



**Meeting of the States Parties
to the Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-first session

SUMMARY RECORD OF THE 1105th MEETING (Room B)

Held at the Palais Wilson, Geneva,
Thursday, 19 January 2006, at 10 a.m.

Chairperson: Ms. KHATTAB

SUMMARY

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
(*continued*)

Second periodic report of Mauritius

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The meeting was called to order at 10:25 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES (agenda item 4) (*continued*)

Second periodic report of Mauritius ((CRC/C/65/Add.35); core document (HRI/CORE/1/Add.60/Rev.1); list of issues to be taken up during the examination of the second periodic report of the Republic of Mauritius (CRC/C/MUS/Q/2); written replies of the Government of Mauritius to the list of issues to be taken up (CRC/C/MUS/Q/2/Add.1))

1. *At the invitation of the Chairperson, the delegation of Mauritius took places at the Committee table.*

2. Ms. SEEBUN (Mauritius) said that her country had been among the first 15 to ratify the Convention on the Rights of the Child, in 1995, and had since striven to promote the rights and best interests of children, who made up one third of Mauritius's population. It had not been possible to submit the second periodic report, covering the 1995–2000 period, until 2004, while updated information had been sent in December 2005. In spite of its limited means, the Republic of Mauritius had achieved much since 1995. UNICEF had provided the country with invaluable technical and financial aid and it was regrettable that UNICEF had closed its office there, by reason of the level of development reached by the country, which however still stood in need of experts on child protection and development.

3. The new government, which had come to power in July 2005, had already taken a number of initiatives for children. The 2005–2010 legislative programme contained a number of elements focusing on children's survival, development, protection and participation. In that connection, one bold new measure was introduced in September 2005: provision of free school transport services, which should bring about a higher rate of school attendance, in particular among children from underprivileged backgrounds, and lower school dropout rates both in primary and secondary education. Various major reforms to the education sector were now being finalized.

4. The national human rights strategy, launched in December 2005 with UNDP assistance, would lead to consultations with the various stakeholders, including primary and secondary school students. UNDP and some partner countries had agreed in principle to contribute to the creation of a human rights centre in Mauritius.

5. A high level committee had been convened in August 2005 to seek an immediate remedy to birth registration problems. An accelerated procedure had been defined in conjunction with the police department, the Civil Status Office and the Ministry of Justice. On the 258 undeclared births listed in July 2005, 96 had now been regularized and it should be possible to considerably reduce processing turnaround times over the coming months.

6. The Republic of Mauritius had, in September 2003, acceded to the Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. An act amending the Child Protection Act had been adopted in December 2005 to bring Mauritian legislation in line with the obligations under the Additional Protocol. In section 13 (a), the Act made trafficking in children a

criminal offence and decreed various forms of participation in that offence to be punishable, even if such participation had occurred abroad (with respect to a Mauritian child or for the purpose of subsequently exploiting the child on Mauritian soil). Under this new law the sanctions against trafficking in children had become much heavier, but such was also the case for child abandonment or kidnapping and the production, distribution or publication of child pornography. A reception centre would soon be receiving child victims of commercial sexual exploitation and would be providing them with rehabilitation services.

7. The Ministry of Women's Rights, Child Development and Family Welfare was currently re-examining the national policy on childhood and the national plan of action, which dated from 2003 and 2004 respectively, while taking a particular interest in the early childhood development and parent accountability programme and in instituting an effective means of monitoring the implementation of the Convention.

8. Already the National Children's Council had been given responsibility for bringing to a successful conclusion such social projects as the installation of practically free day reception centres for vulnerable children from underprivileged families.

9. The Government had moreover recently announced ambitious changes to the judicial system, and a working paper had been prepared on the feasibility of the establishment of a family court in Mauritius. The proposed system, which had been well received at consultation meetings, would focus on promoting quick resolution of disputes and would give restorative justice its rightful place.

