



**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 1107th MEETING (Room B)

Held at the Palais Wilson, Geneva,
Thursday, 19 January 2006, at 3 p.m.

Chairperson: Ms. KHATTAB

SUMMARY

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

Second periodic report of Mauritius (*continued*)

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The meeting was called to order at 3:05 p.m.

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

Second periodic report of Mauritius (CRC/C/65/Add.35; list of issues to be taken up during the examination of the second periodic report of Mauritius (CRC/C/MUS/Q/2); State party's written replies (CRC/C/MUS/Q/2/Add.1)) (*continued*)

1. *At the invitation of the Chairperson, the delegation of Mauritius resumed their places at the Committee table.*
2. Ms. NARAIN (Mauritius) said that, even though there was no law expressly prohibiting the use of corporal punishment at detention centres for juveniles, the perpetrators of acts of violence were liable to prosecution for aggression. That being said, the delegation had taken note of the Committee's observations and Mauritius would consider enacting the requisite legislative provisions.
3. Corporal punishment was strictly prohibited in schools by the 1957 regulations and the circulars regularly published by the Ministry of Education for the faculty and staff of primary and secondary educational establishments, which expressly quoted Article 19 of the Convention. The 1957 regulations and the 2005 Child Protection Act provided that a teacher could be prosecuted for causing harm to a child. All cases must be reported to the Ministry of Education; perpetrators were liable to disciplinary actions, or even, if the parents or the Ministry filed a complaint, to penal sanctions up to and including a term of imprisonment.
4. Mr. PARFITT pointed out that it was the difficulty in exactly defining the term "harm" that had led many countries to adopt provisions expressly prohibiting corporal punishment.
5. Ms. NARAIN (Mauritius) said that under the Child Protection Act, the harm referred to could consist of physical, psychological, emotional or moral injury or ill-treatment or neglect that impaired the child's health or development, and that that definition, while perhaps not exact, was broad enough to cover all possibilities. A child victim of corporal punishment could, to obtain reparation, refer the matter to the Ombudsman for children, who constituted an effective avenue for appeal as he had investigative powers.
6. Ms. VUCKOVIC-SAHOVIC would like to know whether corporal punishment was expressly prohibited by law in establishments whose responsibility it was to provide children with alternate protection.
7. Ms. NARAIN (Mauritius) said that, taking into account the broad definition of "harm" given by the Child Protection Act, one might suppose judges would interpret this definition and apply it to the context of childcare facilities providing emergency protection if they were seized of such cases. Moreover, the regulations applicable to educational establishments had the force of law and any person transgressing them would be liable to prosecution.
8. Ms. ALUOCH asked whether corporal punishment was prohibited within the family.

9. Ms. NARAIN (Mauritius) said that corporal punishment within the family was a disciplinary matter and lay within the parents' sole discretion, provided such punishments were not tantamount to ill-treatment.
10. The CHAIRPERSON asked whether there was a toll-free number for children to call.
11. Ms. NARAIN (Mauritius) said that a toll-free number did exist; she would provide details on its operation at a later date. There was no comprehensive budget for implementation of the national policy or the plan of action for children, as the Ministry of Finance allocated budgets to the various ministries with responsibility for conducting the programmes and projects called for in the plan of action.
12. The CHAIRPERSON asked whether there was not, at the least, an estimate of the costs of the various programmes and projects.
13. Ms. NARAIN (Mauritius) said that the plan of action was not fully costed out before a programme or project was approved; the Government asked for financial estimates, then each ministry concerned made a budget request to the Ministry of Finance. In spite of its economic difficulties, Mauritius meant to reorder its priorities and would soon increase the education budget, which currently accounted for only 3.6% of the State budget.
14. The National Human Rights Commission and Child's Rights Protection Ombudsman were both empowered to investigate the actions of the police. The law empowered the Commission to investigate any violation of the basic rights laid down in the Constitution. Should the investigation reveal police misdeeds, the Commission submitted a report to the Ministry of Justice, which could then prosecute or demand disciplinary measures. The Ombudsman was consulted on bills pertaining to children, and indeed often initiated them. For example, his suggestions had had great weight in the drafting of the new Children Act.
15. Ms. SMITH noted that an Ombudsman was as a rule empowered to deal with legislation on any subject from the administration of justice to town planning; she thought the Act should so state.
16. Mr. PARFITT believed the Act should also state that the Ombudsman monitored the conformity of legislation and bills with the provisions of the Convention.
17. Ms. NARAIN (Mauritius) note that though in practice bills were always sent to the Ombudsman, that too could be stipulated in the Act.
18. The CHAIRPERSON asked how the Ombudsman could discharge his duties if he lacked the necessary authority and human and financial resources.
19. Ms. NARAIN (Mauritius) said that the Office of the Ombudsman, created in 2003 and operational since 2004, still had the status of a pilot project even though it was extremely active, as evidenced by the annual reports it had drawn up. The authorities would take due note of the Committee's proposals with regard to the budget and human resources of the Office of the Ombudsman, and in particular the strengthening of the mandate of the Ombudsman, who was set to become the main defender of the rights of the child. The Ombudsman was also children's spokesman and expressed their points of view.

