Second Edition

TEMPLE JOURNAL

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Editorial Note

As we present this second edition of our law firm's magazine, we are reminded of the dynamic and ever-evolving landscape in which legal practitioners operate. The legal world does not exist in a vacuum; it intersects with economic realities, social justice, corporate governance, and the day-to-day lives of individuals and businesses. Through this publication, we seek to offer a panoramic view of some of the most pressing issues shaping the legal and regulatory environment in Mauritius.

We begin by exploring the delicate balance that state intervention in wage policy strikes within Mauritius' economy. This article examines the perceived legal and procedural missteps in the last wage adjustment process, the implications for employers and employees, and the broader economic consequences.

The recent liberalization allowing foreign residents to purchase property anywhere in Mauritius is examined with a critical lens, posing the essential question: is it truly worth it?

Public interest litigation emerges as a beacon of hope in our piece on expanding locus standi, emphasizing the need to unlock its full potential for promoting environmental and social justice. Simultaneously, we navigate the complexities surrounding the termination of migrant workers, shedding light on the legal labyrinth that employers and employees must traverse.

The restoration of the central bank's authority and independence is addressed as a cornerstone for maintaining economic stability and fostering investor confidence. We also unpack the repercussions of an unsatisfied statutory demand, offering insights into its legal consequences and the avenues available to creditors.

Finally, we shift perspectives with an investor's viewpoint on selling a unicorn, delving into the critical Key Performance Indicators that shape investment decisions.

We hope this edition serves as both an informative resource and a catalyst for further dialogue. As we navigate this complex terrain together, our commitment remains steadfast: to empower our clients and readers with the legal acumen needed to thrive in an increasingly intricate world.

Happy reading!

Warm regards,

Faarzaad Soreefan & Anuja Ghoorah

March 2025

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State Intervention in Wage Policy: A Double-Edged Sword for Mauritius' Economy

ARTICLE WRITTEN BY
URMILA BOOLELL SC
ZAKARIYYA SEEKDAUR

In 2024, the issue of wage relativity adjustment emerged for the very first time as a direct consequence of the ever-increasing cost of living of Mauritians. This article examines the perceived legal and procedural missteps in the wage adjustment process, the implications for employers and employees, and the broader economic consequences of these decisions. Most of all, the question will be asked as to whether it was the business of the government to interfere in the operation of contracts of employees in the private sector and by-pass the application of the Pay Research Bureau (PRB) in allocating increases of salaries in the public sector.

At the base of the problem was the introduction of a new minimum wage, which made it necessary to adjust the salaries of existing employees to ensure the maintenance of wage relativity. Such relativity would have direct consequences on factors such as years of service and the grades of existing employees.

In what is perceived as a series of hasty half-baked decisions taken by a government at the end of its parliamentary mandate and an impossible balancing exercise by a new government to pacify expectations created by the exiting regime, two approaches were adopted for the adjustment of salaries following the introduction of a minimum wage in January 2024. The first involved the National Wage Consultative Council making recommendations to the Minister of Labour and Industrial Relations, a responsibility explicitly outlined in Sections 5(b)(v) and 5(b)(vi) of the National Wage Consultative Council Act of 2016 (the "**Act**") and the second involved a referral to the National Remuneration Board ("**NRB**") to propose recommendations for a revised salary structure.

The Act stipulates, among other objectives, that the Council is tasked with making recommendations on the approach to address wage relativity issues in the private sector arising from the implementation of the National Minimum Wage through remuneration regulations under the Employment Relations Act 2008. It also mandates the development of a master conversion table as a mechanism to resolve wage relativity concerns in the private sector. However, under the previous government, no formal consultations were held with the trade union movement to discuss or address these critical issues of wage relativity.

Rather than entrusting the National Wage Consultative Council or the National Remuneration Board with the responsibility of proposing wage adjustments, a ministerial committee led by the then Prime Minister decided on 03rd July 2024, to create a Technical Committee headed by the Acting Financial Secretary.

Within just two days, on 05th July 2024, the committee put forward a recommendation for a salary increase of Rs 4,925 compared to 2023. The formula for the wage relativity adjustment was as follows:

Employees earning less than Rs 20,000
Employees should receive a wage adjustment equivalent to the difference between:

(a) their monthly basic wage or salary as at December 2023, increased by 4,925 rupees; and
(b) their monthly basic wage or salary as at January 2024, inclusive of the additional remuneration payable under the Workers' Rights (Additional Remuneration) (2024) Regulations 2024.

Employees earning between Rs 20,000 and Rs 50,000
Employees whose monthly basic wage or salary in December 2023 falls in the range of Rs 20,000 and Rs 50,000, shall be granted a monthly wage adjustment of Rs 2,925 exclusive of the additional remuneration payable under the Workers' Rights (Additional Remuneration) (2024) Regulations 2024.

This decision was made without the development of a salary scale, any thorough analysis, or consultation with worker and employer representatives. The lack of deliberation and transparency in such a critical process was highly concerning – not to say reckless.

The government, through the Government Information Service (GIS), initially published unofficial remuneration orders to address wage relativity adjustments. Shortly thereafter, on 13th September 2024, 32 remuneration regulations were officially enacted under Section 99 of the Employment Relations Act.

However, the manner in which these regulations were made prompted widespread public outcry from workers, trade unions, and opposition parties. In response to this backlash, the government moved swiftly to revoke the original regulations. Just over a week later, on 24th September 2024, a revised set of 32 remuneration regulations was gazetted, this time enacted under Sections 94 and 106 of the Employment Relations Act.

This rapid change of course raised concerns about the previous government's handling of the issue, particularly regarding the lack of adequate consultation in accordance with the law.

It was later discovered, with the coming into office of the new government, that the then government proceeded contrary to the advice provided by the Office of the Solicitor General in its legal opinion dated 02nd September 2024, just around ten days before the Minister introduced the remuneration regulations.

The opinion clearly stated that there was no legal basis expressly provided for the enactment of regulations to reflect wage relativity adjustments following the review of the National Minimum Wage.

It also highlighted that no legal foundation existed for regulations to be made concerning employees not governed by any remuneration regulations, nor for the establishment of national minimum wages for positions requiring a diploma or degree

as entry requirements. All this information was culled from the intervention of the Minister of Labour and Industrial Relations, Mr R. Uteem in the National Assembly, as reflected in the following excerpt from the parliamentary debates (Hansard) dated 17th December 2024:

Je me suis entretenu avec les représentants du State Law Office et à mon grand étonnement, Madame la présidente, j'ai pris connaissance d'un avis légal du bureau du Solicitor General en date du 2 septembre 2024. Le 2 septembre 2024, c'était une dizaine de jours avant que le ministre vienne de l'avant avec ces remuneration regulations et que dit cet avis légal ? Je cite un extrait –

"Accordingly it seems that there is at present no legal basis expressly provided for the enactment of regulation to reflect wage relativity adjustment following the review of the National Minimum Wage."
No legal basis.

"Additionally, it also appears that there is no legal basis for regulation to be made in respect of employees who are not governed by any remuneration regulation nor for the making of regulation to provide for national minimum wages for jobs warranting the possession of a diploma or degree as entry requirements."

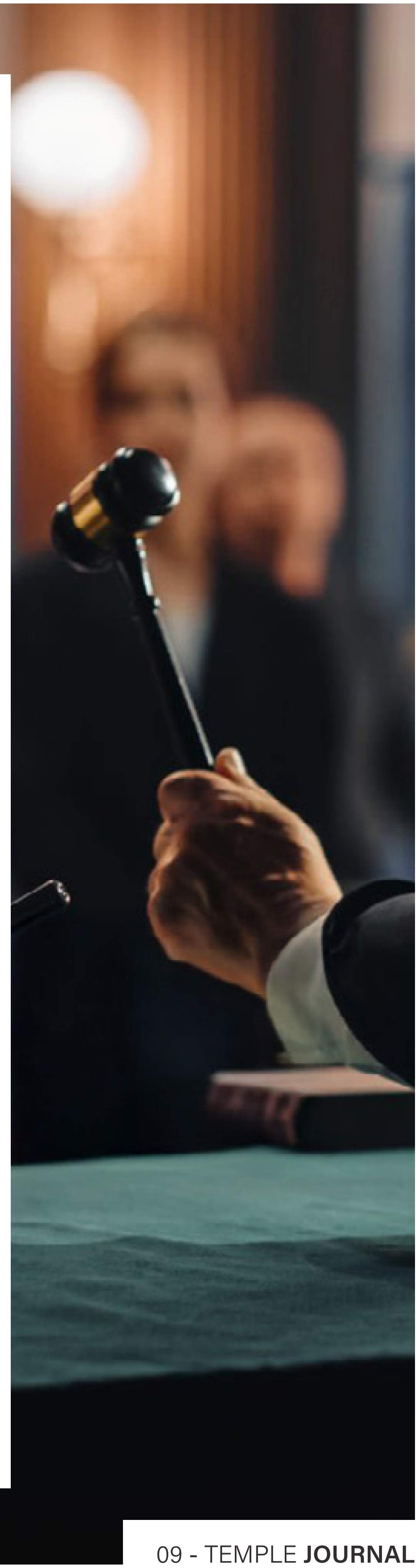
Despite this legal guidance, the then government moved forward with the remuneration regulations, disregarding the State Law Office's recommendations. It is against this backdrop that Business Mauritius entered an action before the Supreme Court of Mauritius to contest the legality of the Remuneration Regulations on 09th October 2024 by way of Judicial Review.

The previous government's irresponsible handling of the wage relativity adjustment payment, reducing it to a mere electoral tool, did not only jeopardise the very payment of the salary readjustment but also overstepped its bounds by intervening in how employers should manage their businesses by unilaterally imposing such a decision without prior consultation with all the stakeholders.

It is important to note that on 15th December 2017, the Honourable Minister of Labour, Industrial Relations, Employment and Training, acting under Section 91 of the Employment Relations Act 2008, referred to the NRB the review of wages in the Remuneration Regulations to bring necessary wage-relativity adjustments following disruption which arose with the application of the National Minimum Wage Regulations 2017. Interested parties were invited to submit written representations.

The recommendations of the NRB brought about the revoking of **30 Remuneration Orders as from 24 October 2019 and the introduction of the Remuneration Regulations 2019.**

The situation with the Remuneration Regulations 2024 created a snowball effect, particularly for sectors not covered by the remuneration regulations. When the current government assumed power, it was presented with a fait accompli regarding the salary increase of Rs 4,925. The amount had already been promised to workers, leaving the government with little room for flexibility. Faced with this commitment, the government's only option was to ensure that the regulations were enacted in conformity with the law, without the possibility of revisiting the amount or conducting fresh consultations to alter it. The decision had already been made, and the



government was bound to fulfil the promise, regardless of the lack of prior consultation or alternative approaches. This led to the situation where the Employment Relations Amendment Act 2024 was legislated.

