

Project to support the development of a law on the Status of the Artist in Mauritius

Technical assistance provided by UNESCO through its Aschberg programme for the mobility of artists and cultural professionals

Draft provisions and measures for a law on the Status of the Artist based on consultations undertaken during two missions led by UNESCO in February 2017 and October/November 2017

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Preamble

Recalling Articles 3 and 12 of the Constitution of the Republic of Mauritius on the protection of freedom of expression,

Recalling that the Republic of Mauritius has ratified the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions,

Recalling that the 1980 Recommendation concerning the Status of the Artist refers to legislation, regulations and other public policies that pursue broad objectives to encourage creative expression and ensure the equitable treatment of professional artists through appropriate measures that respond to the atypical manner in which they work, their unique circumstances and the precarious nature of all artistic professions,

Recalling the importance of the contemporary arts for the promotion of the diversity of cultural expressions in Mauritius' multicultural society,

Recognizing that the vitality of the arts depend, inter alia, on the social and economic well-being of artists, both individually and collectively,

Affirming the right of artists to be considered, if so desired, as actively engaged in cultural work and to benefit from all the legal, social and economic advantages pertaining to the status of workers,

Affirming the need to improve the social security, labour and tax status of the artist, whether employed or self-employed, in light of their contribution to cultural and social development,

Recalling the conventions and recommendations of the International Labour Organization (ILO) which have recognized the rights of workers in general and, hence, the rights of artists,

Recognising the special conditions of work and employment under which artistic activity takes place, and **affirming** the need to develop sector specific labour standards that address, inter alia, the right of association and collective bargaining, social protection, fair remuneration, gender equality and are in line with existing ILO and UN standards providing for basic human rights and fundamental freedoms,,

Reaffirming that freedom of thought, expression and information and diversity of the media enable cultural expression to flourish within societies,

Considering the importance of promoting formal study of the arts by providing high-quality individual and vocational training in order to enable students to develop their artistic talents as well as to equip them with general skills in other professional fields,

Reaffirming the fundamental role of life-long education and training programmes in order to strengthen creative and production capacities in the cultural and creative industries,

Considering that artists must be able collectively to consider and, if necessary, defend their common interests, and therefore must have the right to be recognized as professionals by forming trade unions or professional associations

Recalling that linguistic diversity is a fundamental element of cultural diversity,

Recognizing the importance of intellectual property rights in sustaining those involved in cultural creativity,

Considering the contribution of creativity to overall quality of life and well-being and **affirming** the need for public authorities and artists to work together to lay down guidelines and develop incentives for the distribution and exhibition of contemporary artistic expressions in public spaces,

Considering the need to involve, as far as possible, artists and other cultural professionals in the design and implementation of policies that affect the culture sector, in particular, the cultural and creative industries and, for that purpose, provide them with the means for effective action.

Convinced that cultural activities, goods and services are both economic and cultural in nature since they convey identities, values and meanings and therefore should not be treated as having solely commercial value,

Recalling the Republic of Mauritius' sovereign right to adopt measures and policies to protect and promote the diversity of cultural expressions within its territories and recognizing the central role of artists, others involved in the creative process, cultural communities, and organizations in nurturing such diversity,

The following provisions are adopted on the understanding that the legislative and other steps required in accordance with the constitutional practice of the Republic of Mauritius will be taken:

Principles

Mauritius's policy on the professional status of the artist is based on the following rights and responsibilities:

- a) The sovereign right of the Republic of Mauritius to maintain, adopt and implement such policies and measures as it deems appropriate to support the professional status of the artist.
- b) The right of artists and producers to freedom of expression and association.
- c) The right of associations representing artists to be recognized in law and to promote the professional and socioeconomic interests of their members.
- d) The right of artists to express their views on their status and on any other questions concerning them.
- e) The right of civil society to participate actively in the public authorities' efforts to improve the social, economic and professional status of the artist.
- f) Collaborative arrangements to encourage the development of partnerships between and within the public and private sectors and non-profit organizations.

Categories of professionals in the arts

Category 1 – Professional artist

"Professional artist"¹ means creators and performers whose work has artistic value and is protectable by copyright,² who frequently³ disseminate or perform their work in places recognized by their peers,⁴

¹ The intent is not to impose an opinion of who is, or is not, an artist; it is simply a definition to be used for the purpose of the Status of Artist Legislation Project since, without this definition, it would not be clear to whom these provisions apply.

² In the event of a doubt regarding such work, the final criterion shall be protection by copyright.

³ Such continuity is even more important if the definition does not include minimum-income-based criteria (see below).

⁴ Certain places are professionally recognized or even certified; this can be a useful reference and increases the credibility of decision-making.

who have a reputation among the general public, for whom artistic creation is the primary occupation⁵ and source or intended source of income,⁶ and who are qualified through an educational or training programme⁷ and/or a proven record of artistic achievement.⁸

An illustrative list of artistic professions includes: painter, illustrator, printmaker, sculptor, art photographer, street artist, graphic designer, animation artist, video artist, performance artist, architect, musician, conductor, singer, multi-instrumentalist, songwriter, theatre artist, opera artist, playwright, comedy artist, puppeteer, circus artist, story-teller, street theatre artist, slam poet, scriptwriter, designer, writer, novelist, comic artist, poet, novelist, humourist, ballet dancer, contemporary dancer, choreographer, traditional dancer, film actor, fiction writer, stage actors, caricaturist, designer.

Category 2 – Technical professional

“Technical professional” means anyone engaged in a technical profession directly related to live or recorded artistic performance or to the production or dissemination of visual arts and literature as a primary occupation and source or intended source of income and who is qualified by an educational training and/or a proven record of achievement.⁹

Illustrative list of technical professions: cameraman, gaffer/lighting technician, sound recorder, set design artist, sound design artist, make-up artist, motion graphics artist, costume artist, editor, visual effects artist.

Category 3 – Specialized professional in the arts

“Specialized professional” means any other professional in the arts who performs a specialized function in the field of management, education, restoration, documentation or other activity directly related to live or recorded artistic performance or to the production or dissemination of visual arts and literature as a primary occupation and source or intended source of income and who is qualified by an education and/or a proven record of achievement.¹⁰

Illustrative list of specialized professions in the arts: art restorer, curator, art critic/journalist/researcher, art teacher, arts producer, tuner of music instruments, art director, manufacturer and maintainer of music instruments, archivist, translator.

Category 4 – Entertainer

“Entertainer” means a musician, dancer, singer, fashion model, fire-breather, pyrotechnic artist, magician, circus artist, spoken word artist or other performing artist who performs on occasional basis or as a free-lancer or self-employed worker on a regular basis in order to earn a living.

Professionals in the arts

Professional artists, technical professionals, specialized professionals and entertainers will be referred to as "professionals in the arts" in the following sections.

⁵ In light of the current situation, where only a handful of artists are able to make a living from their artistic work, it would be illogical to require that it be the primary or sole occupation as is the case in many countries. It is essential not to exclude those who must earn their living elsewhere but who view their artistic work as an essential part of their life and who meet all of the professional requirements.

⁶ See note 7; intention should suffice.

⁷ Education should be not an exclusive, but merely an alternative, criterion.

⁸ Recognized achievements are considered equivalent to education, but education alone does not suffice; it must be supported by achievement.

⁹ Footnotes 8 to 10 on professional artists are applicable, mutatis mutandis, to this category.

¹⁰ Footnotes 8 to 10 on professional artists are applicable, mutatis mutandis, to this category.

The Register of Professionals in the Arts and the Professional Card

Registration

In order to be included in the Register, candidates must:

- Be self-employed, a freelance or an occasional professional in the arts.
- Meet the definition of a professional artist, technical professional, specialized professional or entertainer.

Decisions on requests for entry in the Register shall be taken by the National Body for Professionals in the Arts (NBPA).

Entries in the Register shall include:

- The full name, surname and address of the professional in the arts.
- The category of registration as a professional in the arts.
- A description of the qualifications for which registration is granted.
- Any other information required.

Professional card

Anyone registered as a professional in the arts shall be eligible to obtain a professional card and to use or publish the words "Registered professional in the arts".

Registration as a professional in the arts shall be granted for five years with the possibility of renewal.

Removal

Professionals in the arts may be removed from the Register at their own request or ex officio if the NBPA determines that they no longer meet the criteria for membership.

Rules of procedure

More detailed conditions and procedures for registration shall be established by the NBPA.

Work status of professionals in the arts¹¹

Classification of work status

The status of professionals in the arts shall be determined according to the nature of the contract of service under which they work:

- As an employee with a fixed-term or open-ended contract to whom the provisions of labour law apply;¹² or
- As an independent entrepreneur or employee¹³ who engages in an artistic activity on an occasional basis for additional income and to whom the provisions of civil or commercial law apply.

¹¹ For a further explanation of this chapter, see the explanatory note on the work status of professionals in the arts (Annex 1).

¹² A person who performs such work under the direction and control of an employer and is paid on an ongoing basis.

¹³ An official or employee of a public administration or an employee of a public or private establishment.

The social protection regimes in force shall be applied in accordance with the nature of the contract and the activity in which the professional in the arts is engaged.

Categories

Independent self-employed professionals in the arts who are entered in the Register of Self-Employed Persons under general law (having a business card) and are recognized as professionals in the arts through entry in the Register of Professionals in the Arts (having a professional card).

Freelancers who are entered only in the Register of Professionals in the Arts (having a professional card).

Professionals in the arts in a quasi-employment relationship, including performers, interpreters and artists who are entered in the Register of Professionals in the Arts (having a professional card) and are in a quasi-employment relationship with an employer who controls how, where and when the work is performed.

Occasional professional artists who engage in an artistic activity on an occasional basis for additional income and to whom the provisions of civil or commercial law apply.

Presumption of employment

A statutory legal presumption of an employment relationship shall exist where a professional artist, entertainer or technical professional in the audiovisual industry personally renders services in a relationship of dependence and subordination with the employer, which, in turn, is obliged to pay remuneration for such services. Where such an artist, entertainer or technical professional performs in a hotel or restaurant – a service which, in light of the circumstances, can be assumed to be rendered in exchange for remuneration – an employment contract shall be presumed. A presumption of employment shall entail eligibility for all the benefits enjoyed by regular employees under the contract of service that are consistent with the special nature of this type of work.

Contract of service

A written contract of service shall be concluded for a specified period or for the purpose of carrying out a given activity. The time limit for payment shall be specified in writing and shall not exceed 15 days from completion of the agreed artistic work or termination of the contract unless negotiation results in a situation more advantageous to the professional.

A copy of the signed contract shall be issued to each signatory.

The contract shall be amended to reflect any change in the amount of the remuneration or the duration of the contract. In the event of a change of any other kind, a new contract shall be concluded.

The social status of professionals in the arts¹⁴

A Recognition Allowance Scheme for Professionals in the Arts

Professionals in the arts who gain recognition at the national and international levels and whose work makes an outstanding artistic contribution could receive a monthly allowance, over and above the basic and other contributory pensions, when they reach the age of 60. This scheme would be similar to the monthly pension of Rs 3,000-10,000 that is granted to retired professional athletes in Mauritius.

