

CHAPTER FIVE

Factors influencing public oversight of digital surveillance for intelligence purposes: The case of Mauritius

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Introduction

State surveillance has been an increasing global trend, particularly following the terrorist attacks in the United States on September 11, 2001. With the rise of digital technologies and big data, governments now possess the ability to conduct extensive, large-scale monitoring of their populations. Western governments rationalised the use of invasive monitoring by arguing the need to fight terrorism and safeguard national security (Duncan, 2022). Africa has not remained untouched by these developments. In the wake of the USA terrorist attacks, many governments across the continent adopted laws allowing them to monitor citizens' movements and intercept communications. Over the years, the proliferation of digital technologies, including Closed Circuit Television (CCTV) cameras, facial recognition systems and biometric identification tools, has facilitated the implementation of surveillance systems across the continent (Abebe, 2018; Gadzala, 2018; Brown, 2020). Apart from a few countries, there has been little accountability and oversight of these developments. Because surveillance practices have become normalised and deeply embedded, governments – both authoritarian and democratic – can now justify them (Munoriyarwa and Mare,

2022). Public oversight of surveillance for intelligence purposes is becoming increasingly important and needed to curtail surveillance overreach. Formal institutional methods for oversight are unlikely to produce substantive accountability because many African governments lack strong institutional frameworks.

In Southern Africa, there have been effective instances of public oversight; nonetheless, the nature and factors of public oversight remain little understood and have not been thoroughly examined. Mauritius is one of the few countries that act as an example of an effective and successful public oversight over the government plan in 2013 to introduce a smart ID card linked to a centralised biometric database of all personal citizen data (Duncan, 2022). A digital ID system can be viewed as a form of intelligence-driven surveillance because it involves the collection, processing and storage of personal data that may be monitored by governments or security agencies. These systems amass a wide range of information, including biometric data and activity logs, enabling the tracking and profiling of individuals in real time. The concern arises when this data is used not only for identity verification but also for covert surveillance, without individuals' consent, leading to privacy concerns. This gives states substantial control over citizens' movements and activities, akin to surveillance practices employed in security contexts (see Lyon, 2009; Walby and Hier, 2009).

The plan to introduce the digital ID in Mauritius faced opposition in the form of public protests and legal challenges. In response to the public outcry, the government suspended the project and in 2015 conducted a review of the system and updated the data protection law in 2017 to align with the European General Data Protection Regulation and the Convention for Protection of Individuals regarding automatic processing of personal data (Baichoo et al., 2018). Drawing largely from desk research, this chapter analyses the factors that influenced public oversight and the government's response to the public protest. To do this, it draws on literature on surveillance, social movements and political science to understand three factors: (1) the nature of state surveillance for intelligence purposes; (2) the socio-political conditions that contributed to the successful public oversight and (3) the political conditions under which the

government suspended the biometric card and adopted progressive data-protection laws. Considering these three factors enables us to determine if Mauritius has the ideal political, socioeconomic and other conditions to serve as a best-practice model for building public oversight mechanisms in other African countries, or whether this successful public oversight was the consequence of a confluence of developments peculiar at that historical time. Strong institutions create the essential framework, accountability mechanisms and transparency that enable effective public oversight. In countries with weaker institutions, it is possible that a unique set of historical circumstances may result in successful public oversight on a one-time basis. However, this success may not be replicated in other instances when such oversight is needed.

A note on methodology

In preparation for this chapter, ethics-clearance approval was sought from the Ethical Clearance Committee University of Mauritius through a research colleague from the university. Unfortunately, the request was denied by the Committee due to the research being deemed 'sensitive'. The applicant was advised to seek approval from the Ministry of Information and Communication Technology, but this approval was referred back to the Ministry of Education, Tertiary Education, Science and Technology, which itself stated that the request had to be sent to the Prime Minister's Office, such that no approval has yet been granted to date. Consequently, without ethics approval, the planned key-informant interviews and focus-group discussions could not be conducted. As a result, this chapter relies on secondary sources for data collection. The chapter employs historical analysis as a methodological framework to explore the complexities of the past and how they shed light on current events. This approach also helps in understanding Mauritius's tradition of civic agency and public oversight. The sources of data include journal articles and books. Additionally, archival research was utilised, involving the systematic examination and analysis of archival materials to gather primary-source information on the developments

surrounding the smart ID, as well as the protests and court actions related to it. Archival research was used to trace the debates over the smart ID from its introduction in 2013 to the conclusion of key strategic litigation in 2017. Sources included newspaper articles, statements from pressure groups, court rulings and parliamentary gazettes. In the absence of primary data, a literature review was also conducted to gather insights from other scholars who have written on the smart ID issue. These methods were further supported by policy analysis, where key legislation such as the Data Protection Acts of 2004 and 2017, the National Identity Card Act, and the Civil Status (Amendment) Act of 2001 were examined. This analysis provides insights into the legal and regulatory context surrounding the smart ID card.

Mauritius: Socio-economic and political context

Mauritius is an Indian Ocean Island nation in East Africa. Despite being recognised as an African nation, Mauritius differs greatly from other African nations in several significant ways. It was first inhabited by the Dutch in the seventeenth century, followed by periods of French and British colonisation (Houbert, 1981). It gained independence from Britain in 1968 and became a republic in 1992. Independence came after three decades of active political manoeuvring and negotiations rather than that of a national liberation struggle (Ramtohul, 2018). Multi-party politics was, therefore, firmly established at independence, guaranteeing political stability, social cohesion and economic diversification (Phaala, 2019; Ramtohul, 2021.) With its blend of the majoritarian Westminster model and practices of power sharing among the several ethnic groups that comprise the populace, Mauritius provides a fascinating example of a functioning democracy (Jahangeer-Chojoo, 2010). The opposition is a key component of Mauritius's political system, and the country's Constitution expressly recognises the role of opposition leader, who is given some consultative powers over specific institutional appointments (Bertelsmann Stiftung, 2024). Four parties dominate the political landscape since independence: the Mauritian Labour Party

(MLP), the Mouvement Militant Mauricien (MMM), the Mouvement Socialist Militant (MSM) and the Parti Mauricien Social Démocrate (PMSD). The MLP, founded in 1936, is a centre-left social-democratic political party. The MMM is a left-wing socialist political party, established by a group of students in the late 1960s, while the MSM, founded in 1983 by dissidents of the MMM, is also a centre-left political party (Bunwaree and Kasenally, 2005) and the PMSD is a centre-right party.

The ideological orientation of the Mauritius government is generally characterised by a blend of liberal democracy, social-welfare policies, and a market-oriented economy, reflecting a pragmatic approach to governance (Bunwaree, 2001; Bertelsmann Stiftung, 2024). The country has always been governed since its independence in 1968 by coalition governments of at least two parties. In many countries where coalition governments are the norm, political actors typically negotiate the formation of a coalition after the election. However, in Mauritius, all coalitions have been formed before the election. Parties reach an agreement in advance on a shared platform and programme, which they present to the electorate. They also agree on how key positions within the coalition will be distributed (Sithanen, 2003, pp. 2–3). Power has traditionally alternated between alliances formed by any two of the four parties, sometimes with additional smaller parties (with almost all possible combinations), leading to a relatively stable political environment (Phaala, 2019).

