


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
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Consideration of Reports submitted by States Parties under Article 62 of the African Charter on Human and Peoples' Rights

Concluding Observations and Recommendations on the 2nd, 3rd, 4th and 5th Periodic Reports of the Republic of Mauritius

I- Introduction

1. The Republic of Mauritius (Mauritius) is a State Party to the African Charter on Human and Peoples' Rights (the African Charter) having signed the latter on 27 February 1992 and ratified the same on 19 June 1992.

2. Mauritius submitted its Initial Report to the African Commission on Human and Peoples' Rights (the African Commission) in 1994. The Report was considered during the 20th Ordinary Session of the African Commission in Grand Bay, Mauritius, in October 1996.

3. The present Concluding Observations follow from the presentation and examination of the combined Periodic Reports of Mauritius during the 45th

Ordinary Session of the African Commission. The Report covers the period from November 1996 to May 2009.

4. The Report was presented to the African Commission by the Acting Solicitor-General, Ms. Aruna Narain Devi and the Acting Principal State Counsel, Ms. Prameeta Goordyal Chitto. It highlights the developments that have taken place in the areas of human and peoples' rights and measures put in place with a view to implementing the country's obligations under the African Charter.

5. The present Concluding Observations give an account of the positive aspects and concerns identified in the Report. The comments, remarks and observations that ensued from the examination of the Report nourished the recommendations formulated after a constructive dialogue with the Mauritian delegation.

II- Positive aspects

The African Commission:

6. Welcomes the presentation by Mauritius of its combined Periodic Report in accordance with Article 62 of the African Charter and the fact that both the format and presentation of the Report are in conformity with the African Commission's Guidelines on the Preparation of State Reports.

7. Appreciates the quality of the Report and the constructive dialogue it had with the Delegation of Mauritius which comprised of government officials directly involved in the promotion and protection of human and peoples' rights. This allowed for a comprehensive assessment of the State Party's compliance with its obligations under the African Charter. The African

Commission welcomes the positive reactions to the suggestions and recommendations made during the discussion.

8. Welcomes the additional information and answers to the questions provided by the Delegation of Mauritius during the examination of the Report, and further welcomes the undertaking made by the Delegation to provide as soon as possible to the African Commission, answers to questions and additional information which was not immediately available, as well as to include such information in its next Periodic Report to the African Commission.

9. Appreciates the development of a rich human rights jurisprudence by the Mauritian judiciary.

10. Commends Mauritius for having a dynamic and independent judiciary which plays an important role in the protection of human rights and fundamental freedoms. It notes that important reforms have been initiated in the judiciary to reduce the backlog of cases and to improve the general delivery of justice and access to courts.

11. Notes that since its independence, Mauritius has been a working multiracial and multicultural democracy, whose foundations are based on the promotion and protection of human rights. It notes that respect for human rights is enshrined in the Constitution of Mauritius.

12. Commends Mauritius for signing the Convention on the Rights of People with Disabilities and its Optional Protocol on 25 September 2007; for ratifying the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women on 31 October 2008; and for ratifying in

February 2009 the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

13. Commends Mauritius for establishing and maintaining a welfare State. It also commends Mauritius for its free health services available to the population. It notes that education is free up to the tertiary level, whilst primary and secondary education is compulsory by law for all children up to the age of 16, including children with disabilities.

14. Welcomes Mauritius's decision to withdraw its reservation on 4 June 2008 to Article 22 of the International Convention on the Rights of the Child. It also commends the Government for initiating a process of preparing a unified Children's Bill that will consolidate all the various pieces of legislation on children's rights and to harmonize all laws in line with the Convention on the Rights of the Child.

15. Commends Mauritius for adopting the Equal Opportunities Act 2008, which prohibits discrimination on the grounds of age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex and sexual orientation. It also notes with appreciation the establishment of an Equal Opportunities Division within the National Human Rights Commission and the Equal Opportunities Tribunal which has wide powers to enforce the provisions of the Act.

16. Notes that Mauritius was recognized as the most child-friendly Government in Africa by the 'African Report on Child Well-Being 2008.'

