



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Summary record of the 1001st meeting

Held at the Palais Wilson, Geneva, on Friday, 20 May 2011, at 3 p.m.

Chairperson: Mr. Wang Xuexian (Vice-Chairperson)

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In the absence of the Chairperson, Mr. Wang Xuexian (Vice-Chairperson) took the Chair.

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

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Third periodic report of Mauritius (continued) (CAT/C/MUS/3)

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

2. **Mr. Servansing** (Mauritius) said that the Mauritian authorities would continue to incorporate the norms enshrined in the Convention in the country's legislation, regulations and institutional framework. It would also undertake the reforms required to modernize Mauritian institutions in order to ensure greater independence and transparency and to mainstream the various human rights issues pertaining to torture. Consultations had already been initiated with stakeholders concerning the organization of training courses, especially for prison and police officers. He emphasized, however, that Mauritius, as a small island developing State, was grappling with a number of structural, financial and social constraints, including unemployment and poverty, which called for a judicious distribution of resources.

3. He assured the Committee that the judiciary was independent and that various safeguards were in place, such as the right of appeal to the Judicial Committee of the Privy Council. As Mauritius was a multiracial participatory democracy, the finalization of bills for enactment by Parliament could sometimes be a lengthy procedure. Mauritius required the support of all international stakeholders to regain full control and sovereignty over its territory. The Chagos Archipelago, including Diego Garcia, was an integral part of its territory, which should not be used as a platform for the perpetration of any form of torture.

4. **Ms. Narain** (Mauritius) said that acts of complicity in any offence were characterized as offences under section 45 of the Interpretation and General Clauses Act. Prosecution for complicity in torture could therefore be brought under that section in conjunction with section 78 of the Criminal Code. The same applied to participation in the form of attempt, conspiracy, and aiding and abetting.

5. As Mauritius had a dualist system, international treaties had to be incorporated into domestic law upon ratification. Section 78 of the Criminal Code provided for the offence of torture as laid down in the Convention. Other provisions of the Convention might already be applicable under existing law. Direct reference would probably be made to the Convention and to other human rights instruments ratified by Mauritius in the context of the forthcoming constitutional review. In 2008, as part of a general sentence review exercise, section 78 of the Criminal Code had been amended to increase the maximum fine for the crime of torture from 50,000 to 150,000 rupees and the maximum prison sentence from 5 to 10 years.

6. The Constitution stipulated that persons who were arrested or detained should be informed as soon as reasonably practicable of the reasons for their arrest or detention. It further stipulated that detainees should be afforded reasonable facilities to consult a legal representative of their choice and should be brought without undue delay before a court. Persons charged with an offence should be informed as soon as reasonably practicable of the nature of the offence and given adequate facilities for the preparation of their defence. The Judges' Rules ensured that arrested persons were made aware of their rights, including the right to counsel. As an additional safeguard police stations conspicuously displayed the rights of an accused under the Constitution and the Judges' Rules. The police were required to lodge a provisional information at the earliest opportunity and not later than 42 hours

after an arrest. Arrested persons appearing before a magistrate could make representations, for instance concerning their state of health. There had been cases in which arrested persons had been granted the right to be medically examined by a private doctor. Otherwise detainees were examined by the police medical officer.

7. The Draft Police Complaints Bill provided for the setting up within the National Human Rights Commission of a Police Complaints Division to investigate complaints against members of the police force, other than allegations of corruption and money-laundering. The Division would also investigate the death of any person in police custody or as a result of police action, and would advise on ways in which police misconduct could be addressed or eliminated. The Division would probably consist of the Chairperson and Deputy Chairperson of the National Human Rights Commission and other members assigned to it by the Chairperson. It would therefore enjoy the same independence as the National Human Rights Commission, which already complied with the Paris Principles and enjoyed financial autonomy.

8. The Draft National Preventive Mechanism Bill was being finalized. The views of stakeholders, including the Association for the Prevention of Torture, had been sought. Although the possibility of creating a separate institution had been considered, since the functions of the national preventive mechanism were different from those of a national human rights institution, it had been decided for administrative and logistical reasons to establish the national preventive mechanism within the National Human Rights Commission but to provide for a different composition, paying due regard to the Paris Principles.