20. Mr. ZERMATTEN, recalling that Article 12 of the Convention called for children's direct participation, not their representation by an intermediary, asked how they could take part directly in the country's social life.

21. Ms. NARAIN (Mauritius) said that even though there was not yet any provision relating to children's right to be heard, Mauritius wanted to encourage—and indeed mandate in some circumstances—children's participation.

22. Mr. PARFITT asked whether the National Children's Council was effective. What information was available to its members? At what political level did it act?

23. Ms. NARAIN (Mauritius) said that the National Children's Council was mandated to ensure that the rights of the child were taken into account by public entities, and that the law governing the Council called for the establishment of a committee of children consisting of 15 boys and girls elected every three years from among children's associations. Administrative problems had so far prevented the committee from being set up, but the legislation pertaining to the National Children's Council was to be amended in 2006 to facilitate the registration procedures for children's associations and to enable the members of the national committee to be elected.

24. Section 7 of the Juvenile Offenders Act safeguarded privacy by making it unlawful to reveal the name, address, school or any other information whereby the perpetrator, victim or any witness to the occurrence might be identified, or any photograph, except where the court or the President of the Republic ruled otherwise in the interests of justice. Although freedom of the press enjoyed very strong protection in Mauritius, the Child Protection Act imposed a 5,000-rupee fine or a term of imprisonment of not more than one year for the publication of articles in the press whereby a juvenile offender could be identified.

25. Apart from the many television channels broadcasting entertainment or educational programmes for children, there were many free public libraries and the Ministry of Education was taking measures to promote a "reading culture" among children. The 3,000 or so children with disabilities in Mauritius enjoyed various services, ranging from free supply of equipment (crutches, wheelchairs, etc.) and transportation to scholarships and a specific allowance up until the age of 16 years, then a disability pension if their rate of disability was 60%. As far as possible, children with disabilities attended regular schools, while those with too severe an impairment were educated in specialized schools managed by NGOs under the auspices of the Ministry of Education.

26. The CHAIRPERSON asked whether it was true that education was not free for children with disabilities.

27. Ms. NARAIN (Mauritius) said that education was indeed free for children with slight disabilities who were integrated into the regular school system.

28. Mr. ZERMATTEN notes that the State party seemed to rely greatly on NGOs to care for children with special needs. He asked whether it was true that only 1,000 of the 3,000 children with disabilities were in school.

29. Ms. NARAIN (Mauritius) said that many specialized establishments were indeed managed by NGOs. The State helped with their financing as far as possible. Currently, 1,183 children with disabilities out of the total of about 3,000 were being educated in those establishments.

30. As regards the underprivileged children of the island of Rodrigues, it should be noted that the island's regional assembly, elected since 2002, had legislative jurisdiction in several fields, including education. The real problems of Rodrigues did not flow from any particular discrimination, but instead were due to the island's remoteness and its specific situation.

31. The CHAIRPERSON would like to have details of the financial resources devoted to correcting the disparities in development between Rodrigues and Mauritius.

32. Ms. NARAIN (Mauritius) said that institutional changes had been made: the regional assembly now had budgetary jurisdiction and a member of the Government now had responsibility for the island. For the moment, then, it was still too early to report on the measures being taken to accelerate the development of Rodrigues.

33. The particularly severe antiterrorist legislation adopted by Mauritius in 2002 was intended to apply only in extreme cases and had never been used since its adoption. It was unlikely to be used against juveniles.

34. With respect to the registration of children born out of wedlock, there were indeed some problems, as such children still faced prejudice. Awareness and education work needed to be done in that area by the Government and local authorities.