10. As child-related provisions were scattered through various pieces of legislation, the authorities planned to adopt a single Children's Act that would deal with the matter in a holistic, intersectoral way. The new Act would impose much harsher sanctions on violators of the rights of the child. The current system for obtaining protection orders would be revised after a series of broad vast consultations. This would also give occasion for the re-examination of the entire youth justice system, to bring it in line with the provisions of the Convention and resolve some of its dysfunctions as set out in the report.

11. Ms. NARAIN (Mauritius) said that the Convention had not yet been incorporated into the domestic justice system and that some of its essential principles, such as the child's best interests or nondiscrimination, were not yet enshrined in national legislation, but that the new Children's Act would remedy that, in particular by giving the force of law to the Convention. The Act would allow for State accreditation of institutions offering physical, psychological and social rehabilitation services to child victims of neglect, ill-treatment and human trafficking, so perpetuating the positive results of the "Chrysalis" project, under which adult victims had been cared for by nongovernmental structures.

12. Now that the country was attempting to provide better child protection, it was confronted with new problems. The entire population had been unsettled in 2005 by the case of two young boys who sexually abused a 3-year-old girl before brutally killing her. Parents' participation, and that of the whole community, was essential to provide protection suited to children; appropriate structures were currently being put in place to facilitate that participation.

13. Ms. ALUOCH remarked that the report, although it had been drawn up in accordance with the relevant Committee directives, had been submitted late and did not contain enough information on the concrete implementation of the measures adopted, in particular the protection measures. It did however embody a real critical sense and a real concern to provide information on the topics proposed by the Committee at the conclusion of its examination of the preceding report. The major legal and social reforms under way should be welcomed, but much remained to be said as to the obstacles met with and the successes gained in the field. It would for example be interesting to know whether the Protection from Domestic Violence Act had been efficacious, as there were certain indications that the problem of family violence was worsening. To gather into a single text the provisions relating to the child welfare was a creditable initiative, but the project did have some shortcomings: thus, it mentioned the possibility of asking for a child to be placed, but made no distinctions between the various degrees of abuse.

14. One wondered why the State party had not ratified the two Optional Protocols to the Convention on the Rights of the Child and why it was maintaining its reservation to Article 22. It would be helpful for the delegation to explain what resistance had been encountered and to say whether the Convention could or could not be directly invoked in court, or why there were still constitutional provisions at odds with the Convention, such as Article 16 of the Constitution, which was contrary to the principle of nondiscrimination in the area of “adoption, marriage, divorce, funerals, the devolution of estates, or any other matter as governed by individual laws.”

15. There was a need to improve coordination, as a draft protocol on coordination appeared to have got stalled; that called for some explanation. Cooperation between governmental authorities and civil society seemed insufficient and needed to be better defined. The Committee would like to know whether NGOs had been involved in the preparation of the report.

16. There was a need to harmonize the various definitions of “child”, as only the legislation regarding the Ombudsman gave a definition in accordance with that of the Convention, namely any person under the age of 18. It appeared that the marriage of girls under 16 with their parents’ consent, generally to much older men, was a common practice. No information had been supplied on the age of criminal responsibility or the age at which a person could be deprived of his or her freedom. Nor had the Committee been informed whether birth registration was free and compulsory. Finally, comments would be welcome on the reasons for discrimination against girls, who worked harder but generally received less respect than boys, and against creole communities, often confined to the poorest areas and whose various indices (infant mortality rate, unemployment rate, etc) clearly showed that they were marginalized.

17. Ms. VUCKOVIC-SAHOVIC noted that corporal punishment had been prohibited since 1998 in the legal system, but seemed still to be tolerated in schools and certain placement institutions for juveniles; details on that point were urgently needed. On that subject, perhaps the delegation would say to whom a child victim of that practice could turn for advice and comfort, and whether the State provided any form of assistance for these children.

18. Mr. LIWSKI, noting that the national education budget accounted for 3,6% of the GDP, whereas UNESCO recommended 6%, asked whether the Government was

planning to increase it. On that point, it would be useful to know whether the laws pertaining to the implementation of the Convention stated what budget was allocated to the implementation of the measures planned or whether the decision in that regard was left to the executive branch—something that generally led to cuts.

