



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

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Eighty-second session

Summary record of the 2220th meeting

Held at the Palais des Nations, Geneva, on Thursday, 21 February 2013, at 10 a.m.

Chairperson: Mr. Avtonomov

Contents

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

Fifteenth to nineteenth periodic reports of Mauritius (continued)

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The meeting was called to order at 10.20 a.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 (continued)
(CERD/C/MUS/15-19, CERD/C/MUS/15-19/Corr.1 and CERD/C/MUS/Q/15-19)

1. *At the invitation of the Chairperson, the delegation of Mauritius took places at the Committee table.*
2. **Mr. Dhalladoo** (Mauritius) said that the United Kingdom exercised de facto, but unlawful, control over the Chagos archipelago, from which it had expelled all inhabitants, and was thus acting in violation of its obligations under articles 2 and 5 of the Convention. In 2011 and 2012, Mauritius had unsuccessfully attempted to engage the United Kingdom in negotiation with a view to settling the dispute as to the interpretation of article 22 of the Convention and reasserting its sovereignty over the archipelago so as to allow the Chagossians to return to their ancestral land. In 2010, Mauritius had also instituted proceedings before the Special Arbitral Tribunal constituted in accordance with the United Nations Convention on the Law of the Sea to challenge the plan to create a marine protected area around the archipelago. The Tribunal had accepted Mauritius' challenge in a first ruling issued in January 2013, which was a first step towards settling the dispute. The case had not been referred to the International Court of Justice. For several years the Government of Mauritius had been working to improve the living conditions of the approximately 8,680 Chagossians living in Mauritius, including by awarding land and property titles to more than a thousand of them. The remit of the Chagossian Welfare Fund was to design programmes that would foster the integration of the Chagossian community, to improve its socioeconomic prospects, to run community centres and to establish scholarship schemes. The Fund also provided financial assistance and medical services to disadvantaged families and supported the community's cultural cohesion by organizing activities of various forms, including civic education activities.
3. **Ms. Goordyal-Chitto** (Mauritius) explained that although the Convention had not been transposed into domestic law most of its provisions were incorporated into various pieces of legislation, thereby guaranteeing that Mauritian law was fully compliant with the Convention. There was no common definition of racial discrimination but the Constitution guaranteed respect for fundamental freedoms including the right not to be subjected to discrimination on the grounds of race, religious belief, colour or caste. The Equal Opportunities Act provided that all persons had the right to equal treatment, particularly in employment, the provision of services and access to education. The 2001 Information and Communication Technologies Act prohibited the dissemination of offensive statements or content and the 2003 Computer Misuse and Cybercrime Act had been applied in four cases, after racist statements had been posted on a social media site. In the event of a violation by any individual or legal entity of the provisions outlawing discrimination, all Mauritian citizens had the right to assert their constitutional rights by applying to the Supreme Court or lodging a complaint with the National Human Rights Commission or the Office of the Ombudsman. To date, no complaints had been submitted alleging violations of article 282 of the Criminal Code, concerning incitement to racial hatred, but the competent authorities would inform the Committee of any such cases that might arise in the future. For historical reasons, a Muslim law regulating personal status existed in parallel with the common law but the law in question contained no discriminatory provisions and was compatible with the Convention.
4. In 2010, an oversight committee had been established to harmonize labour law with the provisions of international instruments including the International Labour Organization (ILO) Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Pursuant

to the Civil Code, migrant workers had the right to a minimum wage and the same social security benefits as nationals of Mauritius. They also had the right to join a trade union, and to submit complaints concerning the working conditions of migrant workers to the labour inspectorate, which referred the complaints to the competent bodies for redress. An Equal Opportunities Commission had been established under the Equal Opportunities Act, which prohibited direct and indirect discrimination of all forms, as well as discrimination by victimization. Lastly, the Electoral Supervisory Commission was empowered to appoint additional members to the National Assembly to correct any imbalance in the fair representation of the country's different ethnic communities (the Hindu community, Muslim community, Sino-Mauritian community and the "general population").