This entitlement shall be granted by the NBPA.

¹⁴ For a further explanation of this chapter, see the explanatory note on social benefits of professionals in the arts (Annex 2).

Specific conditions and the procedure for obtaining a Recognition Allowance shall be established by the Government, through a decree and based on proposals from the NBPA.

Cross-subsidization

Professionals in the arts shall be eligible to contribute on a voluntary basis to the National Pension Fund (NPF), an earnings-related contributory pension whereby, for every Rs 100 that they invest, the Government contributes Rs 50. The NBPA shall promote this incentive among professionals in the arts.

The Income-Threshold-Based Pension scheme

Under the Income-Threshold-Based Pension scheme (similar to what already exists in the field of agriculture), professionals in the arts who are formally registered with the NBPA and whose average annual income falls below the taxable limit shall be eligible to apply for the Income-Threshold-Based scheme described above, subject to consultation on a case-by-case basis between the Government, the Mauritius Revenue Office and the NBPA.

Social security for entertainers and technical professionals in the audiovisual industry

In order to take into account their atypical working practices, entertainers and other professionals in the arts who have quasi-employed status and thus meet the criteria for presumption of a contract of service shall have their entire contribution to the NPF (6 per cent + 3 per cent of the basic salary) paid by their employer and their entire remuneration at the level of 125 per cent shall be recognized as an expenditure that is tax-deductible against the employer's business income.¹⁵

Taxation¹⁶

Flat rate professional expense deduction

Professionals in the arts who are recognized as such through entry in the Register of Professionals in the Arts shall be eligible to claim a flat rate tax deduction of 40–50 per cent of the earnings generated from their artistic work from their income tax for professional expenses without documenting or specifying their expenses, e.g. without having to provide receipts.

Exemption from tax deducted at the source (TDS)

Income from or directly related to artistic activities shall not be subject to deduction of tax at the source unless the professional in the arts so requests.

¹⁵ In July 2013, the Government of the Seychelles introduced a scheme designed to encourage the country's tourism industry to recruit local artists to perform regularly, and thus earn a living from their artistic talents, by offering a tax rebate on performances by local artists (musicians, singers, dancers and similar) in tourist hotels. Thus, over and above the incentives already in place, hotels and restaurants are entitled to a tax rebate (a 125 per cent deduction from the business tax) where they hire the services of local performing artists. This tax incentive is limited to performances by local artists and excludes foreign disc jockeys, singers and other performers. This initiative could be replicated in Mauritius by registering eligible hotel artists with the Tourism Employees Welfare Fund (TEWF), which would issue registration cards to them. Such an approach would also ensure that these artists contribute to the TEWF and benefit from its welfare schemes and that they were considered to be employed in the tourism sector, thus reducing the national unemployment rate.

¹⁶ For a further explanation of this chapter, see the explanatory note on taxation (Annex 3).

A tax incentive for the purchase of art works

A total of 50 per cent of the amount invested in the purchase of professional art works or tickets to professional artistic performances shall be deducted from the corporate and individual tax base, based on receipts or tickets issued by the artist, gallery, theatre, bookshop or cinema.

Abolition of entertainment tax

When an organizer requests authorization for an artistic or cultural activity in a public space involving at least 50 per cent of the local artists, the entertainment tax, described in the Local Government Act (section 128) as “the levy on charged admissions”, shall not apply.

Tax incentive for costs related to contracts of service for entertainers in the hotel sector and technical professionals in the audiovisual industry

In establishing the tax base of employers of professionals in the arts, entertainers and technical professionals in the audiovisual industry in a quasi-employment relationship, costs based on the presumption of a contract of service shall be recognized at the level of 125 per cent or higher as a tax-deductible expenditure.

Exemption from value added tax (VAT) and custom duties

The list of items exempt from VAT and customs duty shall be expanded to include equipment, gear and instruments used by registered artists, entertainers and other professionals entered in the Register of Professionals in the Arts.

Other policy measures

Education and training¹⁷

The State shall put in place measures, incentives and actions aimed at nurturing and supporting artists, artistic creation and the affirmation of artistic vocations.

To that end, it shall gradually introduce:

- Measures for the provision of arts education (all disciplines) in order to stimulate artistic talent and vocations in primary and secondary schools and to incorporate programmes in the various arts into tertiary education.
- Measures that will encourage art schools to provide their students with the essential business and marketing skills that they will need in an environment of self-employment.
- Measures to provide artists with professional training enabling them to update their knowledge of their profession, receive retraining and improve their technical skills, including through existing business courses and new ones (lifelong vocational training).
- Measures for incorporating arts and culture education into the curriculum (as compulsory or optional subjects) and cross-curricular and extracurricular activities into general education.
- Measures to provide arts education to teachers and professors in general education.

Mandatory percentage of funding for artworks in public construction and renovation projects

In order to promote professional artists and enrich Mauritian public art, when granting funds for the construction or renovation of important public buildings, 1 per cent of the budget shall normally be

¹⁷ For a further explanation of this chapter, see the explanatory note on education and training (Annex 4).

allocated to artistic decoration or intervention relating to that building, where its type and purpose permits.

Planning and contracting related to building development shall be carried out in collaboration with the NBPA. Investors shall adapt the technical interfaces to include 1 per cent for art acquisitions; coordinate production of the work, the acquisition schedule and the overall costs; and oversee installation or performance of the work in collaboration with the selected professional artist(s).

Rules of Procedure shall be established to describe in detail the art acquisition process and explain the 1 per cent for art principle in the context of public construction and renovation projects.

Preferential treatment

In order to facilitate the mobility of artists abroad and the accessibility of their works to foreign markets, policies and measures should be designed to enable artists and cultural professionals to benefit from schemes and measures of preferential treatment. To this end, a coordination mechanism between ministries responsible for arts and culture, trade and foreign affairs shall be put in place to ensure that any bilateral or multilateral trade or cooperation agreement or any co-production or co-distribution agreement does not violate the provisions of this law and includes, *inter alia*:

- measures to facilitate the mobility of Mauritian-residents artists and other cultural professionals who need to travel to the signatory country for professional reasons;
- funding arrangements and resource-sharing, including supporting access to cultural resources of the signatory country;
- fiscal incentives for Mauritian-residents artists and other cultural professionals as well as for Mauritian cultural enterprises, earning income in the signatory country, especially to avoid double taxation;
- export strategies, co-production and co-distribution assistance schemes for the distribution and dissemination of Mauritian cultural goods and services to the market of the signatory country;
- provisions to support capacity-building and strengthening of competences, in terms of both artistic and entrepreneurial skills in the cultural fields, for Mauritian-residents artists and cultural professionals.

National Body for Professionals in the Arts

Establishment of a National Body for Professionals in the Arts

A National Body for Professionals in the Arts (NBPA) shall be established as a body corporate for the purpose of implementing the Status of the Artist legislation.

Relations between the NBPA and the Ministry of Arts and Culture

The Ministry shall exercise the rights and obligations as the founder of the NBPA on behalf of the State by monitoring the implementation of the Status of the Artist legislation and serving as the appellate body for the NBPA's decisions, where the Law envisages this possibility.

Powers of the Minister

The Minister of Arts and Culture may give instructions of a general nature to the NBPA Board of the NBPA, provided that they are consistent with the Status of the Artist legislation, and the NBPA Board shall comply with such instructions.

Mission of the NBPA

The mission of the NBPA shall be to:

- Promote appreciation and understanding of the importance of professional artists and other professionals in the arts:
- Improve the professional, social and economic status of professional artists and other professionals in the arts:
- Improve the availability of information and data relevant to professionals in the arts:
- Enhance access to training and skills development:
- Promote the marketing of artistic products and services nationally and internationally.

Not-for-profit status

The NBPA shall function as a charitable institution and shall pursue only objectives for public benefit. Its funds shall be used only to serve such purposes as are in keeping with its functions.

The NBPA as a public-private platform

The NBPA, in close collaboration with the public and private sectors, shall develop and introduce an appropriate public-private platform which shall function as:

- An *information tool* (publicize opportunities to participate in national and international cultural shows, events and festivals; maintain an events calendar of national artistic and cultural events, shows and festivals; and advertise national and international competitions, awards and prizes, national and international funding opportunities and international artist-in-residence-programmes).
- A *training tool* (publicize training opportunities in Mauritius and abroad and organize training courses and workshops).
- A *consulting tool* (provide advice on tax, legal, social security and other issues relevant to professionals in the arts).
- A *promotion tool* (award prizes and honours for merits and promote Mauritian artists, creative writers, arts promoters, researchers and cultural entrepreneurs by publishing a directory with a personal description of each professional in the arts and information on his or her work).
- A *collaboration tool* (build valuable networks between professionals in the arts and business leaders).

Functions of the NBPA

The NBPA shall:

- Register professionals in the arts and culture.
- Determine eligibility for the State Recognition Allowance scheme and the Income-Threshold-Based pension scheme.
- Implement cultural policy measures targeting professionals in the arts, such as travel grants, work grants, scholarships, remuneration paid to artists for the display of their work, awards and prizes, subsidies for rehearsal or studio space, artist-in-residence programmes and support for professional artists' associations and unions.
- Gather and disseminate information on funding sources, opportunities for creative and professional collaboration and education programmes,
- Gather and disseminate information on existing preferential treatment measures.
- Develop and maintain a directory of artists.
- Organize professional training so that artists can update their knowledge on their profession, receive retraining and improve their small business management and technical skills in different artistic disciplines.
- Create an arts and business forum.

- Raise funds locally and abroad.
- Advise the Government, the Ministry of Arts and Culture and other public authorities of cultural policy developments, either ex officio or upon request.

Composition and management of the NBPA

The NBPA management shall comprise:

1. The Board of Governors
2. The Director
3. Expert Committees (General and Sectoral)

1. The Board of Governors

The NBPA shall be administered and managed by the Board.

Composition

The Board shall comprise the Chairs of six Sectoral Expert Committees and representatives of the Office of the Prime Minister and the following ministries:

- The Ministry of Arts and Culture
- The Ministry of Finance and Economic Development
- The Ministry of Labour, Industrial Relations, Employment and Training
- The Ministry of Tourism and External Communications
- The Ministry of Social Security, National Solidarity and Reform Institutions.

The members of the Board shall, in principle, be selected based on their knowledge and experience in areas relevant to the NBPA's activities. Gender balance is to be ensured.

Mandate

With the exception of the Chairs of the six sectoral Expert Committees, the members of the Board shall hold office for a period of 4 years and shall be eligible for reappointment without exceeding two consecutive terms.

Functions and powers of the Board

The Board shall have the following powers and responsibilities:

- Consider for adoption the proposals of the General Expert Committees with regard to the registration of professionals in the arts, the allocation of funds for the implementation of cultural policy measures and entitlement to the Recognition Allowance scheme.
- Appoint the Director.
- Conclude a contract of employment with the Director.
- Verify the legality of the Director's work and business dealings.
- Evaluate the Director's performance.
- Monitor, analyse and evaluate the work of the NBPA.
- Approve the annual programme of work, financial plan, organization of work, staffing plan and purchasing plan.
- Perform other duties as provided by law.

