

**ANNUAL REPORT OF THE OMBUDSMAN**  
**JANUARY – DECEMBER 2009**

**Year under review**

This is the 36<sup>th</sup> Annual Report of the Ombudsman. It concerns the discharge of my functions during the year 2009 in the course of which we registered a total of 378 new cases as detailed below.

**Statistics for 2009**

**Case intake**

Ministries/departments	...	...	...	281
Local authorities	...	...	...	62
Rodrigues Regional Assembly	...	...		<u>35</u>
<b>Total</b>	...	...	...	<b><u>378</u></b>

**Cases dealt with**

**Ministries/Departments**

Rectified	...	...	...	...	117
Partly Rectified	...	...	...	...	2
Not Justified...	...	...	...	...	20

Explained	...	...	...	...	...	110
Discontinued	...	...	...	...	...	21
Not Investigated	...	...	...	...	...	2
Not Entertained	...	...	...	...	...	2
Pending	...	...	...	...	...	<u>108</u>
<b>Total</b>	...	...	...	...	...	<b><u>382</u></b>

### **Local Authorities**

Rectified	...	...	...	...	...	31
Partly Rectified	...	...	...	...	...	1
Explained	...	...	...	...	...	23
Discontinued	...	...	...	...	...	3
Not Entertained	...	...	...	...	...	1
Not Investigated	...	...	...	...	...	2
Pending	...	...	...	...	...	<u>37</u>
<b>Total</b>	...	...	...	...	...	<b><u>98</u></b>

### **Rodrigues Regional Assembly**

Rectified	...	...	...	...	...	16
Not Justified...	...	...	...	...	...	7

Explained	...	...	...	...	...	13
Discontinued	...	...	...	...	...	2
Pending	...	...	...	...	...	<u>19</u>
<b>Total</b>	...	...	...	...	...	<b><u>57</u></b>

On the whole therefore our statistics for 2009 are as follows -

Cases pending as at 31 December 2008...	159
Case intake in 2009	... 378
Cases dealt with in 2009	... 537
Cases rectified	... 164
Cases partly rectified	... 3
Cases not justified	... 27
Cases explained	... 146
Cases discontinued...	... 26
Cases not investigated	... 3
Cases not entertained	... 4
Cases pending as at 31 December 2009...	164

We also received 170 copies of complaints against various other bodies/institutions where we have tried to assist the complainants as much as

possible by following up their cases with such bodies/institutions until their determination.

Otherwise we received another 210 complaints relating to matters outside our jurisdiction. These cases were either brought before the proper fora or else we advised the writers where to turn for a solution to their problems.

### **Rodrigues**

We repaired to Rodrigues once during the year under review, from 27 to 30 January.

Altogether 47 persons called on us during three working days. They fell in three different categories – 1<sup>o</sup>: those whose cases were still being inquired into by our Office and who had been specifically summoned by us, 2<sup>o</sup>: others who came by themselves in order to be informed of progress in their cases and 3<sup>o</sup>: “newcomers”, as it were, who came to lodge their written complaints or otherwise to verbally inform us about their problems in which case they were explained the procedure to be followed.

Departmental Heads of Commissions were also summoned for further discussions regarding complaints made against such Commissions. This has been found to be a fruitful exercise in order to expedite matters.

At the end of the year under review we had registered 35 new cases from Rodrigues whereas the total number of cases dealt with amounted to 57, including pending ones. Remedial measures were taken in 16 of the cases whilst 19 remained pending for the ensuing year.

### **Independence of the Ombudsman**

The Ombudsman institution has existed for the last four decades in Mauritius. Not many institutions would have survived in its almost original form after so many years. It is essentially the guarantee of the independence of the institution that has allowed this to happen.

Whenever an Ombudsman has to be appointed the Constitution enjoins the appointing authority i.e. the President of the Republic, who is the Head of the State, to consult the Prime Minister, the Leader of the Opposition and leaders of other parties represented at the National Assembly before doing so (section 96(2) of the Constitution).

One can easily conclude that the above provision tries to ensure that the person to be chosen is acceptable to all political parties represented at the National Assembly. In other words, what is looked for is a broad consensus to appoint a truly independent and reliable person who is and who can stay above the fray of the political arena.

Further, section 96(3) of the Constitution provides that no person shall be qualified for appointment as Ombudsman if he is a member of, or a candidate for election to, the National Assembly or any local authority or is a local government officer, and no person holding the office of Ombudsman shall perform the functions of any other public office.

Although the Constitution is silent as regard other activities which an Ombudsman may exercise, it is my belief that other kinds of conflict of interests must also be avoided in order to guarantee the Ombudsman's total independence e.g. any other remunerated activity.

This reminds me of what the famous British constitutionalist, Professor S.A. de Smith, said in his 1964 report as Constitutional Commissioner for Mauritius, when addressing the question of the creation of the Ombudsman institution for Mauritius: "An Ombudsman cannot be bought off the peg; he must be made to measure."

Therefore the independence of the Ombudsman institution is absolutely vital for its credibility and I would even add for its survival. It is also one of the essential characteristics of the Ombudsman institution throughout the world and recognized by the International Ombudsman Institute, others being accessibility, flexibility and credibility.

The independence of the Ombudsman in our country is entrenched in our Constitution which provides that: “In the discharge of his functions, the Ombudsman shall not be subject to the direction or control of any other person or authority .....” (section 101 (1)).

Therefore, although the Ombudsman is appointed by the Head of the State he does not become the latter’s or the Government’s subordinate.

It is also important to underline that the Ombudsman’s Office has its own budget, including investigation expenses, and that too goes a long way to ensure the independence of the Office.

The Ombudsman is also empowered to initiate an investigation on his own motion and he may also require any minister, officer or member of any department or authority concerned or any person who in his opinion is able to furnish information or produce documents relevant to the investigation to

furnish any such information or produce any such document. Furthermore, no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in the public service imposed by any law in force applies to the disclosure of information for the purposes of an investigation by the Ombudsman, and the State is not entitled in relation to such an investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

Another feature of the independence of the Ombudsman is that he may only be removed from office on grounds specifically spelt out in the Constitution i.e. inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and following the procedure specifically laid down i.e. after a hearing by a special tribunal appointed by the President. This therefore does away with the possibility of his removal from office due to the political will of the powers that be.

However it may not be enough to be independent. One must also be seen to be independent. The Ombudsman is nobody's advocate but instead an advocate for administrative fairness. Whenever the Ombudsman knows for



himself that he is discharging his functions in an independent and impartial manner, he alone can rest content and have a good conscience. But when he is perceived as and reputed to be independent then everybody can sleep peacefully. Therefore the Ombudsman must first of all himself steer clear of any kind of conduct that can undermine his independence and public confidence in him.

In many foreign jurisdictions the independence of the Ombudsman is somewhat linked to his term of office which is sometimes only one mandate of so many years and sometimes a maximum of two mandates. It is believed, rightly or wrongly, that the Ombudsman may otherwise be inclined to favour the government of the day in order to seek, in return, further appointments. In other words it is feared that the Ombudsman may become a yes-man or worse a lap-dog instead of a watchdog.

In Mauritius however, where we have a multi-cultural and multi-religious society with a multi-party system, the law is silent on the number of mandates which the Ombudsman can hold and such a system has stood the test of time for more than four decades now. The Ombudsman's role is certainly not to lend comfort to the government but to expose its

shortcomings. It is all a question of “esprit d’indépendance et indépendance de l’esprit”.

The effectiveness and success of the Ombudsman institution depend however on the commitment of Government to uphold the independence of the institution and to give it the necessary support in fulfilling its mission.

When a government recognizes that its own organs are not infallible and empowers the Ombudsman to inquire into complaints against these organs whenever cases are referred to him and eventually accepts to take remedial measures whenever maladministration has occurred and brought to its attention, it is a sign of wisdom, openness and healthy democracy.

To conclude I would like to say that the Ombudsman is not above the citizens but instead at the service of citizens. And inasmuch as the Ombudsman is an independent institution he is able to help people resolve their problems with the administration without fear or favour.