The last few years have, however, seen democratic backsliding in the country, according to influential observers and think tanks. Key factors contributing to this backsliding include allegations of executive overreach, where the government has been accused of undermining the independence of key institutions, such as the judiciary, electoral bodies, and anti-corruption agencies. Issues related to the surveillance of citizens, particularly through national identification systems like the smart ID card, have raised alarms about potential overreach by intelligence agencies. Additionally, the political parties 'have become extremely leader-centric, and power and decisions are concentrated, focused on big money and growing levels of cronyism' (Kasenally, 2022a, p. 5). Apart from the introduction of the biometric card in 2013, other measures have reined in civil liberties,

including arrests of journalists in 2019, multiple suspensions of a commercial radio station's licence in 2020 and the political capture of key institutions including the legislature, where opposition members have been recurrently expelled, especially between 2020 and 2024. In addition, legislative proposals that pointed to the government's intentions to create a surveillance state were introduced in 2021 (Kasenally, 2022a). Notwithstanding imperfections (periodic nepotism and corruption, occasionally unstable coalitions), Mauritius's democracy has solidified to an extent unmatched in Africa (Kasenally, 2011; 2022a; 2022b).

The country is made up of diverse ethnic groups composed of the descendants of migrants who came to the island under various conditions from diverse geographical regions: France as settlers, the African continent as slaves, India as indentured labourers and China as merchants and traders (Maurer, 2015). This diversity has not led to conflicts; on the contrary, it has been beneficial to the country's democratic politics (David and Petri, 2013). Civic networking, trade unionism and social mobilisation are entrenched in Mauritius, owing to the country's history of indentured labour and rich cooperativism (Duncan, 2018; 2022). The umbrella body of non-governmental organisations (NGOs, the Mauritius Council of Social Services, estimated in 2019 that over five thousand voluntary organisations operate in the country. These trends help explain the unusual vitality of democracy in the country.¹

The nature of state surveillance for intelligence purposes in Mauritius

There is a dearth of literature on intelligence and surveillance in Mauritius (Murday, 2023). Despite this, historical instances of surveillance can be traced back to the French and the British colonial periods, particularly in how they controlled first the slaves, who were treated as mere property, and later the indentured labourers, who were required to carry passes that tracked their movements, while

1 <https://macoss.mu/publications/annual-report/> accessed 24 March 2024.

plantation overseers and managers closely monitored their activities. This system of surveillance was harsh and often accompanied by physical punishment and exploitation. The practices in Mauritius mirror broader imperial strategies of control and exploitation prevalent in other colonial settings (Cormack and Kukutai, 2022). In colonial Africa, state surveillance was a pervasive and frequently brutal feature of colonial rule. Various methods were put in place by European powers to monitor and control local populations for social, political and economic purposes (see Shafer, 2013). At independence, many African governments inherited some aspects of this surveillance state, mainly through the retaining of repressive laws and a partly reformed police and military force, which often continued to function in ways that infringed upon the rights and freedoms of the population (see Akech, 2009; Schmidt, 2013).

Although Mauritius experienced a different form of colonialism and at independence the country quickly instituted coalition and multi-party politics with the goal of providing representation to nearly all ethnic groups, largely due to the Best Loser System (BLS), which is entrenched in the Constitution of Mauritius. The BLS makes provisions for additional seats for MPs from ethnic groups which may be under-represented in Parliament by the first-past-the-post electoral system after each general election. And, with governments based on consent, political rulers have eschewed a standing army. Since there is no army in Mauritius, all military and security operations are handled by the National Police Force (MPF), the Special Mobile Force (SMF) and the National Coast Guard (NCG). The primary purpose of the SMF is to ensure internal security (Murday, 2023, p. 432). The National Mauritian Security Service (MSS) is responsible for the national security of the country.² It operates under the Ministry of Defence and has a mandate to gather and analyse intelligence related to national security threats, both domestically and internationally. Managing ethnic relations is one of the most important aspects of domestic security. As a result, the NSS has a desk designated for each of the major ethnic and religious

2 It was formerly known as the National Intelligence Unit (NIU) and State Security Service (SSS).

communities in the nation: the Chinese, Creole, Hindu and Muslim desks. In certain cases, the NSS has frequently been used for political purposes by succeeding governments and this involves spying on members of opposition parties (Murday, 2023, p. 434).

The absence of conflicts and the maintenance of a relatively stable democracy in Mauritius has averted the use of the panoptical model of surveillance, a growing concern in some African countries. However, the tide is turning and there are fears that the country is moving towards a surveillance state, owing to the democratic back-sliding. The move to surveillance started with the 2013 smart biometric ID card, followed by the introduction of the Safe City project in 2017, leading to the mounting of four thousand cameras across the island (Kasenally, 2022a). The government launched the Mauritian Safe City Project (MSCP) to enhance public safety by installing cameras across the island. The project involved three main players, each with distinct yet somewhat unclear responsibilities: the Mauritius Police Force (MPF), the national telecommunications operator Mauritius Telecom, and the commercial supplier Huawei. The overlap between these players, particularly around data management and accountability was a point of contention, as there was limited clarity on how roles were divided and regulated. This ambiguity also raised privacy concerns and calls for clearer oversight mechanisms (Kasenally, 2022a). Critics see the connection between the biometric ID system and the Safe City project because the success of any Safe City project depends on data. The link comes in the issue of data integration. Biometric ID systems collect vast amounts of personal data, such as fingerprints, facial recognition, and other biometric details. In a Safe City project, which often involves widespread surveillance through cameras, monitoring devices and smart city technologies, this data becomes crucial for identification and tracking. With biometric data readily available from national ID systems, authorities can link real-time surveillance footage to individuals, making it easier to track movements, identify suspects and monitor citizens.

Kasenally (2022a, p. 6) argues that, although Mauritius has one of the best data-protection laws in Africa, as well as a Data Protection Office, section 44 of the DPA (2017) stipulates: 'Personal data shall

be exempt from any provision of this Act where the non-application of such provision would, in the opinion of the Prime Minister, be required for the purpose of safeguarding national security, defense or public security.' This clause allows the Prime Minister to reverse the Act's guarantees for the privacy of personal data. According to the Code of Practice for the Operation of the Safe City System(s), this clause applies to Safe City data. There is a potential for abuse, misuse and manipulation of this data, as the terms 'national security' and 'public security' remain undefined in the Act and can be interpreted in broad, flexible ways. When the Safe City and the smart ID card are combined, these concerns are amplified.

In all these developments of the state's attempt to establish a surveillance system, Mauritian society has protested in different forms, leading to the review of the biometric ID, the scaling-down of the Safe City project and the shelving of some problematic proposals to amend the ICT Act requiring that all social-media traffic in the country be decrypted – a move that critics in civil society and the media say amounts to implementing a digital surveillance system (Chan-Meetoo 2021; Phokeer, 2021). Unprecedented in Africa, the public protests over the biometric ID card provide an excellent case study of public oversight.