The Chair and Vice-Chair of the Board

The Board shall elect a Chair and Vice-Chair from among its members by majority vote.

Operations of the Board

The Chair shall convene a meeting of the Board at least every three months.

The Chair shall set the agenda for and preside over the meetings of the Board. In the event of the Chair's absence, his or her duties shall be assumed by the Vice-Chair.

Meetings shall be held where the majority of the Board's members are present, and decisions shall be taken by majority vote of the members present.

Where a majority vote of the members present is taken, in the event that the number of votes for and against is equal, the Chair shall cast the deciding vote.

The Board's decisions shall be announced and posted on a noticeboard at the offices of the NBPA and on its website.

The Board may call upon resource persons as it deems necessary to assist it in its deliberations.

Membership of the Board shall be voluntary and unremunerated. Members of the Board shall be entitled to reimbursement for expenses actually incurred in the course of their work for the NBPA (e.g. office supplies, telephone charges and travel expenses).

Disclosure of interest

Board members who have a direct or indirect interest in any matter scheduled for or under consideration by the Board shall disclose in writing the nature of their interest to the Board immediately, or as soon as practicable after becoming aware of the relevant facts, and shall not be present during the Board's discussion of the matter or take part in any decision concerning it.

Rules of procedure

The Board shall adopt rules of procedure that closely regulate its work, including its meetings, voting, decision-making procedures and other general and individual acts, recusal in the event of a conflict of interest, and other relevant matters.

Accounts

The Board shall submit to the Minister of Arts and Culture, on or before 31 October, an annual report and audited statement of accounts concerning its work during the 12 months ending on 30 June of the same year.

The Minister shall submit a copy of the Board's report to the National Assembly at the earliest opportunity.

2. The Director

The NBPA shall be represented and led by a Director appointed by the Board.

The Director shall be responsible for implementation of the policies and decisions of the Board and for control and management of the day-to-day business of the NBPA.

In addition to the powers conferred on the Director of a statutory corporation, the Director shall:

- Organize the work of the NBPA;
- Prepare the annual programme of work for adoption by the Board;
- Prepare a draft organization of work for adoption by the Board;
- Adopt the staffing plan;
- Adopt a purchasing plan for basic resources and maintenance of investments;
- Prepare the report to the Ministry of Arts and Culture on issues with a major impact on the operations of the NBPA for adoption by the Board.

In the exercise of his or her functions, the Director shall act in accordance with any instructions received from the Board.

3. Expert Committees

Sectoral Expert Committees

There shall be six sectoral expert committees (on, respectively, the visual arts, literature, music, audiovisual and digital media, dance and the performing arts), which shall give their expert opinion before a decision is taken.

The members of the Sectoral Expert Committees shall, in principle, be selected on the basis of their knowledge and experience in areas relevant to the NBPA's activities and to ensure gender balance.

Each Sectoral Expert Committee shall have six members, of whom three shall be appointed by the artists and three by the artists' association(s); all of them shall be experts in the field relevant to the work of the Committee in question. Rules of procedure should be established to, inter alia, prohibit the participation of a committee member who is a candidate for financial support or other type of award in the decision-making process.

Lists of experts

Each Sectoral Expert Committee shall prepare a list of experts in areas relevant to its work for consultation where appropriate.

Mandate

Members of the Sectoral Expert Committees shall hold office for a period of 4 years and shall be eligible for re-appointment.

Functions of the Sectoral Expert Committees

The Sectoral Expert Committees shall:

- Prepare draft proposals to the General Expert Committee's consideration for the registration of professional artists, the allocation of funds to cultural policy measures and the determination of eligibility for the Recognition Allowance scheme and the Income-Threshold-Based Pension scheme for professionals in the arts; the General Expert Committee shall finalize these proposals.
- Perform other duties as provided by law.

General Expert Committee

The General Expert Committee shall comprise the Chairs of the six Sectoral Expert Committees. It shall finalize the proposals made by these Committees for adoption by the Board and perform other duties as provided by law.

The Chair and Vice-Chair of the Expert Committees (General and Sectoral)

The members of each Expert Committee shall elect a Chair and Vice-Chair from among their members by majority vote.

Operations of the Expert Committees (General and Sectoral)

The Chairs of the Expert Committees shall convene meetings of their Committees ex officio or at the request of the Committee or the Director.

The Chair of the General Expert Committee shall set the agenda for and preside over the meetings of the Board. In the event of the Chair's absence, his or her duties shall be assumed by the Vice-Chair.

Meetings shall be held where the majority of the relevant Expert Committee's members are present, and decisions shall be taken by majority vote of the members present.

Where a majority vote of the members present is taken, in the event that the number of votes for and against is equal, the Chair shall cast the deciding vote.

Decisions of the General Expert Committee shall be announced and posted on a noticeboard at the offices of the NBPA and on its website.

The Expert Committees may call upon such resource persons as they deem necessary in order to assist them in their deliberations.

Membership of the Expert Committees shall be voluntary and unremunerated. Members of the Committees shall be entitled to reimbursement for expenses actually incurred in the course of their work for the NBPA (e.g. office supplies, telephone charges and travel expenses).

When an Expert Committee takes a decision, each member with voting rights may cast one vote. Where a majority vote of the members present is taken, in the event that the number of votes for and against is equal, the Chair shall cast the deciding vote.

Appointment of the members of the Expert Committees by artists' associations

The artists' associations shall be entitled to nominate half of the members of the Expert Committees.

"Artists' association" means any organization or federation of organizations that has among its objectives management or promotion of the professional and socio-economic interests of the artists who are its members.

These associations shall be issued a public invitation to nominate their members for membership of the Expert Committees.

Where there is more than one eligible artists' association in the artistic field covered by an Expert Committee, these associations shall jointly appoint a total of three members.

Eligible artists' associations

An artists' association shall be eligible to appoint members of the Expert Committees if it has by-laws that:

- Set membership requirements for professionals in the arts;
- Allow its regular members to participate in and vote at meetings of the association and to participate in the nomination of members of the Expert Committees;
- Require it to provide its members with a copy of its financial statements for the previous fiscal year, certified by an authorized officer of the association.

Appointment of members of the Expert Committees by artists

The Director of the NBPA shall issue a public invitation for professionals in the arts to express an interest in being nominated for membership of the Expert Committees. The invitation shall be open for 15 days, after which the Director shall organize a meeting of all the applicants, who shall select their representatives on the Committees from among themselves.

Rules of procedure

The General Expert Committee shall adopt rules of procedure for the Expert Committees that closely regulate their work, including their meetings, voting, decision-making procedures and other general and individual acts, recusal in the event of a conflict of interest, and other relevant matters.

Appointment of staff

The Board shall appoint staff deemed necessary for the discharge of the NBPA's functions on whatever terms and conditions it deems appropriate.

Staff members shall work under the administrative supervision of the Director.

The Board shall adopt provisions governing the conditions of service of its staff, particularly with regard to:

- Appointments, dismissals, disciplinary matters, pay, leave and security;
- Appeals against dismissal or other disciplinary measures;
- The establishment and maintenance of welfare and pension fund schemes, including contributions owed and benefits received.

Information platform

The NBPA shall develop and implement an appropriate digital information platform in order to facilitate communication, including on funding for Mauritian professionals in the arts, opportunities to improve their working conditions and professional standing, and other relevant information.

To that end, an innovative arts service website shall be administered by the NBPA.

The information platform shall also gather and disseminate information on:

- The Register of Professionals in the Arts;
- Opportunities to participate in national and international cultural shows, events and festivals;
- An events calendar of national artistic and cultural events, shows and festivals;
- National and international competitions, awards and prizes;
- National and international funding opportunities;
- Training opportunities in Mauritius and abroad;
- A directory of Mauritian artists, creative writers, arts promoters, researchers and cultural entrepreneurs with a personal description of each professional in the arts and information on his or her work;
- International artist-in-residence-programmes;
- Tax regulations relevant to professionals in the arts;
- Legal issues relevant to professionals in the arts;
- Other matters relevant to the status of the artist.

Transitional provisions

The Ministry of Arts and Culture shall appoint an Interim Director of the NBPA within 30 days of the date on which the Status of the Artist legislation and its statement of financial implications for the next Budget enter into force.

The Interim Director shall be authorized to represent the NBPA and to take all necessary steps to ensure that it can begin its work pending the appointment of a Director.

The Interim Director shall issue a public call for nominations to membership of the Expert Committees within 30 days of the date of his or her appointment.

The Board shall begin work when at least two thirds of its members have been appointed.

Financing, financial operations and supervision of the NBPA's work¹⁸

The NBPA shall be financed from a portion of the profits on games of chance and promotional award games in accordance with the legislation on lotteries, as well as from its core assets and income therefrom, donations and other income as provided by law.

This income shall be disbursed to the NBPA by its Board.

The NBPA shall keep financial and other business records and prepare financial reports in accordance with the protocols regulating the accounting activities of non-profit organizations.

The NBPA's fiscal year shall begin on 1 January or on the date on which it is established and shall end on 31 December.

¹⁸ For a further explanation of this chapter, see the explanatory note on financial implications of the Status of Artist legislation (Annex 6).

The Board shall submit financial reports for the current fiscal year within 60 days of the end of the reporting period.

The Board shall submit programme and financial reports to the Government of the Republic of Mauritius within 90 days of the end of the reporting period.

Liability of the NBPA

The NBPA shall have full responsibility for the fulfilment of all of its obligations and for the use of its assets.

Exemption from duty

Notwithstanding any other enactment:

- The NBPA shall be exempt from payment of any duty, levy, rate, charge, fee or tax.
- No registration fee shall be payable in respect of any document under which the NBPA is the sole beneficiary.



Annex 1: Explanatory note on the work status of professionals in the arts

Artists do not enjoy the rights that are taken for granted by other workers (e.g. a contributory pension scheme, paid holidays and leave.). Such a generalized deficit in the arts sector prevents them from being viewed as professionals, which is a precondition for the Government's effort "to optimize the potential of the creative sector for economic growth, job creation and social inclusion".¹⁹

The main reason for the disadvantages faced by artists is the atypical nature of their working practices, the most important of which are the following:

- *"Atypical work status (multi-activity):* the majority of creators easily switch from self-employed status to that of salaried worker to that of company head or civil servant, all the while being able to combine one or another status".²⁰ Quite often, artists are forced to become self-employed (e.g. paid on the basis of invoices) rather than being recognized as employees by those who hire them. This causes problems with regard to social security, taxation and unemployment insurance.
- *Atypical economic situations with irregular or fluctuating incomes:* artists "sometimes work for a number of employers simultaneously, or for none at all. They may sell nothing for long periods and then suddenly a great deal".²¹
- *Atypical workload:* artists "spend a substantial amount of time preparing to earn income, in training, rehearsal, study, research or in creating a finished product".²²
- *Atypical combination:* "[m]any professional artists must supplement their income with revenue from [full or] part-time work outside their area of professional expertise [or principal artistic occupation (PAO)] in order to survive economically. For some, this may come to represent the bulk of their income",²³ yet they must also find time to train and rehearse.