### **Visitors from abroad**

Ms. Chantal Uwimana and Mr. Siphosami Malunga, delegates of an Africa Peer Review Mechanism (APRM) mission called on us on 29 July

2009 in the context of an APRM Country Review Mission led by Professor Mohamed-Seghir Babès.

The purpose of their mission was to assess whether the Mauritian Self Assessment Report had been carried out according to agreed standards in the fields of (i) Democracy and Political Governance and (ii) Economic Governance and Management, and would submit a report thereon.

Our visitors were mainly responsible for the Democracy and Political component and stated that the Ombudsman was one of the stakeholders to be contacted. Several questions of a general nature were asked by the visitors and we provided the answers. More specific questions, e.g. the availability of water which is considered as a right on its own were also dealt with. The delegates were also interested to know how we go about dealing with problems in Rodrigues. They were informed that we visit Rodrigues regularly, most of the time twice a year, and that we endeavour to listen to every person who has a complaint to formulate against the Administration there and thereafter give to the complaint all the attention it deserves.

The delegates also wanted to know whether we entertain complaints against the Police Force. They were informed that we do so in respect of

administrative matters but that we do not delve in criminal inquiries as such as same do not fall within our purview.

Views were also exchanged about the idea of having the Constitution of Mauritius translated into the Creole language. The delegates were also informed that we do entertain complaints in Creole although our replies are made in the English language.

### **Acknowledgements**

I am indeed thankful to the population at large for placing their trust in our Office and for resorting to our services whenever they wish to challenge the correctness/fairness of an administrative decision.

I would also like to extend my appreciation to the Supervising Officers/Chief Executives of all those ministries/departments/local authorities whose action I had to scrutinize during the year under review in the discharge of my functions and who cooperated fully with our Office in search of solutions to citizens' problems.

Finally, many thanks to my staff for their valuable assistance all along and for the preparation of this Report. I have also appreciated their high sense of duty and their commitment to work.

## **Appendices**

Appendix A reproduces Chapter IX of the Constitution which relates to the establishment, appointment, jurisdiction and powers of the Ombudsman.

Appendix B reproduces the Ombudsman Act which provides for the oath to be taken by the Ombudsman and his staff upon assumption of office, the procedure for lodging a complaint and other ancillary matters. The Act also makes it an offence for any person who influences or attempts to influence the decision of the Ombudsman with regard to a complaint made to or an investigation carried out by the Ombudsman, and similarly for any person who wilfully gives false or misleading information to the Ombudsman.

Appendix C contains summaries of a number of selected complaints against an array of ministries/government departments, local authorities and the Rodrigues Regional Assembly.

Appendix D is a statistical summary of the complaints received according to the ministry/department or local authority concerned as well as the Rodrigues Regional Assembly.

Appendix E gives a quick idea of the nature of the complaint, the authority concerned and the result of the case.

Attention is drawn to the fact that, for the purposes of this Report, the appellation of ministries at the time of opening of files has been retained.

**July 2010**

**(S.M. HATTEEA)**  
**Ombudsman**

**APPENDIX A**

**CHAPTER IX - THE OMBUDSMAN**

**96. Office of Ombudsman**

(1) There shall be an Ombudsman, whose office shall be a public office.

(2) The Ombudsman shall be appointed by the President, acting after consultation with the Prime Minister, the Leader of the Opposition and such other persons, if any, as appear to the President, acting in his own deliberate judgment, to be leaders of parties in the Assembly.

(3) No person shall be qualified for appointment as Ombudsman if he is a member of, or a candidate for election to, the Assembly or any local authority or is a local government officer, and no person holding the office of Ombudsman shall perform the functions of any other public office.

(4) The offices of the staff of the Ombudsman shall be public offices and shall consist of that of a Senior Investigations Officer and such other

offices as may be prescribed by the President, acting after consultation with the Prime Minister.

**97. Investigations by Ombudsman**

(1) Subject to this section, the Ombudsman may investigate any action taken by any officer or authority to which this section applies in the exercise of administrative functions of that officer or authority, in any case in which a member of the public claims, or appears to the Ombudsman, to have sustained injustice in consequence of maladministration in connection with the action so taken and in which –

- (a) a complaint under this section is made;
- (b) he is invited to do so by any Minister or other member of the Assembly; or
- (c) he considers it desirable to do so of his own motion.

(2) This section applies to the following officers and authorities -

- (a) any department of the Government;
- (b) the Police Force or any member thereof;



- (c) the Mauritius Prison Service or any other service maintained and controlled by the government or any officer or authority of any such service;
- (d) any authority empowered to determine the person with whom any contract or class of contracts is to be entered into by or on behalf of the Government or any such officer or authority;
- (e) the Rodrigues Regional Assembly or any officer of the said Assembly;
- (f) any local authority or any officer of such local authority;
- (g) such other officers or authorities as may be prescribed by Parliament:

Provided that it shall not apply in relation to any of the following officers and authorities -

- (i) the President or his personal staff;
- (ii) the Chief Justice;

- (iii) any Commission established by this Constitution or its staff;
- (iv) the Director of Public Prosecutions or any person acting in accordance with his instructions;
- (v) any person exercising powers delegated to him by the Public Service Commission or the Disciplined Forces Service Commission, being powers the exercise of which is subject to review or confirmation by the Commission by which they were delegated.

(3) A complaint under this section may be made by an individual, or by any body of persons whether incorporated or not, not being -

- (a) an authority of the government or a local authority or other authority or body constituted for purposes of the public service or local government; or
- (b) any other authority or body whose members are appointed by the President or by a Minister or whose revenues consist wholly or mainly of

money provided from public funds.

(4) Where any person by whom a complaint might have been made under subsection (3) has died or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or other individual suitable to represent him; but except as specified in this subsection, a complaint shall not be entertained unless made by the person aggrieved himself.

(5) The Ombudsman shall not conduct an investigation in respect of any complaint under this section unless the person aggrieved is resident in Mauritius (or, if he is dead, was so resident at the time of his death) or the complaint relates to action taken in relation to him while he was present in Mauritius or in relation to rights or obligations that accrued or arose in Mauritius.

(6) The Ombudsman shall not conduct an investigation under this section in respect of any complaint under this section in so far as it relates to -

(a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any law in force in Mauritius; or

(b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law:

Provided that -

(i) the Ombudsman may conduct such an investigation notwithstanding that the person aggrieved has or had such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect him to avail himself or to have availed himself of that right or remedy; and

(ii) nothing in this subsection shall preclude the Ombudsman from conducting any investigation as to whether any of the provisions of Chapter II has been contravened.

(7) The Ombudsman shall not conduct an investigation in respect of any complaint made under this section in respect of any action if he is given notice in writing by the Prime Minister that the action was taken by a Minister in person in the exercise of his own deliberate judgment.

(8) The Ombudsman shall not conduct an investigation in respect of any complaint made under this section where it appears to him -

- (a) that the complaint is merely frivolous or vexatious;
- (b) that the subject-matter of the complaint is trivial;
- (c) that the person aggrieved has no sufficient interest in the subject-matter of the complaint; or
- (d) that the making of the complaint has, without reasonable cause, been delayed for more than 12 months.

(9) The Ombudsman shall not conduct an investigation under this section in respect of any matter where he is given notice by the Prime Minister that the investigation of that matter would not be in the interests of the security of Mauritius.

(10) In this section, "action" includes failure to act.

**98. Procedure in respect of investigations**

(1) Where the Ombudsman proposes to conduct an investigation under section 97, he shall afford to the principal officer of any department or authority concerned, and to any other person who is alleged to have taken or authorised the action in question, an opportunity to comment on any allegations made to the Ombudsman in respect of it.

(2) Every such investigation shall be conducted in private but, except as provided in this Constitution or as prescribed under section 102, the procedure for conducting an investigation shall be such as the Ombudsman considers appropriate in the circumstances of the case; and without prejudice to subsection (1), the Ombudsman may obtain information from such persons and in such manner, and make such enquiries, as he thinks fit, and may determine whether any person may be represented, by counsel or attorney or otherwise, in the investigation.

