreed, some even claim paternity! It would certainly mean more democracy than exists. It trims the excessive power of the executive.

*** Electors in a Constituency need to have right to revoke their elected MP**

Members of the National Assembly should be subject to revocation by electors in their constituency. This means Ministers, too, come under direct democratic control by electors. Any "electoral revocation petition" will need to be based on a specific argument that the Electoral Commissioner considers meets basic standards of rationality. It will also need to meet rigorous levels of integrity, and subject to the Electoral Commissioner checking for forgery, people signing more than once, etc.

All Members of Parliament will then know that they can be revoked and this, in itself, will be salutary.

*** Constitutional change is necessary for the Leader of the House to be elected by the National Assembly, not nominated by the President, and therefore revocable by those who elected him or her.**

More democracy also means MP's, when they first meet after a general election, should immediately after electing a Speaker from amongst themselves, elect the Leader of the House, who then goes to the President to be sworn in as Prime Minister. This MP, being elected by his peers, can be revoked by his peers. The Prime Minister then proposes to the National Assembly, as a block, a Cabinet selected from amongst MPs, for election. Once elected by Parliament, individual Ministers or the Cabinet as a whole, are then subject to revocation by their peers. This is more democratic than passing a law to limit the Prime Minister's mandate: let the electorate decide.

*** Executive Power must be constrained by National Assembly**

Once Ministers, including the Prime Minister, are subject to revocation by the totality of MPs, this means Parliament has more power, relative to the Cabinet or executive. This means more democracy. It immediately curtails excessive powers of the Prime Minister. The point of revocation is not constant petitions and motions of revocation. The point is that elected people are constantly aware that they are revocable. This changes the balance of forces. Revocation is already practiced in most associations and unions in Mauritius, and has been for generations. For reference, in the UK, there is the right of revocation of MPs ("the right of recall") and in many US states.

*** LALIT proposes that the National Assembly be enlarged and the number of Ministers reduced.**

Argumentation:

We propose an enlarged Parliament of 21 four-member constituencies plus one MP for Chagos and one for Agalega, plus 20 proportional representation MPs. This is a total of 106 MPs. It will be well within historic proportion to the number of electors for each MP established at Independence, because the electorate has, since 1968, *tripled*. (The total population has doubled in the same time period.) Paying the salaries of a greater of number of MPs is perhaps one of the most *democratic ways* to spend public money.

The 20 MPs by "proportional representation" can be chosen by a non-communal Best Loser System or taken from a list, in order, prepared by party leaders from amongst all their candidates up to 106 candidates, and submitted to the Electoral Commissioner on Nomination Day. This means every elected person is linked to a constituency, and thus avoids the non-accountable nature of some forms of proportional representation.

This also means the Parliament is stronger, in terms of relative numbers, than the executive. The number of Ministers should be reduced to 12-15. Junior Ministers should be done away with.

In a landmark judgment, in 2009, the Bombay High Court ruled that appointing MLAs as Parliamentary Secretaries with Cabinet rank/status was an unconstitutional, "backdoor entry" meant to bypass the 15% cabinet size restriction imposed by the 91st Amendment. The judges stated that "The very purpose of the 91st Amendment was to prevent jumbo Cabinets and the resultant drain on the public exchequer".

This new balance of forces within the National Assembly will increase democracy by curtailing the powers of the executive, including the Prime Minister.

*** End Communal Classification and Communal Best Loser System**

Argumentation:

The four-member constituencies and the 20 PR or non-communal Best Losers will allow the communal Best Loser system to be done away with, without fear of unintended communal consequences. In addition, leaders can organize their proportional lists to ensure fair communal

representation, representation of women, young people, so-called experts, or simply to ensure their leader is elected.