The biometric ID card: Context and concerns

The National Identity Card Act, which went into effect in 1985, mandated that all Mauritian citizens apply for identity cards no later than six months after turning 18. This card was laminated and had no digital elements.³ A new system for biometric identity cards was implemented under the Mauritius National Identity Scheme (MNIS) by the Finance (Miscellaneous Provisions) Act 2009 and the National Identity Card (Miscellaneous Provisions) Act 2013, which incorporated on a chip the citizen's biometric information relating to

3 Human rights and the biometric identity card- Retrieved at <https://www.dentons.com/en/insights/articles/2021/july/26/human-rights-and-the-biometric-identity-card>, accessed 12 February 2024

external characteristics, such as high-resolution face images, which could enable facial recognition (Baichoo et al., 2018). Furthermore, the 2013 NIC Act's Section 3 mandated the Registrar of Civil Status to maintain a centralised database that stored personal information, biometric data, residential address, national identification number and date of birth maintained in the database located at the Government Online Centre.⁴ This is how the government justified the need for a biometric ID:

Although the National Identity Card (NIC) has served its purpose, it is now outdated and has many flaws. The actual NIC card is paper-based laminated in plastic. This is a major flaw, as it can be easily tampered with. It also lacks security features, which is a major setback, both for national security purposes and for citizen identity management . . . With the fast development in Information and Communication Technology, where security identifications and business transactions are done online, it has become of utmost importance to replace the National Identity Card by a smart version. Amendments to the National Identity Card Act to allow for fingerprints and other biometric information to be incorporated . . .⁵

While smart ID card systems can offer benefits like improved service delivery and convenience, they also carry significant surveillance risks, particularly when they involve the collection and centralisation of personal data. This massive data collection provides authorities with a comprehensive database that could be used for surveillance. Without sufficient legal and regulatory oversight and technical

⁴ Section 5 of the NIC Act of 2013 provides that the identity card shall bear the person's names, date of birth, gender, photograph, signature or thumbprint, NIC number and also the date of issue and (in section 5(2)(h)) 'such other information as may be prescribed'. *Madhewoo (Appellant) v The State of Mauritius and another (Respondents)* (Mauritius) From the Supreme Court of Mauritius.

⁵ The Prime Minister addressing Parliament: Fifth National Assembly Parliamentary debates (Hansard) Second session Tuesday, 09 July 2013

safeguards, the data collected by smart ID systems could be abused by governments, corporations or hackers. There is also the risk of function creep, where a system initially designed for national identification or public services becomes a tool for broader surveillance activities. Based on these concerns posed by biometric ID card technologies, as stated above, the ID card was resisted by civil society organisations, tech experts and some political actors through an array of mobilisation strategies, including strategic litigation (see Duncan, 2018; 2022).

Theoretical lens

The chapter applies and adapts Kingdon's Multiple Streams Framework (MSF) and political process theory to examine the factors that contributed to successful public oversight of the biometric ID card project. Kingdon (2003) proposes an approach in which three streams – problem, policy and political – are assumed to develop independently from each other with their own agents and dynamics. For an agenda change to occur, all three streams need to be ready for coupling (Herweg et al., 2022). Thus, at certain critical moments, a 'window of opportunity' opens, and the streams come together making policy change more likely to happen. The MSF is used in conjunction with the political process theory, which is a conceptual framework used to understand the dynamics of social movements and their achievement of success. This theory describes the larger socio-political context in which political and social actors operate. It encompasses all the various factors and conditions that influence the opportunities and limitations for political activity and mobilisation. The MSF and political process theory are used as a heuristic tool to generate empirical evidence. From a methodological standpoint, the interpretive methodology employed in the chapter will enable the interpretation and classification of empirical data according to the MSF and political process theory overall structures.

Kingdon's Multiple Streams Framework

Kingdon's MSF refers to a framework used to explain how policy agendas are set and how policies emerge and gain momentum in political systems. The framework which emerged in the mid-1980s, today forms one of the analytical frameworks for understanding public policy agenda-setting. Kingdon writes that, among other things, his framework aims to ' [...] try to understand why important people pay attention to one subject rather than another, how their agendas change from one time to another, and how they narrow their choices from a large set of alternatives to a very few' (1995, p. 2).

The MSF approach is universal to most policy processes and provides the flexibility to analyse different contexts (such as countries in the global south) and different policy domains (such as surveillance policies).

The three streams

The *problem stream* consists of issues, challenges or crises that policymakers and the public perceive as requiring attention. Policymakers may pay attention to a very small percentage of issues. Gaining attention is a significant accomplishment that must be addressed right away to prevent focus from going elsewhere (Birkland, 1997). The *policy stream* encompasses various solutions, proposals or policy ideas that have been developed by experts, interest groups or government agencies to address specific problems. These advocates of policy proposals may be considered 'policy entrepreneurs' or agents for policy change (CSOs, political elites). According to Kingdon, policy solutions are like a 'policy primeval soup', changing over time as one actor proposes them, then others reconsider and modify them. According to Kingdon (1995, p. 140), 'accumulation of knowledge amongst the policy community contributes to the generation of ideas'. The *political stream* consists of four core elements: organised political forces, change in government, the political climate, including the mood of the public, and the

bargaining process. These elements can create windows of opportunity for certain policies to be adopted. The policy window, according to Kingdon, is the opportunity to take certain proposals forward (Kingdon, 1995, p. 166). Policy windows emerge through alignment among specific policy problems, political forces and proposed policy responses. During policy windows, it becomes possible for change to occur, driven by the agenda setting of policy entrepreneurs (Kingdon, 1995, p. 168).

Although it is acknowledged that the Kingdon framework would not be able to identify every macro- and micro-force and factor at work, the framework can nevertheless provide important insights into Mauritius's policymaking process for smart ID cards and make a valuable contribution to the body of knowledge on public oversight. Public oversight for the purposes of this chapter refers to the mechanisms and processes through which citizens, civil society organisations and institutions monitor and influence the actions and decisions of public bodies and propose policy solutions. Hence, the goal of this chapter is to examine its portability and provide a road map for researchers wanting to apply the framework to understand how public oversight happens in each context.

Political process theory

Political process theory emphasises the importance of political opportunities, mobilising structures, and framing processes in shaping the trajectory and outcomes of social movements (Tarrow, 1996; Fillieule and Accornero, 2016). This chapter focuses on the first two factors – political opportunities and mobilising structures. Although framing processes, which involve how movements present their issues and craft narratives that resonate with the public to gain support, are important, this research does not delve into that aspect. It does not specifically examine the narratives that influenced the smart ID protests.

Political opportunities refer to elements of the political environment that affect a group's capacity to mobilise effectively (Koopmans, 2004, cited in Giugni, 2009, p. 361). Scholarship has

identified four key aspects of political opportunities: (1) the degree of openness or closure of the institutionalised political system, (2) the level of stability or instability within that system, (3) the presence or absence of elite allies, and (4) the state's capacity and inclination for repression (McAdam, 1996, p. 27). These four dimensions structure the discussion in this chapter. Mobilising structures include the groups, organisations and formal or informal networks that facilitate the mobilisation of individuals and resources. Effective mobilising structures often involve social networks, community groups and pre-existing institutions that can be leveraged to strengthen the movement (Tarrow, 2011).

Framing biometric ID system as a problem

The biometric ID card was introduced under the Labour Party/Mauritian Social Democratic Party (PMSD) coalition government led by Prime Minister Navinchandra Ramgoolam, who was serving his consecutive second term (2004–14), or third non-consecutive one. The government, as mentioned above, stated that the biometric system was part of broader efforts to enhance national security, streamline public services and create a robust national identification system. However, citizens, pressure groups and civil society organisations (CSO) and trade unions rallied with the socialist political organisation Lalit du Klas (henceforth Lalit), an extra-parliamentary party, raised concerns regarding privacy and data protection, particularly in relation to how biometric data would be stored and used by the government.