**99. Disclosure of information**

(1) For the purposes of an investigation under section 97, the Ombudsman may require any Minister, officer or member of any department or authority concerned or any other person who in his opinion is able to furnish

information or produce documents relevant to the investigation to furnish any such information or produce any such document.

(2) For the purposes of any such investigation, the Ombudsman shall have the same powers as the Supreme Court in respect of the attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad) and in respect of the production of documents.

(3) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in the public service imposed by any law in force in Mauritius or any rule of law shall apply to the disclosure of information for the purposes of any such investigation, and the State shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

(4) No person shall be required or authorised by virtue of this section to furnish any information or answer any question or produce any document relating to proceedings of the Cabinet or any committee of Cabinet, and for the purposes of this subsection, a certificate issued by the Secretary to the

Cabinet with the approval of the Prime Minister and certifying that any information, question or document so relates shall be conclusive.

(5) The Attorney-General may give notice to the Ombudsman, with respect to any document or information specified in the notice, or any class of documents or information so specified, that in his opinion the disclosure of that document or information, or of documents or information of that class, would be contrary to the public interest in relation to defence, external relations or internal security; and where such a notice is given nothing in this section shall be construed as authorising or requiring the Ombudsman or any member of his staff to communicate to any person for any purpose any document or information specified in the notice, or any document or information of a class so specified.

(6) Subject to subsection (3), no person shall be compelled for the purposes of an investigation under section 97 to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before the Supreme Court.



**100. Proceedings after investigation**

(1) This section shall apply in every case where, after making an investigation, the Ombudsman is of the opinion that the action that was the subject-matter of investigation was -

- (a) contrary to law;
- (b) based wholly or partly on a mistake of law or fact;
- (c) unreasonably delayed; or
- (d) otherwise unjust or manifestly unreasonable.

(2) Where in any case to which this section applies the Ombudsman is of the opinion -

- (a) that the matter should be given further consideration;
- (b) that an omission should be rectified;
- (c) that a decision should be cancelled, reversed or varied;
- (d) that any practice on which the act, omission,  
decision or recommendation was based should  
be altered;
- (e) that any law on which the act, omission, decision  
or recommendation was based should be  
reconsidered;

(f) that reasons should have been given for the decision; or

(g) that any other steps should be taken,

the Ombudsman shall report his opinion, and his reasons, to the principal officer of any department or authority concerned, and may make such recommendations as he thinks fit; he may request that officer to notify him, within a specified time, of any steps that it is proposed to take to give effect to his recommendations; and he shall also send a copy of his report and recommendations to the Prime Minister and to any Minister concerned.

(3) Where within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, if he thinks fit, after considering any comments made by or on behalf of any department, authority, body or person affected, may send a copy of the report and recommendations to the Prime Minister and to any Minister concerned, and may thereafter make such further report to the Assembly on the matter as he thinks fit.

#### **101. Discharge of functions of Ombudsman**

(1) In the discharge of his functions, the Ombudsman shall not be subject to the direction or control of any other person or authority and no

proceedings of the Ombudsman shall be called in question in any court of law.

(2) In determining whether to initiate, to continue or discontinue an investigation under section 97, the Ombudsman shall act in accordance with his own discretion, and any question whether a complaint is duly made for the purposes of that section shall be determined by the Ombudsman.

(3) The Ombudsman shall make an annual report to the President concerning the discharge of his functions, which shall be laid before the Assembly.

#### **102. Supplementary and ancillary provision**

There shall be such provision as may be prescribed for such supplementary and ancillary matters as may appear necessary or expedient in consequence of any of the provisions of this Chapter, including (without prejudice to the generality of the foregoing power) provision –

- (a) for the procedure to be observed by the Ombudsman in performing his functions;
- (b) for the manner in which complaints under

section 97 may be made (including a requirement that such complaints should be transmitted to the Ombudsman through the intermediary of a member of the Assembly);

- (c) for the payment of fees in respect of any complaint or investigation;
- (d) for the powers, protection and privileges of the Ombudsman and his staff or of other persons or authorities with respect to any investigation or report by the Ombudsman, including the privilege of communications to and from the Ombudsman and his staff; and
- (e) the definition and trial of offences connected with the functions of the Ombudsman and his staff and the imposition of penalties for such offences.

**APPENDIX B**

**THE OMBUDSMAN ACT**

**1. Short title**

This Act may be cited as the Ombudsman Act.

**2. Oaths of office**

(1) Before performing the duties of their respective offices, the Ombudsman and the Senior Investigations Officer shall take an oath before a Judge that they will faithfully and impartially perform the duties of their offices and that they will not, except in accordance with Chapter IX of the Constitution and this Act, divulge any information received by them in the exercise of their duties.

(2) The other members of the staff of the Ombudsman shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their duties.

(3) Every person mentioned in subsection (2) shall, before entering upon the exercise of his duties, take an oath to be administered by the Ombudsman, that he will not, except in accordance with Chapter IX of the Constitution and this Act, divulge any information received by him in the exercise of his duties.

### **3. Procedure**

(1) Any complaint made to the Ombudsman shall be in writing and, subject to subsection(2), a copy of the complaint shall be communicated to a member of the Assembly.

(2) Notwithstanding any other enactment, where a letter is written to the Ombudsman by a person who is in legal custody or who is an inmate of a mental hospital or other similar institution, the person in charge of the place where the writer of the letter is detained or is an inmate shall forward the letter unopened immediately to the Ombudsman.

### **4. Action by department not affected by investigation**

The conduct of an investigation by the Ombudsman shall not affect any action taken by the department or authority concerned, or any power or duty

of that department or authority to take further action with respect to any matter which is the subject of the investigation.

**5. Privilege of communication**

For the purposes of any enactment relating to defamation, the publication, by the Ombudsman or by any member of his staff, of any report or communication and the publication to the Ombudsman or to any member of his staff of any complaint or other matter shall, if made in accordance with Chapter IX of the Constitution and this Act, be absolutely privileged.

**6. Offences**

(1) Any person who, otherwise than in the course of his duty, directly or indirectly, by himself or by any other person, in any manner influences or attempts to influence the decision of the Ombudsman with regard to any complaint made to him or to any investigation made by him, shall commit an offence.

(2) Subject to Chapter IX of the Constitution, any person who is requested by the Ombudsman or by any member of his staff, acting in the exercise of his duties, to furnish any information or to produce any document

and who wilfully fails to furnish the information or to produce the document, shall commit an offence.

(3) Any person who, in connection with any matter which lies within the province of the Ombudsman, wilfully gives him any information which is false or misleading in a material particular, shall commit an offence.

(4) Any person who commits an offence under this section shall be liable, on conviction, to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 12 months.

## **7. Expenses and allowances**

The Ombudsman may, where he thinks fit, pay to any person by whom a complaint has been made or to any person who attends, or furnishes information for the purposes of, an investigation, sums in respect of expenses properly incurred or by way of allowance or compensation for loss of time, in accordance with such scales and subject to such conditions as may be prescribed.

## **8. Administrative expenses**

The administrative expenses of the office of the Ombudsman together



with such other expenses as may be authorised under this Act shall, with the approval of Parliament, be charged on the Consolidated Fund.

**9. Regulations**

(1) The Cabinet may make such regulations as it thinks fit for the purposes of this Act.

(2) Notwithstanding the generality of subsection (1), such regulations may provide for the scale according to which any sum may be paid to complainants or to persons attending, or furnishing information for the purposes of, an investigation.

## **APPENDIX C**

### **SELECTED COMPLAINTS**

The following summaries of selected complaints have been divided into four categories, namely -

1° Problems solved promptly

2° Rodrigues cases

3° Own motion cases

4° Others

#### **1° Problems solved promptly**

These are cases in which remedial action was taken as soon as they were referred to the appropriate authority and without further ado. They all concern local authorities.

LA/C/17/2009 - Abandoned plot of land in Vacoas-Phoenix being a source of nuisance and health hazard for the inhabitants and which also poses security problems: drain works

undertaken by contractor on behalf of the Municipal Council concerned; trees along the alignment of drain constructed removed; leaves, branches and trunks carted away.