19. The delegation might specify what restrictions existed, imposed by the Public Order Act, on the enjoyment of the right of association guaranteed by the Constitution, in particular with regard to children, and might say whether police officers systematically took training on the prohibition of cruel and degrading treatment. As there was a certain amount of evidence that some police officers had behaved in a hostile manner toward children, had initiatives been taken to train police officers in the rights of the child? What administrative and legal measures were taken when complaints were filed against the police force?

20. Ms. SMITH wanted to know whether the child's right to be heard, which the report passed over rather too quickly, was strictly respected in Mauritius, as well as the child's right to be consulted when any decision affecting him or her was to be taken, for example on institutionalization. In the youth justice system children had the right to be heard as of the age of 10 years; the delegation might wish to indicate whether that age could be lowered. The lawful age as of which the child must be heard where medical care decisions were concerned was 18 years, whereas in many cases younger children ought to be so heard; accordingly, details on that point would be welcome. It would likewise be useful to know whether teachers paid enough attention to students, whether students had the information they needed to make decisions and access to good libraries and quality television broadcasts so that they could gather the information they needed.

21. The Committee would like to know how children's privacy rights were protected, in particular in terms of the media, as the provisions in force seemed inadequate.

22. Mr. ZERMATTEN asked by what mechanisms children's opinions could be heard in legal proceedings, both civil and criminal, and administrative procedures that concerned them, how the obligation to obtain the child's testimony was discharged, and whether the child was heard in school procedures and disciplinary matters.

23. Also, how was children's right to take part in social life accommodated? Had they the right to take part in media life, write articles, and appear on television broadcasts?

24. There was little data in the report on children with disabilities, in particular as to their number, and the State seemed to delegate much responsibility to NGOs in that field. Many children with disabilities were not in school, which constituted discrimination. What did the State intend to do to gather more precise data and remedy the situation?

25. Mr. PARFITT asked whether it would be possible to set up a parliamentary body to appoint the Ombudsman—now appointed by the President—in order to make the institution fully independent, and to have the budget of the Office of the Ombudsman approved by a parliamentary committee to avoid any executive branch involvement at that level. He asked, too, whether the Office of the Ombudsman and the Human Rights Commission had access to police documents in the course of their investigations.

26. Perhaps the delegation could specify whether the Ombudsman for children was consulted on pending legislation, to verify its conformity with the provisions of the Convention, and whether the Human Rights Commission and the other rights protection institutions had authority to monitor the implementation of the Convention and other international instruments concerning the rights of the child.

27. It would be useful to know whether the very many NGOs active in the field of the rights of the child were involved the decision-making process in that field and whether there was a mechanism whereby NGOs could submit their ideas for reform to the proper authorities. As the special NGO Trust Fund set up by the State seemed to function very effectively, it would be useful to know whether those organizations could produce real social change in the country.

28. Mr. FILALI asked whether in the event of conflict between national law and a provision of the Convention, the latter would prevail. He pointed out that the Civil Code did not emphasize the priority of the child's best interests and that the difficulties in implementation of the Convention lay in the coexistence of civil law and common law in Mauritius.

29. Stressing that antiterrorist legislation had to be in line with the principles of law, he asked whether that legislation contained specific provisions relating to juveniles suspected of terrorist acts or whether its general provisions aimed at adults would also apply, in particular as regards detention.

30. It had been mentioned that the Government took care that all children were recorded at birth, but that unrecorded children were not regarded as Mauritian citizens; it would be useful to have details on that point, as well as the administrative methods for recording children born out of wedlock or from an incestuous relationship.

31. The CHAIRPERSON asked how the country expected to level the many disparities that existed, economically speaking, in terms of capacity, gender or nationality, as well as between the various regions, and what budget had been set aside for that.

32. As the delegation had reported the Government's intention to put in place a mechanism to monitor implementation of the Convention's provisions, did the Government mean to create a new mechanism or use an existing one? And had the amount of the budget for implementation of the plan of action already been set? The delegation might indicate what the orientations of the new government were on issues relating to children.

The meeting was suspended at 11:40 a.m.; it resumed at 12 noon.