With this amendment, however, the Minister was granted with the power to provide salary adjustments for employees in the private sector who are not covered by these existing remuneration regulations.

Subsection (2)(a) of clause 3 grants the Minister explicit powers to establish regulations concerning wage adjustments aimed at addressing wage relativity. This applies not only to regulations under section 93 of the Employment Relations Act but also extends to industries or sectors that fall outside the scope of those remuneration regulations.

Although the regulations for sectors not covered by remuneration regulations had yet to be finalised, the government, in its commitment to ensuring transparency and fairness, found itself obligated to adopt the same formula as for those employees covered by remuneration regulations and extend the same Rs 4,925 salary increase to all employees earning up to Rs 50,000 working in sectors and/or engaged in activities not covered by any Remuneration Regulations. The NRB in its recommendations dated 18th December 2024 deemed this approach as necessary to maintain consistency, fairness and equity across the board as highlighted below:

In view of the foregoing, and to ensure fairness and transparency, the Board recommends that workers not covered by any Remuneration Regulations be granted an aggregate increase in their monthly basic wages equivalent to at least the increase in National Minimum Wage, as is the case for those covered under the Remuneration Regulations. This approach mirrors the treatment of workers covered under the Remuneration Regulations and preserves the existing wage structure, adjusting it upward solely by the change in the National Minimum Wage.

The above recommendations from the NRB served merely as a smokescreen, offering the appearance of due process. In reality, the decision to grant the Rs 4,925 increase had already been made prior to the Board's recommendations as can be gleaned from an extract of the communique from the Ministry of Labour and Industrial relations dated 27th September 2024 reproduced hereafter:

*« Pour les secteurs **pas couvert par les 32 Regulations, il est recommandé aux employeurs de faire les ajustements en attendant que le National Remuneration Board (NRB) soumette ses recommandations.** Pour ce faire, ils doivent utiliser la même méthodologie de calcul : - Pour ceux touchant moins de Rs20,000 (le salaire de Décembre 2023 + Rs4925 – le salaire de Janvier 2024 incluant la compensation salariale) - Pour ceux touchant entre Rs20,000 et Rs50,000 une augmentation de Rs2925 par mois. »*

Had employers implemented wage adjustments solely based on the communiqué issued by the Ministry of Labour and Industrial Relations, in the absence of recommendations from the NRB the situation could have precipitated significant inconsistencies. If the NRB's eventual recommendations diverged from the Ministry's communiqué, such discrepancies would likely have led to confusion and disputes between employers and employees, adversely impacting labour relations.

The timing and nature of the recommendations suggest that they were a mere formality, as the outcome was predetermined thus undermining the credibility of the NRB's role in the decision-making process.

In addition to the above, as rightly pointed out at the very outset by the representative of Business Mauritius during its submissions to the NRB, the referral made by the Minister was not in accordance with the provisions of the Employment Relations Act and should have been addressed by the National Minimum Wage Consultative Council, as outlined in Sections 5(b)(v) and 5(b)(vi) of the National Minimum Wage Consultative Council Act.

The referral contradicted Section 91 of the Employment Relations Act in several ways: (a) it overstepped sectoral boundaries; and (b) it ignored existing mechanisms for regulating terms and conditions of employment, such as enterprise-level review policies and collective agreements. This, they contended, rendered the Minister's referral legally and procedurally flawed.

With the implementation of the Wage Adjustment Regulations 2024 gazetted on 27th December 2024, which are deemed to have come into operation retroactively on 01st July 2024, employers will be required to pay wage adjustments for a period of at least eight months.

This includes arrears from July 2024 to December 2024. Furthermore, since the wage adjustment directly increases the basic salary of employees, it will have repercussions on additional benefits, such as the end-of-year bonus for 2024 and the Special Allowance 2024.

These adjustments represent a considerable financial burden for employers, who will be required to absorb these increased costs. The financial strain on businesses could also have broader economic consequences, affecting overall employment stability and business sustainability.

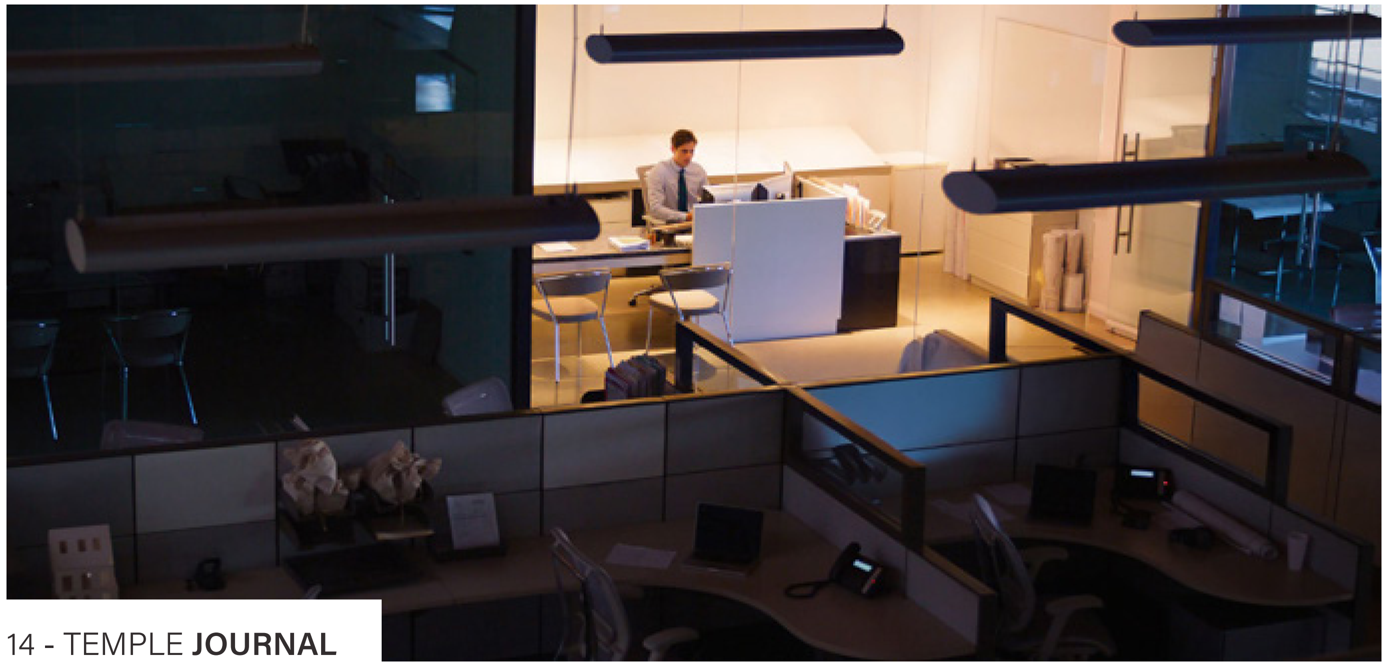
Secondly, the enactment of the Special Allowance Act 2024 in Mauritius stirred significant discourse among policymakers, employers, and employees. The legislation, promising a 14th-month basic salary to employees drawing a monthly basic salary of Rs 50,000, was a pivotal election pledge fulfilled without interested parties being afforded the opportunity to submit their representations.

While this move has been lauded by many employees as a much-needed financial boost, its broader implications for the economy, businesses, and labour market warrant a closer examination.

Employers may perceive this as an unwarranted intervention into their financial autonomy, potentially souring industrial relations. This sentiment could lead to resistance or reduced collaboration in future labour reforms.

In contrast to Mauritius's interventionist approach, many countries adopt a more liberal framework for wage determination, relying on market dynamics and employer-employee negotiations rather than statutory mandates. In the UK, wage determination is largely market-driven, with minimal state intervention. The National Minimum Wage and National Living Wage set baseline standards, but beyond these, wages are determined through collective bargaining, individual negotiations, and company policies. End-of-year bonuses, for example, are discretionary and often tied to company performance or individual achievements. This system allows employers to balance employee compensation with operational sustainability. Australia's industrial relations system emphasises enterprise-level bargaining, allowing employers and employees to negotiate wages and conditions tailored to their specific circumstances. The Fair Work Commission sets minimum wages, but beyond this, wage increases are driven by productivity gains and market forces.

The decision by the previous government to implement wage relativity adjustments was fundamentally flawed, both legally and procedurally, at every stage. From the lack of consultation with relevant stakeholders to the dismissal of expert legal advice provided by the State Law Office, the process was marred by significant legal oversights and a failure to comply with established laws.



As a result, when the current government assumed power, it was forced to enact the Employment Relations Amendment Act 2024 to rectify these issues and ensure that the wage relativity adjustments were legally sound.

Employers are now faced with the rising burden of labour costs, which may result in job cuts and business closures, while employees risk losing their jobs due to the financial strain imposed on businesses.

Moving forward, the State should steer clear of direct interventionism and aim rather at facilitating dialogue among stakeholders. This shift would ensure that wage adjustments are economically viable, legally sound, and reflective of the needs of both employers and employees.

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Yes, foreign residents may now buy property anywhere...but is it worth it?

ARTICLE WRITTEN BY
WILLEM JANSEN VAN RENSBURG

Background

There are various ways for foreigners to acquire property in Mauritius, and various reasons for them to want to do so. The market offers an abundance of properties to those who can afford it, and for those wishing to acquire the right to live in Mauritius through their ownership of a property, the threshold of USD375,000 is relatively low in comparison to similar programs elsewhere.

The acquisition of property by foreigners is governed by the Non-Citizens (Property Restriction) Act of 1975 (as amended)(NCPR Act). The NCPR allows that in principle virtually any property anywhere can be bought, with the condition that any such acquisition has to be approved by the Minister under whose responsibility this may fall from time to time. Upon approval, the Minister shall issue a certificate of authorisation in terms of section 3(2) of the Act. However, getting such an approval is a lengthy process and the approval is entirely at the discretion of the minister. Section 3(3) of the Act therefore creates categories of purchases that carry implied consent for foreign purchase. The

developments included in this list shall be referred to as the "Schemes" and include IHS (Invest Hotel Scheme), PDS (Property Development Scheme), Smart City Scheme, G+2 (Ground floor plus two) apartment block scheme as well as properties in the now discontinued IRS and RES Schemes. Properties within these schemes are typically tailored and priced for the international market.

In 2023 the NCPR Act was amended to make provision for a further category: the acquisition of properties by resident foreigners outside the schemes. The conditions attached to these acquisitions are contained in clause (3)(3)(d) and 3(3A) of the Act. In December 2023, the Economic Development Board (EDB) issued guidelines as to how this will be implemented [1].

Important considerations

It is important to note that this new category is only available to foreigners who already have the right to live in Mauritius. The terms "resident" is not restricted to permanent residents and includes holders of other residence or occupation permits. It is not available to foreign investors or to foreigners who wish to acquire residence by the acquisition of property in Mauritius. It follows that the purchase of such a property, regardless of the fact that the minimum threshold is USD500,000, will never entitle the owner or their descendants to residency.

