



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**  
**Eighty-second session**

**Summary record of the 2219th meeting**

Held at the Palais Wilson, Geneva, on Wednesday, 20 February 2013, at 3 p.m.

*Chairperson:* Mr. Avtonomov

*later:* Mr. Lahiri (Vice-Chairperson)

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** *(continued)*

*Fifteenth to nineteenth periodic reports of Mauritius (CERD/C/MUS/15-19; CERD/C/MUS/Q/15-19; HRI/CORE/MUS/2008)*

1. *At the invitation of the Chairperson, the delegation of Mauritius took places at the Committee table.*
2. *Mr. Lahiri (Vice-Chairperson) took the Chair.*
3. **Mr. Varma** (Mauritius) said that his Government had unfortunately had to submit the fifteenth to nineteenth periodic reports late, owing to the number of reports it had been required to submit to other United Nations treaty bodies and its participation in the UPR process. He assured the Committee that it attached great importance to its obligations under the Convention.
4. The Constitution guaranteed all Mauritians the right to equal protection without discrimination based on race, caste, place of origin, political opinions, colour, creed or sex. In addition, several other legislative instruments protected the rights enshrined in the Convention, and the Government had implemented a range of policies and programmes also designed to protect them. In particular, the Equal Opportunities Commission had been set up in April 2012 to monitor implementation of the Equal Opportunities Act, which established that direct or indirect discrimination constituted less favourable treatment on the basis of status, which included caste, ethnic origin, colour, creed, place of origin and race. While there was no officially recognized caste system in Mauritius, caste-based prejudices had been ingrained in people's minds during the first diasporas and remained among the older generations.
5. The Government had specifically mandated the Equal Opportunities Commission to work on eliminating discrimination based on caste. The Commission examined and investigated complaints brought before it and investigated, proprio motu, cases in which acts of discrimination might have been or might be committed. In early 2013, it would publish guidelines and codes of conduct for all public and private sector employers on equal opportunity policies, which were mandatory under the Act. The Commission attempted to resolve complaints through conciliation. If that failed, it could, with the consent of the complainant, refer the matter to the Equal Opportunities Tribunal, which had the power to issue orders and directives and make compensatory awards. The Commission could also apply for interim orders before the Tribunal if the circumstances required urgent intervention in order to prevent further prejudice to aggrieved parties. Non-compliance with an order or directive of the Tribunal resulted in criminal prosecution, which could carry fines of up to 100,000 rupees and imprisonment for up to 5 years.
6. The Protection of Human Rights Act had been amended to bring domestic legislation into line with the Optional Protocol to the Convention against Torture, requiring the establishment of a National Preventive Mechanism within the National Human Rights Commission. The amendment also provided for the establishment within the Commission of a Police Complaints Division to investigate complaints made against police officers, other than allegations of corruption and money-laundering. The Division could investigate cases of death in police custody and death as a result of police action, and issued advice on addressing police misconduct.
7. The mandate of the Commission had also been broadened under the amendment to enable it to submit to the Government opinions, recommendations, proposals and reports on any matter concerning the promotion and protection of human rights. The Commission was

also responsible for ensuring harmonization between domestic legislation and practices and international human rights instruments to which Mauritius was a party, and ensuring their effective implementation. The Commission was fully compliant with the Paris Principles.

8. Other legislative amendments had significantly increased women's participation in municipal and village politics, extended access to legal assistance to a wider range of people in need and improved access to employment for persons with disabilities. Mauritius had always taken pride in its multiracial, multi-ethnic and multicultural society and striven for a cohesive pluralistic society where unity and diversity formed the bedrock for development and progress.

9. The implementation of the National Human Rights Action Plan 2012–2020 was overseen by the Human Rights Monitoring Committee, which was composed of representatives of NGOs, ministries, departments, national human rights institutions and the private sector. The Government was currently preparing a database of human rights institutions and outcome indicators to enable it to monitor performance on the basis of clear targets.