The risks arising from these atypical patterns of work are significant and must be addressed through appropriate compensatory measures. These include (1) ensuring that artists enjoy the rights that civil servants and other employees take for granted and (2) improving the social, economic and professional status of the artist so that the cultural and creative industries that are solely dependent on the creative content that they provide can begin to flourish.

Presumption of employment

Issues to be addressed

Mauritian performing artists feel that their contribution to enhancement of the country's cultural diversity and tourism industry is not recognized. Owing to the limited market for Mauritius' music industry, the engagement of local musicians by the tourism (hotel) sector allows them to earn a living. For many of them, their career as hotel musicians, whether as resident band members or as regular performers, is their only source of income. Moreover, many artists (musicians, dancers, choreographers, etc.) are considered as freelancers rather than employees although they perform at hotels on a regular

¹⁹ Prime Minister Pravind Kumar Jugnauth's Budget Speech for 2017–2018.

²⁰ European Institute for Comparative Cultural Research, *The Status of Artists in Europe* (Brussels, 2006), available online at: https://www.andea.fr/doc_root/ressources/enquetes-et-rapports/51b5afb01bb8d_The_status_of_artists_in_EU.pdf, p. 6.

²¹ *Status of Artist: An Overview* (New Brunswick Art Board, Fredericton, New Brunswick, Canada), available online at: http://artsnb.ca/site/en/files/2012/05/status_of_the_artist_EN.pdf.

²² Ibid.

²³ Ibid.

basis. Even if they have bank accounts, they are generally considered ineligible for loans and the related benefits that other employees enjoy.

This challenge is not limited to Mauritius.

"[N]early all [European Union (EU)] countries have reported an increasing need to find criteria that will help to more effectively define the uncertain status of economically dependent workers" where the worker is formally self-employed yet the conditions of work are similar to those of employees.

Despite working exclusively (or mainly) for a single employer, workers are neither clearly separated from, nor integrated with, the employer they contract with. In some cases, economically dependent self-employed workers may also be similar to employees in other ways. There may be no clear organizational separation, i.e. they work on the employer's premises and/or use the employer's equipment; there may be no clear distinction of task, i.e. they perform the same tasks as some of the existing employees, or tasks which were formerly carried out by employees and later contracted out to 'service providers'.

[...]

Dependent self-employment work relationships are not based on employment contracts, but rather on commercial contracts between a self-employed worker and a specific employer. Empirical literature shows that these work relationships create both economic and personal dependence. Economic dependence fundamentally means that the worker takes (part of) the entrepreneurship risk, without the trade-off in terms of employment security. Furthermore, the entrepreneurship possibilities associated with self-employment are also limited in their case, due to the demands of their 'main' employer. Given that these workers have only one (main) employer, they generate the whole, or at least a substantial part, of their income from this work relationship. Personal dependence – or subordination – means that the outsourcing firm strongly determines working methods as well as the time, place and content of work. Dependent self-employment also means that both organizational boundaries and the boundaries between employment and self-employment become blurred, resulting in the need to rethink labour and social security law.

The difficulty in assessing dependent forms of self-employment are being tackled in different ways throughout the European Union. While dependent self-employment does not always have a specific place in labour law, some EU Member States have introduced a hybrid legal category to address the grey area between dependent employment and self-employment. The aim of this hybrid legal category involves facilitating outsourcing activities whilst simultaneously covering dependent self-employed workers with some legal rights that would not exist under the legal status of self-employment. This approach has been adopted in countries like Germany, Austria, Italy, the Netherlands and Portugal. Italy has also adopted the approach of extending basic protections to all workers, but with specific protections for specific categories.

Other countries have maintained the strict dichotomy between employed and self-employed and have tried other approaches to capture the growing reality of the dependent self-employed. These have included: (i) presumptions that these are employees and fall within the scope of employment protection legislation (France, Greece, Luxembourg); (ii) reversal of the burden of proving employee status (Belgium); (iii) listing criteria that enable identification of workers as either employees or self-employed (Austria, Belgium, Germany, Ireland); (iv) extending protection to specified categories, even though they are not presumed to be employees (Denmark, France, Germany, Greece, Italy). Case law has also played an important role where there is no statutory definition of dependent employment (Ireland, Norway, Sweden and the UK) or where the legal definition is quite general. Depending on the features of some EU Member States' national welfare state systems,

dependent workers tend to be outside the scope of labour law protections (dismissal, holiday pay, sick leave) and collective bargaining coverage, while being subject to different fiscal and tax regulations. This has played a role in the introduction of legal forms of employment, as mentioned earlier, mainly to broaden the coverage of social security schemes – and in particular pension schemes – to include these workers.²⁴

Collective bargaining is not yet relevant to Mauritius since the necessary infrastructure (artists' unions, on the one hand, and employers'/employers' organizations, on the other) is not in place.

The proposed solution: presumption of the existence of an employment relationship

A statutory legal presumption of an employment relationship where a professional artist or entertainer personally renders services in a relationship of dependence and subordination with the employer, which, in turn, is obliged to pay remuneration for such services should be introduced. Where such an artist or entertainer performs in a hotel or restaurant – a service which, in light of the circumstances, can be assumed to be rendered in exchange for remuneration – an employment contract can be presumed.

How would it work?

In the event of a dispute between the worker and the employer regarding the existence of an employment relationship, the labour inspectorate would be responsible for determining whether such a relationship existed.

Standard contract

Issues to be addressed

Contracts are at the very heart of the relationship between artists and their employers or employees. They define the specific terms and conditions of engagement and the benefits that may (or may not) be expected from use of the artistic work or performance. With the exception of high-profile artists, most professionals in the arts have very limited bargaining power and, unless they are represented by a strong trade union, often have no alternative but to agree to very unfair contractual clauses, which generally entail a permanent surrender of intellectual property rights against a symbolic upfront payment. Quite often, these contracts are verbal in nature and since all workers are entitled to a written contract, it is unfair that artists do not enjoy this right.

The proposed solution

A written contract of service, concluded for a specified period or for the purpose of carrying out a given activity, should be required. The time limit for payment must be specified in writing and must not exceed 15 days from completion of the agreed artistic work or termination of the contract unless negotiation results in a situation more advantageous to the professional.

A copy of the signed contract must be issued to each signatory.

The contract must be amended to reflect any change in the amount of the remuneration or the duration of the contract. In the event of a change of any other kind, a new contract must be concluded.

How would it work?

A professional in the arts who was not provided with a written contract could request its delivery from the employer and the relevant labour inspectorate at any time during the employment relationship.

²⁴ International Federation of Musicians, *The Future of Work in the Media, Arts & Entertainment Sector: Meeting the Challenge of Atypical Working*, available online at: <https://www.fim-musicians.org/wp-content/uploads/atypical-work-handbook-en.pdf>.

The existence and validity of an employment contract would not be affected by the contracting parties' failure to conclude a written employment contract or by conclusion of a contract that did not cover all aspects of the employment relationship.



Annex 2: Explanatory note on social benefits for professionals in the arts

Issues to be addressed

Most professional artists and entertainers in Mauritius and Rodrigues are self-employed. The majority of them work on their own account or on occasional contracts for a contractor (who does not contribute to a pension fund on the contractual employee's behalf) or in the hospitality sector, generally on a verbal agreement regarding remuneration. Their income is erratic and uncertain and they struggle to make ends meet; some even take part-time jobs as and when they are available in order to survive.

Driven by a passion for their art, these professionals brave the odds and contribute to the development of the creative sector. Unless the Government adopts timely social measures over and above what the welfare state offers its retired (senior) citizens and builds and maintains a strong social environment for these self-employed professionals, they are likely to be left behind.

As a responsible and caring society, the Republic is duty-bound to recognize and support registered professionals in the arts even though they are independent, self-employed and working on their own account. They deserve a better deal than the existing welfare schemes, not out of pity but in recognition of their contribution to the country's artistic patrimony and of their effort to optimize the creative sector's potential for economic growth, job creation and social inclusion.

Support for social recognition of, and an additional pension granted to, professionals in the arts should be seen not as a free lunch, but as a measure that sparks wide-ranging interest and as a means of boosting the country's creative opportunities and cultural capital, the value of which far outweighs the budgetary resources allocated.

The proposed solution

While grants, venture pitches, financial awards, annual events, allowances and other opportunities to support the community's creative, enterprising go-getters are good incentives, they offer no guarantee of a stable income after retirement. What is needed is a more tangible pension plan, over and above the basic national pension and social benefits, for retiring professionals in the arts who are entered in the National Body for Professionals in the Arts (NBPA) proposed in the Status of the Artist legislation.

At present, an interesting and praiseworthy scheme provides a monthly pension of Rs 3000–10,000 to resident professional athletes who have made a name for themselves at continental and international events. In order to optimize the creative sector's potential for economic growth, job creation and social inclusion, it is important to recognize the contribution of resident professionals in the arts through a similar plan, but keeping in mind that the criteria and procedures for granting should be adapted to the particular nature of artists' work.

A Recognition Allowance scheme for professionals in the arts: the State might establish a retirement pension, over and above the existing old-age pension scheme, for artists who have gained recognition at the national and international levels. Such a measure would encourage professionals in Mauritius and Rodrigues to further develop their skills, to take their work to the global level and, ultimately, help to enhance the Republic's creative cultural sector.

How would it work?

The entitlement would be granted by the proposed NBPA.

Specific conditions and the procedure for obtaining a Recognition Allowance shall be established through a decree upon a proposal from NBPA.

Cross-subsidization

Many independent professional musicians, singers, dancers and other entertainers and artists are not covered by the National Pensions Scheme (NPS). Most of them are not even aware of the existence of the voluntary, self-contributory scheme whereby, for every Rs 100 that they invest, the Government contributes Rs 50. There is a need to raise awareness of this "build your own retirement pension" option among independent professionals.

How would it work?

The NBPA would use its information and consultation mandate to promote this incentive among professionals in the arts.

The Income-Threshold-Based Pension scheme

At present, all permanent employees are covered under the NPS. They contribute 3 per cent of their basic salary to the pension fund and employers contribute 6 per cent for each employee; thus, the total monthly contribution for each employee is 9 per cent of the basic salary (6 per cent + 3 per cent). This arrangement should also be made available to self-employed professionals in the arts who are registered with the NBPA. These professionals are self-employed and their average annual income rarely reaches the taxable limit; in fact, it is generally lower than the basic fixed income for agricultural workers. The proposed measure would introduce an Income-Threshold-Based scheme for independent self-employed professionals in the arts whereby the Government, on a case-by-case basis and after thorough investigation, would pay the total 9 per cent (6 per cent + 3 per cent) contribution of insured professionals to the NPF, as it currently does for sugar cane and domestic workers, in order to ensure them a peaceful retirement in gratitude for their contribution to the national creative cultural sector.

How would it work?