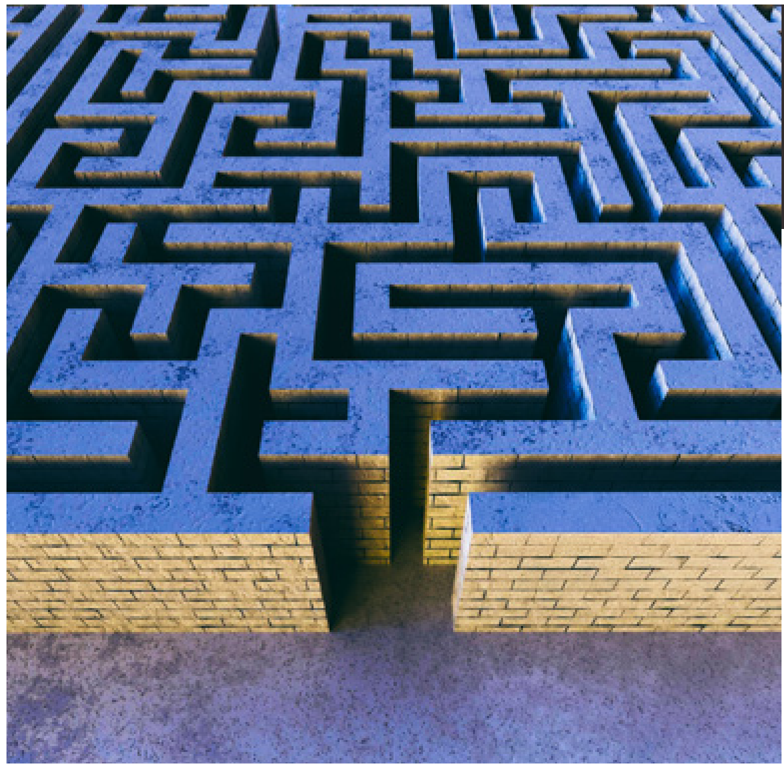
On this minimum threshold, an additional duty of 10% on the value of the property is levied, apart from the normal land transfer tax and registration duty (another 10%). But in contrast with the purchase of property in a Scheme which is relatively free of encumbrances, in this case there are several restrictions: For one, the use of the property is restricted to the "personal residence" of the owner. This terminology seems to refer to a right of "habitation" – from the Latin *habitatio*, which is the right to inhabit a property, as opposed to the term "use"– from the Latin usufruct, which has a wider meaning and may include using the property for profit. It follows that using a property for "personal residence" restricts the owner to living in the property himself and does not allow for it to be rented out or use as a business, for instance a guesthouse or Airbnb.

Secondly, property speculation is specifically prohibited. Thirdly, the owner of the property can only be a private person – the main permit holder. Apart from these major restrictions there are other limitations too, for instance regarding the maximum size of the property, the nature of the land that can be so bought, and the ministerial approval for the onward sale of the property.

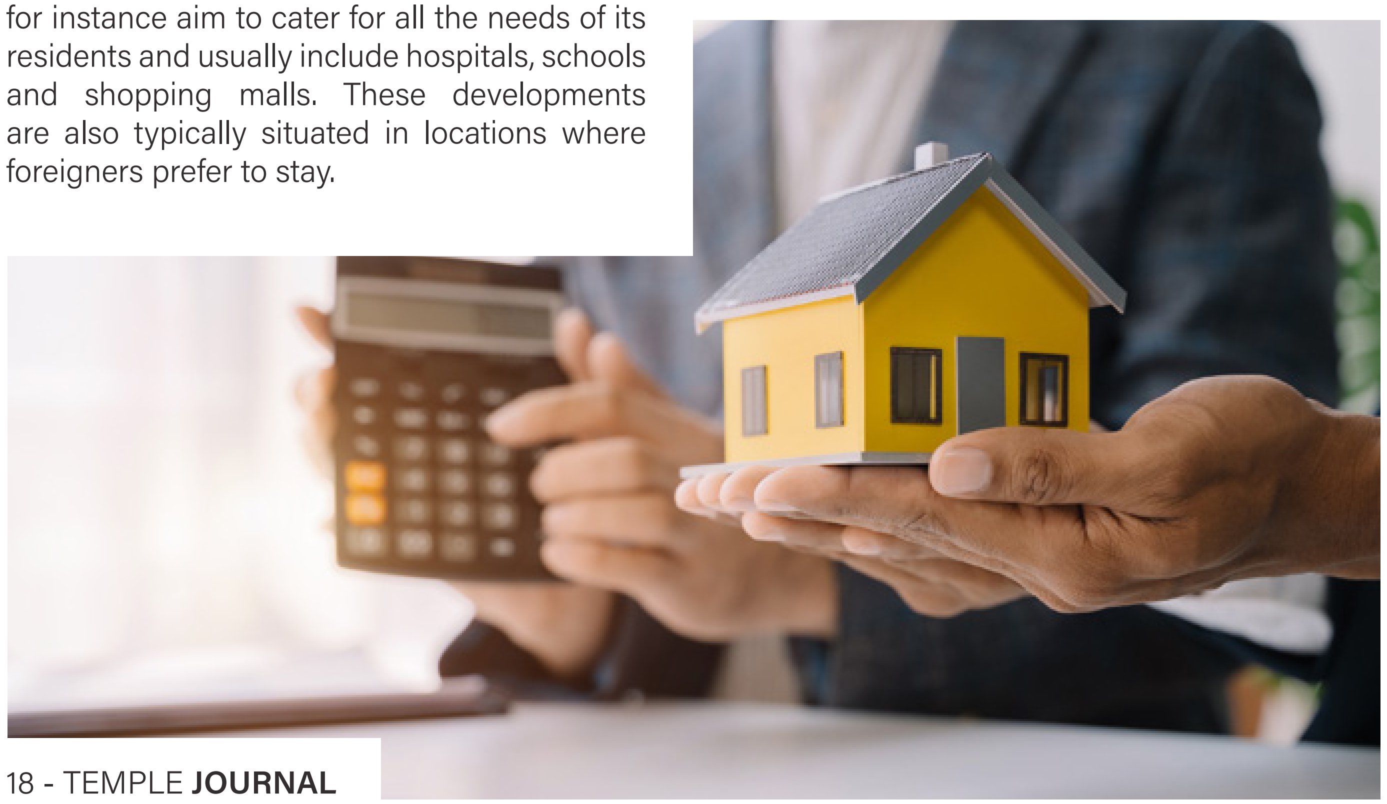
This begs the question: Is buying outside of Scheme under these new provisions better for the foreign resident than buying in a Scheme?

Pros and cons of buying in an approved Scheme

Firstly, let us look at the main benefits of buying property inside an approved Scheme. As a starting point, for a mere USD375,000 one can acquire permanent residence by buying a property in one of the schemes. Property can be used relatively freely and traded with relative ease, and there is no bar on ownership for legal entities. Furthermore, the quality of these developments aim to be of a high standard and usually include amenities to complement the residential buildings. Smart city developments for instance aim to cater for all the needs of its residents and usually include hospitals, schools and shopping malls. These developments are also typically situated in locations where foreigners prefer to stay.



On the downside, one would be hard pressed to find anything for USD375,000 in one of the Schemes, with the possible exception of a modest apartment. In most of the Schemes, nothing more than a townhouse/duplex will be available even at the USD500,000 price point. With the rapid expansion of this market comes complains about build quality and delivery deadlines. Lastly, buyers are still limited as to where and what they can buy.



Pros and cons of buying under the new provisions

One of the benefits of buying a property outside of a Scheme under the new provisions is that there is a much wider selection of properties to choose from (theoretically, at least – properties under the USD500,000 threshold are not available), and buyers should be able to find a much larger property for their money. On top of this, there are no limitations as to where such a property should be located, bar a few minor exceptions. From this point of view, there are probably many hidden and previously unattainable gems ripe for the picking.

On the downside: The entry price of USD500,000 is quite high for the local market, and many properties won't meet this minimum threshold. Access is thus restricted to properties at the high end of the local market. The idea of buying a neglected older home in a nice neighbourhood and fixing it up is mostly unrealistic, as these properties are likely to be priced below the threshold.

From an investment perspective, the 10% premium on the purchase price means that the property, on resale, will have to have gained a 10% growth in value for the owner just to recuperate their initial investment. This high price point also means that the owner will on resale be squeezed between the upper end of the local market and those other foreign residents who wish to buy a property outside a Scheme. The majority of potential buyers in that price bracket, namely foreign investors, will not be allowed to buy the property.

Another obstacle is the fact that the property may only be used as the personal residence of the owner.

In the absence of renting it out on short- or long-term basis or using it as an Airbnb or guesthouse, it does not appear that any income can be derived from it. For as long as the owner lives in the property, this should not be an issue.

However, the question arises when the owner has to vacate the house or leave the country for whatever reason: How will the restricted use of the property allow the owner to benefit from, or even maintain the property if no income can be derived from it?

Lastly: Such a property can only be bought in the name of a private person (the main permit holder), not a legal entity (including a trust). Trusts are handy tools in estate planning, and this limitation might have a severe impact on the succession planning of the owner.

The property will be vulnerable to the death or bankruptcy of the owner, as it cannot be entrenched through any of the usual mechanisms such as a trust.

Conclusion

The established property Schemes do not have many restrictions as to resale, use and ownership. Buying in such a development is akin to buying any other property in the world. In a Scheme, a property worth USD375,000 will grant the owner residency for as long as he holds it, and will transfer that residency to the new owner when the time comes to sell it. By contrast, buying a property outside a Scheme, even though it is now permitted, carries a lot of limitations. Any new development in law takes time to filter down into practical, workable components. But as matters stand regarding these amendments to the NCPR Act, caution is advised. At the core, these new rights are intended only for the personal use of those who are already resident in the country and do not intend to leave soon. Barring potential long-term growth, this might be all that it is good for.

[1]. Guidelines: Acquisition of Residential Property for a Minimum of USD500,000 by a Non-citizen Holding a Residence/Occupation Permit

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Willem has over 20 years of legal experience, mostly leading his own firm in South Africa. After moving to Mauritius in 2018, he completed a Master's in International Business Law and became Director of Operations at Temple Law. Practising in Mauritius for five years, Willem remains on the roll of attorneys in South Africa. Initially a property conveyancer, he is now a versatile lawyer specialising in international commercial law and the African market. In 2024, he was appointed Chair of the African Leadership Group of Meritas, the premier global alliance of independent law firms.

Restoring the central bank's authority and independence

ARTICLE WRITTEN BY
NIKHIL BOOLELL

The opening excerpts to the Bank of Mauritius Act 2004 (the "**Act**") with respect to the establishment of the central bank (at section 3) portrays "a body corporate of perpetual succession". It is provided that the central bank is capable of entering into contracts, of acquiring, holding and disposing property, whether movable or immovable and of suing and being sued.