LA/C/19/2009 - Well frequented road within jurisdiction of Pamplemousses-Rivière du Rempart District Council in very bad state: patching works carried out by District Council.

LA/C/26/2009 - Road in deplorable state with no name plate in Poste de Flacq: road reinstated and name plate fixed by District Council.

LA/C/32/2009 - Barelands in Vacoas are a source of nuisance to public in general: same cleaned by Municipal Council of Vacoas-Phoenix during a general clean-up campaign.

LA/C/34/2009 - Plot of land in Camp Ithier is a source of nuisance for neighbourhood and passers-by in general: cleaned by F.U.E.L. Sugar Estate.

- LA/C/38/2009 - Gutters in front of complainant's house not cleaned despite several requests made since one year: Sanitation Team of Municipal Council of Port Louis effected general cleaning of drain on two occasions; proper cleanliness maintained by Drain Cleansing Team.
- LA/C/52/2009 - Damaged handrail of bridge at Royal Road, Bonne Mère represents danger for users thereof: appropriate action taken by Moka-Flacq District Council to reinstate the handrail.
- LA/C/54/2009 - Stream near Police Station of Vieux Grand Port full of garbage: refuse carted away by Grand Port-Savanne District Council and stream kept under regular control of Council to ensure maximum public health safety.

## **2° Rodrigues cases**

### **ROD/C/35/2007**

#### **Application for lease of State land finally granted**

The gist of Mrs. D.M.'s complaint dated 23 October 2007 was to the effect that she applied for the lease of a plot of State land for commercial purposes fifteen years back and it was only in November 2006 that she received a reply to her application whereby she was invited to effect payment of rent up to 30 June 2007 within a period of one month as from the date of that reply (24 November 2006). She effected payment on 8 December 2006.

In June 2007 when she called at the Cashier's Office for further payment she was informed that such payment could not be accepted but unfortunately she was not told why. She therefore enlisted our help in the matter.

We queried the Departmental Head, Chief Commissioner's Office, about the matter but as we received no reply after a period of six months we convened the said Departmental Head in Rodrigues whilst on a working trip there in the month of May 2008 and learned that they were still looking for the relevant file. All the same, after further discussion, we received a

comprehensive reply from the Departmental Head three months after our return to Mauritius to the effect that it had been decided to cancel the lease of Mrs. D.M. as the land had been earmarked for a Government project. However, after some time Government decided to drop the project and the lease granted to Mrs. D.M. was therefore revived and we were informed that the Cadastral Office had been instructed to finalise the lease.

Finally, it was on 7 May 2009 that the lease agreement in favour of Mrs. D.M. was handed over to her.

This case took some time to be resolved but in the end Mrs. D.M. was entirely satisfied with our intervention for which she thanked us profusely.

**ROD/C/10/2008**

**Dispute settled following Ombudsman's intervention**

This is a complaint from one Ms. C. who had been working in Rodrigues for a Mauritian company which had one of its branches there. She started to work on 26 September 2004 but was dismissed on 31 July 2007. According to her, her dismissal was unjustified and she was offered the sum of Rs 9000/- by the company in full satisfaction. Considering the offer to be unreasonable she reported the matter to the Labour Office. Unfortunately the matter dragged for about a year without any agreement being reached on her behalf.

In May 2008 she called on us with a written complaint whilst we were on a working trip in Rodrigues and sought our intervention.

We took up her case with the Departmental Head, Commission for Youth and Sports, Labour and Industrial Relations and Employment who first informed us that the matter was discussed with the branch Manager but as the latter had also been dismissed from her job because the company had ceased to operate in Rodrigues on account of acute financial difficulties, the matter

was referred to the Head Office in Mauritius with all the records and documents.

I pursued the matter with the Permanent Secretary, Ministry of Labour and Industrial Relations & Employment in Mauritius following which the officers of that Ministry held several meetings with the management of the company in Mauritius. An offer of Rs 20000/- was made by the company which increased it to Rs 30000/- but same was turned down by the complainant. During a further meeting with her in Rodrigues during another visit, she expressed the wish that a case be entered before the court in Rodrigues.

I therefore informed the Ministry accordingly and a case was thus lodged before that court.

However, after a few postponements, an amicable settlement was reached between the parties whereby the complainant accepted an offer of Rs 40000 which was immediately paid to her through a bank transfer.

I am thankful to the Ministry of Labour, Industrial Relations & Employment for taking this case in earnest after my intervention.



**ROD/C/18/2008**

**Building materials provided to destitute mother**

This is the case of a destitute mother of a daughter of four years of age who has been waiting for assistance from the Trust Fund for the Social Integration of Vulnerable Groups (TFSIVG) for one and a half years.

I took up her complaint with the Chief Commissioner's Office and in view of her dire living conditions the authorities in Rodrigues decided to give special attention to her case, although my attention was drawn to the fact that she was one of the three hundred proposed beneficiaries of the forthcoming housing scheme.

Whilst on a working trip to Rodrigues in January 2009 in company of the Senior Investigations Officer of my Office, we effected a site visit where the lady showed us a C.I.S. house which she had constructed with materials received from the TFSIVG and stated that she was satisfied with our intervention. She however showed us the flooring which had not yet been completed but made no further request there and then. It was after our return that she wrote to us again making a further request for additional materials to complete the floor.

Her request was referred to the Chief Commissioner's Office and within one month additional materials were made available to the lady to complete the floor of her house.

**ROD/C/35/2008**

**Transfer of lease processed after Ombudsman's intervention**

Three months after having applied for a transfer of lease of State land from the name of his deceased father onto that of his widowed mother, J.P.M. saw nothing coming, notwithstanding several visits at the Cadastral Office to enquire about the application. So he wrote to me saying “you are our only resort to speed up the procedure”.

J.P.M.'s letter was received on 27 November 2008 and the next day I queried the Chief Commissioner's Office about the status of the application. Twenty days later I was informed that the application was still under process but had reached an advanced stage. It was expected to complete the whole procedure in early January 2009.

However, in February 2009 the application was still being processed but contact with the applicant was maintained.

On 11 March 2009 a letter of intent was issued on the name of J.P.M.'s mother and a week later he reported at the Cadastral Office for payment.

I was further informed that the next step would be the preparation of the lease agreement and thereafter J.P.M.'s mother would be called for signature. Indeed I was favoured with a copy of the letter of intent which spelled out the numerous conditions to be fulfilled, giving the mother a month's time to state whether she was agreeable to the offer, which she did.

Finally, on 23 July 2009 J.P.M. obtained the transfer he had applied for i.e. a new lease in the name of his mother.

**ROD/C/9/2009**

**Anomaly in salary removed**

In January 2009 Mr. R.J.P. called on us in Rodrigues to verbally explain his problem regarding an anomaly in his salary. Subsequently, at our request, he submitted a written complaint which disclosed that following the P.R.B. Report 2008 his salary was less than that of a colleague of his although he was the senior of that colleague. Both had however joined the service on the same day with the same starting salary.

Inquiry revealed that R.J.P., along with three other colleagues joined the service as Fireman on 24 January 1994 in a temporary capacity. Two of those officers were subsequently appointed in a substantive capacity in the grade on the same date and the third one on 12 April 1994. R.J.P. was appointed in a substantive capacity on 28 February 1995 and was confirmed on 28 February 1996 after one year's probation, whereas he should have been confirmed on the same date i.e. 28 February 1995 since he then reckoned more than one year's service in a temporary capacity in the same grade. It would appear that the contents of PSC Circular No. 1 of 1990 dated 7 August 1990 had not been complied with in the case of R.J.P.

Consequently R.J.P.'s confirmation was backdated to 28 February 1995 and his salary was accordingly adjusted.

He confirmed having received his increment together with arrears owed to him.

**ROD/C/13/2009**

**Outstanding balance paid to complainant long after it became due**

Mr. L.T.W., a retired public officer who had worked during forty-two years in the government service, complained that the compensation he received from the “Social Security Fund” (Rs 18000/-) fell short of what was in fact due to him. He had retired in August 2006.