17. Commends Mauritius for the various steps it has taken to address the problems of child trafficking. It further commends Mauritius for passing the 'Combating of Trafficking in Persons Act' by the National Assembly in April 2009. It notes that once implemented, it will be an important tool in

combating the criminal act of trafficking in human beings, especially of women and children. It also notes the fact that the Government is working on implementing legislation and measures which will allow Mauritius to ratify the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography.

18. Commends Mauritius for taking measures to protect children against on-line pornography.

19. Notes that Mauritius has undertaken to make a declaration accepting the competence of the African Court under Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples Rights.

20. Notes with satisfaction that press freedom is generally respected as well as guaranteed in Mauritius.

21. Notes that the mandate of the National Preventive Mechanism (NPM) is to be enacted into law and that a draft NPM Bill is under preparation.

22. Notes that human rights concepts and practices are to be included in the curriculum of police officers. It also commends Mauritius for providing human rights training to prison officers.

23. Welcomes the fact that Mauritius is looking into the possibility of making legal aid available to those who need it.

24. Notes that Mauritius has identified gender based violence as one of the critical priority areas that needs attention. It notes the various programmes

undertaken by the Government, including the provision of financial support to address the needs of victims and witnesses of domestic violence.

25. Commends Mauritius for ensuring that female victims of domestic violence are afforded legal aid according to the provisions of the Legal Aid Act. It especially notes that the Protection from Domestic Violence Act was amended in 2007 to make it more responsive to the needs of victims of domestic violence, and to ensure better protection to victims. It also notes the various measures being put in place to address violence against women.

26. Commends Mauritius for taking steps to criminalise marital rape. It notes that this offence in the Sexual Offences Bill is presently being considered by a Select Committee of the National Assembly.

27. Commends Mauritius for taking measures to bring equity in the salary paid to men and women for the same job. It also commends the Government for not only taking steps to use gender neutral terms in employment, but also taking measures to eliminate gender-based job classifications.

28. Welcomes the process of drafting the Freedom of Information legislation in line with the Commonwealth model.

29. Commends Mauritius for setting up a Human Rights Centre for the promotion of human rights in Mauritius. The African Commission further commends Mauritius for working towards the integration of human rights education into the school curricula at primary level. It also notes that on the finalization of the National Curriculum Framework for secondary schools, human rights education will be introduced at lower secondary level.

30. Further commends Mauritius that in line with the Programme of Action 2005 to 2009 of World Programme for Human Rights Education, the Ministry of Education, Culture and Human Resources has set up a Human Rights Education Task Force comprising members from different Ministries, NGOs and international organisations to carry out a campaign for immediate visibility and scaling up of human rights education, in addition to integration into the curriculum.

31. Commends Mauritius for taking measures to finalise a National Action Plan on Human Rights.

32. Commends Mauritius for setting up an independent National Human Rights Commission operating under the Paris Principles on 3 April 2001.

33. Commends Mauritius for enacting the Abolition of Death Penalty Act in 1995, which abolished the death penalty in practice.

34. Is aware that the Ministry of Women's Rights and Child Development, as a key partner in the fight against HIV/AIDS, is providing support on the preventive aspect of the pandemic through a mechanism of sustained Information, Education and Communication (IEC) campaigns to young girls. It commends the Ministry for implementing a two year project funded by the UNFPA aimed at strengthening sexual and reproductive health among women and girls. It further commends the Government for making available anti-retro viral drugs to HIV/ AIDS patients.

III- Factors Restricting the Enjoyment of the Rights Guaranteed by the African Charter

35. The Report acknowledges that resource constraints have largely been responsible for Mauritius not being able to meet all of its human rights obligations.

IV- Areas of Concern

While recognising the efforts of the State Party to promote and protect human rights and to create awareness on the principles and provisions of the African Charter, the African Commission remains concerned that:

36. Members of the civil society including the National Human Rights Commission did not have an input into the preparation of the Report.

37. There is an inordinate delay in bringing accused persons on remand to trial. It is also concerned that cases take too long to be disposed of.