9. The Draft Criminal Investigations, Proceedings and Evidence Bill was unlikely to be introduced in the Assembly during the current year. It would first be circulated among stakeholders for comment, and investigators would have to be trained to ensure that they were in a position to comply with the new provisions.

10. The 1970 Extradition Act would shortly be reviewed in the light of Mauritian obligations under international treaties, including counter-terrorism conventions. Express reference would be made in the Draft Bill to obligations under article 3 of the Convention. In the meantime, the authorities were guided by the observation made by the Supreme Court in the case of *Heeralall v. Commissioner of Prisons 1992*, which cited with approval the judgement of the European Court of Human Rights in the *Soering v. the United Kingdom* case. The authorities would be guided in the exercise of their discretion by the *obiter dicta* in *Heeralall* concerning cases of expulsion and return and not only extradition.

11. Section 78 of the Criminal Code permitted Mauritian courts to try offences committed elsewhere than in Mauritius where the victim was a citizen of Mauritius or where the alleged offender was in Mauritius and would not be extradited. Section 134 of the Courts Act stipulated that a Mauritian court had jurisdiction where an offence was committed on board a ship or aircraft registered in Mauritius. The courts therefore had extraterritorial jurisdiction with regard to the offence of torture, but not universal jurisdiction.

12. A National Committee chaired by the Minister of Social Security had been set up to monitor the implementation of the Convention on the Rights of Persons with Disabilities. One of its subcommittees dealt with the human rights of persons with disabilities, such as their legal capacity, the exercise of free and informed consent, voting procedures and access to justice. Mauritius was expected to ratify the Optional Protocol to the Convention and to withdraw its reservations to various provisions of the Convention in early 2012.

13. The Mental Health Care Act provided for the treatment of persons at mental health care centres with their consent or that of their next of kin. Where they were unable to give their consent and the next of kin could not be traced or refused to give consent, the treating

psychiatrist was required to submit a treatment plan to the relevant Mental Health Care Commission for approval. The commissions consisted of medical practitioners but also included a barrister of at least five years' standing at the Bar. Medical officers or psychiatrists who were informed or had sufficient reason to believe that a person had been brought to a centre coercively or against his or her will were prohibited from admitting or treating the person unless they had reasonable grounds to believe that the person constituted a danger to his or her safety or that of other persons as a result of a mental disorder. In addition, any admission of a patient other than a voluntary patient to a mental health-care centre had to be validated by the magistrate of the district within 24 or 48 hours of the admission. The case of every patient was subject to automatic review by the relevant Mental Health Care Commission at specified intervals.

14. Section 5 of the Constitution provided for derogation from the right to personal liberty where authorized by law in the case of a person who was reasonably suspected to be of unsound mind. The Mental Health Care Act was deemed to provide sufficient safeguards with respect to any derogation from that right, bearing in mind the public interest, public safety and the interests of the patient.

15. Many references had been made to bills rather than acts because the National Assembly did not sit throughout the year and a new Government had taken office only one year previously. Proposed new legislation was contained in the Government Programme for 2010–2015. All the bills referred to in the report and the introductory statement were directly or indirectly human rights-related and therefore necessitated extensive consultations with relevant stakeholders. Draft bills had recently been posted on the Internet, and advertisements seeking comments from the public had been placed in the press to ensure that the resulting legislation was responsive to citizens' needs. Moreover, some bills had significant financial implications and could not be finalized until approval was obtained from the relevant authorities. There was no separate legal provision characterizing torture as an aggravating circumstance. On conviction, however, courts would examine all relevant circumstances, such as a victim's disability or other forms of vulnerability.

16. The charges laid before the District Court of Curepipe against prison officers at "La Bastille" prison had been provisional rather than formal charges and had been struck out by the Court on 26 February 2009 on grounds of delay in preferring the formal charges. On completion of the police enquiry in March 2009, the police file had been forwarded to the Director of Public Prosecutions, who had advised in December 2009 that no further action should be taken on the basis of the evidence. That outcome was not considered to have acted as a disincentive to other prospective complainants, since each case was to be judged on its merits.