33. Ms. NARAIN (Mauritius) said that the shortcomings of the existing Child Protection Act pointed out by Committee members would be taken into account in the revised wording now in preparation. Originally, the Act had been designed as an umbrella act, and did not go into details on the various degrees of abuse. The new law would be supplemented by regulations.

34. International instruments were not directly enforceable in national law, but the courts tried to make decisions in compliance with the provisions of the treaties ratified by Mauritius. In the event of conflict between the provisions of a domestic Act and those of an international instrument, the domestic Act would prevail. The new Child Protection Act was intended to incorporate the provisions of the

Convention on the Rights of the Child into Mauritian law; and policies and laws adopted in future, at the recommendation of the Child's Rights Protection Ombudsman, should be in conformity with the international instruments to which Mauritius was a party.

35. The Optional Protocols to the Convention had not been ratified because national law must first be adapted, in particular in the penal area; thus, the delay was due to the internal system, not to a lack of political will. Likewise, the fact that Mauritius had not yet withdrawn its reservation to Article 22 of the Convention was purely owing to practical considerations that in no way reflected an inconstant commitment on the part of the State.

36. A committee made up of jurists and religious leaders had been set up in May 2005 to examine the problem of the laws relating to personal status, which were at odds with the provisions of Article 16 of the Convention on nondiscrimination, and to make recommendations to the Government.

37. The new government would attempt to rationalize the data acquisition procedure, as UNICEF had recommended.

38. There was very good cooperation between civil society and the Government, and NGOs had indeed been consulted on the drafting of the report.

39. The Ministry of Women's Rights, Child Development and Family Welfare had a childhood development unit with particular responsibility for ensuring the stability of policy in that area.

40. In Mauritian law a "child" was defined as an unmarried person of under the age of 18 because of the existence in the Civil code of the concept of emancipation by marriage at age 16, which conferred additional rights on the minor so emancipated, such rights being in theory unavailable to children and, again in theory, being revocable in the event of the dissolution of the marriage before the child's majority. That provision would have to be examined in the light of the relevant provisions of the Civil Code. Some children, especially girls, were married at 16 against their will, under pressure from their parents. Mauritius was aware of that phenomenon; the Child's Rights Protection Ombudsman had recommended to the Government that, in all such cases, it should be up to the judge to authorize the marriage or not after having heard the child.

41. The Penal Code set the age of criminal responsibility at 14 years. The age of consent was 16 years. The 1998 amendments to the Penal Code had made it an offence to have sexual intercourse with any child under 16 (previously, the provision had applied to girls only).

42. Girls were not subject to any discrimination in Mauritius. Many women were judges, senior officials or university professors and served as role models for girls. A woman professor at the Faculty of Science had recently won a competition to select the most talented young person. The National Human Rights Commission was empowered to examine any allegation of gender discrimination.

43. No discrimination existed against the creole community. Poverty was not limited to one area of the country or one community. All Mauritians had access to a free education and health system, and the Government was currently developing an Equal Opportunity Act that would, it hoped, be enacted during the current year.

44. All civil status data was now computerized, so that it was easy to produce a birth certificate. The accelerated procedure had made it possible to record a great number of births.

45. Ms. ALUOCH would like to know whether the population had been sensitized to the need for shared parental responsibility in education.

46. She asked after the results of the survey on alcoholism carried out in 1994 and whether follow-up measures had been taken.

47. The delegation might give more information on illicit movements of children; it would be useful, too, to know whether there was an investigation and follow-up system for adoptions.

48. With regard to education, it would be useful to know whether the Government planned to reduce or defray the cost of books, supplies and registration fees, and whether that issue had given rise to any debate. Moreover, the Committee would like precise details on the admission policies of certain private schools, whereby places would be reserved for children of a certain religion, contrary to the Constitution. Similarly, it appeared that pregnant girls were unable to continue their schooling, which was contrary to the provisions of the African Charter on the Rights and Welfare of the Child, which Mauritius had ratified.