Lalit cited the negative experiences with biometric ID cards in the UK, Australia and the USA, where both lawmakers and the public rejected these cards and their centralised databases. Lalit said:

Having to produce a card for the Authorities is hurling us back to the times of slavery and indenture. It is hardly modern to do this. The people of three quite 'modern' countries, Australia, the USA and Britain, have risen up against their governments and managed to stop biometric ID cards, even when they had

begun to be introduced, as they are here now. They signed petitions, held meetings, put up YouTube messages, organised debates and they were very slow to go and take up the cards. Eventually, so many people in these three countries opposed the biometric data centralisation, that the respective governments had to back-pedal and get the cards and database destroyed.⁶

It also conducted research on the failure of biometric ID cards in other countries where there were serious data leaks – Israel, India and South Korea.

This international research and coordination done by Lalit members has shown us all how people worldwide have opposed and are still successfully opposing this kind of surveillance, and it has also shown how the imperialist countries have taken a lead in trying to get these types of card-system into place worldwide for surveillance. But the fact that the masses of the people, often led by left parties, have seen the dangers and possible abuses in time, has meant that the cards are being challenged everywhere.⁷

Pressure groups, in the form of Lalita and Rezistans ek Alternativ⁸ and technical experts not only underlined the threats of the centralised biometric ID to human rights and privacy, but also questioned the business interests behind the smart ID. Lalit conducted

6 Lalit (2013) Lalit addresses students on dangers of the new ID cards. Retrieved at <https://www.lalitmauritius.org/en/newsarticle/1537/lalit-addresses-students-on-dangers-of-the-new-id-cards/>, accessed on 23 March 2024.

7 Lalit (2014) Elections IX: Freedom Infringed: Danger of the New ID Card. Retrieved at <https://www.lalitmauritius.org/en/newsarticle/1669/elections-ix-freedom-infringed-danger-of-the-new-id-cards/>, accessed on 23 March 2024.

8 Rezistans ek Alternativ is a political movement and party in Mauritius that is known for its focus on social justice, human rights, environmental sustainability and equality. The movement is seen as a voice for the marginalised, and it operates outside the traditional political framework, challenging the established political parties on issues such as governance, fairness and social equity.

research on the financial ramifications behind the project.⁹ The government signed an agreement with the Singapore Cooperation Enterprise on 17 October 2012 for the implementation of the card to the tune of Rs1.152 billion Mauritian rupees (equivalent to around 28.8 million USDs).¹⁰

It is important to note that at this time, the idea of a biometric ID card and its implications were not well known among ordinary people in Africa,¹¹ and this was not different in Mauritius. As a result, the public did not have enough information: 'The public was suspicious of the government's intentions but did not know enough about the system to oppose it . . . according to Mauritian information specialist and open-source advocate Ish Sookun, the system was a "black box for them, they didn't know what was inside"' (Duncan 2022, p. 171).

CSOs and human-rights and technical experts framed the issues in ways that people could understand. Lalit provided evidence-based insights that were accessible and understandable to the public. Rezystans ek Alternativ also raised concerns of the biometric ID card, especially in relation to the privacy of data. The organisation raised the issue that, although the card only contained minutiae, or biometric data in electronic format, the law could be amended at any time according to section 10 of the NIC Act, and other data (for example, medical or banking) could thus be included on the card because this article of the law did not impose any limits.¹² Here the concern was the potential secondary use of data that would extend far beyond its original purpose and without explicit consent.

9 Lalit (2014) Brief summary of Lalit actions against compulsory biometric ID card system. Retrieved at <https://www.lalitmauritius.org/en/newsarticle/1763/brief-summary-of-lalit-actions-against-compulsory-biometric-id-card-system/> accessed 23 March 2024.

10 Hansard, 29 September 2015.

11 Although scholars in Africa were already debating the issue of digital IDs (for example, Keith Breckenridge (2014) 'Biometric State: The Global Politics of Identification and Surveillance in South Africa, 1850 to the present').

12 Biometric identity card: the fear of protesters, L'Express. Retrieved at <https://lexpress.mu/article/309881/carte-didentite-biometrique-frayeur-contestataires>, accessed 24 May 2024.

Stéphan Gua, member of Rezistans ek Alternativ pointed to the danger of the scheme:

The law states that the biometric identity card can store data without defining it. However, the responsible minister or the Prime Minister plans to amend the law to include other biometric data . . . the danger lies in the fact that an individual will not know what data the company (banks, medical institutions) can have access to.¹³

The No to Biometric Data on ID Card platform raised the concern of identity theft. Activist Jeff Lingaya from this platform stated:

This would mean that companies designated by the State will be able to collect the fingerprints of any individual who visits the company in question. In addition, thanks to this data, they will be able to have all the information about this person . . . in extreme cases, this can give rise to identity theft.¹⁴

These advocates for policy proposals, also called 'policy entrepreneurs' (Leon-Espinoza 2022), became instrumental in advocating for their preferred policy solutions. MSF argues that conditions must be turned into public problems to become relevant for the policy process. In democracies, a wide range of actors can serve as problem brokers, leveraging the media to bring public attention to various issues. These actors include advocacy or interest groups, academia, political actors and journalists (Herweg et al., 2022). Pressure groups (such as Lalit) and technical experts proposed alternatives to the centralised biometric ID system. In an interview with the media where he works, Ish Sookun, a technical expert and open-source advocate, outlined some of the proposed alternatives. They suggested a distributed identity management system that facilitates automated information updates across several government departments (Duncan, 2022, p. 173).

13 Ibid.

14 Ibid.

At the core of the pressure groups was the rejection of the biometric ID card in its original form, based on grounds of social justice. Some of the key justice issues include the right to free movement, as articulated by Lalit in one of their campaign materials:

Until now, it is not compulsory to present an ID card to anyone. As from next year in October, 2014, according to the National ID Card Act 2013, you will have to present your card to anyone who, by law, can call on you to do so, or to 'every' one else with reasonable authority. If you do not produce it on-the-spot, the person can 'direct' you as to who to present it to, within what delay, and where. This means back to the times of indenture when you needed papers in order to leave the Sugar Estate you were assigned to. There goes our freedom of movement, won less than one hundred years ago.

Lalit further argued that the ID card may be required for accessing public services, transportation or even entering certain areas. If individuals cannot or do not wish to provide their biometric information, they may be restricted from moving freely, impacting their right to freedom of movement. As Couldry and Yu (2018) argue, in the age of big data and datafication, the monitoring of individuals and groups through digital surveillance can exacerbate power imbalances and cause further harm.

Mobilisation structures

McAdam (1982) initially characterises mobilising structures as the organisational resources accessible to a discontented populace, facilitating their ability to capitalise on opportunities within the political arena and organise effectively. Subsequent definitions from McAdam et al. (1996), go from the concept of 'resources', implying a passive function, to the more dynamic notion of 'collective action' (cited in Hauwaert, 2021, p. 89). Collective action refers to strategies. Thus, mobilisation strategies within political process theory refer to the methods and tactics used by interest groups or social move-

ments to influence policy decisions, public opinion and the broader political system. These strategies are crucial in shaping policy outcomes by gathering support, raising awareness, and exerting pressure on decision makers. Mauritius mainly used three strategies – protests/campaigns, political lobbying and strategic litigation. The media in Mauritius also played a key role in disseminating information and raising awareness about the potential risks associated with biometric ID cards. The newspaper *L'Express*¹⁵ ran several articles on the different sides of the debate on the issue. Activists also used radio to raise awareness. Radio is deeply intertwined with everyday life in Mauritius, as in many African countries (see Gunner et al., 2012) and is, therefore, highly popular among the public (Chenganna, 2022).