Inquiry revealed that in fact he had been paid the sum of Rs 21,994.66 from the National Savings Fund one month after his retirement and that a further sum amounting to Rs 13,243.18 was still due to him.

Within two months from the date of his complaint L.T.W. was paid the outstanding amount.

**ROD/C/17/2009**

**Salary adjusted and arrears paid**

Mrs. M.A.K. emailed her complaint to us on 15 May 2009 to the effect that whilst perusing the PRB Report 2008 she discovered a gross discrepancy concerning her salary which she averred having existed since several years.

She did not give any details about the alleged discrepancy but she simply requested that the necessary adjustments be made to her salary, claiming “arrears due to me since all these years that I have been underpaid”.

Her case was duly examined and it was indeed found that she had been shortpaid since 7 August 1991: she had not been granted one additional increment on confirmation. The shortpayment covered the period 7 August 1991 to 5 November 1995. Mrs. M.A.K. was therefore paid all sums that were due to her.

As from 6 November 1995 however, upon her appointment as Community Health Worker, the salary drawn by her was correct.



**ROD/C/27/2009**

**Permission to sell building standing on State land granted**

On 10 July 2009 Mrs. M.M.F. wrote to the Departmental Head of the Commission responsible for State land informing the latter that she intended to sell the building standing on State land which she had obtained for purposes of a residential lease and sought permission to do so and requested that the lease be transferred on to the name of one Mrs. V.H.G.

Mrs. M.M.F. was first called at the Cadastral Unit on 27 July 2009 for purposes of enquiry and subsequently, on various occasions, she and the prospective buyer were asked to call at the Cadastral Unit for further enquiry and were eventually requested to fill in certain forms.

After the procedure at the Cadastral Unit was completed her file was sent back to the Departmental Head she had written to. From then on, in spite of several visits she paid at the Departmental Head's Office, she did not hear anything about her application.

As Mrs. M.M.F. was desperate because she had to take a decision concerning her son's medical studies abroad she lodged a complaint before me.

The version of the Departmental Head was that they had to verify the eligibility of the purchaser, which was time-consuming, before granting permission. All the same after verification approval was conveyed less than three weeks later and Mrs. M.M.F. indeed wrote back to convey her appreciation and thanks for prompt action taken in the matter.

**3° Own motion cases**

**MINISTRY OF ENVIRONMENT AND NATIONAL  
DEVELOPMENT UNIT**

**C/206/2009**

**Polluted canal cleared**

An article in one of our dailies of 17 September 2009 entitled “La pollution dans un canal incommode les habitants” formed the subject-matter of an investigation opened by me.

According to that article the water in that canal was completely polluted and had already, on account of the smell it propagated, affected the health of certain members of the thirty-odd families living in the vicinity.

Although the matter had been reported to the Police of the locality there was some confusion as to who was the enforcing agency in such a case because the origin of the nuisance had not been ascertained.

I seized the Ministry of Environment and National Development Unit in the first place but as this problem did not fall under its purview the matter was referred to the Ministry of Health and Quality of Life, the Wastewater Management Authority and to the Municipal Council of Port Louis for investigation and remedial action.

One month later it was reported that the Sanitation Section of the Municipal Council of Port Louis had cleared the canal of all kinds of objects that were obstructing the free flow of water and which at some points caused the water to be stagnant and be in a putrefied state thus giving rise to odour nuisances.

The inhabitants were certainly relieved by action taken soon after they alerted the Press.

**MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT**

**C/70/2008**

**Families living in very poor conditions obtain building materials through Ombudsman's intervention**

The case of one Mrs. L.C. as reported in the Press in an article entitled “Une insoutenable misère” caught my attention. That 75 year-old lady was the grandmother of three grandchildren aged 4, 3 and 1½ years who were living with her ever since the parents of the children had separated. And she had to manage with her own old-age pension which amounted to a little over Rs 2000/-. The house they occupied was described as a “bicoque de deux pieces en tôle” and obviously life was very miserable for them all. It was situated in the village of Saint-Hilaire.

It would appear, according to the lady herself, that an Officer of the Trust Fund for the Integration of Vulnerable Groups (TFIVG) had visited the place some time back and had promised to provide them with building materials to put up a proper “house”. Unfortunately that promise was only half-kept and the officer never set foot there again.

As a rule the Fund provides materials to needy/vulnerable families for the construction of one or two-room corrugated iron sheet housing units and the beneficiaries would normally take the responsibility of constructing the housing units. The Social Facilitator of the Fund normally advises the families to construct the housing units according to a standard model provided by the Fund.

Upon my intervention the case of Mrs. L.C. was inquired into and it was revealed that, although Mrs. L.C. undertook to construct her house according to the model provided, she started the construction of a four-room house instead of a two-room house. As a result the materials delivered to her proved to be insufficient to complete the construction. Hence her need and request for additional materials, which was however turned down as this would have created a precedent and opened the floodgate for similar requests.

It so happened that the daughter of Mrs. L.C. had also applied for assistance and therefore she was encouraged to construct her housing unit adjacent to her mother's unit and thus complete the latter's unit. The daughter agreed to the proposal and construction materials were made available to her but unfortunately, after a while, mother and daughter did not

see eye to eye and therefore the daughter used the materials delivered to her to construct her own house on another site.

Matters rested there for a few years until Mrs. L.C.'s two sons each applied for assistance for construction on the same site as hers. It was proposed to them to construct their house adjacent to that of their mother which they agreed to do.

Finally, the Fund delivered sufficient construction materials to the sons of Mrs. L.C. as to allow them to construct their own housing units and complete that of Mrs. L.C.

**MINISTRY OF RENEWABLE ENERGY AND PUBLIC UTILITIES**

**C/30/2009**

**Electric pole displaced**

According to a press article of 26 January 2009 there was an electric pole in the village of Goodlands which represented a real danger to passers-by as the pole, for reasons unknown, was in an inclined position with its wire hanging close to the surface of the pavement/road.

I immediately requested the Ministry to take up the matter with the appropriate authority in order to have necessary and immediate action taken. According to information from the Central Electricity Board the pole was the property of the Pamplémousses-Rivière du Rempart District Council. The Council was therefore requested by the Ministry to displace the pole to a safer location, which was done without undue delay.

An accident has therefore been avoided.



**MOKA – FLACQ DISTRICT COUNCIL**

**LA/C/14/2009**

**Road resurfaced and traffic sign refixed**

Several roads in the region of the eye-hospital in Moka were reported in an article to be in a very bad state: pot holes all over causing muddy water to accumulate during rainfall and consequently rendering the driving of vehicles along these roads extremely difficult and hazardous. Furthermore, the “No Entry” traffic sign at the beginning of one of the roads had given way and therefore certain motorists were driving in the wrong direction, either knowingly or unknowingly, at their own risk and peril.

It would appear that this situation existed since more than five years and the Council had merely been doing patching works instead of reconstructing the roads.

On the same day I took cognizance of that article I took up the matter with the Chief Executive of the District Council and a few days later he informed me that the Council would be informed of the situation at its next meeting and a decision taken. In the meantime ..... patching works would be undertaken!

A few months later I was informed by the Chief Executive that Villa Road, which was the most important amongst the roads concerned and where the bus-stop nearest to the hospital was situated, had already been resurfaced and later on the “No Entry” sign was fixed again.

**MUNICIPAL COUNCIL OF BEAU BASSIN – ROSE HILL**

**LA/C/8/2009**

**Abandoned land cleaned up**

A plot of abandoned land at Morcellement La Confiance, Beau Bassin, had, according to a press article, become “un repaire pour malfaiteurs”. Although various representations had been made to the Council by the inhabitants of that Morcellement no action had been taken. Some of them have also alleged that the land was infested with rats.

When I took up the matter with the Chief Executive of the Council he informed me that a notice had been served on one Mr. C.A., presumably the owner of the plot of land, and that a delay had been granted to him to clean up his land.

Finally it turned out that it was the Council itself that cleared the land. As my objective had been achieved there was no need for me to pursue this matter further in order to know whether the Council had charged the owner for expenses incurred.