LALIT has used passive resistance methods for decades, drawing lots for a "community" to fill in on Nomination Day, as a form of protest, while also being able to field candidates. This proposal does away with filling in a "community" or conducting a loathed communal census. Either, each elector will get two ballots: one for electing 4 MPs (first four elected), and the other to choose a party. PR seats will be allocated in the order predetermined by the Party, skipping those already elected by the first-past-the-post election: Or the 20 MP's will be determined by a non-communal Best Loser System.

The legislation can include a clause to prevent PR nominations actually overturning an elected majority, should there be one.

Power to make nominations

We propose that the Constitution should give Parliament, i.e. our elected representatives, increased powers, relative, in particular, to the Cabinet, i.e. the Ministers, and the Prime Minister. For example, the executive's proposals for nominations to positions of power should come before a permanent "Parliamentary Permanent Select Committee on Nominations" (along the lines of Senate Committees in the USA), filmed for the public to follow the Hearings. Constitutional changes will be necessary to enable these permanent committees to be established.

For taking on anyone in the civil service or in para-statals for ordinary jobs, the State must put up on the internet the qualifications required for the job, then later publish the names, qualifications and districts of all applicants and of all actually appointed. Where there are many applicants with equal qualifications, a drawing of lots in public can be organized.

Other Permanent Select Committees

The Constitution should allow for other questions, too, to come before Parliamentary Permanent Select Committees that can be set up. These can include: the environment, the land question, housing, job creation, health, education, finance capital, economic development. Again, this means that elected MPs get to have oversight on programmatic issues that, until now, the executive and in particular the Prime Minister, runs much like a monarch would.

Any of these Permanent Select Committees would then, as well as being public and broadcast live, have the power to convoke any person or organization concerned, to give evidence. This can include evidence given under oath, as exists in UK Standing Parliamentary Committees and Special Committees, or the USA Senate and House Committees.

Control Electoral Expenses

The Constitution must ensure that electoral laws can and do govern electoral spending. The amount to be spent should be reasonable, and reasonability should be judged to be the level of contributions that could be expected to be made by workers on the minimum monthly wage. The limits, in LALIT's opinion must be on electoral *spending*, which is where the problem for democracy is.

The laws on election expenses must be tightened up, without in any way subjecting political parties to bureaucratic controls, like the Registrar of Associations has over unions and Associations. Electoral over-spending is a danger to democracy. The change necessary, to close a loophole, is for the onus to be on candidates to show that expenses made in their favour were not made by them. Laws that give bureaucratic and state control over political parties by controlling their funding, rather than limiting their electoral expenses, will expose opposition parties to a "Government party" discrimination. We have seen how, historically, even the Registrar of Associations has intervened politically at key moments, against associations and unions, and even Co-operatives that are close to opposition political parties.

Majority vote for major policy decisions of the State

The Constitution must assure that all Government policy decisions affecting the territorial integrity of the Republic of Mauritius, and all Treaties, must be passed by the National Assembly.

Right of Foreign Workers who are residents to Participate in Elections

The Constitution must assure that the right to vote is extended to workers from abroad who reside, work and pay taxes like VAT during a period of, say, 6 months before the election; they must be able to register to vote. Democratic rights go hand in hand with residence and payment of taxes such as VAT. The world-wide slogan has always been "No taxation without representation!" Democratic rights do not go by "blood" either, but by residence.

Conclusion to Whole Document

Our proposals address the real problems that the people have faced historically up to today. Should the Constitution be unable to address these problems, then there would only be two options left: either our present crisis-ridden society degenerates into barbarism or else, for working people to resort to "rebellion against tyranny and oppression" (to repeat from the quotation in our title, taken from the Universal Declaration of Human Rights) in the quest for a State that can, in fact, offer such guarantees. This would, of course, require a socialist revolution (a change in the nature of class rule), *which we see as our political task*, and to which we work towards. Such guarantees in a Constitution would probably be born out of the struggle for a "Constituent Assembly", much like other countries that have known revolutions like France, America or China. Or like States that emanated from the independence struggle like India, or from the anti-apartheid struggle like South Africa.