Professionals in the arts who were registered with the NBPA and whose average annual income fell below the taxable limit would be eligible to apply for the Income-Threshold-Based scheme described above, subject to consultation between the Government, the Mauritius Revenue Office and the NBPA.

Social security for entertainers

Entertainers and other professionals in the arts who have quasi-employed status and thus meet the criteria for presumption of a contract of service should enjoy rights similar to those of other salaried workers. In order to take into account their atypical working practices, described above, it is proposed that employers be required to pay their total contribution to the NPF (6 per cent + 3 per cent) and that their entire remuneration at the level of 125 per cent be recognized as an expenditure that is tax-deductible against the employer's business income.

How would it work?

In the event of a dispute between the worker and the employer regarding the existence of an employment relationship, the labour inspectorate would be responsible for determining whether such a relationship existed.

Annex 3: Explanatory note on taxation

The purpose of this paper is to further explain the measures proposed in the Status of the Artist Legislation Project with a view to inclusion in the country's tax laws. The purpose of the proposed tax measures is twofold: to improve the tax status of professional artists and promote their transition from the informal to the formal economy.

Flat rate deduction of professional expenses without the need to submit receipts

Issues to be addressed

Since tax returns have been filed electronically for some years now, there is no need to submit documentation in support of expenses claimed. Nevertheless, in countries with such a system, artists frequently find themselves in dispute with the financial authorities regarding the range and necessity of expenses, some of which may not reflect administrators' ideas regarding the artistic profession and its requirements since legitimate "professional" expenses include not only travel and accommodation, but also costs related to the maintenance of working space (cooling, lighting, stationery, telephone and similar), clothing (e.g. costumes), advertising or marketing (e.g. website costs), equipment or machinery, raw materials, training courses, business vehicles (cars, vans or lorries) and leisure activities in connection with artistic creativity. Since many professional artists are salaried employees who also work on an occasional basis as professional artists (such as a teacher in a visual arts school who is also a prominent painter), they have professional expenses as well.

The administrative burden on artists, as well as on the tax administration, is quite high. Moreover, if it is left to the tax authorities to select the percentage of income owed on a case-by-case basis, a lack of uniformity is inevitable. Above all, the electronic filing of tax returns does not relieve artists of their obligation to keep a record of expenses and related documentation, which they must be ready to present upon request.

The proposed solution: flat rate professional expense deductions

Since it is generally known that professionals must invest in, inter alia, equipment, studios, mobility and training, it makes sense to simplify the relevant administrative procedures. Many countries allow artists to claim a flat rate tax deduction of 40–50 per cent of the earnings generated from their artistic work without documenting or specifying their expenses.²⁵ Such a flat rate deduction would diminish the administrative burden placed on professional artists, as well as their bookkeeping expenses.

How would it work?

Any professional in the arts who was recognized as such through entry in the forthcoming Register of Professionals in the Arts would be eligible to claim the flat rate expense deduction. This would eliminate the need for them to keep the receipts that would otherwise be required for an itemized deduction of professional expenses.

In order to introduce a flat rate deduction, the Mauritius Revenue Authority (MRA) would need to conduct an investigation of artists' professional expenses in order to set an appropriate flat rate. This might be done for individual artistic fields or, in order to ensure equal treatment at the outset, a basic flat rate (40–50 per cent of taxable income, in line with existing good practices in other countries) might be introduced for all artistic fields. This would result in a radical simplification of administrative

²⁵ See "The Status of Artists in Europe" (European Parliament, November 2006), available online at: (https://www.andea.fr/doc_root/ressources/enquetes-et-rapports/51b5afb01bb8d_The_status_of_artists_in_EU.pdf); and the website, Compendium: Cultural policies and trends in Europe (<http://www.culturalpolicies.net/web/index.php>).

procedures and a guarantee that legitimate professional expenses would be recognized and would represent a significant improvement over existing tax practice. Of course, a larger percentage deduction would be allowed if properly supported by documentation.

Exemption of tax deducted at the source (TDS)

Issues to be addressed

Deduction of tax at the source is an advance payment of taxes, offset against the taxpayer's income tax liability. No deduction is taken where the amount due is less than Rs 500. The employer must issue employees an annual statement of income tax deduction for the previous fiscal year, showing the total payment made to the employee and the tax deducted therefrom, by 15 February. Where employees demonstrate to the satisfaction of the Director-General of the MRA that they are not subject to income tax for a given year, the Director-General may instruct the employer in writing that no tax is to be deducted from payments made to the employee for that year. The main difficulty is that artists would require information, advice and training in order to avail themselves of this option. In addition, such a measure would be problematic for those who do not earn enough to pay income tax since they would find themselves in the position of giving credit to the State despite their difficult financial circumstances; it would, however, be helpful for those who would otherwise owe tax at the end of the fiscal year.

The proposed solution

In his Budget Speech for 2017–2018, Prime Minister Pravind Kumar Jugnauth announced that "[r]oyalty income derived by a Mauritian from an artistic or literary work will not be subject to Tax Deduction at Source (TDS)". Consideration should be given to extending this measure to include all registered professionals in the arts by exempting income from or directly related to artistic activities from the deduction of tax at the source.

How would it work?

Since deduction at the source is beneficial to those who will owe tax at the end of the fiscal year, this option should be available to professionals in the arts at their own request but should not be imposed automatically.

A tax incentive for the purchase of artworks

Issues to be addressed

Development of the art market per se is contingent on three factors: the emergence of an audience or buyers; artistic production; and mechanisms for selling artistic products and services through performances, festivals, fairs, markets, and exhibitions or via intermediaries such as galleries, theatres, bookshops and cinemas. Where the market is too small to operate efficiently, incentives are essential to its development, particularly as the global popular culture industry – e.g. films, music, games and books – is flooding the domestic market at the expense of local production, which is declining in quality and quantity in the face of the easy availability of global pop culture goods.²⁶

Artistic consumption is limited to a small (but gradually increasing) group of arts consumers who purchase visual art works as a long-term investment or as an expression of patriotism. Fostering widespread appreciation of the role of the arts in improving quality of life and gaining social capital is a challenge that requires awareness-raising and related policy measures. In Mauritius, there is a lack

²⁶ Hans Ramduth, *Art in Mauritius: Post Independence issues and perspectives* (Moka, Mauritius, Mahatma Gandhi Institute, 2007).

not only of audience, consumers and collectors, but also of adequate marketing mechanisms and venues. Thus, it would be helpful to introduce incentives to motivate all types of arts consumers.

The proposed solution

A total of 50 per cent of the amount invested in the purchase of professional artworks or tickets to professional artistic performances would be deducted from the corporate and individual tax base.

It would be beneficial to involve private firms and individuals (e.g. the private sector) in financial support for the professional art sector. Such investments give the private sector an opportunity to indicate its funding preferences. Where total private giving is greater than the amount of tax forgone (e.g. 100 per cent, of which only 50 per cent is recognized as deductible), the total contribution exceeds tax expenditure and incentives are justified.

How would it work?

Artworks and artistic performances by professional artists entered in the forthcoming Register of Professionals in the Arts that are sold through artistic performances, festivals, fairs, markets, and exhibitions or via intermediaries such as galleries, theatres, bookshops and cinemas would be eligible for deduction from the buyer's tax base at 50 per cent of the value indicated on the sales receipt or ticket.

Abolition of the "entertainment tax"

Issues to be addressed

In 2011, the Local Government Act reintroduced the levy on admission fees that had been abolished in 2009; in his Budget Speech for 2007–2008, Deputy Prime Minister Ramakrishna Sithanen announced: "There is also an entertainment tax of 10 percent on the admission fee for performing arts conducted in public entertainment places. To encourage performances by renowned artists, I am abolishing this tax as well. Government will make good the revenue lost by local authorities".

However, with the introduction of the Local Government Act in 2011, municipal and district councils were again empowered to levy property tax, entertainment tax and certain licensing fees. Cultural producers and organizers have emphasized that the entertainment tax places an additional burden on them since they are already required to seek administrative authorization for occasional activities (section 122 of the Local Government Act) and to pay fees for the clearance documents required for the holding of cultural events in a public space. These include income tax (MRA) amounting to 7.5 per cent of ticket sales; Rights Management Society (RMS) fees amounting to 30 per cent of 7.5 per cent of ticket sales; and 15 per cent value added tax (VAT) on the RMS administrative share, as well as other expenses such as rental of venues and the costs of additional personnel, which are incurred when organizing any public occasional activity involving performance by local or international artists.

The proposed solution

It is contrary to the spirit of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions to levy additional taxes and fees on artistic events since the primary objective of the Convention is to promote the diversity of cultural expressions while "[r]ecognising and optimising the overall contribution of the cultural industries to economic and social development..." and "[e]ncouraging the introduction of cultural policies and measures that nurture creativity, provide access for creators to participate in domestic and international marketplaces where their artistic works/expressions can be recognized and compensated and ensure these expressions are accessible to the public at large."²⁷ Therefore, the levy on admission charges should be reviewed and abolished for artistic events such as concerts, musical shows and other performances so that cultural and artistic

²⁷ UNESCO, web page on "Diversity of Cultural Expressions" (<http://en.unesco.org/creativity/convention/about>).

performances by local artists can be presented in public spaces in interaction with an audience. The abolition of this tax would be in line with Prime Minister Pravind Kumar Jugnauth's desire to "optimize the potential of the creative sector for economic growth, job creation and social inclusion".²⁸

How would it work?

When an organizer requested authorization for an artistic or cultural activity in a public space where at least 50 per cent of artists involved were local, the entertainment tax, described in the Local Government Act (section 128) as "the levy on charged admissions", would not apply.

It remains to be determined whether this measure would be implemented under the Status of the Artist legislation or through a future amendment to the Local Government Act.

A tax incentive for costs related to contracts of service for entertainers in the hotel sector and technical professionals in the audiovisual industry

Issues to be addressed

Mauritian performing artists feel that their contribution to enhancement of the country's cultural diversity and tourism industry is not recognized. Owing to the limited market for Mauritius' music industry, the engagement of local musicians by the tourism (hotel) sector allows them to earn a living. For many of them, their career as hotel musicians, whether as resident band members or as regular performers, is their only source of income. Moreover, many artists (musicians, dancers, choreographers, etc.) are considered as freelancers rather than employees although they perform at hotels on a regular basis. Even if they have bank accounts, they are generally considered ineligible for a loan and for the related benefits that other employees enjoy.

In July 2013, the Government of the Seychelles introduced a scheme designed to encourage the country's tourism industry to recruit local artists to perform regularly, and thus earn a living from their artistic talents, by offering a tax rebate on performances by local artists (e.g. musicians, singers and dancers) in tourist hotels. Thus, over and above the incentives already in place, hotels and restaurants are entitled to a tax rebate (a 125 per cent deduction from the business tax) where they hire the services of local performing artists. This tax incentive is limited to performances by local artists and excludes foreign disc jockeys, singers and other performers.

The proposed solution

Entertainers and professional artists who are entered in the forthcoming Register of Professionals in the Arts and perform frequently or on a regular basis in hotels or restaurants are in a position of economic dependence in respect of these enterprises. Therefore, they are all eligible for the benefits enjoyed by regular employees under a contract of service. In establishing the tax base of such employers, the entertainment costs for local entertainers that take the form of regular salaries should be recognized at the level of 125 per cent as a tax-deductible expenditure.