17. No prosecution had been brought under section 78 of the Criminal Code so far. A prosecution brought under section 77 of the Code had been dismissed by the Intermediate Court, and the Director of Public Prosecutions was appealing against the judgement. Mauritius considered that the fact that there had been no successful prosecution for the offence of torture to date should not cause undue concern. Police enquiry files were reviewed by the Director of Public Prosecutions, whose independence was guaranteed under the Constitution and who asked for further enquiries in appropriate cases. It was only where the evidence disclosed no prima facie case that the Director of Public Prosecutions advised against further action. It followed that the offence of torture could not be considered to be prevalent in Mauritius. The establishment of the offence in the Criminal Code might well have had a deterrent effect on would-be defaulting officers.

18. Exceptional circumstances, such as a state of war or threat of war, internal political instability or any other public emergency, did not constitute a defence or a justification

under Mauritian law. That probably accounted for the fact that article 2, paragraph 2, of the Convention had not been reproduced in section 78 of the Criminal Code.

19. There had been four cases of extradition since the last report, three of which had been to the United Kingdom and one to Canada. No diplomatic assurances had been sought or obtained. A fugitive was entitled to apply for a writ of habeas corpus to the Supreme Court under the Extradition Act. Applications had been made in three of the cases and in all cases the decision of the magistrate had been confirmed. No application for judicial review of the Minister's decision to surrender had been filed. Post-surrender reports had been sought and obtained from the requesting countries. In the three cases involving the United Kingdom, the extradited persons had stood trial and been convicted.

20. Incommunicado detention provisions still appeared in the Constitution and the Prevention of Terrorism Act and had not been affected by the decision of the Judicial Committee of the Privy Council concerning the unconstitutionality of the denial of bail provisions. However the provisions had not been invoked or applied since 2002.

21. The Government was very concerned at the increase in the number of cases in which witnesses appeared to be intimidated or subjected to pressure by or on behalf of accused parties, especially in drug-related cases. The Government Programme therefore provided for the introduction of special measures for the protection of witnesses and vulnerable persons, including the elaboration of a Witness Protection Programme. Consideration would also be given to the possibility of making out-of-court statements by such witnesses, video-recorded under oath, admissible as evidence in court. The United Nations Office on Drugs and Crime (UNODC), the Attorney General's Office, the Office of the Director of Public Prosecutions and the judiciary had conducted a Joint Workshop on witness protection on 25 March 2011. Witness protection measures would also be relevant in the case of any prosecution for the offence of torture.

22. A "voir dire" or trial within a trial was held whenever the admissibility of a confession was challenged on the grounds that it had been obtained by coercion or by other improper means. Even where the confession was ruled admissible, its weight might still be challenged. The burden of proof to establish that the confession had been voluntary lay with the prosecution. The magistrate or judge had ruled a confession to be inadmissible in certain cases involving serious offences such as multiple larceny or burglary. The prosecution could also decide not to produce and rely on the confession where it considered that it might be ruled inadmissible in the light of representations made by the defence.

23. The Domestic Violence Amendment Act had not yet been promulgated because the Chief Justice had to draft rules governing the procedure that would apply to applications for a protection order and a hearing before the district court. It was expected that the rules would be finalized and the Act promulgated very shortly.

24. The Sexual Offences Bill had been referred by the former Government to a Select Committee of the National Assembly. The Chairperson of the Committee had passed away just before the report was completed. As the Assembly had been dissolved a few months later and general elections had been held in May 2010, the report of the Select Committee had never been made public. It was now proposed to submit a fresh Sexual Offences Bill to Cabinet for introduction in the Assembly without appointing a select committee.

25. The Government Programme 2010–2015 provided for a review of the 1935 Juvenile Offenders Act to bring it into line with the Convention on the Rights of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice. The relevant Ministry would hold consultations with stakeholders before drafting the amendment bill.