49. The Committee would like to know whether children unable to speak English were subject to discrimination at school, whether it was true that the majority of creole children lived on Rodrigues, and what explained the higher proportion of boys than girls in vocational schools.

50. The delegation might indicate whether a public awareness campaign had been carried out to prevent children with disabilities from being stigmatized.

51. Was HIV/AIDS still a taboo subject? Had awareness efforts been made in that regard? The delegation should specify under what conditions children under 18, to whom free screening and advice were theoretically unavailable, could receive help and information.

52. Details on kidnappings and on the duration and conditions of children's provisional detention would be welcome.

53. Mr. ZERMATTEN, noting that only two thirds of all students that completed primary school went on to the secondary level, asked whether the remaining third took other training or ended up on the street. The fact that most schools were private and that only 25% of all secondary students attended publicly-owned establishments called for some explanation with respect to access to education and its cost.

54. The Committee would like to know whether courses relating to the rights of the child were given in primary and secondary schools, and to obtain further information on the measures taken by the authorities against violence in the school environment (corporal punishment, verbal violence, humiliations, etc), on whether children with disabilities could attend, and on student councils' activities.

55. Noting that the age of criminal responsibility was set at 14 years, Mr. Zermatten wondered whether that was an absolute limit or if judges could exercise discretion based on the understanding of the person concerned. Also, as of what age could a juvenile be imprisoned? Were there alternatives to imprisonment

as punishment for juvenile offenders? Was everything possible being done to protect children's privacy when legal proceedings were instituted?

56. It was surprising to note that in youth rehabilitation centres boys were clearly outnumbered by girls. It might be inferred that difficult behaviours were defined as criminal in juveniles, especially girls, and that a penal rather than educational response was given. There seemed to be a tendency to prosecute juveniles that were considered "out of control"—an expression whose exact meaning it would be useful to know.

57. Ms. VUCKOVIC SAHOVIC would like to know the findings of the 2003–2004 Plan of Action against sexual exploitation of children—a problem the Government took very seriously—and asked whether actions against such sexual exploitation of children were part of the general plan of action now in preparation. Noting with satisfaction that the State party was revising its legislation with a view to the ratification of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, she asked what the social response of the authorities and the public had been to the large number of children engaged in prostitution, and to what extent child prostitutes could reintegrate into society. It would also be useful to know whether there were legal provisions against Internet pornography.

58. Mr. FILALI, speaking of the educational reform that became effective 1 January 2007, and which provided for nine national colleges and the admission of students on the basis of merit, echoed some critics who considered that the proposed system would be elitist and had a sociopolitical rather than paedagogical motivation. It would be interesting to know the delegation's opinion on that score. Would the programme "Bridging the Gap", to which students' parents had reacted very favourably, be retained within the new system? Would the practice of "morning assembly" be reintroduced?

59. He hoped that the handbook on discipline announced by the Ministry of Education would be constructive, not repressive, and asked, in that connection, whether children were invited to take part in its development.

60. It was very regrettable that classes were so numerous, as it was difficult to provide quality teaching with more than 40 students per class.

61. Perhaps the delegation would provide more information on secondary-school-age children who found themselves on their own, often in the street, and indicate whether any programmes were planned for those children.

62. Mr. PARFITT asked for further information on the organizations that could help and advise families and children in difficulty, the National Women's Council being the only one cited in the report. It also appeared from the report that the situation of children placed in an institution or foster family was not always examined and evaluated periodically. In reform schools, it seemed staff were underqualified and there was no regular monitoring of children for lack of resources. It also seemed that in those institutions children were not always separated according to the established criteria. Explanations on all those points would be welcome.

63. Mr. LIWSKI noted that despite the considerable share of the State budget allocated to health, certain indicators, including the infant mortality rate and the

teenage pregnancy rate, were not good. Children's situation seemed on the whole less favourable on the island of Rodrigues than elsewhere. In addition to a comment on those matters, the delegation might provide more information on the problems encountered by pregnant teenagers, on the sharp reduction in breastfeeding, and on alcohol and drug consumption problems and adolescents' mental health.

The meeting rose at 1 p.m.