One must be mindful that the legislator intended that the seemingly wide powers of freedom enjoyed by the central bank, would be distinguishable to the liberties enjoyed by private companies. Accordingly, the spectrum of the Companies Act 2001 regime bears no application on the central bank.

Of course, this demarcation is designed to arise in the furtherance of its objects which are spelt out as being to maintain price stability and to promote orderly and balanced economic development. Other objects of the central bank include the following (at section 4(2)):

a) regulate credit and currency in the best interests of the economic development of Mauritius;
b) to ensure the stability and soundness of the financial system of Mauritius and
c) act as the central bank for Mauritius

It is understood that an unescapable guiding principle of the good governance of a central bank lies in its independence. In the face of constant and overt blitz by Governments to influence the

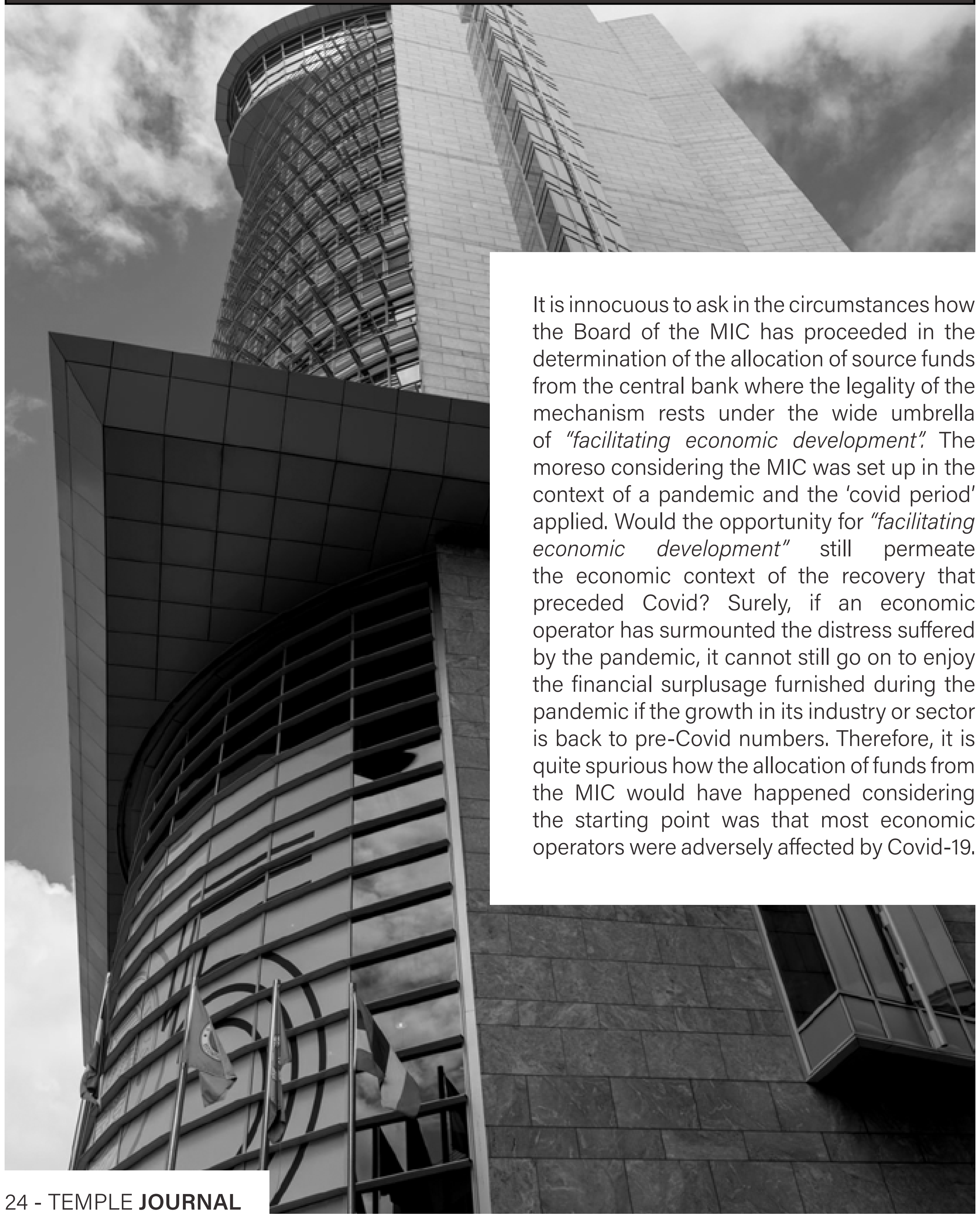
sanctity of this independence in the prudential oversight of financial systems; the appearance of the word "independence" only once in our Banking legislation, is deceptive.

Little solace can be found in reading section 3(3) of the Act which deploys the single use of the word "independence" in a broad-brush manner: ***" in furtherance of its objects, the central bank shall perform its functions independently."*** The equilibrium intended to be achieved by the legislator in adhering to the regime of a central bank that is independent from nefarious external pressures like those from Government remains a fragile one.

Of late, this was seen with respect to the business activities of the Mauritius Investment Corporation ("**MIC**"). From its Inaugural Report (at p. 14 onwards), the MIC was originally set up in the context of the Covid-19 pandemic and established to be fully in line with the Bank of Mauritius' mandate. The sole shareholder and owner of the MIC is the central bank. The funds from the central bank of Mauritius hence forms the capital of the MIC.

Notably the MIC is portrayed as follows, *"the MIC has been established with a world-class governance structure and complies with international management norms that promote ethical awareness and transparent management".* There arises an incestuous confusion between on one hand the cursus of the central bank in regulating economic development; and on the other, the object of its subsidiary, the MIC, in accelerating economic investment of distressed economic operators (i.e. privately owned companies in Mauritius). Whilst the funding of the MIC was enabled through the legality of the mechanism of section 6(1)(y) of the Act which compels assent to be given by the Minister of Finance:

(y) with the approval of the Minister, subscribe to, hold and sell shares of, provide capital to or invest in, any corporation or company set up for the purpose of facilitating economic development.



It is innocuous to ask in the circumstances how the Board of the MIC has proceeded in the determination of the allocation of source funds from the central bank where the legality of the mechanism rests under the wide umbrella of *"facilitating economic development".* The moreso considering the MIC was set up in the context of a pandemic and the 'covid period' applied. Would the opportunity for *"facilitating economic development"* still permeate the economic context of the recovery that preceded Covid? Surely, if an economic operator has surmounted the distress suffered by the pandemic, it cannot still go on to enjoy the financial surplusage furnished during the pandemic if the growth in its industry or sector is back to pre-Covid numbers. Therefore, it is quite spurious how the allocation of funds from the MIC would have happened considering the starting point was that most economic operators were adversely affected by Covid-19.

In conclusion, the case of the MIC, which is now the subject of investigation by law enforcement authorities sheds light on the inappropriateness of a collusion in the role of the central bank and that of any of its subsidiary. It is uncertain whether the MIC is the brainchild of the central bank or the Minister to whom the responsibility for the subject of finance is assigned. Whilst the MIC constitutes a butchery to the independence of the function of the central bank, it is important that the sense of independence and authority of the central bank is revigorated. In an ideal world, the MIC ought to be wound up and a corporate resolution ought to be put in place for recovery of the funds invested, where it would be realistic to do so. This though is not an ideal world, an any initiative to recover the funds by the MIC could end up in the well-oiled bureaucracy related to irretrievability of funds.

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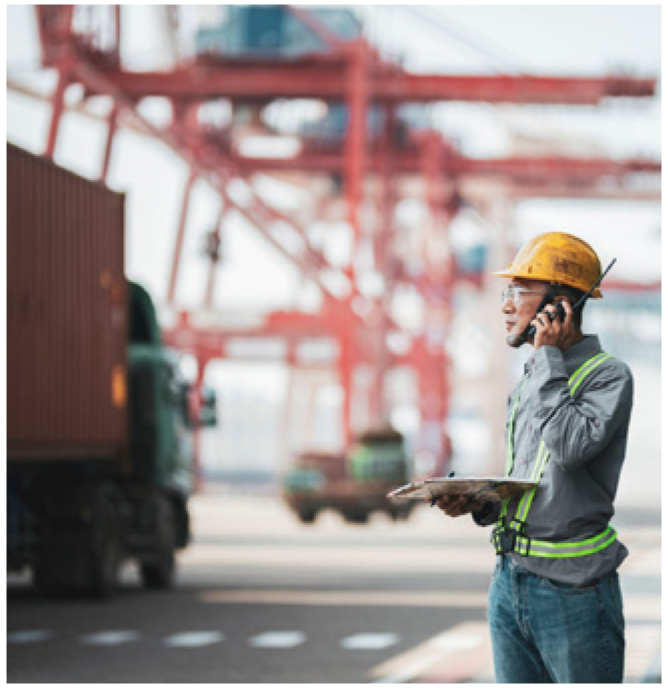
Nikhil specialises in Civil and Commercial Dispute Resolution, focusing on company, employment, insurance, and administrative law. He has extensive experience in Mauritian courts and tribunals, appearing unled up to the Supreme Court. Nikhil handles commercial claims for both claimants and defendants and collaborates with Silk from the law firm. His practice also includes strong advisory and corporate work, advising foreign and domestic companies, diplomatic bodies, and individuals on their activities in Mauritius.

Termination of Migrant Workers: The Legal Labyrinth?

ARTICLE WRITTEN BY
FAARZAAD SOREEFAN

Migrant workers have long been an integral part of our labour force for the past decade, expanding to over 36,000[1] individuals of diverse nationalities who are currently employed on the island. This growing presence is not only evident in traditional sectors such as manufacturing, but also in more visible roles, with migrant workers increasingly occupying frontline positions in businesses, including as waitstaff in restaurants or cashiers and helpers in supermarkets. As workers, they are entitled, at most, to the same legal protections afforded to all employees, more specifically, the citizens. However, these protections are contingent upon their immigration status, typically expiring with the termination of their work permits, unless renewed under specific circumstances.



A pertinent question arises regarding the course of action when a migrant worker chooses to terminate their employment contract. Although this scenario is relatively uncommon, in practice, the migrant worker is required to provide notice to the employer. In turn, the employer is responsible for fulfilling its repatriation obligations, which typically involve mainly the provision of a return air ticket. This requirement is codified in the standard employment agreement[2], which is regulated and monitored by the Ministry of Labour and Industrial Relations (the "**Ministry**").

The July 2024 amendments to the Workers Rights Act 2019[3] have introduced crucial provisions concerning the termination of employment and repatriation of migrant workers. These amendments, designed to enhance protection for migrant workers, require employers to follow specific procedural steps before repatriation, including giving notice to the supervising officer of the Ministry. However, a significant tension arises when these requirements are juxtaposed with strict procedural timelines governing the disciplinary process, particularly in cases of misconduct.