26. The recommendation by the National Human Rights Commission concerning persons who had committed serious offences specified in the Second Schedule to the Certificate of Morality Act was considered to be a reasonable one in that it would allow a prospective employer, after having taken cognizance of all relevant circumstances, to recruit such offenders in appropriate cases and thus give them the possibility of earning an honest livelihood. The recommendation had not yet been implemented, as the Certificate of Morality Act was to be reviewed following representations by various stakeholders.

27. The Government would consider in due course the possibility of making a declaration under article 22 of the Convention to allow the Committee to receive communications from individuals in Mauritius. Individuals could currently lodge complaints with various institutions in Mauritius, including the National Human Rights Commission, the Ombudsman and the Supreme Court.

28. Accused persons had a constitutional right to be brought before a court without undue delay after their arrest. It was generally held that the accused should be brought before a court at the earliest opportunity and not later than 72 hours after his or her arrest. A provisional information was then laid against the accused in order to bring what would otherwise be administrative detention under judicial supervision. Where the prosecution took too long to prefer the formal charge, the Court could, *proprio motu* or on the application of the accused, release the person on bail or unconditionally, or strike out the provisional charge, as had been done in the “La Bastille” case. Arrested persons could also apply through their relatives for constitutional redress or for a writ of habeas corpus if their detention was deemed to be arbitrary.

29. Custodial sentences were only imposed by the court as a last resort where it considered that no other sentence would meet the ends of justice. It could fine a person or discharge him or her conditionally or absolutely where the offence was trivial in nature, where there were extenuating circumstances, or where it was inexpedient to inflict punishment and a probation order was inappropriate. The court could also order a person to be placed under the supervision of a probation officer for a specified period. Where the offence was punishable by a sentence of not less than 2 years’ imprisonment, the court could suspend the sentence and order the person to perform unpaid community service for a specified period ranging from 60 to 300 hours with the person’s consent.

30. There had been no prosecution under the Prevention of Terrorism Act. Any person detained under the Act could seek constitutional redress or challenge any action taken by the police under the Act in court.

31. The Extradition Act was due to be reviewed shortly, but the Convention could be invoked before the courts in specific instances, such as when an extradition application might be affected by article 3. Section 10 of the Prevention of Terrorism Act was designed to give effect to lists of suspected terrorists published by the United Nations, the United States of America and the European Union. Under the Act, the Government could declare a person to be a terrorism suspect when there were reasonable grounds for believing that to be so. The person concerned could, however, seek to have such a declaration quashed by the Supreme Court.

32. The Criminal Code and several acts had been amended in 2007 to increase the maximum possible sentence for certain offences from 30 or 45 to 60 years’ imprisonment. In practice, no sentence exceeding 40 years’ imprisonment had been handed down by any court for a single offence. Courts could rule that sentences in respect of several offences be served consecutively. No resort had been made to incommunicado detention since its introduction under the Prevention of Terrorism Act.

33. Mauritius had a hybrid justice system and the Civil Code was based on French law. The State had reached settlements with Mr. Kaya and Mr. Ramlogun on an *ex gratia* basis

without admission of liability. The settlements had therefore had no effect on whether to proceed with criminal cases. The Director of Public Prosecutions, whose independence was guaranteed, had decided not to prosecute the offenders in the case of Mr. Kaya but had done so in the case of Mr. Ramlogun. The case had subsequently been dismissed.

34. Legal aid was not available at the investigation stage of criminal proceedings. The Legal Aid Act would be reviewed and an inter-ministerial committee had been formed to examine the matter. The Attorney General was discussing the possibility of establishing a voluntary scheme with various legal bodies, including the Bar Council.

35. Marital rape would be mentioned in the forthcoming sexual offences bill, but it was arguable that a man could also be prosecuted for raping his wife under the law as it stood. With regard to corporal punishment, its use at home was not prohibited under current legislation, but parents or relatives could be prosecuted for assault or aggravated assault, even when the offence occurred in the home. Consideration would be given to including the matter of corporal punishment at home in the forthcoming children's bill. The Equal Opportunities Act, which had been passed in 2008 but had yet to be proclaimed, prohibited discrimination on the grounds of status, including sexual orientation. Sexual orientation was defined under the Act as homosexuality — including lesbianism — bisexuality or heterosexuality.