38. Despite some improvements, prisons in Mauritius are overcrowded and that there is a rise in drug use and trafficking in prisons.

39. Even though the Government is taking steps to address incidence of police brutality and inhuman treatment of detainees, the African Commission is, nevertheless, concerned about such occurrences.

40. Complaints from migrant workers about unsatisfactory working and living conditions have not been addressed.

41. Mauritian law does not provide for the granting of asylum or refugee status in accordance with the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol.

42. A high number of children are victims of drug abuse, especially street children.

43. Despite the answers supplied by its Delegation, the observations and concerns of the UN Committee on the Rights of the Child, have not been adequately addressed by the Government - that discrimination against certain groups of children still exists in practice, particularly with regard to children with disabilities, children affected and/or infected by HIV/AIDS, children from disadvantaged families and girls.

44. A child who is not immediately registered at birth does not have any identity and is not recognized as a citizen of Mauritius.

45. There has been a dramatic increase in the incidence of HIV infections within the last five years, especially among teenage girls.

46. Violence against women is prevalent and such violence includes marital rape, battering by intimate partners and others, sexual abuse of female children and young women.

47. Mauritius has still not ratified the Protocol to the African Charter on the Rights of Women in Africa.

48. The 1838 Code Napoleon Abortion Law criminalises abortion in all circumstances.

49. Libel laws in Mauritius are very harsh.

50. The low level of female representation in some organs of government, particularly in the executive and in the legislature.

V- Recommendations

The African Commission recommends that the Government of Mauritius should:

51. Ensure that it involves all relevant Government Ministries and civil society organizations in the preparation of its next Periodic Report, including the National Human Rights Commission.

52. Look into the possibility of employing more police officers and officers of the court to help reduce lengthy pre-trial detention and the speeding up of cases to their conclusion.

53. Address the problem of prison overcrowding.

54. Take measures to address the problems of pre-trial delays.

55. Take the necessary steps to address the problems of backlog of cases.

56. Take adequate measures to address the incidences of drug use in prisons.

57. Include standards like the Robben Island Guidelines in the human rights training being drawn up for police officers.

58. Investigate all acts of police misconduct, including brutality and take appropriate action;

59. Speed up the process to amend provisions of the Constitution that still maintain the death penalty.

60. Take measures, including enacting laws that will provide for the protection of refugees.

61. Inform it in its next Report on the progress in preparing a harmonised Children's Bill that will consolidate the various pieces of legislation on children's rights and the harmonization of laws in line with the Convention on the Rights of the Child.

62. Take urgent measures to address the high number of children who are victims of drug abuse, especially street children.

63. Implement the recommendations of the UN Committee on the Rights of the Child regarding discrimination against certain groups of children, particularly with regard to children with disabilities, children affected and/or infected by HIV/AIDS and children from disadvantaged families and girls.

64. Intensify efforts regarding the prevention and treatment of HIV/AIDS especially amongst teenage girls.

65. Enact laws that ensure that any child born in Mauritius acquires Mauritian citizenship.

66. Review laws relating to abortion for unwanted pregnancies, especially expunging the punitive provisions imposed on women who undergo abortion in accordance with the Beijing Declaration and Platform for Action.

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67. Take urgent measures to address the low level of female representation in Government.

68. Take adequate measures to urgently address violence against women and expedite the enactment of the Sexual Offences Bill.

69. Speed up the process of finalizing the National Curriculum Framework for secondary schools so that human rights education can be introduced at lower secondary level.

70. Finalise the drafting of the Freedom of Information legislation and pass it into law.

71. Take measures to protect the rights of all workers, in particular migrant workers and improve their living conditions.

72. Review existing laws governing press freedoms with a view to repealing the harsh libel laws that currently exist.

73. Report to it in the next Periodic Report the steps it has taken to address the areas of concern outlined as well as implement the recommendations in this Concluding Observations.

Adopted at the 45th Ordinary Session of the African Commission on Human and Peoples' Rights held from 13 to 27 May 2009, Banjul, The Gambia