5. **Ms. Fong Weng-Poorun** (Mauritius) said that Mauritius had a multi-ethnic and multiracial population of 1.2 million inhabitants and that the Government was committed to promoting and preserving the country's historical, cultural and linguistic heritage. Thus, the authorities had decided to begin teaching Mauritian Creole (Kreol Morisien) in primary schools as of 2012 and planned to teach it in secondary schools also in the years to come. Since Creole was spoken by the entire population, a Creole television channel had been established and several national radio stations broadcast programmes in Creole. The Truth and Justice Commission had been created to officially commemorate the abolition of slavery, to undertake an inquiry into its legacy and to determine the measures to be adopted to provide redress for the descendants of slaves and indentured Indian labourers. The mandate of the Commission, which was independent of the Government, was to promote national reconciliation and social justice and to formulate to that end recommendations that would serve to guide public policies. The Commission had specifically recommended that slaves' economic contribution to the building of the nation should be better recognized, that the cultural heritage of slavery should be preserved, that an inventory of historic sites forming part of that heritage should be established, and that land should be allocated to the descendants of slaves without charge. Many companies active in Mauritius had accepted their social responsibility by sponsoring civil society-run programmes in various fields, including the provision of aid for vulnerable population groups, education, disaster prevention, health care and housing.

6. The National Human Rights Commission was responsible for investigating violations of article 2 of the Constitution, which prohibited discrimination by public officials on the grounds of race, caste, sex or creed. However, to date it had received only a small number of complaints. The Equal Opportunities Commission, which dealt with all cases of discrimination by public authorities or between individuals, had received 496 complaints, but only 3 of them had proved to be genuine cases of discrimination. All of those cases had been settled amicably. The National Human Rights Action Plan was designed specifically to promote the economic, social and cultural rights of disadvantaged groups in the areas of education, housing and health. The groups most vulnerable to discrimination were those living below the poverty line, that is, those whose income was less than 6,200 rupees per month. Poverty was a nationwide problem that did not affect any one community in particular. According to a survey conducted in December 2012 by the Ministry of Social Integration and Economic Empowerment, approximately 40,000 people were living below the poverty line.

7. The Ministry of Education was mandated to give all citizens, irrespective of their ethnic origin, full access to education. Summer schools were organized for poor families and were attended by many Creole children. Priority education zones had also been established to combat social inequalities. With regard to measures taken to eliminate the caste system, the establishment of the Equal Opportunities Commission was an important advance. The Commission was working to raise public awareness of the issue, with a view to engineering a change of attitudes, particularly among young people. The Mauritian

Cultural Centre Trust was working to promote Mauritian culture and develop a plural Mauritian cultural identity.

8. **The Chairperson** asked whether the Government planned to amend the Constitution.

9. **Mr. de Gouttes** asked whether the mandates of the Equal Opportunities Commission and the National Human Rights Commission overlapped. He would also like to know what the relationship was between the different races and castes and whether the caste system persisted in the State party.

10. **Mr. Murillo Martínez** asked why the Government had created the Truth and Justice Commission. He would also like to know the legal status of the Chagossian expatriates in the United Kingdom and whether the Government of Mauritius maintained dialogue with them. Did the State party believe that the Government in office at the time bore responsibility for losing control of the Chagos archipelago? And how did it interpret the Committee's general recommendation No. 32 on special measures? With regard to interracial marriages, he would like to know whether both spouses had equal rights irrespective of their sex and ethnic origin.

11. **Ms. Goordyal-Chitto** (Mauritius) said that the Government planned to review the Constitution and the system of funding elections and political parties in 2012–2013. The National Human Rights Commission and the Equal Opportunities Commission had very specific mandates that did not overlap. The Constitution of Mauritius, which enshrined the principle of equal rights for all citizens, did not allow for positive discrimination but special measures could be adopted on an exceptional basis to take account of particular circumstances. With regard to interracial marriages, both spouses had the same rights, irrespective of their ethnic origin.

12. **Mr. Dhalladoo** (Mauritius) said that his country had raised the issue of the Chagos archipelago before the African Union, which had adopted a resolution supporting any action that the Government might take to assert its sovereignty. Most of the Chagossian expatriates in the United Kingdom had British nationality.

13. **Ms. Fong Weng-Poorun** (Mauritius) said that the Government had established the Truth and Justice Commission in 2005 to address criticisms and complaints from descendants of slaves and Indian workers who were aggrieved by the failure to recognize their ancestors' contribution to building the nation. Eager to reconcile Mauritius with its history, the Government was endeavouring to establish the historical truth, and thus to be able to guarantee some degree of social justice. The Truth and Justice Commission was considering the possibility of returning the land of their ancestors to the slaves' descendants. The caste system, which the Indian workers had brought with them when they came to Mauritius, was part of the mentality and traditions inherited from their ancestors. It still influenced marriages but was gradually disappearing as interaction between the different castes grew. Clearly the Government did not encourage the caste system.