Procedural Obligations for Termination and Repatriation

The law as amended[4], outlines clear obligations for employers wishing to terminate the employment of a migrant worker and initiate repatriation. According to the law, an employer intending to repatriate a migrant worker must comply with the following steps:

- **Notice to the Ministry**: At least **20 working days' written notice** must be provided to the supervising officer of the Ministry responsible for employment.

- **Payment of Unpaid Remuneration**: The employer is required to settle any outstanding remuneration owed to the worker prior to repatriation.

- **Payment of Benefits**: The migrant worker must also be paid all benefits to which they are entitled under any other enactment.

Failure to comply with the 20 working days' notice requirement constitutes an offence under the Workers' Rights Act[5], and employers who breach this obligation may face penalties, including a fine not exceeding Rs 25,000 and imprisonment for a term not exceeding 2 years.

These provisions underscore the gravity of the employer's responsibility in ensuring proper notification to the Ministry before repatriating a migrant worker. They additionally serve to ensure that migrant workers receive due compensation and are not unfairly deprived of their entitlements before leaving the jurisdiction. The procedural rigour imposed by these provisions reflects an attempt to safeguard migrant workers, who may otherwise be vulnerable to exploitation, particularly in the final stages of their employment.

Disciplinary Process for Misconduct

The disciplinary process for addressing misconduct within the framework of the Workers' Rights Act[6] establishes a separate set of procedural obligations for employers. When an employer seeks to terminate a worker for reasons related to misconduct, several critical conditions must be met:

- **Notification of Charge**: The employer must notify the worker of the alleged misconduct within **10 days** of becoming aware of it.

- **Opportunity to Respond**: The worker must be given an opportunity to respond to the charges.

- **Notice of Hearing**: The worker is entitled to 7 days' notice before the oral hearing to prepare an answer to the charges.

- **Termination Timeline**: If the misconduct is proven, the employer must effect termination within 7 days of the oral hearing.

This sequence of steps is designed to ensure procedural fairness and protect the worker's right to a fair hearing before any dismissal is effected. However, these steps, while fostering fairness, impose a time-sensitive structure that may conflict with the employer's obligations under the repatriation provisions for migrant workers.

Conflict Between Repatriation and Disciplinary Proceedings

The intersection of the procedural requirements for repatriating migrant workers and the disciplinary process presents a significant challenge for employers. On the one hand, the employer is obligated to provide 20 working days' notice to the Ministry before repatriating a migrant worker. On the other hand, disciplinary proceedings for misconduct are subject to a far more expedited timeline, with the process culminating in termination within 7 days following the hearing.

This raises a number of critical questions:

- **Timing of Termination**: If a disciplinary hearing results in the immediate termination of a worker's employment, how is the employer expected to reconcile this with the obligation to give 20 days' notice before repatriation?

- **Obligations During the Interim Period**: If the worker is dismissed for misconduct but must remain in the country until the completion of the 20 days' notice, is the employer required to provide accommodation, such as continued residence in the worker's dormitory, during this period?

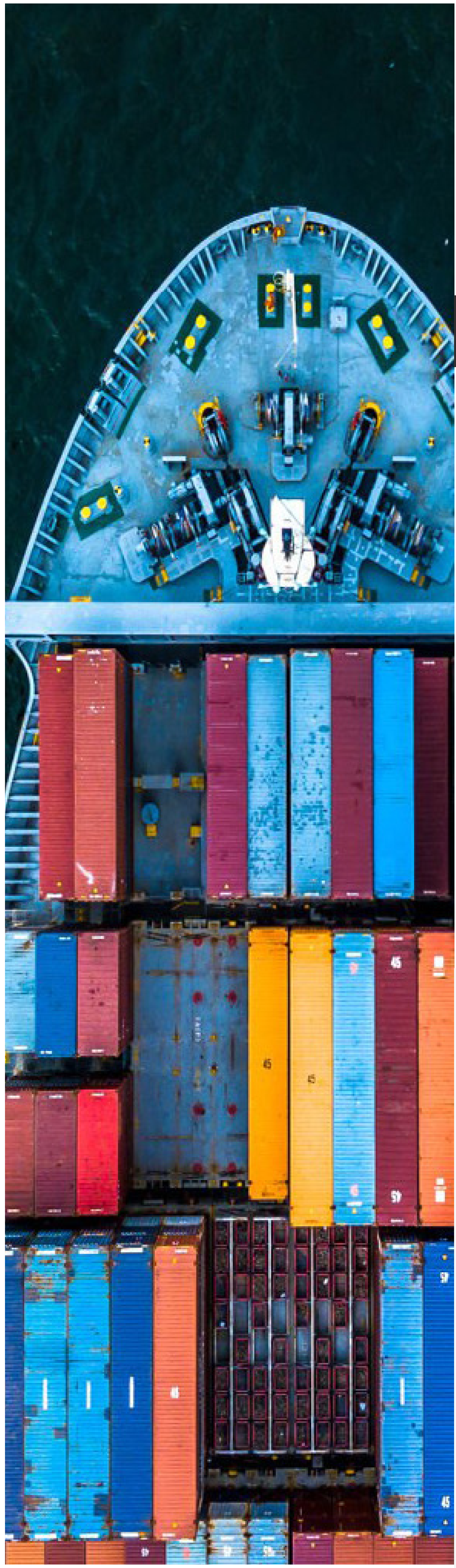
- **Financial and Practical Implications**: How should employers address the practical and financial implications of supporting a worker whose employment has been terminated but who is yet to be repatriated in view of the notice period?

These issues highlight the potential for procedural contradictions that can place employers in a legally precarious position. The law, as currently drafted, does not provide sufficient clarity on how these overlapping timelines should be managed.

Legal and Practical Implications for Employers

From a legal standpoint, the inconsistency between the timelines for termination and repatriation creates ambiguity. Termination following a disciplinary hearing is intended to be final and immediate, particularly in cases where serious misconduct has been established. However, the requirement to notify the Ministry and provide 20 working days' notice effectively delays the repatriation of the worker.

Employers may find themselves in a situation where they are compelled to provide ongoing support—whether in terms of accommodation, subsistence, or even remuneration—during this interim period. Moreover, in the absence of clear legislative guidance, employers could face legal disputes. Criminal proceedings add an additional layer of complexity to the intersection of termination for misconduct and repatriation obligations, placing employers in a more vulnerable legal position.



Conclusion

The amendments to the Workers' Rights Act have introduced essential protections for migrant workers, but they have also created procedural challenges for employers, particularly in the context of disciplinary dismissals for misconduct. The tension between the 20-day notice requirement for repatriation and the more immediate timeline for termination highlights the need for legislative clarity and practical solutions. Employers must navigate these obligations carefully to ensure both compliance with the law and the fair treatment of workers. Ultimately, achieving a balance between safeguarding workers' rights and preserving employers' operational flexibility is essential for the smooth functioning of the employment relationship.

[1]. https://shorturl.at/vt6zS, International Labour Organization-NORMLEX
https://shorturl.at/bADWm, Le Matinal (both accessed 12 October 2024)
[2]. https://shorturl.at/wUPDt, Ministry of Labour and Industrial Relations (accessed 15 October 2024)
[3]. Finance (Miscellaneous Provisions) Act 2019, section 95
[4]. Workers' Rights Act, section 63(7)
[5]. Workers' Rights Act, section 123(1)(g)
[6]. Workers' Rights Act 2019, section 64(2)

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Expanding Locus Standi: The Untapped Potential of Public Interest Litigation

ARTICLE WRITTEN BY
ANUJA GHOORAH

Public Interest Litigation ("**PIL**") is a fundamental aspect of various legal systems across the globe. PIL can be filed any person acting bona fide and who has enough interest in instituting an action for redressal of public injury or public wrongdoing.[1] In Mauritius, PIL is a concept repeatedly stated by our courts to be *"alien to our jurisdiction"*, which have constantly insisted that a litigant must have a direct or relevant personal interest in a matter[2].

There are several case laws in Mauritius where it was determined that the plaintiff had no locus standi in initiating the action. In the case of **Tengur v The Ministry of Education and Scientific Research**[3], the plaintiff, in his capacity as taxpayer, was held not to have the requisite locus standi to challenge the authorisation given by the Roman Catholic Education Authority to reserve fifty per-cent (50)% of its intake for students of a particular faith on the ground that the said authorisation contravened section16 of the Constitution (protection against discrimination).

Similarly, in the case of **IUS Ad Vitam Association v The State of Mauritius & Ors**[4], the plaintiff was an association with certain objects ("**Association**") , claiming that there had been constitutional infringement in relation to the enactment of section 235A of the Criminal Code which came into operation on 15 October 2012 and which authorises the termination of pregnancy in the specific circumstances subject to the conditions laid down in the section. It was held that the Association had failed to establish that it had itself any personal right that was affected or likely to be affected by the enactment of section 235A of the Criminal Code, since the right to life of an unborn child belonged to that unborn child and not to the Association.

A different approach to PIL is taken in India; the original purpose of which was to make justice accessible to the poor. Numerous cases in India are based on PIL. For instance, in the case of **MC Mehta v Union of India**[5], MC Mehta demanded that Shriram Industries, located in a congested place in Delhi, needed to close as the industry leaked petroleum gas. The court observed that these hazardous industries contributed to people's economic development and advancement. Thus, the final decision taken by the judges was to relocate such factories to less populated areas so that they would not pose a threat to human life.