36. There was no minimum age for criminal responsibility. Under section 44 of the Criminal Code, a minor under the age of 14 charged with an offence but acting without discernment would be acquitted and placed in the care of family members or, where deemed necessary, sent to a reformatory, where he or she could not be detained beyond the age of 18. Under section 45, a minor under the age of 14 acting with discernment could be sentenced to be detained in a reformatory for as long as the court saw fit. For the purposes of the Juvenile Offenders Act, a minor was a juvenile and could be tried before a juvenile court. Lastly, she said that the Judicial Committee of the Privy Council, which had sat twice in Mauritius, was the State party's highest court. However, under section 81 of the Constitution, leave to apply to the Judicial Committee could usually be granted by the Supreme Court only in cases of significant general interest. On occasion, special leave could be also obtained directly from the Judicial Committee.

37. **Ms. Fong-Weng Poorun** (Mauritius) said that the Government of Mauritius had taken steps to implement recommendations contained in the report submitted by the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2008 and that it was considering the possibility of making it public. A bill on the establishment of a national preventive mechanism, which would come under the National Human Rights Commission (NHRC), and another on the integration of the Complaint Investigation Bureau into the NHRC, were being finalized. The bureau was currently attached to the Police Department. Under an amendment to Police Standing Order No. 120, introduced in 2008, persons detained in police stations or detention centres could inform family members of their place of detention and were entitled to receive visits.

38. The conditions of detention in prisons had improved and the Commissioner of Prisons was determined to continue on that path. The NHRC had visited several prisons in the course of 2010 and made recommendations on how to improve conditions further. To alleviate the problem of overcrowding, a modern prison with a capacity for 750 prisoners was being built and should be completed by the end of 2012. In La Bastille high security prison in Phoenix, three association yards with bath and toilet facilities had been built since the submission of the Subcommittee's report. Prisoners were now entitled to one hour of exercise a day and a mechanism had been put in place to review the cases of all inmates quarterly or whenever a prisoner lodged an appeal. A council, made up of representatives of prison staff and detainees, had been set up in each prison to look into prisoner complaints concerning such issues as welfare, health and rehabilitation. There were also complaint

boxes in prison association yards, and detainees could file complaints with any institutions, including the NHRC, Commissioner of Prisons, Director of Public Prosecutions, the Ombudsman and the President of the Republic. No action could be taken against a junior police or prisons officer for refusal to obey an illegal order given by a superior officer.

39. With regard to complaints made to the NHRC, nine had been referred to the Director of Public Prosecutions in 2009 and fewer still in the preceding two years. The Complaint Investigation Bureau had taken four police officers to court in 2009, one of whom had been convicted. The remaining cases were still pending before the courts. Complaints to the NHRC that were considered trivial, such as those regarding traffic offences, were set aside. Complaints from detainees wishing to protest against their sentences fell outside the jurisdiction of the NHRC. Members of the public were apprised of their right to complain against the police through the media, workshops and pamphlets published by the NHRC. With regard to the publication of the NHRC's reports, all were accessible on its website.

40. More than 8,000 officers of a total police force of 10,000 had received human rights training. Human rights trainers had themselves attended courses conducted by the Commonwealth Secretariat. Under its national strategic framework, launched in 2010, the police force aimed to enhance its capabilities and instil greater public confidence in it by operating with greater transparency and complying with international human rights standards. As part of the strategy, a police professional standards department had been set up to put in place clear guidelines for police behaviour and to act as a point of contact for anyone who wished to raise concerns about the police. A human rights manual had been prepared for prison warders, who were also receiving appropriate training. There was, however, no specific training on the Istanbul Protocol.

41. Of a total prison population of 2,576 at last count, around 36 per cent were held in pretrial detention. Detainees were held either in individual cells or in larger ones accommodating three or four inmates. In low security facilities, detainees were held in dormitories holding around 20 people. All detainees had access to potable water, television, radio, newspapers and telephones. They could also volunteer to do building work, gardening, baking or kitchen work, through which they earned days of remission on their prison term or an allowance that could be used in prison shops. Detainees in the high security La Bastille prison, however, did not have access to construction tools.