35. Nonpayment of alimony was a criminal offence, and police could investigate and ask for prosecution if it was not paid. There had not been many prosecutions.

36. On the question of equal parental responsibilities, Ms. Narain said that in spite of a certain persistence of stereotypes, Mauritius was increasingly moving away from the prejudices inherited from a highly patriarchal society. Women were increasingly in paid employment, domestic help was less common, and both parents participated in children's education. The National Human Rights Commission's discrimination against women division was conducting numerous awareness programmes in that regard in Mauritius and on Rodrigues.

37. The problem of implementation of the Convention on the Protection of Children and Cooperation in Respect of Inter-Country Adoption had arisen in a case where a woman of South African origin had kidnapped her child, born to a Mauritian father, and taken it to South Africa, owing to the fact that Mauritius had not formally accepted South Africa's accession to the Convention—which was subsequent to its own—as was required for the Convention to be applicable. South Africa's accession had finally been accepted, with retroactive effect, and the Convention Secretariat had duly taken note thereof. In the case in question, the mother had seemingly proposed an arrangement with the father and the case was in the process of being resolved. The authorities had updated the list of all States that had ratified the Convention after Mauritius in order to regularize the situation and prevent such a situation from arising again.

38. Mauritius had acceded to the Convention on the Protection of Children and Cooperation in Respect of Inter-Country Adoption but had not yet incorporated it into its domestic law. A French Government assistance mission was soon to go to Mauritius to help the authorities put in place the authority that would have responsibility for implementation of the Convention.

39. As regards teaching, Ms. Narain said textbooks were made available free of charge to primary school students, while secondary school students who could not afford them received government assistance. With respect to the Catholic educational institutions' admissions policy, she noted that in exchange for their government financing they were required to reserve 50% of their available spaces for students selected by the government. In that connection, as the Supreme Court had ruled that the criterion adopted by the government to fill the available spaces violated the constitutional principle of nondiscrimination, student selection was done henceforth on the basis of objective criteria and no longer according to the students' religion.

40. The use of English as the common language of instruction was a legacy of the colonial era. Children learned English beginning at 6 years of age but also had courses in French and, to a lesser extent, in Mauritian Creole. The use of the latter as a language of instruction had always been promoted by Mauritians. For that reason, a project on "use of the creole mother tongue", partly financed by UNESCO, had been conducted from April 2004 to April 2005. The Government had received a follow-up report on the implementation of this project in October 2005 and was to make a decision in the near future on its possible renewal.

41. The two young women removed from school on account of pregnancy had been reinstated following the intervention of the gender equality division of the Mauritian National Human Rights Commission.

42. The delegation could not provide the Committee with statistical data on the school dropout rate of Creole-speaking children, for data had been gathered purely on the basis of geographical criteria, without regard to religion or ethnicity. The higher dropout rate on the island of Rodrigues could be explained by the tradition of children's helping their parents with the work in agriculture and the fishery. Far from encouraging such practices, the Government hoped that the Education Act (as amended in 2004), making schooling compulsory up to the age of 16, would rectify the situation.

43. Mr. FILALI asked whether students that had left school prematurely could take evening courses to ease them back into education.

44. Ms. NARAIN (Mauritius) said that she was not aware of any evening courses intended for school dropouts. The delegation had no statistical data to support the assertions that there were more boys than girls in vocational training schools or that girls entered working life without finishing their school programmes. The implementation of the new compulsory schooling policy would make it possible to collect more precise data. It should be noted that under the Education Act as amended in 2004, keeping children under 16 out of school constituted a penal offence.

45. On 10 October 2005, the Ministry of Health, in partnership with the National Human Rights Commission, launched an assistance plan for HIV/AIDS victims. In general, children infected by HIV/AIDS could not be refused access to health care. Of note, since 1999 a programme for prevention of mother-to-child transmission of the HIV infection had been implemented under which all pregnant women were offered a screening test and, if necessary, received antiretroviral treatment. To date, 12 newborns had been diagnosed as HIV-positive. Screening tests and free advice were provided for persons under 18, while campaigns on the right to health, and

more particularly on HIV/AIDS. were being conducted in schools, youth centres and social assistance centres.

46. The Ministry of Education was currently revising textbooks to integrate human rights instruction into them. In addition, classes to accommodate students in difficulty had been created within general educational institutions.