14. **Mr. Glover** (Equal Opportunities Commission of Mauritius) said that the Commission had been established in April 2012 on the recommendation of the Truth and Justice Commission. It had had a discrete budget, separate from that of the Office of the Prime Minister, since November 2012 and was therefore completely independent. The Equal Opportunities Act had been designed to eliminate acts of discrimination committed by private sector employers and had extended the Commission's purview to include acts of indirect discrimination. It had reversed the burden of proof so that the perpetrator of an allegedly discriminatory act was required to prove the absence of discriminatory motivation instead of the victim being required to provide evidence that he or she had suffered discrimination. It had also increased the number of grounds of discrimination that it was possible to invoke from 5 to 12. Since the language a person spoke could also sometimes

result in discriminatory treatment, the possibility of adding language as a thirteenth protected ground was under consideration. By incorporating the concept of equal opportunities in domestic law, the Equal Opportunities Act served not only to reduce discrimination but also to ensure that every person had the opportunity for social and professional advancement based on merit and ability. The Act covered direct and indirect discrimination based on a specific characteristic appertaining or imputed to the aggrieved person. It gave the Equal Opportunities Commission the authority to investigate, on its own initiative or in response to a complaint, any incident of discrimination brought to its attention, and to refer the case to the Director of Public Prosecutions if the alleged incident was thought to constitute a criminal offence. The Commission was required to favour reconciliation and referred cases to the Equal Opportunities Tribunal only if the parties were unable to find an amicable settlement.

15. The Commission's activities might on occasion overlap with those of the Public Bodies Appeal Tribunal or the Office of the Ombudsman. However, it was important to underscore that the Commission's jurisdiction extended only to cases of discrimination based on a personal characteristic of the aggrieved person. Nineteen percent of the approximately 500 complaints that had already been lodged related to acts of discrimination on grounds within the Commission's purview, namely discrimination based on ethnic origin, race, colour, creed or caste. Specific cases resolved by the Commission included complaints of discrimination based on skin colour or ethnic origin on the part of directors of major hotel groups and of access to public places being refused on the same grounds.

16. **Mr. Kut** expressed surprise that, in the State party's view, the groups most vulnerable to racial discrimination were disadvantaged groups living below the poverty line. Noting that it was possible not to be poor and yet still suffer discrimination, and that it was unlikely that all persons living below the poverty line belonged to the same population group, he urged the State party to reconsider the question and to compile disaggregated statistics. Which population groups in Mauritius might be vulnerable to discrimination?

17. **Ms. Fong Weng-Poorun** (Mauritius) said that the Government of Mauritius would be sure to adopt a method of data collection that the Committee found more satisfactory and which made it easier to identify groups that suffered discrimination. However, he assured the Committee that no one specific population group was particularly vulnerable to discrimination. Only persons or groups of persons living in regions that were less developed and were disadvantaged in terms of service provision, for example, might consider themselves victims of discrimination. The economic crisis prevented the Government of Mauritius from taking a decision on whether to ratify the amendments to article 8, paragraph 6, of the Convention at present.

18. **Ms. January-Bardill** (Country Rapporteur) said that she welcomed the frank and open dialogue with the delegation of Mauritius. She commended the legal and institutional apparatus that the State party had established to combat discrimination but said that Mauritius would make real progress only if it put an end to the prevailing hierarchy of races, cultures, classes and castes. She asked the State party to explain how the measures taken to implement the Convention had served to improve the plight of the poorest and most disadvantaged communities, such as the Creoles and the Chagossians, and to eliminate the prejudices that persisted. She would like to know, in that regard, why, in statistical data, Creoles were considered to form part of the "general population". In its next periodic report, the State party should indicate how, and by which body, the recommendations of the Truth and Justice Commission had been implemented. It should also describe the mechanism used to ensure minority representation in Government, Parliament, the executive and legislative branches and local communities. Lastly, she urged the State party to continue cooperating with civil society and wished it success in the continuing negotiations with the British Government in relation to the Chagos islands,

reminding the delegation that the Committee had offered to provide Mauritius with assistance in that area.

19. **Mr. Varma** (Mauritius) thanked the members of the Committee for their interest in the human rights situation in his country and highlighted that the implementation of United Nations human rights instruments called for strengthening democracy and the rule of law, while at the same time according special attention to the needs of the poorest groups. He undertook to ensure that in future Mauritius submitted its periodic reports in due time.

The meeting rose at 1 p.m.