



International Covenant on Civil and Political Rights

Distr.: General
12 May 2017

Original: English
English, French and Spanish only

Human Rights Committee

List of issues in relation to the fifth periodic report of Mauritius*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Please clarify the status of the Covenant in the domestic legal system and provide examples of cases in which the provisions of the Covenant have been referred to by national courts. Taking into account the information provided by the State party, according to which the Constitution guarantees the enjoyment of fundamental rights and freedoms, please clarify what measures have been taken to reform legislative and constitutional provisions so that they comply with the Covenant.

2. Taking into account that the National Human Rights Commission of Mauritius was again accredited with A status in 2014, please indicate all measures taken to strengthen the Commission so that it can continue to discharge its mandate effectively and independently, in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). In particular, indicate the steps taken to: (a) adopt a more transparent and participative selection and appointment process; (b) guarantee the tenure of mandate holders; (c) establish terms and conditions of service equivalent to those of office holders with similar responsibilities in other independent State agencies; (d) enhance interaction with the international human rights system; and (e) address the issues of the high percentage of seconded staff and the lack of provisions regarding conflicts of interest.

3. Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol and provide information on the measures taken to ensure full compliance with the Views adopted in respect of the State party.¹

Counter-terrorism measures and respect of Covenant guarantees (arts. 2 and 4)

4. Please provide information on the definition of terrorism in the criminal legislation of Mauritius. Taking into consideration the legislative measures that have been adopted to combat terrorism, please indicate the extent to which they uphold the rights guaranteed under the Covenant. Please indicate whether steps have been taken to address the concerns expressed by the Committee in its previous concluding observations in relation to the provision denying bail and access to counsel for 36 hours (see CCPR/CO/83/MUS, para. 12). In respect of the Prevention of Terrorism Act (2002), please indicate the criteria used to determine whether individuals are "suspected international terrorists" and the procedural and judicial guarantees granted to individuals who have been declared "suspected international terrorists" to challenge such a qualification.

* Adopted by the Committee at its 119th session (6-29 March 2017).

¹ See communication No. 1744/2007, *Narrain et al. v. Mauritius*, Views adopted on 27 July 2012.



Equality between men and women (arts. 2, 3, 25 and 26)

5. Please provide additional information on measures adopted to effectively enforce the Employment Rights (Amendment) Act (2013). Please provide more information on the mandate of and the measures taken by the Equal Opportunity Commission in relation to the issue of gender-based discrimination at work and provide more information on the Equal Opportunities Tribunal. Please provide figures on complaints received by the Commission and investigations of the Commission on cases of gender-based discrimination, in both the public and private sectors since 2014 and statistics on the decisions of the Tribunal involving gender-based discrimination at work, in both the public and private sectors. Please provide more information on the mandate, functioning and strategic goals of the Parliamentary Gender Caucus, which was established in 2016 to ensure gender mainstreaming in legislation and policies. Please also indicate what other measures or initiatives have been taken to enhance the participation of women in the private sector and to address the issues of the high concentration of women in low-skilled jobs with low pay and the lack of women in decision-making positions.

6. With reference to the State party's commitment to the Southern African Development Community decision to increase women's participation in politics and decision-making by 30 per cent and taking into account the Local Government Act (2012), please report on progress achieved in integrating women in politics and decision-making. Please indicate if any institutions or mechanisms have been established to monitor the impact of such measures. Please indicate whether the State party envisages reflecting its commitment to increasing women's participation in politics and decision-making into the domestic legal framework not only at the local but also at the national level, notably within the National Assembly and the Cabinet.

Non-discrimination (arts. 2, 25 and 26)

7. Taking into account the Equal Opportunities Act (2008), please inform the Committee of the measures implemented to promote the inclusion of persons with disabilities in the professional sector. Indicate all legislative and other measures, including campaigns and training, taken to eliminate stereotypes discriminating against persons with disabilities. Please provide information on measures taken to empower persons with disabilities and their families by informing them of their rights. In the light of articles 34 (1) (e) and 43 of the Constitution, please clarify the concept of "person adjudged to be of unsound mind" and indicate whether the State party has taken any steps to ensure that persons with mental, intellectual or psychosocial disabilities can take part in the conduct of public affairs. More globally, please provide further information on how the State party has made progress in eliminating barriers and restrictions to the right to vote and be elected for persons with disabilities. Please indicate how the State party tackles discrimination based on a person's HIV/AIDS status.

8. Please provide further information on article 16 of the Constitution, by virtue of which the prohibition of discrimination does not apply to personal-status laws and to foreigners. Please also explain whether there are plans to add aggravated circumstances for racial discrimination in the Criminal Code.