10. Human rights training and awareness-raising programmes were conducted in youth centres and citizens advice bureaux nationwide for civil servants, young people, NGOs and the general public. Human rights, including the provisions of the Convention, were also an integral part of the training of the police and the armed forces. Television programmes on human rights were broadcast in an effort to strengthen the human rights culture among all sections of society and to inform each target group about its rights. A human rights Internet portal had been launched in December 2012 in order to disseminate the Government's human rights strategy nationally and internationally. The portal also served as a platform to bring together policymakers, trainers, students, national human rights institutions and NGOs.

11. The Creole community were not discriminated against and enjoyed the same economic, social and cultural rights as other communities. Specific projects were being implemented to address poverty in all communities. The Creole language was taught in schools, there was a dedicated Creole-language television channel and a Creole-speaking union worked to preserve and promote Creole as an ancestral language. In 2010, the Ministry of Social Integration and Economic Empowerment had been created to address poverty. It had found that some 40,000 persons from all religious groups were currently living below the poverty line. Programmes had been put in place for families in need: they comprised social aid, special housing units, child and family development programmes and distribution of school materials.

12. The Truth and Justice Commission had been set up in 2009 to inquire into slavery and indentured labour during the colonial period and determine appropriate measures for the descendants of slaves and indentured labourers. In November 2011, the Commission had reported to the National Assembly, which had set up a high-level interministerial committee to consider the Commission's recommendations. While an enormous budget would be needed to implement all the recommendations, 19 of them were currently being carried out and the remainder were under examination.

13. He recalled that the Government had written to the Committee following the adoption of its concluding observations on the eighteenth to twentieth periodic reports of the United Kingdom (CERD/C/GBR/CO/18-20) drawing attention to the fact that, while Mauritius had sovereignty over the Chagos archipelago, including Diego Garcia, it was prevented from exercising its rights over that territory because of the de facto control of the United Kingdom. In the wake of the illegal excision of the Chagos archipelago from the territory of Mauritius prior to its independence in 1968, most of the Mauritians living on the archipelago (Chagossians) had been forcibly removed to Mauritius. His Government

continued to call for the early and unconditional return of the Chagos archipelago and supported the right of the Chagossians to return to the archipelago in accordance with international law, including the Convention. However, the Government of the United Kingdom continued to act in violation of articles 2 and 5 of the Convention by preventing them from doing so and preventing other Mauritian nationals from entering that territory. That Government had refused his Government's invitation to engage in negotiation within the meaning of article 22 of the Convention. His Government had introduced special measures to improve the situation of the Chagossians, including providing land for the construction of houses and setting up the Chagossian Welfare Fund.

14. In response to the Committee's previous recommendations (CERD/C/304/Add.106), the Government was still considering making the declaration provided for in article 14 of the Convention, but believed that adequate domestic safeguards existed to secure redress. Regarding its non-ratification of the amendments to article 8, paragraph 6, of the Convention, he recalled that Mauritius continued to suffer from the global economic crisis and was a contributor to several regional and international bodies. The Government regarded the compilation of statistical data on ethnic composition as a divisive question that could jeopardize national unity.

15. **Ms. January-Bardill** (Country Rapporteur) welcomed the resumption of a dialogue with the State party and commended the Government for adhering to the Committee's guidelines in the preparation of its periodic report. She would welcome updated information on the progress the Government had made in its efforts to foster a sense of national unity and identity and to ensure that no single population group was dominant in the State party's pluralist society. While acknowledging the complex ethnic mix of that society, she was concerned at reports that colour, creed and language continued to divide the population. In that context, she requested an explanation of the precise meaning of the terms "community" and "status group".

16. She welcomed the constitutional guarantee of equality and freedom from discrimination, the introduction of the Equal Opportunities Act and the mechanisms that had been established to implement it. The Committee would appreciate inclusion in future reports of specific examples of the implementation and outcomes of the Act and information on its supporting institutions and their impact on status groups. She noted that cultural centres were being set up to enable Mauritians of all denominations to participate in religious and cultural activities of their choice and to foster harmony and mutual respect. While the conflation of culture and religion was not unusual, she drew attention to the need for communities to refrain from using culture and religion to exclude or discriminate against non-believers or non-members. She urged the Government to remain alert to the specific effects that laws on adoption, marriage and divorce were having, as they appeared on occasion to compromise the principle of equal treatment, such as when members of certain castes or religions were prevented from entering temples.