How would it work?

Eligible hotel artists would be entered in the Tourism Employees Welfare Fund (TEWF), which would issue registration cards to them.

²⁸ Prime Minister Pravind Kumar Jugnauth's Budget Speech for 2017–2018.

Exemption from VAT and customs duties

Issues to be addressed

At present, only a few of the items required by artists (and even by the general public) are exempt from customs duty. These include amplifiers (audio frequency); battery chargers; cameras (still and video); cassette players/recorders; cassette tapes; cell phones; compact discs and disc players; computers; printers; digital cameras; DVD players; fax machines; graphic equalizers; headphones; microphones; musical instruments; telephones, including cell, mobile, radio and satellite; video cameras; and videotapes (recorded).

This restrictive list does not augur well for the development of professionals in the arts; it will need to be expanded with the introduction of the forthcoming Register of Professionals in the Arts.

The proposed solution

In order to create a culture and arts sector that is efficient and effective and to optimize its potential, bold policy decisions regarding professionals in the arts are needed. At the outset, the list of duty-free items will need to be expanded to include equipment, gear and instruments used by registered artists, entertainers and other professionals entered in the forthcoming Register of Professionals in the Arts. The following items will also need to be added to the list: art materials and brushes (including fine arts paints); canvas; sculpture materials, including clay, glazes, ceramic kilns, craft tools; and art and craft books.

Also needed is an exemption from customs duty on costumes and other items used by musicians, dancers, singers and other performing artists, including dance shoes, tights, leotards, warm-up clothes, hairbrushes, combs, elastic ties, barrettes, pins, hairspray, antibiotic ointment, antiseptic wipes, breath fresheners, embroidered costumes for Indian classical (Bharat Natyam, Kathak, Manipuri, Odissi, and Kuchipudi and folk (Garba, Rajasthani, Bhojpuri, Marathi, Tamil, and Telegu) dances and ankle bells (Ghungroos) and jewellery worn during these dances, which are heavy and therefore expensive to carry back from India.

Consideration might be given to taxing imported artworks from other Asian countries according to Article 2.2 of the 2005 Convention which recognizes States' sovereign right to adopt measures and policies to protect and promote the diversity of cultural expressions within their territory.

Films and the performing arts

Issues to be addressed

It is laudable that the Government is leaving no stone unturned in promoting film-making in the country through the Board of Investment (BOI) and the Mauritius Film Development Corporation (MFDC). In order to attract international producers, the national Budget 2016–2017 introduced a cash rebate of 30–40 per cent on local qualifying production expenditures that applies to a wide variety of projects ranging from feature films to television dramas and from documentaries to commercials.

However, local producers and film-makers may not reach the threshold of Rs 6 million and 2.25 million for feature films and television shows, respectively, and thus cannot benefit from the rebate scheme. Their budgets are far too small and in any event, it is not in the interests of a budding local film sector to venture into big-budget projects.

Stage producers and other performing artists are in a similar situation. They lack performance venues and the incentives for the purchase of materials are non-existent or too small to facilitate the emergence of individual professionals and theatre groups that can expand globally, ensuring them a

regular income, or to “optimize the potential of the creative sector for economic growth, job creation and social inclusion”.²⁹

The proposed solution

In order to ensure a steady growth of professionals in films and other performing arts, the following measures are recommended:

1. The customs duty exemption list for local registered professionals should include equipment and gear such as high-end cameras (RED ONE®) for documentaries to be shown on broadcast television and in theatres, professional camcorders, high speed memory cards, camera tripods with Fluid Drag Head and others, batteries and battery chargers, editing software and equipment, sound equipment, shoulder bags, camera luggage cases, walkaround lenses and lighting equipment (lights, lighting stands, softboxes and similar items).
2. The list of customs exemptions for film and performing arts should be updated as and when new demand arises.
3. The current film rebate scheme, which is a serious deterrent to the emergence of a local cinema sector capable of entering the international market, should be revised downward, especially for local filmmakers entered in the forthcoming Register of Professionals in the Arts and recognized by the MFDC, to a minimum of Rs 1.5 million and 500,000 for feature films and television productions, respectively.
4. A special rebate scheme and incentives for stage and other performers entered in the forthcoming Register of Professionals in the Arts should be introduced.

The Value Added Tax

Issues to be addressed

The value added tax (VAT) is another serious deterrent to the development of artists in the Republic. At present, all items appearing on the customs duty exemption list, as well as some that are not included in it are subject to 15 per cent VAT. The situation is even worse for artists in Rodrigues and the outer islands, who must pay additional freight charges on all items routed via Mauritius. It is also unclear which professional and non-professional items are included under certain headings, such as musical instruments and cameras.

Currently, only the following are VAT-exempt: educational services; training services approved by the Mauritius Qualifications Authority (MQA); journals and periodicals (selective); works of art; collectors' pieces and antiques; tickets to the cinema, concerts and shows; cinematographic films, including royalties; and re-imports of such films after temporary export or re-export.

The proposed solution

All items used by professionals in the arts entered in the forthcoming Register of Professionals in the Arts would be exempt from VAT.

At present, professionals in the arts have difficulty in obtaining reliable information. Therefore, a detailed list of all items that are customs- and VAT-exempt would be posted on the website of the MRA, the Ministry of Arts and Culture and/or the BOI.

The Rodrigues Regional Assembly might wish to consider subsidizing the freight charges incurred by professional artists and entertainers in order to make them more competitive with their counterparts in mainland Mauritius.

²⁹ Ibid.

Annex 4: Explanatory note on education and training

Culture for Education – Education for Culture

The Ministry of Education and Human Resources, Post-secondary Education and Scientific Research is responsible for the management, control and overall development of education in Mauritius. The Government provides free education to all students from the pre-primary to the post-secondary level. Arts education has been incorporated into the national curriculum and is offered by some educational institutions, both government and private.

However, the majority of these institutions at all levels do not provide arts education owing to an absence of interest and demand from students and their parents, who focus on accounting, economics, information technology, banking, the sciences and other subjects that ensure future employment.

The general view, including on the part of teachers and professors, is that arts education does not offer employment prospects or income stability. For this reason, many school administrators have been cutting the arts from their curriculum in recent years. This is a serious problem that affects the Government's policy for the holistic development of students from kindergarten to post-secondary education.

The close relationship between education and culture plays an important role in promoting modern knowledge societies capable of facing the challenges of the future in this highly globalized world, in which "[h]uman creativity and innovation at both the individual and group level, are key drivers of [economic development] and have become the true wealth of nations in the twenty-first century".³⁰ "Adequately nurtured, creativity fuels culture, infuses a human-centred development and constitutes the key ingredient for job creation, innovation and trade while contributing to social inclusion, cultural diversity and environmental sustainability."³¹ Unlocking the creative potential of small nations depends to a great extent on the well-being of professional artists, including their need to develop new skills and upgrade their education at all levels. A skilful work force is absolutely crucial in moving the arts sector towards creative industries; art production both fosters a sense of identity and generates new jobs for skilful workers that contribute to poverty reduction, thus raising GDP and promoting the country's socioeconomic development.

By ratifying the 2005 Convention, Mauritius has committed to:

- (a) encourage and promote understanding of the importance of the protection and promotion of the diversity of cultural expressions, inter alia, through educational and greater public awareness programmes;
- (b) cooperate with other Parties and international and regional organizations in achieving the purpose of this article;
- (c) endeavour to encourage creativity and strengthen production capacities by setting up educational, training and exchange programmes in the field of cultural industries. These measures should be implemented in a manner, which does not have a negative impact on traditional forms of production.³²

³⁰ United Nations Development Programme and United Nations Educational, Scientific and Cultural Organization, *Creative Economy Report 2013, Special Edition: Widening Local Development Pathways* (UNDP, New York, 2013), available online at: http://academy.ssc.undp.org/GSSDAcademy/Upload/CER13_Report_web_optimized.pdf, p. 15.

³¹ United Nations Development Programme and United Nations Conference on Trade and Development, *Creative Economy Report 2010: Creative Economy: A Feasible Development Option*, available online at: http://unctad.org/en/Docs/ditctab20103_en.pdf, p. 393.

³² Article 10 – Education and public awareness.

The various types of interdependence between the knowledge-based society and art should be acknowledged because, among other things, the content used is provided by artists. All forms of artistic education and training, as well as art appreciation (audience-building), are of paramount importance.

The main strategies should include, inter alia:

- A strategy for domestic intersectoral, e.g. public-private (Business Mauritius, the Mauritius Chamber of Commerce and Industry and the Association of Mauritian Manufacturers) and civil (non-governmental organizations (NGOs)) partnerships.
- A strategy for international (foreign governments and development agencies such as the British Council, the Institut Français and the China Cultural Centre) partnerships.
- A strategy for interministerial collaboration (developing joint training projects using mutual know-how and shared training premises).

Measures for incorporating arts and culture education into the curriculum (as compulsory or optional subjects) and cross-curricular and extracurricular activities in general education

Although efforts to introduce an interdisciplinary element into the curriculum at the primary and secondary levels are under way, there has been little headway with regard to arts and culture education and extracurricular activities involving arts and culture are entirely absent.

Promotion of the arts in all their forms should be seen not as the responsibility of one individual or institution, but as a collective effort to improve the status of the artist and harness the extraordinary power of the arts to raise educational outcomes for learners and enrich the economic and social wealth of the country.

Issues to be addressed at the primary school level

With the Government's introduction of the Nine-Year Schooling initiative, it has been proposed that subjects such as art, music, dance, drama and design form part of the curriculum for grades 1 to 9. The National Curriculum Framework (NCF) for grades 1 to 6, which is pivotal for implementation of the initiative, includes a core course of study designed to meet essential learning skills (literacy, numeracy and communications), basic content (knowledge and understanding) and twenty-first century competencies (global awareness, civics and innovative thinking) and to infuse a proper attitude and values.

The primary school curriculum seeks to foster children's holistic development and personal growth through instruction in the arts (creative art, music, dance and drama), health and physical education and cross-curricular studies. Holistic development is expected to be achieved through the formal school curriculum, co-curricular and extracurricular programmes and activities, and community engagement programmes.

Many young teachers have been employed in order to teach "holistic education" (the visual arts, dance, theatre, sports and hygiene). They are graduates in a variety of disciplines and are expected to promote holistic education in the schools and to provide support for enhancement programmes that are offered outside the normal teaching hours of the formal curriculum. However, since not all of these recruits have training in the arts and most of them lack artistic competence and knowledge, they need institutional support if they are to be efficient and effective in their work.

The Mauritius Institute of Education (MIE), a teacher training institution, has a Visual Department that specializes in subjects such as printmaking and painting, applied art and pottery, and art and photography, culminating in a certificate or diploma. The Institute offers opportunities for trainees to take part in exciting events across the visual arts and encourages them to explore a diversity of historical periods and critical approaches.