9. Please provide more information on section 250 of the Criminal Code, by virtue of which "any person who is guilty of the crime of sodomy or bestiality shall be liable to penal servitude for a term not exceeding five years" and indicate whether the State party plans to amend that section. Taking into account the Equal Opportunities Act, please indicate whether the State party has taken measures to forbid discrimination based on sexual orientation or gender identity in contexts other than that of employment. Please provide figures on complaints made to the Equal Opportunity Commission and on investigations into any cases of discrimination based on sexual orientation and gender identity. Please explain whether the State party has taken any measures to fight homophobia and to empower affected individuals about their rights.

Violence against women, children and older persons (arts. 3, 7 and 24)

10. Taking into consideration the information provided by the State party on domestic violence, please report on all steps envisaged to: (a) adopt a more comprehensive definition of domestic violence, including marital rape; (b) further criminalize different forms of domestic violence; (c) improve the criminal justice response to domestic violence; (d) afford better protection, support and assistance to victims; (e) provide adequate redress and reparation to victims; (f) consolidate preventive mechanisms; and (g) improve monitoring and evaluation. Please also indicate what measures have been taken to encourage and empower female victims of violence to report incidents of such violence to law enforcement authorities. Please provide statistical information on the number of complaints received by relevant authorities with regard to violence against women, including domestic violence. Please also provide statistical information about investigations carried out and sentences passed, indicating whether they resulted in acquittal or conviction. Please respond to allegations that some police officers refuse to register declarations in cases related to domestic violence and provide further information on the measures taken to address that issue.

11. Taking into account the Protection of Elderly Persons Act (2005), please indicate any measure or initiative taken to address violence and abuse against older persons in Mauritius. Please provide the Committee with information on reported cases of violence and abuse against older persons in institutional settings. Please indicate the status of and the plans in place for implementing the draft national strategy paper and action plan on ageing 2016-2020 and also indicate whether the draft includes plans for the systematic collection of data on violence and abuse against older persons.

12. Taking into consideration the information provided by the State party indicating that a children's bill is being prepared, please explain whether the State party intends to prohibit corporal punishment in all settings, in particular at home, in alternative care settings and in the penal system.

Right to life (art. 6)

13. Taking into account the amendments made to the Criminal Code to authorize the termination of pregnancy in certain circumstances, please provide the Committee with the number of official abortions and the number of estimated clandestine abortions that have taken place in Mauritius since the entry into force of the amendments and any estimated deaths that have resulted from clandestine abortions. Please clarify the process by which a termination of pregnancy is authorized and indicate if the decision adopted by the specialists referred to in the Criminal Code can be challenged.

14. Given that the death penalty was abolished in 1995, does the State party intend to accede to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty?

Trafficking in persons (art. 8)

15. Please provide further information about any efforts made to enforce the Combating of Trafficking in Persons Act (2009) and to investigate potential trafficking-related crimes. Please also provide further information on the setting up of centres for victims of human trafficking, as mentioned in the report. In particular, please indicate if there are specific structures to welcome women and children victims and if systematic medical and psychological exams and assistance are provided. Please provide information on the legal framework and on the measures taken by the State party to protect migrant workers against abusive working conditions and labour exploitation. Considering that in 2015 the Government set up an interministerial committee to look into the issue of trafficking in persons, please provide further information about the progress made by that committee.

Persons deprived of their liberty (arts. 7 and 9)

16. Please provide the Committee with more detailed statistics on the number of complaints against State officials by individuals deprived of their liberty, the nature of the violations and the State departments involved. Please also provide further information on

the number of investigations, including those related to cases of deprivation of life and suicide in custody, and statistical information on the remedies granted. Please indicate whether the State party has implemented the recommendation of the Police Complaints Division to make it compulsory for the police to record confessions on video. In the light of the establishment in 2016 of a new independent police complaints division, please provide further information about its mandate and on the financial and human resources allocated to it.

17. With reference to the information provided by the State party that the Government will adopt a new legal framework to address the system of “provisional charge”, please indicate what interim measures have been taken to protect citizens and persons in the State party’s territory from police abuse and human rights violations based on “provisional charges”. Please indicate, in particular, what measures have been taken to address the practice by the police of arresting people on mere allegations or suspicion, without serious enquiry. Please provide information on the number of suspects that have been provisionally charged, the duration of the charges, the outcome of the charges and the remedy that was provided to the suspects after the charges were dropped. In view of the Committee’s previous concluding observations (see CCPR/CO/83/MUS, para. 14), please indicate what steps have been taken to review article 5 (1) (k) and (4) of the Constitution, which makes it possible to deprive a person of his or her liberty if the Commissioner of Police finds there is reasonable suspicion that someone has engaged in, or was about to engage in, activities likely to cause a serious threat to public safety or public order.