17. She expressed the hope that the National Heritage Fund Act, the Mauritian Cultural Centre Trust Act, the establishment of language unions, and the creation of the trust funds to promote and protect cultural heritage would not only protect cultural heritage but contribute to social cohesion. She commended efforts to make education accessible to all cultural and religious groups, and also the use of local languages, including Creole, in formal education. She wished to know whether Creole had the status of an official national language. It was heartening to note that the Government had instituted measures to prevent public Catholic schools from discriminating against non-Catholic pupils.

18. The Committee would appreciate information in the State party's next report on what progress had been made in implementing the recommendations of the interministerial committee mandated to study the report of the Truth and Justice Commission. She urged the State party to invite the Commission to look into the distinction between public and

private acts of discrimination. Noting the offences listed in the Criminal Code relating to acts of discrimination, she requested additional information on the Code's application in discrimination cases.

19. Welcoming the adoption of the Information and Communication Technologies Act 2001, which criminalized the use of information and communication to convey offensive or indecent messages, she requested information on its application. With regard to the National Gender Policy Framework, the Committee commended the Government for recognizing its general recommendation No. 25 on gender-related dimensions of racial discrimination, and urged it to make every effort to ensure that women from marginal communities, such as Creole and Chagossian women, had access to equal opportunities in political, economic, social and cultural life. Disaggregated information would be extremely useful in that area. The Committee had noted the 2011 concluding observations of the Committee on the Elimination of Discrimination against Women, and specifically the recommendation to adopt policies and concrete legislative measures to accelerate the eradication of employment discrimination against women.

20. In relation to article 5 of the Convention, the Committee welcomed the bill that was currently being finalized and the expansion of the powers of the National Human Rights Commission to ensure better protection against violence, especially police brutality. While acknowledging the efforts to educate the police on human rights, the Committee urged the Government to give greater publicity to the Convention among all public officials. The Committee would be interested to hear of any prosecutions of police officers who had overstepped their powers and the outcome of their trials.

21. On political rights, she requested a more detailed explanation of the method used to segment the population and the rationale behind it, as only three groups had been named explicitly in the report, the remainder being referred to as the "general population". She would be interested to hear why Creoles, who made up more than 25 per cent of the population, were not identified as a separate group.

22. She had noted with interest the notion of religious subsidies, which she hoped would be a sustainable practice from which lessons might be learned. The Committee welcomed the Employment Relations Act, the Employment Rights Act, the Sex Discrimination Act and the Remuneration Order Regulations. Information on the impact of that legislation would be useful in future reports. The Committee urged the State party to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as, according to reports it had received, migrant workers continued to face very difficult living and working conditions and were afforded little if any legal protection. Long working hours and pay below the minimum wage, as well as abusive living conditions, had been reported. The National Human Rights Commission had also recommended that a proper legal framework be put in place to protect the rights of migrant workers.

23. Regarding article 7 of the Convention, the Committee would like to see more legislation to promote racial understanding and harmony. It noted that the segmentation of society and the assimilationist approach to status differences could be an obstacle. There was nothing wrong with disaggregation if the aim was to achieve substantive rather than formal equality and if difference was seen as a fact and not a problem. The perception was that there was a hierarchy of status groups in Mauritius, with those of Indian and European origin at the top, and Creoles and Chagossians at the bottom. Mention of that hierarchy was made in the report of the Truth and Justice Commission. The use of censuses that disaggregated the social groups to measure their living standards and access to rights was not negative in itself, and need not be divisive. Given that it was reported that Chagossians remained marginal to Mauritian society, were socially excluded and very poor, and had high illiteracy rates, inadequate living conditions and higher than average unemployment,

the Committee was pleased to hear that measures were being taken to address those challenges. The Committee regretted that the situation with regard to the Chagos islands and the dispute with the United Kingdom Government remained unchanged.

24. There had been much improvement in the situation in Mauritius, which had clearly taken many steps to address difficult issues. She encouraged the State party to continue along those lines and to deal with the deep differences inherent in Mauritian society.