Protests and campaigns

Lalit organised workshops, protests and campaigns to raise awareness and challenge the biometric ID system. The campaigns drew in opposition political parties and were supported by a broad coalition of individuals, including former presidents, a former attorney general and other prominent figures in Mauritian society. Duncan (2023) writes that initially disparate campaigns against smart ID, which sprang organically, remained separate. But as the campaign organised by Lalit caught the attention of opposition political parties and some governments officials, the opposition coalesced into a somewhat unified campaign. Lalit explains it this way:

The political campaign initiated by Lalit and other trade union and social organisations . . . gradually galvanized wide support and gathered enormous political momentum. Eventually, even the Parliamentary Opposition led by Bérenger and Jugnauth

¹⁵ *L'Express* is a French-language daily newspaper, published in Mauritius since 1963 and owned by La Sentinelle, Ltd. It endeavours to cover Mauritian news in an independent and impartial manner. It is the most widely-read daily in Mauritius.

changed its stand; having approved the new biometric cards in Parliament, they actually took a stand and opposed them.

In 2013, when the Labour Party had introduced the Mauritius National Identity Scheme (MNIS) Project, the opposition had supported the biometric ID card as evidenced in the statement below:

We, on this side of the House, had the possibility in the past, Mr Speaker, Sir, of expressing our disagreement with the way this project was introduced. The House will remember how my predecessor, the Leader of the Opposition then, hon. Paul Bérenger, in fact, in this very House expressed, again, the objection and the way in which the whole project had been introduced, had been ushered in with the Singapore authorities. We have not changed our minds since that, Mr Speaker, Sir. We are still on the same wavelength of not agreeing to the way this MNIS project has been introduced. Be that as it may, Mr Speaker, Sir, as far as the proposal in this Bill, we don't have any quarrel . . . We have no quarrel with these proposals and amendments.¹⁶

From this statement, it is clear that the only disagreement the opposition had with the ID card was the procurement process for the service provider but they supported the idea of the biometric ID in its form.

Public opposition to the new ID cards also gained momentum after it was revealed that a hard disk containing biometric data had gone missing from a government building. This incident, along with computer expert Ish Sookun's exposure of security vulnerabilities in the way the data was being stored, fuelled further concerns including among the opposition politicians.¹⁷ The campaigns attacked not only the central database, but also the 'oppressive system that

16 Hansard, 29 September 2015.

17 Iqbal Ahmed Khan (2021) From biometric ID cards to Safe City cameras, how our civil liberties are impacted. *L'Express*. Retrieved at <https://lexpress.mu/s/article/387343/biometric-id-cards-safe-city-cameras-how-our-civil-liberties-are-impacted>, accessed 27 March 2024.

underpinned it and argued that opposition needed to be part of a broader political struggle for more freedom, less surveillance and less oppression' (Lalit 2017, cited in Duncan 2022, p. 172). However, Lalit was against the idea of the card in its totality. This organisation had shown resistance to the ID card since the first plastic card was introduced in 1986.

In 1986, Lalit opposed the first ID Cards, when they went through the Cabinet, and were in fact introduced. We considered even those ordinary cards to be the thin end of a wedge of surveillance and infringement on freedom of the people. We objected to the cards as being a kind of 'pass'. We believed that they would increasingly be demanded prior to people getting ordinary access to their rights. We were not wrong. Since then, Lalit has continued to take position every time we were threatened with the new 'Smart Cards', starting in 1996. Even then, we opposed the centralized storage of data on citizens, whether in relation to elections, health or any other data.¹⁸

Lalit collaborated with approximately 18 other organisations to protest against the new card, highlighting its various dangers, such as risks to privacy, data security and the potential misuse of personal information and the potential for surveillance. Together, they organised a petition endorsed by these organisations. Lalit spearheaded a nationwide campaign that included distributing bulletins at workplaces and universities using a mobile van, as well as hand-delivering leaflets and letters to Village Councillors across the country. In Mauritius, Village Councils are local governance bodies responsible for the administration and management of rural areas. They play a crucial role in ensuring the efficient delivery of public services, promoting local development and addressing community needs.¹⁹ In

18 Lalit (2014) Elections IX: Freedom Infringed: Danger of the New ID Card. Retrieved at <https://www.lalitmauritius.org/en/newsarticle/1669/elections-ix-freedom-infringed-danger-of-the-new-id-cards/>, accessed on 23 March 2024.

19 The Local Government System in Mauritius: Country Profile 2017-18. Retrieved

December 2013, Lalit organised a 'go-slow', which was widely followed by the public. In another unique protest strategy, in March 2014 Lalit served a citizen's 'Notice' on all staff at the Mauritius National Identity Scheme offices. 'This decentralized action warned staff not to act illegally and against the Constitution by putting pressure on members of the public to give biometric data for storage.'²⁰ The campaign also involved door-to-door visits in selected areas where Lalit explained in detail, household by household, what the dangers of the biometric ID were.

The protest movement reached its peak with a demonstration at the Registrar General's Building, which housed the primary ID Card Conversion Centre in July 2014. The purpose of the protest was to submit individual protest letters after being denied registration for an ID card due to their refusal to provide fingerprints.²¹ This followed dozens of people who went to the National Identity Card Centre to request an ID Card without consenting to be fingerprinted or to have any biometric photograph taken. The officials at the Card Centre present refused to process the applications.

According to MSF, policy entrepreneurs' selection of strategies importantly relates to the context and suggests four processes in the political stream discussed earlier. Organised political forces including political parties, interest groups and coalitions influence policymaking; changes in government to refer to shifts in leadership or political control can open or close windows of opportunity for policy change; the national mood or public opinion plays a critical role in shaping the political context and the bargaining process refers to the negotiation between different stakeholders involved in policymaking. These processes can create windows of opportunity for certain policies to be adopted (Leon-Espinoza, 2022). Regarding

at https://www.clgf.org.uk/default/assets/File/Country_profiles/Mauritius.pdf, accessed 4 February 2024.

20 Lalit (2015). Brief summary of Lalit actions against compulsory Biometric ID card system. Retrieved at <https://www.lalitmauritius.org/en/newsarticle/1763/brief-summary-of-lalit-actions-against-compulsory-biometric-id-card-system/>, accessed 23 March 2024.

21 Ibid.

the first process, organised political forces, or policy entrepreneurs in Mauritius exhibited a high degree of consensus that positively led to successful public oversight. Change in government also played a role in the amendment of the biometric ID card. The MSM political party, under Anerood Jugnauth, came into power in December 2014, a year and a few months after the biometric ID card was introduced and this provided an opportunity for policy change and effective public oversight. The smart ID card had become one of the rallying points in the 2014 elections. The national mood between 2013- and 2015 was one of opposition to the smart ID system. Opposition leaders in Parliament and social movements/CSOs kept the issue on the agenda through various activities discussed above. During this period, the bargaining processes involved policy entrepreneurs who became instrumental in pushing for the amendment of the biometric ID card with the support of political agents.