42. Turning to the Forensic Science Laboratory, she said that it was attached to the Prime Minister's Office for purely administrative and budgetary purposes and that the independence of its staff, 80 per cent of whom had received human rights training, was assured. The report of the Truth and Justice Commission had been due in June 2011, but the Commission had requested a three-month extension.

43. With regard to domestic violence, 3,514 cases had been registered in 2010 and 603 in the first three months of 2011. More than 2,700 of them were still under investigation or pending before the courts, and 649 individuals had been convicted. On the subject of sentencing, she noted that, under the Protection from Domestic Violence Act of 1997, anyone failing to comply with an interim or permanent protection order or an ancillary order under the Act was liable to fines of up to MUR 25,000 (about US\$ 890) and imprisonment for up to 2 years.

44. Although the NHRC had no special department for children's rights, it investigated complaints against the police made to it on behalf of minors. Consideration would, however, be given to recommendations made by the Special Rapporteur on the sale of children, child prostitution and child pornography on his recent visit to Mauritius. Replying to questions about claims of alleged ill-treatment by prison warders of inmates who had attempted to escape from GRNW (Grande Rivière North West) prison in June 2010, she

said that the police were investigating the alleged beating of five detainees by prison warders.

45. **Mr. Gallegos Chiriboga** (First Country Rapporteur) repeated his request for statistics on the number of persons deprived of their liberty under section 5 of the Constitution. He asked what measures were in place to ensure that persons arrested were registered from the moment of their detention. He also wished to know how the State party applied the right of detainees to see a doctor at the moment of their detention and, thereafter, upon request. With regard to the Istanbul Protocol, training in the application of the Protocol was important and OHCHR could help to organize such training.

46. He wished to know what steps were taken to avoid excessive periods of pretrial detention. He wondered whether in some cases pretrial detainees could be released if their period of pretrial detention was extended beyond what was considered reasonable. He would encourage the State party to publish the report of the Subcommittee on the Prevention of Torture, for the purposes of transparency. There was a large amount of draft legislation that should be adopted as soon as possible.

47. He asked whether any prison visits would be conducted in 2011. With regard to prison overcrowding, he wondered whether consideration was being given to alternative forms of punishment. Overcrowding entailed health risks and could be considered to be inhuman and degrading treatment. He expressed concern that sentences for crimes of torture were not commensurate with the offence, which could lead to an atmosphere of impunity. Appropriate punishment was therefore required.

48. **Mr. Bruni** (Second Country Rapporteur) expressed concern about the large number of draft laws that were under consideration but had not been adopted. While he understood the need for consultations, lack of impetus in the adoption of legislation could result in the development of a culture of impunity. He asked when the report of the Subcommittee on the Prevention of Torture would be made public. He wished to know what was being done to expedite the implementation of the most urgent of the recommendations made by the National Human Rights Commission following the prison visits it had conducted in 2010. Overcrowding in prisons was a particularly serious problem and he wondered what measures were being taken to rectify it. With regard to article 3 of the Convention, he asked how the Mauritian authorities assessed risk of torture in countries of origin when they were considering issuing a deportation order.

49. While he welcomed the abrogation of the provision concerning the denial of bail in the Dangerous Drugs Act and the Prevention of Terrorism Act, he wondered whether denial of access to counsel in the first 36 hours of police detention, which was contained in those laws, had also been abrogated. What had been the outcome of prosecution in the cases of police brutality that had been reported by the National Human Rights Commission? Why were the outcomes of investigations into allegations of ill-treatment by State officials not communicated to all complainants? Was any information available on the judicial inquiry into the death of person B in police custody in 2007, which was mentioned in paragraph 97 of the State party's report? Were there any specific rehabilitation programmes in place for victims of torture?

50. He was concerned that the State party had not implemented the National Human Rights Commission's recommendation on the provision of documents to offenders who were not entitled to a certificate of morality. He welcomed the State party's willingness to consider making a declaration under article 22 of the Convention on individual communications.