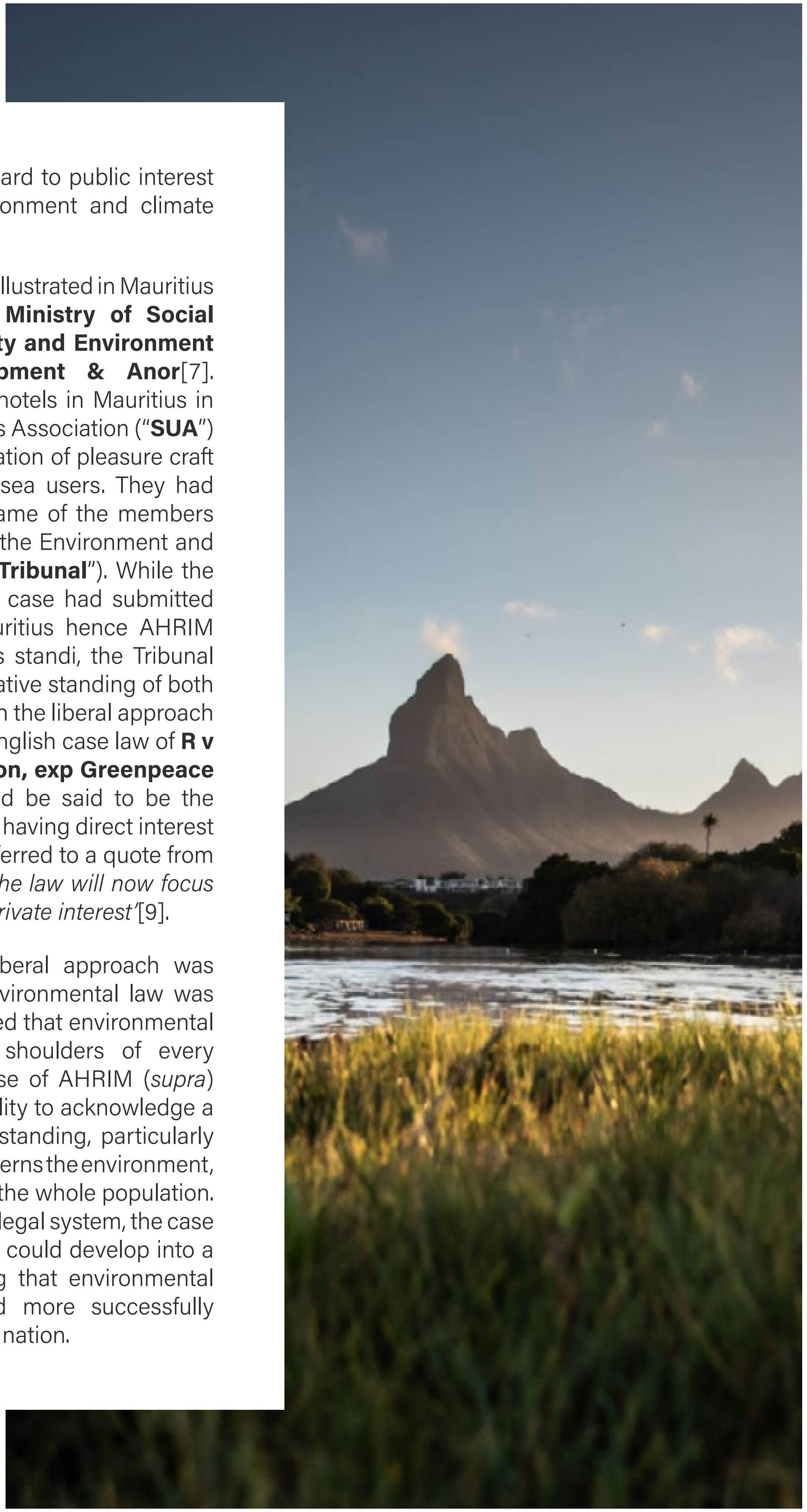
In Australia, the court established the principle that a litigant must have a special interest in the subject matter of the proceedings or be specially affected to be granted standing. In effect, this test puts forward that each case will be decided on its own facts as to who can bring a case. There is also a statutory provision in the Administrative Decisions (Judicial Review) Act 1977 ("**ADJRA**") which defines 'standing' as including a person whose interests are or would be adversely affected by the decision or conduct sought to be reviewed.

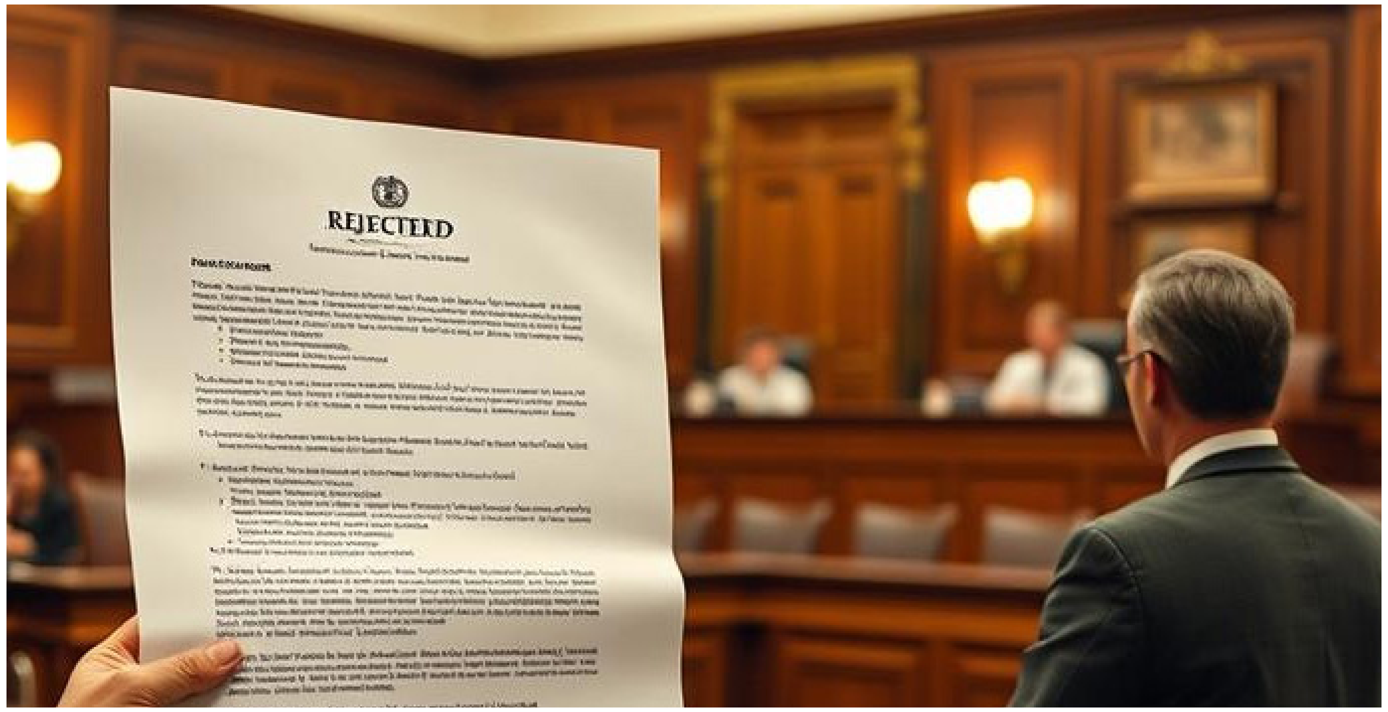
A perusal of Australian cases reveals that the Australian courts seem to be more inclined to grant environmental organisations standing either on the basis of the special interest test under the common law or the aggrieved person test under the statute, provided that such groups satisfy the conditions mentioned in the statute. The courts are gradually moving towards a more expansive and liberal approach to the concept of

'standing' especially with regard to public interest groups in the field of environment and climate justice[6].

A liberal approach to PIL was illustrated in Mauritius in the case of **AHRIM v Ministry of Social Security, National Solidarity and Environment and Sustainable Development & Anor**[7]. AHRIM is an association of hotels in Mauritius in the said matter and Sea Users Association ("**SUA**") presented itself as an association of pleasure craft operators, divers and other sea users. They had entered the appeal in the name of the members which they represent before the Environment and Land Use Appeal Tribunal ("**Tribunal**"). While the Co-Respondent No. 1 in the case had submitted that there is no PIL in Mauritius hence AHRIM and SUA did not have locus standi, the Tribunal held the view that the associative standing of both AHRIM and SUA is in line with the liberal approach to locus standi taken in the English case law of **R v HM Inspectorate of Pollution, exp Greenpeace** [8], where Greenpeace could be said to be the representative of the persons having direct interest in the matter. The Tribunal referred to a quote from Wade's administrative law: '*The law will now focus on public policy rather than private interest*'[9].

We therefore find that a liberal approach was taken in this case where environmental law was involved and it was recognised that environmental stewardship rests on the shoulders of every person in Mauritius. The case of AHRIM (*supra*) demonstrated Mauritius's ability to acknowledge a more inclusive approach to standing, particularly where the matter at hand concerns the environment, a societal issue that impacts the whole population. Notwithstanding the existing legal system, the case raises the possibility that PIL could develop into a mechanism for guaranteeing that environmental regulations are upheld and more successfully implemented throughout the nation.





Like many small island developing states, Mauritius is susceptible to the negative consequences of climate change, such as the deterioration of its marine ecosystems, extreme weather events, and rising sea levels. Additionally, local residents rely on these ecosystems for their livelihoods, particularly those in coastal areas. PIL might offer a much-needed channel for promoting the implementation of environmental laws and making both public and private organizations responsible for environmental damage.

Furthermore, PIL has the potential to be an effective social justice tool. Although Mauritius's locus standi criteria have historically prevented those with merely generalized concerns from accessing the courts, it is impossible to overlook the necessity of addressing significant social issues like poverty, inequality, and discrimination. PIL has been effectively utilised to address these issues in other jurisdictions, particularly when statutory or constitutional rights are involved. PIL could be used, for example, to fight against discriminatory laws, support the rights of underrepresented groups, and pursue justice for people whose voices might not otherwise be heard.

Systemic obstacles frequently keep marginalised groups from obtaining legal redress. Enabling advocates and public interest groups to speak on behalf of these groups could guarantee the protection of their rights and promote greater inclusivity in the legal system. PIL may also be a useful instrument for contesting government policies that disproportionately hurt underprivileged communities, especially in areas like housing, healthcare, and education.

In conclusion, the potential of PIL in Mauritius as a tool for environmental and social justice remains largely untapped. While there is growing recognition of the need for more inclusive legal frameworks, it raises the question: can PIL evolve into a mechanism that truly empowers citizens, advocates, and communities to hold entities accountable, without opening the floodgates to frivolous claims?