**LA/C/9/2009**

**Remedial action taken in respect of unoccupied land  
which was a source of nuisance**

A press article with the title “Atteinte à la santé et la sécurité publiques” caught my attention and was made the subject-matter of an investigation on my own motion.

The Municipal Council concerned was requested to look into the matter forthwith as the article concerned an unoccupied plot of land of an extent of nearly five acres which had become a meeting place for drug addicts and a waste-dumping place and, in respect of which, according to the article, nothing had been done in spite of numerous representations made to the relevant authorities.

In a first report submitted, the Chief Executive of the Council informed me that two of the owners who had been identified had started cleaning their respective plots of land whilst another owner had requested for a short extension of delay to do the needful.

I am pleased to say that within a period of three months all the plots of land had been cleaned by their respective owners, although I deplore the fact that the authorities concerned had simply ignored the representations made since a number of years.

**MUNICIPAL COUNCIL OF PORT LOUIS**

**LA/C/13/2009**

**Whole area around church revamped**

I seized the Chief Executive of the Council at the end of March 2009 in respect of a press article which disclosed, with the help of an accompanying photo, how certain streets in the vicinity of a church in the city centre were full of pot holes with stagnant water and also how certain pavements were so uneven that they constituted a permanent danger to one and all at all times.

Although I had to keep pressing the said Chief Executive a number of times, I am pleased to say that within a few months the following works had been effected:

- (i) clearing of blocked drain;
- (ii) levelling of uneven stone pavement;
- (iii) reinstatement of stone pavements and jointing works;
- (iv) fixing of metal grill in three streets;
- (v) patching works in the vicinity of the church,

and the whole area thus rendered more salubrious and pleasant.

**PAMPLEMOUSSES-RIVIERE DU REMPART DISTRICT COUNCIL**

**LA/C/12/2009**

**Public beach put back in order**

An article, accompanied by a picture, carried in one of our dailies, spoke about a public beach in the north of the island which was in a decrepit state: “herbes folles, déchets entassés, poubelles et bancs endommagés, kiosque en décrépitude ...”. According to the author of the article such a state of affairs was due to an insufficient scavenging service by the Council workers, especially since the contract for the maintenance of that beach with a private company had not been renewed.

When I seized the Chief Executive of the District Council concerned he informed me that he had referred the matter to the Beach Authority for necessary action. I therefore called upon the Director of the Beach Authority to inform me of any action taken at its end. This time the General Manager of the Beach Authority informed me that he had referred the matter to the Ministry of Local Government, Rodrigues & Outer Islands (Local Government Division) for remedial action as it was the latter which was

responsible for the day to day cleaning, repairs and maintenance of amenities such as toilets, kiosks, lighting, etc. on public beaches. The said General Manager accompanied his own letter with a copy of the letter he wrote to the said Ministry.

The Ministry itself volunteered a reply to me some nine days later to inform me that indeed the works to be carried out did fall under the Field Services Unit of that Ministry and that it had already done the needful in respect of the grass, which had grown at a rapid pace due to recent rainfall, and other remedial action taken.

Indeed after I kept pressing the Ministry I was informed that the three kiosks found at the public beach had been painted anew and the benches which had been broken through acts of vandalism had been repaired.



**4° Others**

**MINISTRY OF AGRO INDUSTRY, FOOD PRODUCTION**  
**AND SECURITY**

**C/37/2009**

**Land Conversion Permit granted**

The gist of S.J.'s complaint was that his application for a Land Conversion Permit made some six months back has not been approved on the ground that his land is found within the Irrigation Boundary Project, which he contested.

Upon being asked to explain its position the Ministry indeed informed me that the application was not recommended as the site was found within the operating boundary of the Northern Plains Irrigation Project – Phase II and that S.J. was accordingly informed within three months' time.

However, I was informed one month later that Government had decided not to proceed with the implementation of the Phase II as above and that S.J.'s application would be re-examined at the next Land Conversion Committee.

I therefore followed up the matter throughout until I was informed that the application had been submitted to Cabinet for approval and that thereafter the Land Conversion Permit would be issued.

Indeed a couple of weeks later the Ministry itself informed S.J. that his application had been granted and issued the Permit to him.

**MINISTRY OF EDUCATION, CULTURE AND**  
**HUMAN RESOURCES**

**C/212/2009**

**Complainant's son gets admission to nearby school**

Mr. I.R.G. lodged a complaint dated 28 September 2009 to the effect that his son had been admitted to a primary school situated at almost thirty minutes walking distance from their residence whereas there is another primary school near their residence at less than five minutes walk where he had applied for admission for the said boy, well within the prescribed delay for admission and had submitted all relevant documents. He therefore requested a review of that decision.

Following my query the Ministry admitted that the name of the boy was not even on the provisional list of pupils to be admitted to the school requested and therefore the Zone Directorate reconsidered the matter and included the boy's name on that list. By letter dated 3 December 2009 the father i.e. the complainant was accordingly informed by the Ministry itself that his son would be admitted to the school he requested.

Mr. I.R.G. did not fail to thank us for our “precious help” through an end-of-the-year greetings card.

**MINISTRY OF EDUCATION AND HUMAN RESOURCES**

**C/124/2007**

**Discrepancy in salary removed**

This is a complaint dated June 2007 from one P.K.U., an Education Officer, to the effect that an unjust interpretation of paragraph 27.51 of the P.R.B. Report 2003 has been causing him prejudice inasmuch as another Education Officer, junior to him, was earning a higher salary than him. P.K.U. also added that he had obtained higher qualifications for which he was receiving an allowance but the Ministry had refused to add the said allowance to his salary.

The Pay Research Bureau had indeed at paragraph 27.51 of its Report in 2003 recommended that the monthly allowance payable to Education Officers, not possessing the qualifications to cross the Q.B. and who are called upon to teach sixth form subjects in scarcity areas, be added to their basic salary once they obtain the qualifications to cross the Q.B.

P.K.U. had made a request to that effect in 2004 but he claimed that the said allowance should be added to his salary as from 22 January 1998, date on

which he upgraded his qualifications and thus became eligible to cross the Q.B. as per the Scheme of Service of his post.

However P.K.U.'s request was turned down as the said recommendation did not have retrospective effect. P.K.U. protested in saying that a junior Education Officer is drawing a higher salary than him because the latter who had upgraded his qualification in 2004 had benefitted from the said recommendation i.e. allowance added to basic salary.

The Ministry agreed in its letter dated 21 April 2008 that an anomaly had thus been created whereby a junior officer would draw a higher salary than a senior officer inasmuch as a recommendation in the PRB Report 2003 could not be applied to cases anterior to 2003 in the absence of a cut-off date for all cases anterior to 2003. The Ministry thus made a proposal for a cut-off date to the P.R.B.

Unfortunately the P.R.B. made no such recommendation in its 2008 Report, whereupon the case of P.K.U. was referred to the Ministry of Civil Service and Administrative Reforms for further consideration. That Ministry referred the matter anew to the P.R.B. with additional information and finally the P.R.B. recommended that P.K.U.'s salary be adjusted hypothetically as from 1 July 2005 and effectively as from 1 July 2008.

Asked whether he was satisfied P.K.U. made no reply. All the same the discrepancy in his salary was removed.

**C/232/2007**

**Special allowance paid to complainant**

Mrs. O.B., a Hindi-language teacher, averred that she had, at the request of government, delivered courses in the context of a “cours de rattrapage” for those people who wanted to follow an asian language but who had never done so before.

Unfortunately she was not paid any allowance that was due to her whereas her other colleagues had received theirs for delivering the same courses. Apparently she had even been to the Inspectorate Section of the Ministry for her allowance but in vain. She therefore enlisted my assistance in the matter.

It so happened that the school where Mrs. O.B. had delivered her courses had closed down a long time ago and therefore retrieving her record proved to be difficult. All the same I was assured by the Supervising Officer of the Ministry that every effort was being made to make an accurate reply to my office and that whatever was due to Mrs. O.B. would be paid to her.



Finally, a year later, searches proved positive and action was taken to settle the amount due to Mrs. O.B.