Political lobbying

Mauritius has a vibrant political culture. As discussed earlier, the opposition is a crucial component of Mauritius's political system, with the position of opposition leader specifically outlined in the country's Constitution. The opposition, headed by an MP nominated by the President, based on the leading minority party in the house presidential appointee, plays a vital role in holding the government accountable in parliament (Bertelsmann Stiftung 2024, p. 9). The coalition-building approach in the country helps in fostering consensus among diverse political parties and communities. As a result, the process promotes inclusivity by ensuring that various groups are represented in governance, while also encouraging moderate policy-making that caters to a broad spectrum of interests (Srebrnik, 2000; Sithanen, 2003; Mehta, 2015). Government positions, including cabinet posts, are generally distributed to maintain ethnic balance. When the biometric card was introduced in 2013, the opposition party was led by a coalition called the Lepep Alliance that included the Militant Socialist Movement (MSM) led by Aneerood Jugnauth, the Mauritian Social Democrat Party (PMSD) of Xavier Luc Duval and

the Muvman Liberater (ML) led by Ivan Collendavelloo. Kasenally and Ramtohul (2020, p. 4) states that 'systematic pre-electoral coalitions are an important feature that has defined postindependence politics'. The alliance, in which Pravid Jugnauth acted as the prominent figure on the issue, opposed the biometric ID card, spurred by lobbying efforts from civic groups led by Lalit:

Instead of the MMM and MSM denouncing the whole procedure in Parliament, they just went along with it, with Alan Ganno when he was Leader of the Opposition even saying they had 'no quarrel' with it. When protests nation-wide began to build up, then they changed their stand . . . he MSM and MMM thus 'tail-ended' the mass movement set in movement by LALIT.²²

These groups successfully influenced both the opposition alliance and the Leader of the Opposition in Parliament through a sustained campaign that involved a strategic focus on rights, privacy and potential misuse of biometric data, which possibly helped to galvanise political alliance. The subsequent opposition leader, Paul Berenger of the Mauritian Militant Movement (MMM) party challenged the smart ID and demanded the destruction of the central database. The ID card issue became a central theme in the December 2014 elections. The Lepep coalition, headed by Anerood Jugnauth, achieved a landslide victory. Once the Lepep coalition got power, the civic groups promptly submitted a petition signed by eight organisations, urging the new government to continue their action against the biometric ID.²³ In February 2015, Lalit sent a letter to all

22 Lalit (2014) ELECTIONS IX: Freedom Infringed: Danger of the New ID Cards. Retrieved at <https://www.lalitmauritius.org/en/newsarticle/1669/elections-ix-freedom-infringed-danger-of-the-new-id-cards/> accessed 20 June 2024.

23 The petition was signed by organisations: Confederation of Independent Trade unions, Muvman Liberasyon Fam, Centre Idriss Goomany, Confederation Travailleurs Secteur Prive, Labaz intersindikal, Playgroups, ACIM, LALIT ('Petition to the new government on ID Card measures'. Retrieved at <https://www.lalitmauritius.org/en/newsarticle/1694/petition-to-the-new-government-on-id-card-measures/> accessed 20 June 2024.)

MPs and ministers in the newly elected Lepep Alliance, reminding them to fulfil their promise to oppose the biometric ID cards.²⁴ The alliance government announced formally in its President's Speech that it would destroy the database.²⁵ 'The data bank containing fingerprints and biometric photographs of the new National Identity Cards will be destroyed to protect sensitive personal data of our citizens.'²⁶

The Prime Minister was also petitioned by Lalit and 11 other organisations in July 2015 following the Supreme Court Judgement and Injunction discussed below to destroy the database.

Strategic litigation

In response to the public uproar and resistance to the new smart ID from civil society organisations and opposition parties, Maharajah Madhewoo, an activist and then-opposition leader Pravind Kumar Jugnauth, filed two constitutional challenges with the Supreme Court in 2015. In the first, the validity of the government's fingerprint collection process for ID cards was questioned, and in the second, the storing of fingerprints in a central government database was called into doubt. Madhewoo chose not to apply for the biometric card and argued that the legislation governing the collection, retention and storage of his biometric data constituted an unjustified violation of his fundamental rights as protected by the Constitution. He challenged the constitutionality of the 2013 Act by seeking

24 Lalit (2014) 'Petition to the new government on ID Card measures'. Retrieved at <https://www.lalitmauritius.org/en/newsarticle/1694/petition-to-the-new-government-on-id-card-measures/> accessed 20 June 2024.

25 Lalit (2015) Victory approaching for destruction of ID Card database. Retrieved at <https://www.lalitmauritius.org/en/newsarticle/1742/victory-approaching-for-destruction-of-id-card-data-base/> accessed 20 June 2024.

26 Government programme 2015-19: Achieving Meaningful Change – Address by the President of the Republic of Mauritius, Tuesday, 27 January 2015, p. 57. Retrieved at <https://mauritiusassembly.govmu.org/mauritiusassembly/wp-content/uploads/2023/03/govprog2015.pdf>.

redress under section 17 of the Constitution. This section enables individuals to apply to the Supreme Court for relief if they claim that any provisions from Sections 3 to 16 of the Constitution, which outline fundamental rights and freedoms, 'have been, are being, or are likely to be violated in relation to them'.²⁷ The Supreme Court ruled that while it was not unlawful for the government to collect fingerprints for the purpose of issuing new ID cards, it found that storing and retaining biometric fingerprint data in a single database was unconstitutional. The court found that:

... the law providing for the storage and retention of fingerprints and other personal biometric data regarding the identity of a person constitutes a permissible derogation, in the interests of public order, under section 9 (2) of the Constitution
... the provisions in the National Identity Card Act and the Data Protection Act for the storage and retention of fingerprints and other personal biometric data collected for the purpose of the biometric identity card of a citizen of Mauritius are unconstitutional.²⁸

Madhewoo also challenged the validity of the smart ID card before the Judicial Committee of the Privy Council, particularly over the violation of an individual's fundamental right to privacy. In the case of *Jugnauth v Mauritius*, the claimant challenged the National Identity Card (Particulars in Register) Regulations 2013, which permitted the storage and retention of 'fingerprints' and 'encoded minutiae of fingerprints' in a register created under sections 3(2) (b) and 10 of the NIC Act 2013. Jugnauth argued that these provisions violated sections 3(a), 3(c), and 9 of the Constitution. As part of the case, he sought an injunction to prevent the defendants from storing his fingerprints and biometric data in the database (Baichoo

27 The Constitution of the Republic of Mauritius. Retrieved at <https://cdn.accf-francophonie.org/2019/03/maurice-constitution2016.pdf>.

28 *Madhewoo M. v The State of Mauritius and ANOR* (2015 SCJ 177). Retrieved at <https://ionnews.mu/wp-content/uploads/2015/05/Biometric-ID-Card-Madhewoo-vs-State.pdf>, accessed 8 March 2024.

et al., 2018, p. 5). The court held that the storage of the data was not sufficiently secure because the safeguards of the Data Protection Act were not sufficient, and the storage of the data was not subject to judicial scrutiny and control.²⁹ A similar verdict was delivered in Jugnauth's personal case before the Supreme Court. The Privy Council affirmed the Supreme Court's findings in October 2016 (Baichoo et al., 2018).