25. **Mr. Murillo Martínez** said that he had raised the issue of the Chagossian community during the Committee's consideration of the report of the United Kingdom. He wished to know how many people had been involuntarily removed from the Chagos islands, according to the State party's statistics. He asked how many Chagossian people were now settled in Mauritius and how many had been resettled in the United Kingdom. He wished to know the details of the resettlement process in the United Kingdom and would be interested to hear more on the ethnic background of those people. While the State party referred to the responsibility of the United Kingdom with respect to the Chagos islands situation, some Chagossians believed that the Mauritian Government also needed to bear responsibility in that regard. He would be interested to hear whether the Truth and Justice Commission was also dealing with that problem and whether it had drawn any conclusions in that respect. He asked the delegation to comment on legal or other action taken by the Mauritian Government to support the return of the Chagossians to their territories.

26. He asked whether the State party had undertaken any activities in connection with the International Year for People of African Descent. He would be interested to hear the reasons behind the Government's decision to establish the Truth and Justice Commission, and the main recommendations and conclusions of that Commission, in particular in relation to the Creole population. He would welcome information on the representation of the Creole population in the State's decision-making bodies.

27. **Mr. de Gouttes** welcomed the creation of the Equal Opportunities Commission and the Equal Opportunities Tribunal, the strengthening of the National Human Rights Commission, the national plan of action 2012–2020, the strengthening of support for the Creole language, and the establishment of the Truth and Justice Commission. The Committee had also noted the difficult situation faced by the Chagossian people and the Government's obligation to protect the rights of that community.

28. He requested further details on denominational schools that received public funding and were obliged to accept pupils from other faiths. He would also welcome an explanation of the extensive restrictions on the matters into which the National Human Rights Commission could inquire and asked for details of the planned restructuring of the Commission. Regarding the provisions of the Criminal Code on offences relating to discrimination, he noted that only article 282 of the Code concerned incitement to racial hatred and asked the delegation to comment. He also wished to know the details of complaints, proceedings and convictions for incitement to racial hatred under that article. He would welcome additional information on the incorporation of human rights education at all levels of the education system. He asked the delegation to comment on the death of the Creole singer Joseph Reginald Topize and the phenomenon of "Creole malaise". He would be interested to hear more about the State's system of corporate social responsibility.

29. **Mr. Lindgren Alves** said that he would be interested to know the final decision taken in the case brought before the Human Rights Committee by a group of persons challenging the constitutional requirement for candidates in elections to declare the community to which they belonged. Caution was needed on the issue of disaggregated data. If the population of Mauritius as a whole was happy with the idea of not being asked about their community, as had been the case in the country's censuses since 1990, the Committee should not suggest that the State party change its procedure. However, a problem arose if

the population was not satisfied. He would be interested to hear in particular about the position of the Creole population, which was grouped with the “general population”.

30. He wished to know whether there was civil marriage in Mauritius, and whether marriages between individuals from different faiths were recognized by law. He also asked the delegation to explain what was meant by “discrimination by victimization”, as prohibited under the Equal Opportunities Act.

31. **Mr. Kut** said that, while he understood the State party’s concern that the collection of disaggregated data on the ethnic composition of the country was divisive, he noted that the report appeared to contain extremely detailed information on the ethnic, linguistic and religious make-up of the Mauritian population. He therefore wondered where the problem lay. Noting that Mauritius had a relatively well-developed human rights infrastructure, with a National Human Rights Commission, Ombudsman and various programmes, he asked for details of how they worked in practice. For example, he would be interested to know which groups in particular were targeted by the national action plan on human rights and which were considered vulnerable in Mauritian society.

32. **Mr. Diaconu** asked the delegation to comment on whether Mauritian legislation covered discrimination practised by individuals against other individuals as well as discrimination by the State. Referring to article 4 of the Convention, he noted that the provisions of the Criminal Code appeared to cover only incitement to racial hatred; there was no specific criminalization of the dissemination of ideas based on racial superiority or racially motivated violence. He wished to know whether, in the State party’s view, the existing provisions could be deemed to cover other racist acts that did not fall under incitement to racial hatred.

33. Noting that the National Human Rights Commission was not competent to deal with the right to protection from discrimination, he welcomed the establishment of the new Equal Opportunities Commission, which could deal with all acts of direct and indirect discrimination. He asked the delegation to provide details of how the country’s four population groups were represented in the National Assembly. He would also be interested to hear what action the Government planned to take in response to the views of the Human Rights Committee in the case relating to participation in elections.