We were deeply touched by Mrs. O.B.'s reply in which she thanked us "from the bottom of my heart because without your help no one in the Ministry was ready to do something for me."

All is well that ends well.

**MINISTRY OF FINANCE AND ECONOMIC EMPOWERMENT**

**C/70/2009**

**Allowance for performing higher duties paid to Officer**

According to Mr. M.B.K., Assistant Financial Operations Officer (AFOO) at the Ministry of Finance and Economic Empowerment, he was called upon to perform the duties of Financial Operations Officer (FOO) in the Judicial Department as from 29 July 2008 but received no allowance for doing so.

The version of the Financial Secretary was that his Ministry was awaiting the approval of the Public Service Commission for such assignment of higher duties in respect of officers of the Financial Operations Cadre, including Mr. M.B.K. and upon his attention being drawn to an old letter dating back to 1973 from the Public Service Commission to the effect that the Commission had delegated its power of appointment in respect of the grade of Financial Operations Cadre to the Financial Secretary and that filling of vacancies whether permanent, temporary or acting may be approved at the level of the Ministry provided no supersession is involved, action was being

initiated for the payment of an appropriate allowance to Mr. M.B.K. with effect from 14 July 2008 until further notice. The first payment, including arrears as from July 2008, to be effected in July 2009.

On 12 July 2009 Mr. M.B.K. wrote to express his thanks for action taken on his behalf.

**MINISTRY OF HEALTH AND QUALITY OF LIFE**

**C/49/2009**

**Odour nuisance abated**

V.P. emailed us his complaint about foul odour nuisance caused by pig-rearing near his house. He averred having also complained to the District Council, the Health Office of his locality, the Police de L'Environnement, but to no avail.

We took up the matter with the Senior Chief Executive, Ministry of Health and Quality of Life who informed me that a Notice had been served upon the offender requesting him to either shift or stop keeping pigs on his premises and he was given a delay of fifteen days to comply.

Subsequent visits were effected after the delay had expired but the premises were found to be under lock, whilst a further visit some time later revealed that the notice had been complied with and no odour nuisance was detected.

Indeed the complainant confirmed that no sanitary nuisance existed any more.

**MINISTRY OF HOUSING AND LANDS**

**C/113/2009**

**Complainant obtains development permit fifteen  
days after complaining to the Ombudsman**

On 12 May 2009 A.C. complained that he had not received any reply whatsoever to his application more than a year before to the Ministry for a development permit for the renovation of an old building found on State land at Tamarin. To this end he had deposited all relevant documents ever since February 2008.

I looked into the matter with the Ministry and the following facts were revealed:

- A.C. holds a residential cum commercial site lease (for the purpose of running a General Retailer's shop and a tobacco shop) over a plot of State land of an extent of 359m<sup>2</sup> being Lot 40A of Tamarin Bay Village for period to expire on 30 June 2020.
- In March 2008, he submitted development plans for the renovation and extension of the building he has constructed over the above-mentioned site.

- On 17 April 2008, he was requested to submit additional information and amended plans on the proposed renovation and extension project to enable further processing of his application.
- The information was submitted on 12 May 2008.

Following my intervention A.C. was informed on 22 May 2009 that the Ministry had no objection to amend the lease to allow him to put up a first floor on top of the existing building to be used as residential units by his children. A.C. was given a delay of one month to confirm his acceptance and to pay for the new rental. Planning clearance for the development project would be issued by the same Ministry once the lease agreement had been amended and signed.

By letter dated 28 May 2009 A.C. confirmed having received the Ministry's approval.

**MINISTRY OF LABOUR, INDUSTRIAL RELATIONS**  
**AND EMPLOYMENT**

**C/141/2009**

**Job Contractor's Permit issued to complainant**  
**following the Ombudsman's intervention**

I received a complaint dated 22 June 2009 from one Mr. S.J. to the effect that he had applied to the Ministry of Labour, Industrial Relations & Employment for a permit to work as Job Contractor since more than one month but received no reply whatsoever. He depended on such a permit to start a business of his own.

The version of the Permanent Secretary was that one of the criteria, set by the Ministry, to obtain a Job Contractor's Permit was that an applicant should have at least five years experience in the relevant field. However, according to the documents submitted by S.J. in support of his application, especially a recommendation from his ex-employer, there was no clear indication regarding the field of activities in which that employer was operating.

The employer was therefore contacted by the Ministry and asked for clarification, which was readily provided in a letter dated 6 July 2009.

The next day S.J. was issued with a Job Contractor's Permit.



**POLICE**

**C/57/2009**

**Refund of fine and apology tendered to lady who  
had been wrongly prosecuted**

Mrs. S.S S. P. claimed that she had been fined for a traffic offence she did not commit. She averred that as she did not want to be on the wrong side of the law she paid the fine which amounted to Rs 1000/-. She however sought my intervention in her case.

Inquiry from the Police revealed that, through error, the Police Officer who booked the driver of a motor vehicle which was found in a space reserved for taxi cars wrote down a wrong registration plate number. Consequently it was Mrs. S.S.S.P. who was prosecuted instead of the owner of that vehicle. The Commissioner of Police however informed me that the needful was being done through the Accountant General's Office to have the fine paid by Mrs. S.S.S.P. refunded to her, whereas at the same time the real culprit was being prosecuted.

I informed the Commissioner of Police that apart from refunding to Mrs. S.S.S.P. the amount she paid I considered that she was also entitled to an apology which the Commissioner of Police readily tendered.

Some time later Mrs. S.S.S.P. got her money back.

**C/215/2009**

**Articles secured restituted to owner**

At the time he wrote to me Mr. M.A. was an untried detainee at Central Prison, Beau Bassin. His complaint was to the effect that his laptop and other accessories which had been secured from a lady in connection with a criminal case had not been returned to him although the charges levelled against the said lady had been dismissed some six weeks before.

Within fifteen days of my taking up the matter with the Commissioner of Police the said articles were handed over to the mother of the complainant to M.A.'s satisfaction.

## **PRISONS**

**C/46/2009**

### **Result of blood test finally received and treatment given to detainee**

Detainee A.A.R.'s complaint was that two months after having a specimen of his blood taken for a test for fasting blood sugar the result was still not available. As he could not wait any longer, being a diabetic patient, he requested my intervention.

According to the version of the Principal Hospital Officer of the prison the detainee's blood was taken following a request by the prison doctor and sent to the Central Laboratory of Victoria Hospital. Some days later, at the request of the detainee, the Principal Hospital Officer personally phoned at the said Central Laboratory as well as at the laboratories at Dr. Jeetoo and J. Nehru Hospitals. All the laboratory technicians denied having ever received the specimen of blood.

It was proposed to the detainee to have another specimen taken but he refused and threatened to take action – probably meaning he would write to our Office, which in fact he did.

Fortunately, a few days later, after further searches, the result of the blood test was received at the Central Prison and was within the normal range.

On the same day the detainee was examined by the Prisons Medical Officer and found to be asymptomatic and not confused. Appropriate treatment was given to him. He made no further complaint.

**C/82/2009**

**Detainee allowed to visit his ailing father, also a detainee**

Both R.U. and his father were detainees at Beau Bassin Prison. Having heard that his father was suffering from cancer in its terminal phase he requested the Prison Administration for permission to visit his father “for the last time”. One month later R.U. was informed that his request had been turned down, without any reason being given. He therefore sought my intervention.

I took up the matter with the Commissioner of Prisons and a week later I was informed that the father had been admitted to the Radiotherapy Ward of Candos Hospital with throat cancer and R.U. was allowed to visit him under prison escort.

**SOCIAL SECURITY, NATIONAL SOLIDARITY AND SENIOR  
CITIZENS WELFARE & REFORM INSTITUTIONS**

**C/118/2009**

**Contributory Retirement Pension disallowed due to  
misinterpretation of the law – decision reviewed**

On 10 May 2009 one H.B.A. wrote to inform us that his application for a contributory retirement pension dated 10 November 2007 had been disallowed but no reason had been given for the decision. He argued that he did qualify for the said pension and even wrote to the Ministry on 1 September 2008 in order to know the ground for the disallowance. He received no reply and therefore requested our intervention to redress the situation.