The Minister of Education and Human Resources, Post-secondary Education and Scientific Research has launched a Holistic Teacher Education Programme for the primary education sector, focusing on the development of students' intellectual, emotional, social, physical and artistic skills. While this is a first step towards better recognition of the arts, it is limited in scope; additional content on arts pedagogy should be included. The fundamental premises of holistic education are so different from those of mainstream schooling that teachers cannot simply "deliver" a pre-packaged curriculum; they need to collaborate with the arts community in order to eliminate the gap between life-in-school and life-outside-of-school.

The proposed solution

Various objectives should be pursued in order to overcome these teachers' lack of training in the arts, including:

- Collaboration with the existing arts schools in providing the artistic component of the Holistic Teacher Education Programme; the Ministry of Education and Human Resources, Post-secondary Education and Scientific Research should work with the NBPA, the Mauritius Institute of Education, the University of Mauritius and other relevant post-secondary institutions to develop specific training programmes (part-time, full-time, casual and week-end courses) for holistic education teachers. Recognized, registered private institutions should also be included since it is important to involve all stakeholders in their training.
- Collaboration between the schools and Mauritian artists and writers in developing customized education programmes in the visual, performing and literary arts in order to meet the specific needs of schools and students by increasing students' understanding and appreciation of the various art forms and genres through meaningful and enriching arts education with a practising artist or writer; and to promote partnerships between schools and such artists and writers in order to augment the school's arts programme.
- Development of extracurricular activities involving the arts in order to foster a vibrant arts culture in the schools through enrichment programmes (for example, visits and presentations by artists). These programmes might offer a wide range of activities in all subject areas, including arts clubs, orchestras and bands, in order to encourage creativity, teamwork and communication skills and the development of future audiences.

How would it work?

The MIE could act as an excellent motivator for continuous professional development from induction onwards through a system of accreditation and enable "professionals in education to engage in Lifelong Learning".³³ The courses could be examination-, non-examination- or assessment-based.

The Ministry of Education and Human Resources, Post-secondary Education and Scientific Research, in collaboration with the proposed NBPA, should launch initiatives and programmes designed to ensure that every child has the opportunity to learn about, enjoy and participate directly in the arts by inviting artists into the schools and including them in curricular and extracurricular activities.

Issues to be addressed at the secondary school level (grades 10 to 13)

The role of the performing arts in the secondary school curriculum has not been clearly specified. Courses in the visual and media arts have been part of the Cambridge School Certificate and Higher School Certificate curriculums for several decades.

³³ Website of the Mauritius Institute of Education (<http://www.mie.ac.mu/>).

The proposed solution

The forthcoming national curriculum for grades 10 to 13 should include the visual arts, music, crafts, drama, dance, media arts and architecture, and these subjects must be covered by the Cambridge examinations that students take at the end of grades 11 and 13. Such a step would have a positive impact on the interest and talent of potential professional artists and on the development of future audiences.

In addition to courses in the arts, curriculum developers and course-writers for grades 1 to 13 should introduce an interdisciplinary approach that would encourage teachers to make cross-curricular links between the arts and other subjects, for example: music, text and language; the visual arts, perspective and geometry; physical education and sports, dance, rhythm and music; or languages and theatre.

Extracurricular activities involving the arts should be introduced not only in the schools, but through joint programmes with cultural centres and sociocultural organizations with an interest in the arts and culture.

With a view to the incorporation of the arts into general education, professional artists registered with the proposed NBPA might be employed on a full- or part-time basis in order to promote creativity, confidence, visual learning, song, dance, music and other performing arts. These professionals would make arts education in the schools fun and pave the way for achievement of all the objectives of Creative Mauritius–Vision 2025; they are assets that cannot be ignored.

How would it work?

The Ministry of Education and Human Resources, Post-secondary Education and Scientific Research would work closely with the Mauritius Institute of Education, the University of Mauritius, other post-secondary institutions and the Ministry of Arts and Culture to introduce arts education at the secondary school level (grades 10 to 13) and bring artists into the schools. Recognized NGOs and private organizations should also be involved.

Measures designed to consolidate the principal artistic occupation of professional artists and provide them with professional training enabling them to update their knowledge of their profession (life-long vocational training)

Issues to be addressed

Although music and dance are already taught at the post-secondary level, a thorough review of the curriculum and programmes of study should be carried out in order to encourage and attract potential artists in specific fields.

Like other workers, artists must keep their skills and knowledge current. In the recorded media, the pace of technological change is breath-taking. As independent contractors, artists generally do not have access to public retraining programmes. Because individual employers of artists generally need a diverse pool of talent, there is little incentive for them to fund training, since they may end up training an artist whom they will never engage again.

Unlike most other professionals, some artists also have significant career transition issues. For example, the average age at which professional dancers leave the career [...] is the early 30s, the age at which other professionals are just entering their prime earning years. Some actors will also need to transition from their career because they no longer respond to the beauty and youth norms that are often prevalent in the film industry, or due to physical issues. This transition can be challenging emotionally

and financially for individuals who have invested so much of themselves for a generally meagre economic return.³⁴

For the purpose of artistic development and consolidation of knowledge, skills education and training programmes might vary from short workshops to longer programmes of study and from basic courses on business skills to project management courses for advanced students.

Talented professional artists need to take a fresh look at their subjects of specialization and expertise in order to become more efficient, effective and creative and to compete with their international counterparts. Many of them can surpass themselves and forge ahead in their careers, yet they are not encouraged to think outside the box and leave their comfort zone in order to acquire additional knowledge and skills.

The proposed solution

The Ministry of Education and Human Resources, Post-secondary Education and Scientific Research, together with the Ministry of Arts and Culture, the Office of the Prime Minister and the NBPA, should consider the best way to develop a comprehensive arts education and training system.

How would it work?

Such a system should be developed in partnership with local arts and culture organizations such as the Mahatma Gandhi Institute, the Conservatoire de Musique Francois Mitterrand, foreign cultural institutes, and experts in specific fields. For some training needs, local and overseas trainers might be identified.

Development of a continuing management training and education programme

Issues to be addressed

Existing and new courses in management education and training for professionals in the arts, with a focus on retraining and consolidation of existing knowledge in order to improve technical skills, are essential. Research, analysis and evaluation have identified a lack of management, entrepreneurship, leadership and marketing skills, as well as insufficient information on matters such as international networking, collaborative international processes, project management, proposal-writing and fundraising, as key issues for cultural operators in Mauritius.

A Master of Business Administration (MBA) degree and training in entrepreneurship and management as part of a continuing professional development programme are viewed as powerful drivers of change throughout the world.

The proposed solution

Management education and training could be divided into four basic areas, each with three main components. Such a programme could also inform cultural policy formulation, provide a platform for competent cultural administration and pave the way for the development of modular education and for comprehensive programmes comprising all modules so that cultural entrepreneurs can choose courses in a single area, enrol in a cross-cutting range of courses or, if they are already knowledgeable, select more skill-oriented modules and training.

³⁴ Garry Neil, *Status of the Artist in Canada: An Update on the 30th Anniversary of the UNESCO Recommendation Concerning the Status of the Artist* (Canadian Conference of the Arts, 2010), available online at: <http://en.unesco.org/creativity/sites/creativity/files/passeport-convention2005-web2.pdf>, p. 6.

	Education and Training Areas			
	Arts management (institutions and organizations)	Project management	Marketing	Entrepreneurism (basic skills for running a company and understanding context)
Main Components	Strategic planning	Project conceptualization, design and presentation	Audience development	Financial management and business plans
	Human resource management: Leadership	Fundraising	Communication and promotion skills	Cost-benefit analysis and evaluation
	Cultural policy, implications for management of cultural institutions, programming and sustainability	Cultural policy and project management	Cultural policy, focus on questions of access and cultural diversity implications for audience development	The role of cultural policy in promoting employment and reducing poverty

There is a need to introduce more concrete subjects, of which students should choose at least three, in areas such as:

- Cultural governance and administration
- Audiovisual policy and management.
- Cultural and creative industries policy and management
- Museum and heritage policy and management
- Tangible heritage: interpretation and audience development
- Intangible heritage management (from documentation to mediation)
- Cultural diplomacy (international cultural cooperation)
- Performing arts policy and management
- Visual arts policy and management (an art market and gallery system)
- Festival and event management
- Cultural tourism

How would it work?

The arts in Mauritius require tailor-made policy, management, marketing and leadership training, including courses linked to other disciplines such as theatre production, film production, librarianship and museum management.

The Ministry of Education and Human Resources, Post-secondary Education and Scientific Research, the Ministry of Arts and Culture and the NBPA, in close collaboration with the National Skills Development Programme and post-secondary institutions offering programmes on arts management and in partnership with local arts and culture organizations (such as the newly-proposed National Centre for Performing Arts (Government Programme 2015–2019), the Mahatma Gandhi Institute, the Conservatoire de Musique Francois Mitterrand and foreign cultural institutes, should identify the best model for a comprehensive training curriculum. Different stakeholders for different aspects of the programme might be identified.

Key partners should include the Mauritius Chamber of the Commerce and Industry, Business Mauritius, the Association of Mauritian Manufacturers and associations of craftspeople involved in capacity-building for small and medium-sized enterprises (SMEs) throughout Mauritius.

Specific emphasis should also be placed on developing a regional partnership for knowledge creation and transfer in this area. Although the countries of the region have very different levels of socioeconomic development, they are all rich in cultural traditions and they are all facing similar challenges of globalizations and value transformation.

Training should be offered once a month at the end of the working week, enabling participants to use part of their working time for training, but also on Saturday morning so they can demonstrate their commitment to and personal investment in training and education, and in their future career development.

The training system might be structured so that each completed module earned credits towards a vocational certificate. Programmes should be announced at the beginning of the year and should be open to those who wish to undertake a long-term, certified (perhaps Master) programme and those who are interested in only some of the modules.

The Centre for Continuous Professional Development in the Arts

The Centre for Continuous Professional Development in the Arts would be linked to the NBPA and would have a maximum of three employees: a lead manager (concept developer and curriculum designer), a project manager (fundraising and marketing for the Centre and the Programme) and a coordinator (organization and administration of training programmes). All of these subjects should also be included in the Centre's annual training calendar.

The Centre's main deliverables would be:

In the short term (one year):

- A calendar of short training programmes.
- A compilation of training materials, booklets and the use and translation of existing UNESCO training materials in areas such as policy design and implementation.

In the medium term (two years):

- Development of a comprehensive Master programme in arts policy and management, which would entail finding a University interesting in developing and offering such a programme.

In the long term (three years):

- Development of training programmes in areas such as performing arts policy and management (theatre production), film production and publishing.
- Development of a peer-learning system (internship learning), including, inter alia, sending and receiving cultural operators to and from various cultural institutions and organizations (on-the-job training), coaching, hosting of foreign or regional cultural operators (knowledge transfer through practice) and cultural policy and management residencies.

Continuing in-service training would build the country's policy-making and cultural administration capacities and help those who left school early or are working in an artistic field without adequate management skills through various types of education and training programmes that would ensure quality management and diversification of the artistic sector in Mauritius.