The government published the National Identity Card (Civil Identity Register) Regulations 2015 in response to the Supreme Court's decision. These regulations restricted the storage of relevant data to the identity card itself, as opposed to a central register. This type of regulation is implemented to protect privacy, reduce the risk of large-scale data breaches and limit government or institutional surveillance. It ensures that personal information remains secure and under the individual's control, rather than in a potentially vulnerable centralised repository. Based on cabinet papers, the government assigned the Singapore Corporation Enterprise the responsibility of eliminating all fingerprint images and minutiae from the Mauritius National Identity Central Database, including all backup tapes.³⁰ Therefore, fingerprint details are now only collected to issue identity cards; thereafter, they are erased and are only stored as minutiae on the cards that the people own.

Later, through the Finance Act of 2017, the government revised the NIC Act to encourage the adoption of Secure Access Module (SAM) card readers for card verification, which eliminates the need to duplicate and store card data. This implies that the card may only be used for identification when the citizen is physically present, and their fingerprint is matched to the detailed information contained on the card. The new procedure would therefore differ from the prior one, as it no longer needed a central database. Furthermore, the Data Protection Act of 2004 was abolished and replaced with

29 *Madhewoo (Appellant) v The State of Mauritius and another (Respondents)* (Privy Council Appeal No 0006 of 2016). Retrieved at <https://www.jcpc.uk/cases/docs/jcpc-2016-0006-judgment.pdf>, accessed 8 March 2024.

30 Fingerprint minutiae are defined in the legislation as 'the characteristics of a fingerprint image such as the ridge endings and ridge bifurcations'.

the Data Protection Act of 2017 to improve data subjects' control and personal sovereignty over their personal information. In Mauritius, the right to privacy is constitutionally protected, and citizens are entitled to anticipate that this right would be respected and maintained. Nevertheless, because the 2014 Data Protection Act was passed prior to the development of biometric technology in the nation, it was not appropriate for the storage and security of biometric data. The Data Protection Act 2017 addresses this main shortcoming by providing organisational and technical measures 'to prevent unauthorized access to, alteration, disclosure, accidental loss and destruction of personal data . . . including confidentiality, integrity, availability, and resilience of processing systems' (Baichoo, 2018, p. 7). Special categories of personal data now explicitly include genetic data or biometric data in line with subjects over their personal data, and to comply with international data protection norms regarding automatic processing of personal data.

Madhewoo, who had lodged a legal challenge against the ID card system in the Supreme Court, subsequently approached the UN Human Rights Committee in December 2017 to challenge the collection and retention of biometric information on ID cards. He said that this practice infringed upon his right to privacy. He argued that, if the smart identity card was lost or stolen, fingerprint data might be copied onto counterfeit cards, and that giving citizens the responsibility for storing the biometric data was a security vulnerability. The United Nations Human Rights Committee (HRC) ruled on 24 March 2021 that the existing identity-card program breaches individuals' private rights, as outlined in Article 17 of the International Covenant on Civil and Political Rights (ICCPR). The Committee urged the Mauritian government to reassess the reasons for keeping fingerprint data on identity cards considering the existing data security concerns, and to offer Madhewoo a viable resolution.³¹

31 United Nations Human Rights Office of the High Commissioner (2021) *Mauritius: Storing biometric data on identity cards violates privacy – UN Human Rights Committee*, retrieved at <https://www.ohchr.org/en/press-releases/2021/07/mauritius-storing-biometric-data-identity-cards-violates-privacy-un-human?LangID=E&NewsID=27329>, accessed 5 December 2023.

Factors explaining successful mobilisation and prospects for the future

Analysing the factors that led to the successful mobilisation against the biometric ID card is essential to understanding whether the success stemmed from unique circumstances specific to that historical period (2013–15) or if it was influenced by inherent characteristics of Mauritian society. The successful mobilisation can likely be attributed to a combination of specific historical circumstances and deeper societal factors. First, it is important to remember that around the time of the proposed implementation of the biometric ID card in 2013, global concerns about privacy and data security were rising. Snowden revelations were released that same year and highlighted the potential misuse of personal data, and this could have fuelled local resistance. Second, the decision to implement biometric ID cards was made by the government at a specific time when there was heightened political sensitivity and scepticism towards government policies in the country. Although Mauritius has a stable democracy, the ruling party under Labour/MMM coalition were accused of corruption and economic mismanagement (Ramtohul and Hylland, 2018). Third, the political climate significantly contributed to the opposition against the biometric ID card, introduced a year before a crucial election in Mauritius. Two main alliances contested the election: the Lepep Alliance (comprising the MSM, ML and PMSD) and the Labour/MMM Alliance (a coalition between the Labour Party and MMM). The election resulted in a significant political shift, with Alliance Lepep winning a landslide victory, securing 47 out of 62 directly elected seats. Anerood Jugnauth returned as Prime Minister after two years in political retirement. This election was also viewed as a referendum on proposed constitutional reforms, which sought to increase presidential powers, especially as the proposal would place the outgoing Prime Minister as the first President with such powers.³² Voters rejected these

32 The political system is based on the Westminster style of government where the Head of State (being the President) is a ceremonial figurehead with very few executive powers.

reforms, and the opposition's campaign resonated widely. The Lepep Alliance, as previously mentioned, capitalised on the protests against the ID card as a key point in their election campaign. The election of Anerood Jugnauth of MSM in December 2014, whose son Pravind Jugnauth had initiated a constitutional case against the smart-ID system, also presented an opportunity. However, these three factors, which undoubtedly opened an opportunity or 'policy' window as Kingdom argues, are not enough to explain the successful mobilisation against the biometric ID card. Other factors, endemic to Mauritius historical and socio-political conditions explain the successful public oversight of the threat to digital surveillance in the country. Cultural values, colonial history, active civil society, robust legal framework and historical legacies embedded within Mauritian society also played a crucial role.

Cultural values and colonial history

Mauritian society has inherent concerns about privacy and the potential for governmental overreach. The idea of biometric data collection and centralised storage by the state was certainly seen as an infringement on personal freedoms. This emerges from Mauritius's colonial history of slavery and indentured labour that instilled a certain wariness of centralised control and documentation. The British took control of the island in 1810 and, following the abolition of slavery in 1835, they brought Indian indentured labourers to work in the sugar-cane plantations, replacing the former slaves (Ramtohul, 2021, p. 831). These labourers were subjected to stringent surveillance and control mechanisms by the colonial authorities to maintain order and productivity on the sugar plantations. Labourers' movements were restricted through pass systems that required them to obtain permission to leave the plantation for any reason. This surveillance is akin to approaches used to control and managing indigenous peoples elsewhere as part of colonisation (Cormack and Kukutai, 2022).

Despite the surveillance, labourers found ways to resist through acts of defiance, slow work, escapes and forming clandestine

networks to communicate and support each other. From the early 1900s the local population, mostly constituted of indentured labourers, became politically aware and organised (Kasenally and Ramtohul, 2020). The indenture system produced a significant labour movement which was at the heart of the fight for universal suffrage and for the independence of the country (Allen, 1999; Kasenally and Ramtohul, 2020). Indentured labourers were required to always carry identification cards, resulting in widespread animosity against compulsory identification systems. Given this history, the implementation of the smart-ID-card system brought back memories of this repressive history and fostered a widespread awareness of the potential dangers associated with such systems (Duncan, 2018, p. 64).