[1]. Public interest litigation and child labour: an analysis of the MC Mehta case by Raghav Pandey
[2]. Appa Jala v The Honourable Chief Justice & Others [2023] SCJ 132
[3]. Tengur v Ministry of Education & Anor [2002] MR 166
[4]. IUS Ad Vitam Association v The State of Mauritius & Ors [2014] SCJ 142
[5]. MC Mehta v Union of India [1987] 1 SCR 819
[6]. Eco-Sud v The Minister of Environment, Solid Waste Management and Climate Change [2023] SCJ 284
[7]. AHRIM v Ministry of Social Security, National Solidarity and Environment and Sustainable Development & Anor ELAT 1502/17
[8]. R v HM Inspectorate of Pollution, exp Greenpeace 1994 4 All ER 329
[9]. Betsy v Bank of Mauritius [1992 MR 231]

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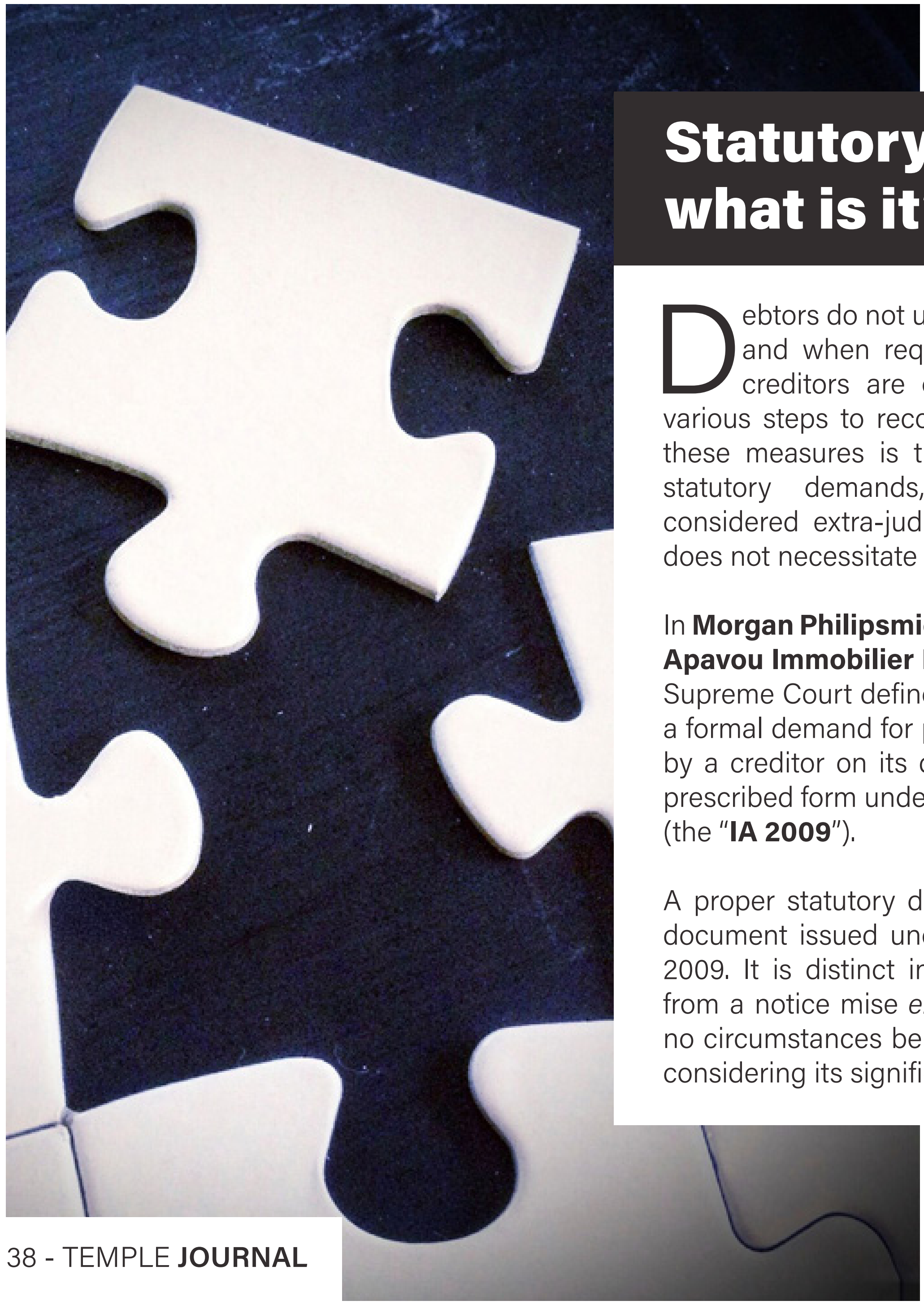
An overview and the legal consequences of an unsatisfied Statutory Demand

ARTICLE WRITTEN BY
JAGESHWARSINGH LUKEERAM

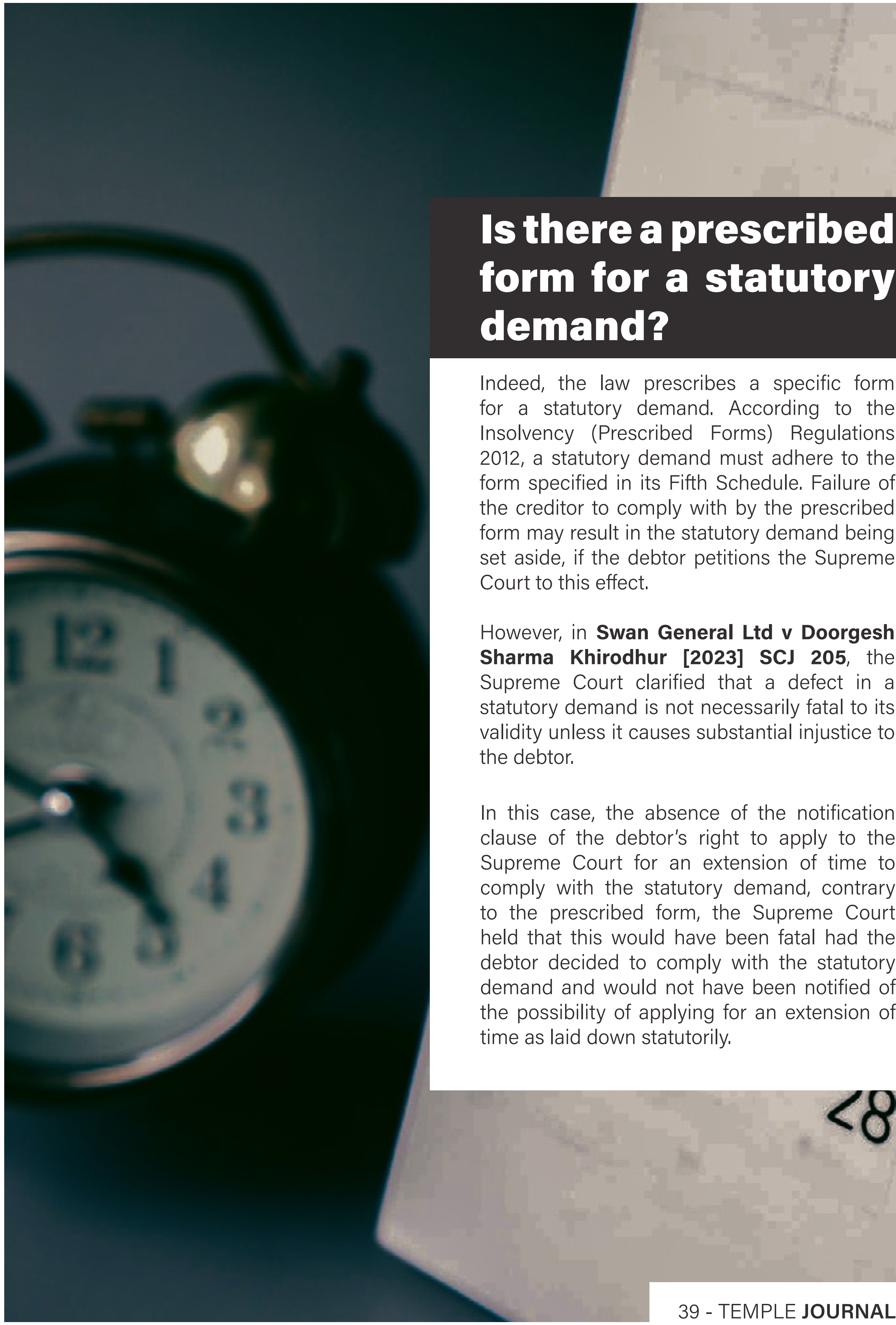


Statutory demand, what is it?

Debtors do not usually clear their debts as and when required. In such instances, creditors are often compelled to take various steps to recover their money. Among these measures is the procedure of serving statutory demands, which is somehow considered extra-judicial in the sense that it does not necessitate court involvement.

In **Morgan Philipsmiddle East & Africa SAS v Apavou Immobilier Ltee [2022] SCJ 393**, the Supreme Court defined a statutory demand as a formal demand for payment of a debt served by a creditor on its debtor in a standard and prescribed form under the Insolvency Act 2009 (the "**IA 2009**").

A proper statutory demand is a serious legal document issued under Section 181 of the IA 2009. It is distinct in both form and content from a notice mise *en demeure* and should in no circumstances be taken lightly by a debtor, considering its significant legal consequences.



Is there a prescribed form for a statutory demand?

Indeed, the law prescribes a specific form for a statutory demand. According to the Insolvency (Prescribed Forms) Regulations 2012, a statutory demand must adhere to the form specified in its Fifth Schedule. Failure of the creditor to comply with by the prescribed form may result in the statutory demand being set aside, if the debtor petitions the Supreme Court to this effect.

However, in **Swan General Ltd v Doorgesh Sharma Khirodhur [2023] SCJ 205**, the Supreme Court clarified that a defect in a statutory demand is not necessarily fatal to its validity unless it causes substantial injustice to the debtor.

In this case, the absence of the notification clause of the debtor's right to apply to the Supreme Court for an extension of time to comply with the statutory demand, contrary to the prescribed form, the Supreme Court held that this would have been fatal had the debtor decided to comply with the statutory demand and would not have been notified of the possibility of applying for an extension of time as laid down statutorily.

Is there a deadline to comply with a statutory demand?

The service of a statutory demand triggers a one-month deadline for the debtor to comply with its exigencies. The debtor may also apply to

the Bankruptcy Division of the Supreme Court for an extension of this deadline. Importantly, this one-month compliance period should not be confused with the 14-day timeframe to apply to have the statutory demand set aside.

What is the statutory minimum debt for a statutory demand?

Under the IA 2009, the statutory minimum debt required to serve a statutory demand was initially MUR 100,000. However, following the COVID-19 pandemic, this threshold was increased to MUR 250,000 to limit the influx of demands against financially distressed companies. Consequently, creditors cannot issue a statutory demand for debts below MUR 250,000.

Should statutory demands be served only on debtor companies?

Statutory demands under the IA 2009 can only be served on debtor companies. In the case of **Société du Cephage v Travaux Techniques des Mascareignes [2016] SCJ 469**, the Supreme Court held that serving a statutory demand on an unregistered entity, *such as a société civile et particulière*, was procedurally improper. The then Justice Angoh upheld the objection, ruling that the legal procedure adopted by the creditor was misconceived in law.

Is there a deadline to set aside a statutory demand?

For the debtor to move the Bankruptcy Division of the Supreme Court for the statutory demand be set aside, the IA 2009 stipulates that it must be made, and served on the creditor within 14 days of the date of service of the demand. Any failure to comply with the 14-day mandatory requirement would fatally compromise the debtor's application.

In **Compagnie Sucrière de Bel Ombre Ltd v Alliance Building Contractors Ltd [2016] SCJ 131**, the trial Judge declined an application to set aside a statutory demand on the basis that it was made outside the mandatory delay imposed by the Section 181 (2) of the IA 2009. The said judgment was later upheld by the Court of Civil Appeal.

What are the grounds to set aside a statutory demand?

If you are a debtor having in hand a statutory demand, and you believe that the debt claimed therein is in genuine dispute whether or not the debt is due, or that you have a counterclaim, set-off or cross demand bringing the amount claimed in the demand less that the prescribed amount, or for any other grounds that you think the demand should be set aside, then it is open to you to go to the Supreme Court to have it set aside.