Annex 5: Explanatory note on the mandatory percentage of funding for artworks in public construction and renovation projects

Issues to be addressed

The visual arts and professional artists are only modestly supported by the State through the National Art Gallery and education programmes such as the Mahatma Gandhi Institute's Fine Arts School, where they can gain technical skills and knowledge but have no opportunity to disseminate their work after graduation. The visual arts are not systematically recognized by the State as a field of artistic endeavour and there is no concrete policy measure in support of professional visual artists, who must earn a living as art teachers rather than through their artistic work. Many internationally recognized Mauritian visual artists, some of whom have been selected to exhibit at the prestigious Venice Biennale, are unable to sell or exhibit their work in Mauritius. The domestic market for the visual arts is underdeveloped as there are only a few private galleries and arts collectors. In many cases, the visual arts are available as crafts for purchase by tourists and are not promoted among Mauritians.

The mandatory allocation of funds for artistic creation in publicly-financed investment projects is a well-known and internationally recognized way of supporting the placement of works of art in public (and private) spaces. This measure would partially address the existential struggle of visual artists and increase the visibility of local artists in public spaces. Thus, it has a dual purpose: first, to enable artists to disseminate their works, and ultimately to expand the market for the visual arts; and, second, to introduce artistic creation into living spaces and create a new awareness of the importance of reviving cultural identities. Such measures have been in place since the early 1950's in many countries in Europe and Latin America..

The proposed solution

Establishing a mandatory percentage of funds for artworks in public construction and renovation projects in order to create and develop an active market for Mauritian visual art is necessary in order to ensure stable living and working conditions for the country's professional visual artists and would benefit all relevant stakeholders: artists, architects, investors and the broader public. At least 1 per cent of the capital construction costs of new and refurbished public buildings should be spent on art. A considerable investment in artworks – measured in terms of both the number of works and the cost of their acquisition – would be made with a view to placement in government buildings, schools, day-care and health-care centres, transport facilities (bus and metro stations) and other service facilities.

Such a scheme would have numerous benefits for artists and the general public:

- Active artists, who operate in a virtually non-existent market in Mauritius, would be able to move from the informal to the formal economy through public tenders and competitions, which are currently both limited and rare.
- Artists would be able to expand their work into more ambitious areas by providing new services in the fields of urban planning, architecture, landscape architecture, construction and decoration of interior and exterior spaces.
- As professionals in the arts, artists and creators would have more opportunities to work and to survive.

The benefits for the broader public include:

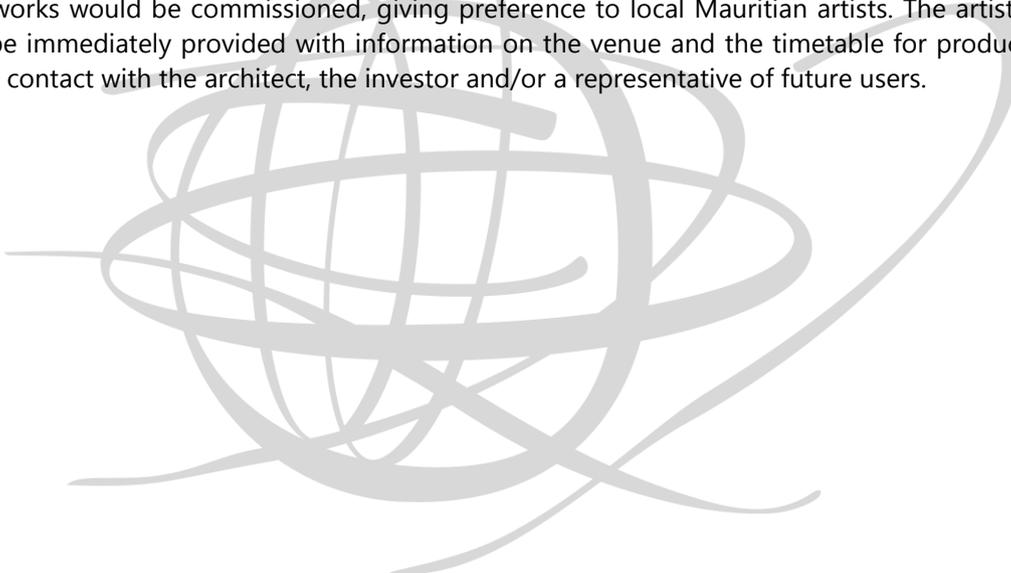
- The added value of public spaces that represent the diversity of cultural expressions in Mauritius.

Explanatory note on the mandatory percentage of funding for artworks
in public construction and renovation projects

- New forms of coexistence, public spaces and a greater sense of membership in and identification with the community.
- The cultivation and greater recognition of space.
- The demystification of art and creativity.
- Awareness of contemporary artists.
- An enhanced living environment.
- Acceptance of artists and recognition of the role of art.
- Improvement in the work environment of public officials.
- The promotion of architecture, landscape architecture, heritage and art in general.

How would it work?

Every investor in the construction or renovation of a public building would be required to allocate at least 1 percent of building costs to artworks. The budget for their acquisition would need to be confirmed at an early stage. Investors would publish in newspapers an invitation for artists to submit proposals. A committee comprising three permanent members (recognized art curators, art historians, art promoters or landscape artists) appointed by the NBPA and three non-permanent members (investors, representatives of the relevant ministry and architects) would select the professional artists whose works would be commissioned, giving preference to local Mauritian artists. The artist selected would be immediately provided with information on the venue and the timetable for production and put into contact with the architect, the investor and/or a representative of future users.



Annex 6: Explanatory note on the financial implications of the Law on the Status of the Artist

Issues to be addressed

Artists do not enjoy the rights to which other workers are entitled (contributory pension scheme, paid holidays and other leave, end-of-year bonus) and this prevents them from professionalizing their work in order "to optimize the potential of the creative sector for economic growth, job creation and social inclusion".³⁵

The main reason for this disadvantaged position of artists is the atypical nature of their working practices. In terms of the economic status of the artist the most important atypical working patterns are:

- *Atypical logic*: as a rule, artistic projects are not launched to get out of unemployment or to simply earn money but, above all, to express the creative forces of a personality;
- *Atypical work status (multi-activity)*: the majority of creators easily switch from self-employed status to that of salaried worker to that of company head or civil servant, all the while being able to combine one or another status".³⁶ Quite often, artists are forced to become self-employed (e.g. paid based on invoices) rather than being recognized as employees by those who hire them. This causes problems with regard to social security, taxation and unemployment insurance.
- *Atypical economic situations with irregular or fluctuating incomes*: artists "sometimes work for a number of employers simultaneously, or for none at all. They may sell nothing for long periods and then suddenly a great deal".³⁷
- *Atypical workload*: artists "spend a substantial amount of time preparing to earn income, in training, rehearsal, study, research or in creating a finished product".³⁸
- *Atypical combination*: "[m]any professional artists must supplement their income with revenue from [full or] part-time work outside their area of professional expertise [or principal artistic occupation (PAO)] in order to survive economically. For some, this may come to represent the bulk of their income",³⁹ yet they must also find time to train and rehearse.
- *Atypical in their influence on economic cycles*: the work of artists reaches way beyond the culture sphere in the strict sense and influences"⁴⁰ the development of cultural and creative industries;
- *Atypical in the assessment of results*: artistic success and impact cannot be measured in the same manner as other marketplace achievements".⁴¹ Experience and skills are no guarantee of

³⁵ European Institute for Comparative Cultural Research, The Status of Artists in Europe (Brussels, 2006), available online at: [https://www.andea.fr/doc_root/ressources/enquetes-et-rapports/51b5afb01bb8d The status of artists in EU.pdf](https://www.andea.fr/doc_root/ressources/enquetes-et-rapports/51b5afb01bb8d%20The%20status%20of%20artists%20in%20EU.pdf), p. 6.

³⁶ Status of Artist: An Overview (New Brunswick Art Board, Fredericton, New Brunswick, Canada), available online at: http://artsnb.ca/site/en/files/2012/05/status_of_the_artist_EN.pdf.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ European Institute for Comparative Cultural Research, The Status of Artists in Europe (Brussels, 2006), available online at: [https://www.andea.fr/doc_root/ressources/enquetes-et-rapports/51b5afb01bb8d The status of artists in EU.pdf](https://www.andea.fr/doc_root/ressources/enquetes-et-rapports/51b5afb01bb8d%20The%20status%20of%20artists%20in%20EU.pdf), p. 6.

⁴¹ Ibid.

success owing to market failure. Not only must cultural products be subsidized because the market is too small to operate efficiently, but low levels of education in the population diminish cultural demand.

- "Atypical financing: artistic innovation and quality in the culture sector cannot rely solely on "returns on investment" but rather needs specific forms of public intervention as well as private contributions [...]"⁴²

The risks related to these atypical working practices are exceptional and need to be addressed through adequate compensatory measures in order to:

- Ensure that artists enjoy the rights that civil servants and other employees take for granted.
- Improve the social, economic and professional status of the artist so that the cultural and creative industries that are solely dependent on the creative content that they provide can begin to flourish.

The introduction of adequate measures will have serious financial implications:

- The operational costs of the body responsible for the registration of professionals in the arts who meet the required criteria (the NBPA), which will have information, training, consultation, promotion and collaboration functions that will require the provision of adequate premises, staff and funding.
- Funding for the implementation of cultural policy measures targeting professionals in the arts (travel and work grants, scholarships, remuneration to artists for the display of their work, subsidies for rehearsal and studio space, artist-in-residence programmes).
- A Recognition Allowance scheme (See Annex 2 above).
- The Income-Threshold-Based Pension scheme (See Annex 2 above).

The current cultural budget of the Ministry of Arts and Culture would not allow it to assume financial responsibility for the establishment of a separate category of professional artists with quality as its main criteria. In order to introduce the specific measures justified by the atypical working practices of professionals in the arts, additional funding would be needed.

The proposed solution: lottery funding

In the Republic of Mauritius, the National Lottery is a particularly important grant-awarding body. As stated in the Annex to the Prime Minister's Budget Speech for 2017–2018, "[t]he Lotto Fund has been set up to contribute to the financing of projects, schemes and events in relation to, *inter alia*, sports, culture, leisure, heritage or art development and the preservation and rehabilitation of historical and cultural heritage sites and structures". In the future, a major part of the funding for the aforementioned measures could come from taxes on lotteries and other forms of betting.

How would it work?

Lottery funds earmarked for implementation of the Status of the Artist legislation would need to be properly managed by a full-fledged national registration body with appropriate sectoral expert committees that would include representatives of artists and of artistic associations and organizations in order to evaluate requests for registration and related support.

⁴² European Institute for Comparative Cultural Research, *The Status of Artists in Europe* (Brussels, 2006), available online at: [https://www.andea.fr/doc_root/ressources/enquetes-et-rapports/51b5afb01bb8d The status of artists in EU.pdf](https://www.andea.fr/doc_root/ressources/enquetes-et-rapports/51b5afb01bb8d%20The%20status%20of%20artists%20in%20EU.pdf), p. 6.