51. **Mr. Mariño Menéndez** said that the maximum sentence of 60 years' deprivation of liberty for acts of terrorism seemed excessive. He was concerned that the Imprisonment for Civil Debt (Abolition) Act only restricted imprisonment for non-payment of civil debts,

rather than eliminating it altogether, which was not in line with the provisions of the International Covenant on Civil and Political Rights. He asked what types of corporal punishment were permitted in prison, and how often such punishment was used. While relatives of persons who had died in custody could apply to the civil courts for compensation even if criminal proceedings were also under way, he wished to know whether that was also true for victims who had survived ill-treatment in custody.

52. **Ms. Kleopas** asked whether any measures were in place for analysing the impact of the national plan of action on domestic violence. She wondered whether shelters were available for victims of domestic violence, and asked whether they had access to redress and rehabilitation.

53. With regard to access to legal counsel for persons in pretrial detention, she was particularly concerned that persons in police custody did not have the right to legal aid from the beginning of their detention, which prevented them from exercising their right to a free trial. She wondered how a victim of police brutality could apply to court for compensation and rehabilitation without legal support. She hoped that the large amount of draft legislation under consideration would be adopted, and that those laws would be translated into action, in order to eliminate torture.

54. **Ms. Gaer** asked whether the prison guards under investigation for allegations of ill-treatment during the prison escape on 27 June 2010 had been suspended from duty pending the conclusion of the inquiry. She wondered when the inquiry was likely to be concluded and what the next stage in that case would be. She wished to know whether the State party intended to publish the report of the Subcommittee on the Prevention of Torture. Although States had the right to maintain the confidentiality of reports from the Subcommittee it was considered best practice to make those reports public.

55. **Ms. Sveaass** expressed concern about the use of corporal punishment. While the delegation had mentioned measures to address gross violence against children, she wished to point out that the majority of child deaths occurred in the home. She asked what was being done to promote zero tolerance of violence against children throughout the whole of society.

56. **Ms. Narain** (Mauritius) said that statistics on cases that had been cancelled owing to undue delay could be provided to the Committee in writing in due course. Maximum efforts were made to ensure that pretrial detention was not prolonged unduly. The Government regretted that legal aid was currently available only at the trial stage, and not at the stage of investigations. Efforts would be made to rectify that as soon as possible. Although there was no registration of detainees as such, all arrested persons were brought before a magistrate within 72 hours of arrest. They could voice any complaints they might have to the magistrate.

57. **Mr. Gallegos Chiriboga** (First Country Rapporteur) said that he would encourage the State party to establish a register of persons in detention, since that was an important means of monitoring the number of people in detention and the length of detention periods.

58. **Ms. Narain** (Mauritius) said that Mauritius was attending to the issue of the number of people detained in police cells. Records on detainees and their length of detention were available. The National Human Rights Commission was empowered to visit detainees. Various measures were being implemented to expedite the handling of cases and address the issue of excessively long pretrial detention. They included restructuring the Supreme Court and increasing the number of judges, introducing modifications to the Attorney General's Office and investing in the police.

59. She was aware of the urgency of the question of enacting draft laws, which was a systemic and institutional problem in Mauritius. She would take note of Mr. Bruni's

comments and convey them to the Government. Mauritius did not consider torture as unimportant or trivial and imposed heavy sentences to punish it. Public officials who were accused of committing torture not only faced criminal action, but also risked losing their jobs through disciplinary action. That acted as a double deterrent.

60. Care had to be taken with the introduction of the Criminal Investigations, Proceedings and Evidence Bill, because it risked bringing investigations to a standstill. Police officers had to be properly trained before the bill was enacted. The risk of torture would be evaluated whenever the issue was raised by a person facing extradition. If necessary assurances would be sought from the State concerned. The final decision, however, lay with the Government of Mauritius.

61. The Judicial Committee's decision that denial of the right to bail was unconstitutional was based on the principle of the separation of powers. Granting bail was a judicial function and to deny it was to usurp the role of the judiciary. That did not affect incommunicado detention and denial of counsel, which were sanctioned by case law from the Supreme Court. However, the incommunicado provisions were extreme measures for extreme situations and had not been invoked since 2002.