34. He asked which languages were used for teaching in schools. The State party needed to adopt measures to ensure that Creole communities enjoyed a decent standard of living. With regard to the State party’s dispute with the United Kingdom over the Chagos archipelago, he suggested that, should negotiations between the two parties fail, Mauritius could consider lodging a complaint before the Committee on alleged violations of the Convention by the United Kingdom.

35. **Mr. Saidou** said the fact that membership of the National Human Rights Commission was reviewed every four years was a source of concern. For the Commission to work effectively, its members required longer mandates. He asked what was being done to eradicate vestiges of caste-consciousness from society.

36. **Mr. Vázquez** said that the absence of disaggregated data on the Creole community, the most disadvantaged group in the State party, was of particular concern to the Committee. Without such data, it was difficult to identify problems and establish appropriate measures to remedy them. Including the Creoles in the “general population community” category resulted in the mixing of the country’s poorest and most affluent social groups, rendering statistics on the “general population” next to meaningless from the Committee’s point of view. It appeared that Creoles were disgruntled and felt that their community and culture were being neglected by the authorities. Individual social and economic success in the State party depended largely on success in a fiercely competitive education system. The poorest population groups could not afford the extra private tutoring

that most pupils required to reach university. Creoles, therefore, would remain disadvantaged if they did not benefit from special measures to help them escape the cycle of poverty.

37. **Mr. Kemal**, noting the growing economic vigour of the State party, observed that the gap between the Creoles and other sectors of the population was continuing to widen. The failure to collect statistics on the ethnic origin of members of the various communities could hamper efforts to combat racial discrimination. He asked whether any programmes were in place to provide financial support in order to allow members of the poorest groups in society to enter higher education. He would also like to know whether any one community was more heavily represented among the prison population than others. Lastly, he urged the State party to file its periodic reports with greater frequency.

38. **The Chairperson** said that a corrigendum to paragraph 192 of the State party's combined periodic reports had been issued.

39. **Ms. Fong Weng-Poorun** (Mauritius) said that the Government had decided in 1982 to stop collecting disaggregated statistical data based on the four communities that had been delineated by the colonial administration prior to independence in 1968. That arbitrary division, and especially the definition of the "general population community", were contentious and potentially divisive. The present yardstick for data collection was religious identity. Policies on the various communities focused above all on the promotion of their respective cultures. The State party was still striving to consolidate a unified national identity, without which further economic and social development could be jeopardized. A civic education programme had been introduced in schools in 2012 in order to inculcate a sense of national identity and unity among pupils.

40. Conceding that the education system in the State party might be considered elitist, she said that measures had been taken to help pupils from disadvantaged sectors of the population, which were not restricted to Creole communities. More broadly, policies were in place to eradicate poverty, build public housing for the needy and provide other necessary services. In some schools, poorer pupils received free meals and uniforms, and teachers gave extra classes to those unable to afford private tuition. Scholarships awarded on the basis of social criteria, 18 of which had been made available in 2013, were designed to help pupils from disadvantaged backgrounds to enter university either at home or abroad. A poverty-alleviation programme funded by the European Union had been set up to help train poorer people to become entrepreneurs.

41. The Government was considering holding a nationwide referendum on electoral reform in order to remove the obligation for candidates to declare the community they belonged to in order to stand. They sometimes refused to do so and appealed to the National Human Rights Commission, thereby highlighting the vexatious nature of the matter. Reports on electoral reform recently submitted by three experts had met with considerable public opposition.

42. **Mr. Calí Tzay** said he wondered whether the State party was attempting to downplay the country's cultural diversity for the sake of promoting a single national identity. He found the delegation's explanations concerning electoral reform confusing.

43. **Ms. Fong Weng-Poorun** (Mauritius) said that, on the contrary, cultural diversity was being fostered in the State party through the establishment of different language-speaking unions and cultural centres. Moves to reform electoral laws were designed to remove a potential cause of friction from the political arena. Inter-communal marriages were common in the State party and admission to schools was not restricted by community.

*The meeting rose at 5.55 p.m.*