A perusal of the disallowance letter dated 26 October 2007 from the Ministry did however specify the reason for the disallowance, contrary to what H.B.A. averred. It read as follows: “You have not contributed to the National Pensions Fund ....”

According to H.B.A. however he had been working for different companies and had effectively contributed to the National Pensions Fund before reaching the age of 60. Although he informed the Ministry of this there was no reply.

Inquiry revealed that due to a misinterpretation of the provisions of paragraph 2(c) of the First Schedule to the National Pensions Act the claim for Contributory Retirement Pension was disallowed by the National Pensions Officer. That decision was reviewed and the claim awarded.

The Ministry expressed its regrets to me for the grievance caused but in its letter dated 15 July 2009 addressed to the complainant informing him of the decision the Ministry also tendered its apology.



**C/128/2009**

**Social aid intended for detainee's children restored**

Detainee F.J.C. informed us by way of letter dated 23 May 2009 and transmitted by the Commissioner of Prisons on 5 June 2009 that the social aid that was being granted for the benefit of his two sons since September 2004 had suddenly stopped being paid, much to the prejudice of the two boys who depended on this aid to attend school. F.J.C. averred that it was the children's grandmother who was receiving the aid on their behalf.

Inquiry revealed that the two underaged children were actually living with their paternal grandmother in Rose Hill and had in fact been drawing social aid for the period September 2004 to October 2008. However the children subsequently left their grandmother's residence and went to live with their mother in Grand Sable. As their mother was living in free union with another partner she did not qualify for social aid.

Bearing in mind that this was prejudicial to the two children, another inquiry was carried out in June 2009 and it was found that the mother had been abandoned by the new partner and that she was working on and off as labourer with no fixed employer.

As a result the social aid was restored at the rate of Rs 1647 monthly as from June 2009.

The detainee was informed accordingly and he did not come back to me.

**C/228/2009**

**Unmarried mother gets social benefits for both her minor children**

One Mrs. M.S.J. averred that she was the mother of two children and had been abandoned by the children's fathers. She was in receipt of social aid for the younger child who was one and a half years of age whilst she had been refused social aid for the other child who was three and a half years of age. She therefore requested my assistance by way of a letter dated 9 October 2009.

Inquiry revealed that the complainant who was 20 years old had applied for social aid on ground of abandonment on 25 July 2008. On that date she declared to be a "fille-mère" with one dependent female child born on 25 January 2008 whom she declared alone, the name of the father being unknown. She was therefore paid Rs 1332 as social aid and Rs 200 as food aid from August 2008 to June 2009, and thereafter the sums of Rs 1465 and Rs 230 respectively during period July 2009 to October 2009.

On 12 October 2009 the complainant called at the social security office of her locality and informed that she had a first child from another partner who had abandoned her and whose whereabouts were unknown. However

she did not disclose any information about that first child when she applied for social aid for the second child.

All the same M.S.J.'s situation was reviewed and as from November 2009 she became entitled to the sum of Rs 1875 as social aid and Rs 345 as food aid for that first child. She was also paid arrears for the month of October 2009.

**BLACK RIVER DISTRICT COUNCIL**

**LA/C/2/2009**

**Road tarred after Ombudsman's intervention**

In a letter dated 21 December 2008 one Mr. F.A.T. complained about the lack of response for the District Council of his locality in respect of a petition for the tarring of a road in Albion made by several inhabitants. He supported his case by a photograph showing the state of the road whenever it rained.

When I queried the Chief Executive of the said Council he informed me that indeed several requests had been made by F.A.T. to tar the said road but due to unavailability of funds it had not been possible to comply with such request. The Chief Executive however informed me that he had now included this project in a list of projects which he has submitted to the parent Ministry for approval and that the tarring would be done as soon as approval was obtained.

Upon being so informed the complainant observed that “your office took less than a month’s time to obtain what we have been looking on for years – a response from the District Council.” All the same I was urged by

the complainant to follow up the matter closely in view of the past attitude of the Council, which I did.

I am glad to report that by mid-June 2009 the tarring works were completed and once again the complainant observed that “It is also a pleasure to know that some institutions do function correctly and in a very reasonable time.”

**GRAND PORT – SAVANNE DISTRICT COUNCIL**

**LA/C/32/2008**

**New cremation shelter put up**

The inhabitants of Rivière des Créoles have long been complaining about the absence of a proper cremation shelter in their locality but in vain. At least this is what the press article said.

My inquiry revealed that a cremation shelter had been constructed in 1990 by the National Development Unit but it was subsequently demolished in April 2007 as it had been weakened by heat waves and cracks had started to appear on it thus becoming a hazard to users. A new cremation shelter therefore needed to be constructed and the cost was estimated at around Rs 720000/- by the District Council. The Chief Executive of the Council informed me that upon receipt of the annual capital grant during the next financial year the project would be implemented.

Indeed a few months later the contract was allocated for a sum of Rs 275000/- and a new cremation shelter put up. This huge difference in cost was attributed to the fact that a different design was adopted.

**MOKA – FLACQ DISTRICT COUNCIL**

**LA/C/25/2009**

**Drainage problem solved**

One Ms. V.P. informed me that there was “water accumulation coming from the street onto my premises during rainfall, causing congestion of sewers”. She averred that the ensuing problems consisted, inter alia, of children being unable to go to school due to the water level and health hazard caused by mosquito propagation.

The matter was taken up with the Chief Executive, Moka-Flacq District Council who informed us that as the road was a classified one the problem had been brought to the attention of the Road Development Authority (RDA) for the needful to be done.

I therefore invited the RDA to inform me about any action it proposed to take in this case and within three weeks I was informed that the RDA would undertake the construction of an absorption drain under the footpath in order to alleviate the problem of flooding in the vicinity of Ms. V.P.’s house.



I followed up the matter through and through until I was informed by Ms.V.P. herself that the problem had been solved and that notwithstanding heavy rainfall just before she wrote there was no more any drainage problem. She was very happy!

**MUNICIPAL COUNCIL OF PORT LOUIS**

**LA/C/6/2009**

**Open drain rendered safe**

The complainant in this case averred that he has made several written complaints at the Municipal Council to the effect that the drain in front of his house is so deep that it represents a danger to the public. According to him one person had fallen in that drain and broke his leg.

As he received no reply from the Council the complainant went there personally where he was apparently told that there were no materials available. So he decided to write to our Office.

After my intervention a Chief Inspector of Works from the Council met with the complainant and explained that it would not be advisable to cover the roadside drain in question as surface water from other streets would enter directly into other adjoining streets. Furthermore the street where complainant lived was only five metres wide with restricted vehicular and pedestrian traffic. It was therefore suggested that slabs be fixed at the entrance of private houses.

Some time later I was informed that the drain in front of all entrances along that street had been covered with slabs, thus rendering the drain safer for users thereof.

**PAMPLEMOUSSES-RIVIERE DU REMPART DISTRICT COUNCIL**

**LA/C/42/2007**

**Flooding problem solved**

The years go by but the flooding problem at Nelson Road, Grand Gaube, remain the same: such was the message of a September 2007 press article which caught my attention.

When I wrote to the Chief Executive of the District Council concerned he informed me that a survey had been carried out which revealed that the road required levelling works. I was at the same time informed that the Council was finalizing a tender exercise for such works and that, once the contract is awarded, the problem would be attended to.

Unfortunately, one year later, the tender had still not been finalized. However, in the meantime, the Council had undertaken the construction of a drain in order to abate the water-accumulation problem.

After another six months I was told that no acceptable bid had been received to the invitation for “sealed quotations” on two occasions. A fresh request for “sealed quotation” was thus made and this time an offer

amounting to Rs 590000/- was received for the provision of drain. The assistance of the Tourism Fund, which operates under the aegis of the Ministry of Tourism and Leisure, was solicited to assist in this project and obtained.

Finally the contract for the construction of drain was awarded on 15 April 2009 and the works were completed one month later.

The problem of accumulation of water was thus solved.