62. She understood the Committee's concern that the review of the Juvenile Offenders Act should take place more quickly. The current system was being overhauled, but before replacing it all the necessary safeguards had to be guaranteed. Mauritius would take action on implementing the recommendations of the National Human Rights Commission.

63. Sixty years was the maximum sentence for a single offence, although it was not imposed in practice. Remission was available for all crimes except drug trafficking and offences involving children. A law had been passed to give effect to article 11 of the United Nations International Covenant on Civil and Political Rights. Imprisonment for civil debt had been abolished, unless fraud was involved, and there were no plans to reintroduce it.

64. The availability of civil compensation in criminal cases was not limited to complaints of police brutality. If a plaintiff claimed damages from the State, settlement would be considered and approved in some cases. Criminal cases were not affected by civil cases. Prosecution was decided by the Director of Public Prosecutions, who was constitutionally independent from the State. So if the State chose to settle a civil case that did not extinguish a criminal case. She had a list of cases in which compensation had been offered for complaints of police brutality. She would provide the list in writing disaggregated between cases settled by the courts and cases settled by the State before going to trial.

65. On behalf of her delegation she thanked the Committee for its comments on Diego Garcia and the Chagos Archipelago. Mauritius wished to take action on legal aid, particularly at the enquiry stage. The Government was working on a grass-roots scheme of free legal aid for the needy. Consideration would be given to prohibiting corporal punishment in the Children's Bill.

66. **Ms. Fong-Weng Poorun** (Mauritius) said that Mauritius was a party to the Istanbul Protocol. It respected and implemented the Protocol, but had not yet introduced the necessary training. Mauritius had discussed the report of the Subcommittee on Prevention of Torture but she could not say when it would be made public. The National Human Rights Commission had made no prison visits during the course of 2011 but could be planning to make one in the near future. She was aware of cases in which police officials had been condemned and punished. She would send details to the Committee on her return to Mauritius.

67. **Mr. Bruni** asked about the outcome of visits to places of detention, and whether any programme or planning was in place. He wanted to know if there were specific rehabilitation programmes for victims of torture.

68. **Ms. Fong-Weng Poorun** (Mauritius) said that the National Human Rights Commission, following its 2010 visit, had made recommendations concerning vocational training and rehabilitation, and the separation of remand prisoners from sentenced prisoners. She was sure that some of those measures were already being implemented. She had no information regarding the rehabilitation of torture victims, but would seek to inform the Committee.

69. There was an excessive number of cases of domestic violence. A plan of action had been implemented and was being evaluated. Three shelters existed for victims of domestic violence. They functioned more as a transitional housing service. There was also a drop-in centre for child sex abuse victims. The ministry was planning to build a residential drop-in centre, for which land had already been made available.

70. Replying to the questions raised by Ms. Gaer, she said that the four prison officials had been suspended. She would find out if they were still on suspension and inform the Committee. She would return to Mauritius bearing in mind all the questions that still needed to be addressed.

71. **The Chairperson** said that he understood the constraints and challenges Mauritius had to face. The Committee took that into consideration, just as it did for all countries, but it was entrusted with the task of monitoring the implementation of the Convention; its standards applied to all States parties and could not be lowered.

72. He was happy with the dialogue, which had been very fruitful and constructive. That would help the Committee to formulate its concluding observations and recommendations. He would welcome the outstanding information from the delegation in writing.

73. **Mr. Servansing** (Mauritius) said he would do his best to supply the information requested. The dialogue had been very successful and productive because it had included those directly involved in drafting and implementing legislation in Mauritius. He looked forward to receiving the Committee's conclusions and recommendations. Mauritius would take them very seriously because, despite the constraints it faced, it had a long-standing tradition of democratic culture and a belief in the rule of law. Intolerance towards torture was deeply engrained in national culture, not just political or legal culture, and that was the greatest watchdog over legislation.

74. **The Chairperson** thanked the Mauritian delegation and wished them a safe return to their country.

The meeting rose at 5.40 p.m.