Active civic networks

Mauritius has a relatively vibrant civil society with active NGOs and advocacy groups. The Mauritius Council of Social Services has over 390 NGOs registered and estimates that about 8,000 voluntary organisations operate in the country.³³ These trends help explain the unusual vitality of democracy in Mauritius, even though most of these NGOs are funded by the state. NGOs have a significant impact on policy and are consulted by the government during the preparation of the national budget. Their role in combating social inequality and advocating for social justice is acknowledged (Bertelsmann Stiftung, 2024). The diverse ethnic make-up of Mauritian society has not been a hindrance; instead, it has enriched the nation's democratic culture. The pluralistic nature of Mauritian society has fostered a culture of tolerance, dialogue and mutual respect and supports a collaborative approach to addressing the nation's social challenges (Kasenally, 2011). It can be argued that this strong foundation made it relatively easy to mobilise civil society and the public to protest against the introduction of the biometric ID card.

33 MACOSS Annual Report (2019). Retrieved at <https://macoss.mu/wp-content/uploads/2021/01/MACOSS-ANNUAL-REPORT-2019.pdf>, accessed 8 March 2024.

Political opportunities

The broader political environment of Mauritius also helps us to understand how collective action and public oversight happens. As McAdam et al. (1996) argue, there is a correlation between institutionalised politics and social movements. Political opportunity theories posit that social movements and revolutions are shaped by the broader set of political constraints and opportunities unique to the national context in which they are embedded. The four dimensions of 'political opportunity structures' (McAdam, 1996) mentioned earlier help explain the success of public oversight. The first one relates to openness or closure of the *institutionalised political system*. As mentioned earlier, Mauritius inherited a vibrant and competitive political culture and can be regarded as relatively open, and politics takes place in a framework of a parliamentary democracy. Legislative matters are closely monitored by citizens, and the law is generally viewed as a protector of civil rights (Ramtahul and Hylland, 2018; Kumar, 2019). The law and the courts have legitimacy, and this augurs well for public oversight, although trust levels have decreased over time. These institutional structures in Mauritius have created a healthy environment for oversight – both state and public. The second dimension about stability of *elite alignments* is the key to understanding the prevailing political culture in Mauritius. The four main parties – the MSM, MMM, Labour Party and PMSD – have governed the country since independence. This institutional political system is more open to traditional forms of civic activism. The two dimensions are related in the sense that in highly institutionalised systems, elites often align with institutions and influence political decisions through formal channels like party membership and lobbying, stabilising competition within established procedures. In less institutionalised systems, where formal institutions are weaker, elite alignments rely more on personal networks, clientelism and patronage, leading to unpredictable and unstable power struggles (Higley and Burton, 2006; Acemoglu and Robinson, 2012). The third dimension relates to the presence of *elite allies*. As discussed above, individual politicians who have a particular interest in advocating for human rights were key elite allies who fought against the smart

biometric ID card. These elites were mainly from opposition politicians who used their position to assist the movement. The last dimension is the state's capacity and *propensity for repression*. Mauritius is generally considered to have low levels of state repression, especially in comparison to many other countries in Africa. This perception is supported by various factors, such as democratic governance, rule of law and judicial independence, media freedom and a relatively restrained police force (Ramtohul and Eriksen, 2018; Freedom House, 2024).

In conclusion, while there were policy openings and political opportunities between 2013 and 2015 that made successful public oversight possible, Mauritius is a nation with deeply ingrained democratic institutions and a strong mobilising spirit that makes public oversight a possibility. The protests against possible digital surveillance did not end with the biometric ID card but were reflected a few years later in 2019, when the government introduced the Mauritius Safe City Project (MSCP) funded by Huawei. CSOs and experts questioned the civil liberties aspect of the project. Opposition parties argued that the MSCP could be used to keep tabs on and retaliate against political opponents and their supporters (Kasenally, 2022a). There were reports of citizens decommissioning the CCTVs (Duncan, 2022). In 2021 the state's attempt to extend its digital capabilities through a plan to regulate the use and addressing the abuse and misuse of social media was met with massive local and international pushback (Kasenally, 2022a). The state proposed to amend the Information and Communications Technologies (ICT) Act to mandate the Mauritian regulator to decrypt all web traffic judged to be 'social media' by interfering with issuing security certificates for HTTPS traffic, which would then be routed through proxy servers under the authority of the government (AccessNow et al., 2021). Under international human-rights norms, this proposed regulatory framework had two serious flaws: administrative censorship that would have a chilling effect on freedom of expression and the disablement of encryption, which is essential for digital security (AccessNow et al., 2021; Phoker 2021). Additionally, the proposed legislation violated the data protection laws in the country (Mwesigwa, 2021). Civil society

organisations strongly opposed the plans, and sections of the media criticised the strategies employed to advance them. Thus, local CSOs and international digital-rights organisations have expressed concern about the proposal's potential effects on Mauritius's right to privacy and freedom of speech. The ICTA proposal was also 'in fact, aimed at suppressing dissent on social media platforms, which have become extremely popular civic fora for politicians, CSOs and ordinary citizens' (Kasenally, 2022b; p. 13). ICTA received more than 1,500 public responses regarding the proposal. This outcry caught the attention of international digital-rights organisations and subsequently issued a 'joint civil society statement' urging the Mauritian government and ICTA to withdraw the consultation document. Observers attribute the proposal's rejection to a collaborative effort by local and international civil society organisations (Kasenally, 2022b, p. 13).

The biometric ID-card protests created a consciousness around digital surveillance in the country as citizens have now become suspicious of any move towards a surveillance state (Duncan, 2022). However, the prospects for public oversight in Mauritius going forward are uncertain. There is democratic backsliding taking place in the country as stated earlier (Ramtohul, 2018; Kasenally and Ramtohul, 2020; Kasenally, 2022b). Authoritarian measures have reined in civil liberties, including the introduction of a biometric ID card in 2013, arrests of journalists in 2019, multiple suspensions of a commercial radio station's licence in 2020 and the political capture of key institutions including the legislature, where Opposition Members of Parliament have been recurrently expelled between 2020-21 (Kasenally, 2022a). In 2021, the Cybersecurity and Cybercrime Act and the Independent Broadcasting Authority (Amendment) Act were adopted in the Mauritian parliament despite wide public protests. In 2021, thousands of Mauritians took to the streets of the capital, Port Louis, demanding the resignation of the government over allegations of corruption and fraud. The protesters responded to opposition parties' appeals to hold political leaders accountable. They marched to the office of Prime

Minister Pravind Jugnauth.³⁴ The government is also facing criticism over its transparency and mismanagement of a massive oil spill in August 2020. For the first time in its history, armed militarised police were deployed against peaceful protesters in the capital city in 2021.

The political system in the country is also becoming increasingly leader-centric as it continues to be dominated by a few families. Power and decisions are concentrated, focused on big money and growing levels of cronyism and ethnic divisions are increasingly prominent in politics (Kasenally, 2022a; 2022b). For example, the contract for biometric ID cards given to Singapore Cooperation Enterprise was a government-to-government agreement strictly kept under wraps and done without going through any tendering exercise. The same happened years later with regards to the Safe City project. Despite these negative developments, Mauritius has demonstrated the significance of media, CSOs and citizens as crucial components of the oversight system. This is evident in their active involvement in the biometric ID card issue and, to some extent, the Safe City project. This exemplifies how sustained civic engagement can successfully influence political decision-making, particularly on issues concerning privacy and surveillance. Their efforts have, hopefully, led to lasting changes in state intelligence policy and practice.

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