47. As regards the age of criminal responsibility, Ms. Narain recalled that under the law, juveniles under 14 were exempt from any penal sanction or custodial sentence unless the investigation concluded they were cognizant of their actions. The Juvenile Offenders Act provided for the preferential application to juveniles of penalties other than imprisonment and authorized their incarceration only as a last resort, and then elsewhere than in a penitentiary. In practice, most juvenile offenders received suspended sentences or conditional discharge or were fined.

48. The CHAIRPERSON asked whether the new government intended to tackle the issue of vagrancy, either from a criminal or a social standpoint, and hence arrange for street children not to be jailed but dealt with by social services.

49. Ms. NARAIN (Mauritius), recognizing that vagrancy constituted an offence, said that to her knowledge no street child was currently incarcerated, and that the new government did intend to support street children's social rehabilitation rather than expose them to penal sanctions. The street children programme, whose purpose it was to create conditions that would favour the reintegration of these vulnerable children through various activities undertaken by teachers, had already recorded conclusive results. A joint project of the Ministry of Social Security and UNICEF was seeking to sensitize these children to the risk to their health of drug addiction and unprotected sexual intercourse and to provide them with information about HIV/AIDS and their Convention rights. A study was currently being undertaken to determine the social and family factors underlying these children's desocialization and so define the measures to be taken to prevent it.

50. The 2003 law on cybercrime provided for criminal prosecution of anyone using the Internet to distribute child pornography, and the planned revision of the law on childhood should reinforce these provisions. The legislature was currently considering means of defining the offence in sufficiently broad terms that the law could be interpreted over the coming years, as technology advanced, without becoming obsolete.

51. Under the regionalization called for in the education reform, admission to secondary schools for the current school year had been on the basis not of students' academic results but of their place of residence, so that the best students would not be concentrated in national colleges for the elite and students of lesser attainment would not be channelled into less well regarded regional colleges. On the other hand, for the 2007 school year, student assignment to schools would be on the basis of their record, containing both academic results and their place of residence. In that way, it was hoped the problem of the overpopulation of certain institutions could be controlled.

52. The morning assembly was a Ministry of Education initiative whereby the principal or headmaster would assemble the student body, twice a week, to deal with issues pertaining to the life of the school and encourage students to participate in decisions that affected them. As regards the development of the discipline handbook, it should be stated that students had been consulted, but only informally.

53. Establishments assigned to provide emergency protection to children removed from their home environment were in practice examined periodically, but informally, and legislation should no doubt be adopted to systematize the procedure.

54. In 2005 the Ministry of Education had investigated the incidence of noncommunicable diseases and malnutrition among children aged 5 to 11 years and 12 to 18 years, but the results were not yet known.

55. A broad public awareness campaign was currently being carried out in hospitals and dispensaries and through television broadcasts to encourage mothers to breastfeed. The National Trust for the Treatment and Rehabilitation of Substance Abusers was conducting various awareness programmes in the schools to prevent substance abuse among adolescents and to draw the attention of parents, teachers and principals to the phenomenon.

56. Mr. FILALI, deploring the fact that provisional detention could in some cases continue for up to one year, asked how long prosecutions took in the State party.

57. Mr. ZERMATTEN would like to know whether the State party had, in its youth justice reform, provided for alternative sentences for juveniles, such as community service and established a mediation system.

58. Ms. NARAIN (Mauritius) said that the legislation did not assign any fixed term for prosecutions but noted that, except in exceptional circumstances, persons in provisional detention could be released on bail. Whenever provisional detention had been particularly long and had not led to a judgment, the person concerned could sue for damages. It should be noted that district courts gave priority to cases involving juveniles so that they would not be held for too long a time.

59. Mediation was not yet part of the Mauritian legal system, but the planned reform of the youth justice system was to institute restorative justice based on methods of that kind.

60. Ms. ALUOCH was pleased with the frank and fruitful dialogue that had been engaged with the Mauritian delegation and welcomed, in particular, the youth justice reform, which attested to the State party's political will to implement the provisions of the Convention to the best of its ability. She said that the Committee would, in its concluding observations, ask the State party to withdraw its reservation to Article 22 of the Convention and to prohibit corporal punishment in all its forms.

61. Ms. NARAIN (Mauritius) thanked the Committee for its interest in the situation of the rights of the child in her country and recalled that the new government had already made great strides considering its limited resources; she assured Committee members that it would continue to pursue that policy.

The meeting rose at 5:40 p.m.