18. In the light of the 10-year strategic plan on pretrial detention, please indicate the concrete measures and steps taken to address the issue of the large number of inmates in pretrial detention, in particular in the central, new wing and women’s prisons of Beau Bassin, and in police detention. Please respond to allegations about the excessive length of pretrial detention, mostly in drug-related cases. Please also provide further information on the legislation and processes related to the development of alternatives to detention, including bail, and statistical information on the number of bail requests examined, the percentage accepted and denied and the reasons for denial during the reporting period. Please indicate whether the State party plans to amend its legislation to deduct the time already served in remand detention from the final sentence.

19. In the light of the findings of the National Preventive Mechanism Division, please provide further information on the problem of overcrowding in prisons. Please also provide further information on the implementation of the Mauritius Prison Service Strategic Plan 2013-2023 and on whether it is in line with international standards. Please comment on the 2015 crime, justice and security statistics indicating that 68 per cent of convicts admitted to prison in 2015 were repeat offenders. In particular, elaborate on any effort made in the areas of reform and social rehabilitation. Please indicate what measures have been taken to address the issue of accused persons being sometimes detained with convicted detainees and comment on the fact that in 2015 approximately 37 per cent of detainees were in pretrial detention. Please provide statistical information about the number of foreign detainees in Mauritian prisons, the number of repatriations and the average time it takes to carry out such repatriations.

20. In the light of the findings of the National Preventive Mechanism Division, please indicate whether the State party is considering amending its legislation in order to reinstate remission for persons convicted of offences under the Dangerous Drugs Act (2000). Taking into consideration the establishment in July 2015 of a commission of inquiry to investigate and report on all aspects of drug trafficking, please indicate what steps have been taken to amend section 31 of the Act, which permits the detention in remand of suspects for 36 hours without access to counsel.

Juvenile justice (arts. 14 and 24)

21. Taking into account that the Government is working on a draft juvenile justice bill, please provide further information on the components of the draft, in particular in relation to the reform of the current juvenile justice system and the establishment of specialized courts and judges and the appointment of specially trained investigators. Please elaborate on the work of the unit of the Mauritian police specialized in the detection and prevention

of juvenile delinquency (Brigade pour la protection des mineurs). Please indicate what steps have been taken to address the issue of children placed in closed institutions, who are qualified as “children beyond control” on the ground that they are difficult to manage. Please explain what has been done to restructure institutions for the rehabilitation of minors in conflict with the law and to train personnel in charge of rehabilitation. In addition, please indicate what measures have been taken to address the fact that children are frequently tried in the absence of a legal representative or guardian.

Foreigners, refugees and asylum seekers (arts. 2, 6-7 and 13)

22. In the light of the Committee’s previous concluding observations (see CCPR/CO/83/MUS, para. 18) and the State party’s report (see CCPR/C/MUS/5, para. 79), please indicate whether Mauritius has taken any steps to amend the Deportation Act (1968) to bring it into conformity with the Covenant. In particular, please indicate whether an effective process is in place to appeal against deportation orders in conformity with the Committee’s general comment No. 15 (1986) on the position of aliens under the Covenant and if the process has a suspensive effect. Please give more information on the legal provisions related to the granting of asylum and refugee status. In particular, explain the process for granting asylum in Mauritius and indicate the measures taken to ensure that persons facing legitimate fear of grave violations of their rights are not deported. Please also provide the Committee with any information related to measures taken to remove the travel restrictions imposed on migrant workers seeking employment based on the fear that they are living with HIV/AIDS and to combat all discrimination against foreigners living with HIV/AIDS by allowing them to reside and stay in Mauritius.

Right to privacy (art. 17)

23. Please provide information on the legislative framework and safeguards governing the establishment and maintenance of a biometric database and the exercise of surveillance powers over telecommunications and online communications.

Freedom of expression (art. 19)

24. Please clarify how freedom of the press is guaranteed in Mauritius, including: how the media’s ability to investigate and report on public officials without being subject to adverse consequences is ensured; how media independence and pluralism are ensured given that the Mauritius Broadcasting Company plays a dominant role.

25. Acknowledging that, in its programme for 2015-2019, the Government stated that a freedom of information act would be enacted, please provide further information on the contents of the act and an approximate date of adoption. Please comment and provide information on how the right to access information from the Government is currently guaranteed.

Participation in political and public affairs (art. 25)

26. Please provide further information on the project of electoral reform in Mauritius. Please indicate in particular what has been done to address the issue that community affiliation has not been the subject of a census since 1972. Please elaborate on all measures taken in order to ensure that all communities are equally represented in the civil service and in government, including at the highest level.

Dissemination of information relating to the Covenant and its Optional Protocols (art. 2)

27. Please indicate what measures have been taken to disseminate information on the Covenant and its Optional Protocols, the fifth periodic report of the State party and its forthcoming examination by the Committee. Please provide detailed information on the involvement of representatives of civil society and non-governmental organizations in the preparation of the State party’s report.