As you may have already noted by now, a statutory demand may be set aside on various grounds. These grounds are specifically stated in the IA 2009; however, they are not all-inclusive.

After a statutory demand is served, the debtor must file an application within 14 days of being served with the statutory demand. Since this is a significant issue that may result in the dissolution of your company, it is imperative that you take immediate action. You must seek legal advice as quickly as you can if you are unsure of what to do next.

What are the legal consequences of an unsatisfied statutory demand?

In the event the statutory demand is not met or set aside by the Supreme Court, it is most likely that the creditor will initiate a winding-up petition to have the affairs of the debtor wound up.

This does not in any manner means that the creditor will proceed with a winding-up petition against a failing debtor.

Reason for this is that the debtor's failure to comply with the requirements of the statutory demand makes room for a legal presumption, though rebuttable by the debtor, that it is insolvent i.e. the debtor is presumed to be unable to pay its debts as they become due in the ordinary course of business. This presumption, however, is time sensitive. It lasts for only one month following the statutory demand's one-month compliance period.

Beyond this timeframe, evidence of failure to comply with the demand may no longer be admissible as proof of insolvency, although creditors can still use other means to demonstrate the debtor's inability to pay its debts.

Legal disclaimers

Since the legislative frameworks are subject to change, the overall situation discussed in this article could alter at any time. Additionally, since circumstances of each debtor is different, an article like this one cannot provide you with all of your alternatives, and some of the possibilities covered here may not be applicable to you. You should not take anything you have read here as legal advice for this and other reasons. If anything mentioned above affects you, you should seek legal advice promptly tailored to your situation.

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Selling a Unicorn: An Investor Perspective on key investee KPIs

ARTICLE WRITTEN BY
ESMARIE SWANEPOEL

Introduction

In the contemporary investment landscape, the pursuit of high-growth ventures—often referred to as *unicorns*—has garnered immense interest among venture capitalists and investors alike. This phenomenon stems from an evolving market that increasingly values potential over historical performance, leading to the adoption of innovative key performance indicators **("KPIs")** and valuation models.

Understanding which KPIs can effectively gauge a startup's growth trajectory and sustainability is critical for investors; these metrics serve as vital tools for assessing risk and forecasting future earnings. Furthermore, the intricacies of various valuation models, from discounted cash flow to comparative analysis, underscore the complexities involved in estimating a *unicorn's* worth. I am to explore these dimensions, providing an in-depth analysis of how KPI selection and valuation methodologies shape investor perceptions and decisions, ultimately influencing the success or failure of acquisition endeavours in a highly competitive environment.

Overview of Unicorn Companies and Their Significance in the Investment Landscape

Capturing the essence of enterprise innovation, *unicorn* companies—startups valued at over one billion dollars—have emerged as pivotal players in the investment landscape.

These firms, often characterized by their disruptive technologies and scalable business models, illustrate the potential rewards of early-stage private investment. Their rapid growth trajectories not only attract significant venture capital funding but also capture the attention of institutional investors seeking high returns in an otherwise volatile market.

The valuation of unicorns, which can sometimes be founded more on optimism than traditional financial metrics, necessitates a nuanced understanding of KPIs such as customer acquisition cost, lifetime value, and market penetration rates. As the competition for market share intensifies, investors must carefully assess these KPIs to mitigate risks while capitalizing on the unique advantages that unicorns provide within diversified portfolios[1].

Key Investee KPIs for Unicorn Valuation

When evaluating potential unicorn investments, several KPIs emerge as critical indicators of future success and valuation accuracy. Revenue growth is paramount; a consistently upward trajectory reflects market demand and operational efficiency, enticing investors who seek scalable business models. Furthermore, Customer Acquisition Cost **("CAC")** paired with the Lifetime Value ("LTV)" of customers offers deep insights into the sustainability of a unicorn's growth.

A low CAC combined with a high LTV suggests effective marketing strategies and a loyal customer base, both essential for achieving and maintaining a unicorn status. Additionally, profitability margins, such as gross and net margins, provide crucial context regarding operational health and competitive positioning in the market. These KPIs, when meticulously analysed, not only guide valuation models but also shape investor confidence in the long-term viability and prospective returns of the unicorn in question[2].

Identification and Analysis of Critical Performance Indicators

A fundamental element in evaluating the viability of investee companies is the identification and analysis of critical performance indicators, KPIs. These metrics serve as quantitative benchmarks that enable investors to assess operational efficiency, financial health, and market positioning.

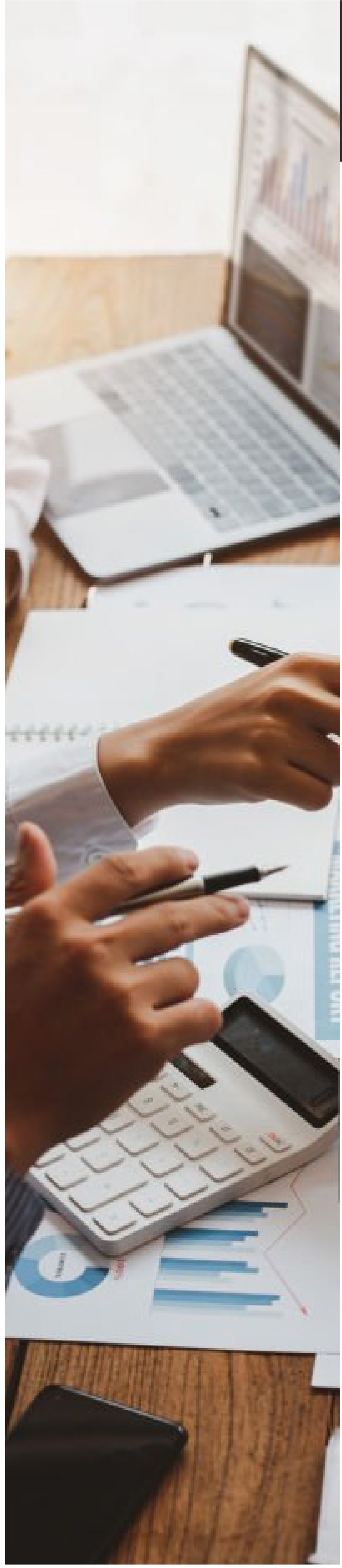
Among the myriad of available indicators, revenue growth rate, customer acquisition cost, and net profit margins stand out as vital for performance evaluation. Not only do these KPIs provide insights into a company's historical performance, but they also allow for projections of future profitability and sustainability, which are crucial when forecasting potential returns on investment.

To ensure a comprehensive analysis, it is essential to contextualize these indicators within the industry standards and peer performance, revealing competitive advantages or potential red flags. Ultimately, a thorough examination of these KPIs fosters informed decision-making and strategic planning, allowing investors to mitigate risks associated with acquiring high-potential startups [1].

Valuation Models Used in Unicorn Acquisitions

In examining the intricate landscape of unicorn acquisitions, several prevalent valuation models emerge as instrumental in determining fair market value. Among these, the Discounted Cash Flow **("DCF")** model is frequently employed, as it allows acquirers to assess a company's future cash flow potential by projecting earnings and discounting them back to present value. However, given the unique nature of unicorns, which often prioritize growth over profitability, alternative models such as the Comparable Company Analysis ("CCA") gain significance.

CCA facilitates valuation by benchmarking against similar companies within the same sector, thus providing market-driven insights into potential acquisition pricing. Furthermore, the Precedent Transaction Analysis **("PTA")**, which evaluates historical acquisition data of comparable firms, serves to augment the understanding of market trends and buyer sentiment. Ultimately, the integration of these models enables a holistic valuation approach, critically informing investment decisions and acquisition strategies *(New York Stock Exchange, 2017-06).*



Comparative Analysis of Different Valuation Approaches

Fundamentally, the choice of valuation approach significantly influences the perceived worth of a venture, especially in the context of startups, colloquially referred to as unicorns. The primary methodologies—Discounted Cash Flow (DCF), Comparable Company Analysis (CCA), and Precedent Transactions—each bring unique strengths and weaknesses that can sway investment decisions. For instance, DCF relies on projected future cash flows, making it highly sensitive to assumptions about growth rates and discount rates, which can lead to over or undervaluation if those assumptions are flawed. Conversely, CCA establishes value by benchmarking against similar firms, thus offering a market-oriented perspective that can sometimes overlook a company's distinctive attributes. The Precedent Transactions method provides insights based on historical acquisitions, yet it may not adequately account for recent market shifts or changes in investor sentiment, stifling adaptability *(Aswath Damodaran, 2016-02-08).* This comparative analysis highlights the necessity for investors to blend these approaches, maximizing accuracy in a volatile market.

In summary, the intricate landscape of unicorn investments necessitates a multifaceted understanding of key performance indicators and valuation models. By examining critical KPIs such as growth rates, customer acquisition costs, and lifetime value, investors can acquire a nuanced perspective that underscores the viability and potential of an investee. The varied valuation models, ranging from discounted cash flow analyses to multiples of revenue, serve to illuminate different facets of a unicorn's financial health and market position. Ultimately, a successful acquisition hinges on the synthesis of these analytical frameworks, enabling stakeholders to navigate the complexities inherent in high-stakes investment decisions. As the market continues to evolve, the importance of a robust methodology will only increase, equipping investors with the tools necessary to discern the true value of such elusive entities as unicorns in a dynamic economic environment *(Ali Tamaseb, 2021-05-18).*

Investors in unicorn companies must navigate a complex landscape shaped by rapid growth and the intricacies of valuation methodologies. Insights gleaned from various case studies highlight the importance of a comprehensive evaluation of KPIs such as revenue growth, customer acquisition costs, and churn rates. These metrics offer vital signals regarding a *unicorn's* market potential and operational efficiency, enabling investors to make informed decisions. Furthermore, the rejection of traditional valuation models in favour of innovative approaches, such as the venture capital method and discounted cash flows reflects the need for flexibility amid market volatility. By adopting a nuanced understanding of these dynamics, investors can better assess risks and opportunities, ultimately leading to more strategic investment choices.

As *unicorn* companies continue to evolve, these insights not only inform prospective acquisitions but also enhance long-term value creation in portfolios concentrated in high-growth sectors.

[1]. Aswath Damodaran "Damodaran on Valuation" John Wiley & Sons, 2016-02-08.
[2]. Aswath Damodaran "Damodaran on Valuation" John Wiley & Sons, 2016-02-08.
[3]. Tom Eisenmann "Why Startups Fail" Currency, 2021-03-30.
[4]. New York Stock Exchange "The Entrepreneur's Roadmap" 2017-06.
[5]. Aswath Damodaran "Damodaran on Valuation" John Wiley & Sons, 2016-02-08.
[6]. Ali Tamaseb "Super Founders" Public Affairs, 2021-05-18.

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Commissioned Artwork of our then premises, a colonial house converted to office on 2 Labourdonnais, Street, Port Louis prior to construction of Temple Court about 2004

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