



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

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Summary record of the 1591st meeting

Held at the Palais Wilson, Geneva, on Monday, 20 November 2017, at 3 p.m.

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later: Mr. Modvig

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In the absence of Mr. Modvig, Ms. Gaer, Vice-Chair, 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)*

Fourth periodic report of Mauritius (continued) (CAT/C/MUS/QPR/4; CAT/C/MUS/4)

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

2. **Mr. Gobin** (Mauritius), replying to questions raised in the first half of the dialogue (CAT/C/SR.1588), said that his Government was of the view that the Convention was sufficiently incorporated into section 78 of the Criminal Code, as well as section 7 of the Constitution, which clearly prohibited torture. The only possible derogation was in relation to lawful punishment; no situation of emergency could justify torture. Due consideration would be given to aligning section 78 with article 4 of the Convention, taking into account the legislative calendar, among other factors. The Prevention of Terrorism Act was constitutional and was not in any way used to justify arbitrary detention. Moreover, the national counter-terrorism strategy was in line with the four pillars of the United Nations Global Counter-Terrorism Strategy.

3. Bearing in mind that the national preventive mechanism had been set up only in 2014, there was no record of complaints having been filed with it. However, all facilities were afforded to detainees who wished to lodge a complaint. Updated statistics on complaints against the police had been circulated in the meeting room. Only one case had been referred to the Office of the Director of Public Prosecutions thus far in 2017 and one in 2015. Two cases had been referred for disciplinary action in 2016. The inquiry into the death in police custody in 2015 had been completed and the evidence sent to the Office in August; the Office's decision on whether or not to pursue charges was expected shortly. A number of steps had been taken to prevent deaths in custody, including the installation and regular maintenance of cameras in detention centres, interview rooms and police cells; an increase in the number of patrols by police officers; the removal of protruding objects that could be used by detainees to hang themselves; and the recruitment of one full-time psychologist to work in prisons. In addition, non-governmental organizations (NGOs) in the field of suicide prevention had access to detainees; the prison medical officer could refer inmates deemed to have suicidal tendencies to a specialized centre; and relevant recommendations issued by the National Human Rights Commission were being considered for implementation.

4. Regarding the excessive length of pretrial detention, most cases concerned drug trafficking cases with international ramifications. Nevertheless, efforts were being made to streamline procedures and identify suspects willing to plead guilty with the aim of speeding up processing. In terms of non-custodial measures, community service orders were already in place and worked well. They were routinely issued by district magistrates when it served the interest of justice and were enforced with the support of the probation office. Electronic monitoring, on the other hand, was prohibitively expensive and, although the measure had been considered at the highest level, it was unlikely to be adopted at that juncture.

5. The Protection from Domestic Violence Act afforded protection to the spouse and other individuals living under the same roof and had been amended on several occasions. The 2007 amendments had enhanced services for victims and strengthened enforcement mechanisms, while the latest amendments, adopted in 2016, had widened the definition of domestic violence to include, inter alia, the wilful infliction or attempted infliction of injury, intimidation, forcible engagement in an act from which the spouse had a right to refrain and withholding of resources. That amendment had also given police officers arresting powers in cases of domestic violence. In addition, steps had been taken to reduce domestic violence through counselling and assistance for victims and nationwide awareness campaigns. Naturally, the eradication of domestic violence was a long-term undertaking.

6. Receiving refugees and asylum seekers was an onerous task for a country of the size, density of population and limited resources of Mauritius. Therefore, though assistance was provided on a case-by-case basis, the tendency was to resettle applicants in another country. That had happened in the case of the Eritrean national who, following the consideration of his application at the highest level, had been resettled in Sweden. Owing to the constraints facing Mauritius, there were no plans to ratify the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. The chief reason for the simplification of the Extradition Act was to do away with the double standard whereby persons from Commonwealth countries were treated differently than those from elsewhere. In addition, safeguards had been introduced, including the assessment of the risk of discrimination and torture in the requesting country.

7. The Institute for Judicial and Legal Studies, which had been established to ensure consistency in the delivery of court services through professional development programmes, had run general courses on human rights for judges, magistrates, law practitioners and staff of the Ministry of Justice, but none specifically on the Convention or the Optional Protocol. He would make that suggestion to the Institute. The national preventive mechanism had, however, conducted a number of training sessions on the Convention for prison personnel since 2014. Training in the Istanbul Protocol had been provided to security personnel; he agreed that it should be extended to other professionals, such as medical staff.

8. The national preventive mechanism had wide powers to conduct regular visits to places of detention, investigate complaints by detainees and make recommendations to the relevant authorities on how to improve detention conditions and the treatment of inmates. The budget of the Independent Police Complaints Commission had been voted and he looked forward to the establishment of the Commission by the end of the year or in early 2018. The law did not provide for any redress for victims other than monetary compensation. However, claims for compensation did not have to go through the courts; they could also be processed by the National Human Rights Commission.

9. There had been no specific complaint of ill-treatment from Chagos Islanders, as such, since they were treated as full-fledged citizens of Mauritius, though their forcible uprooting from their native islands was considered to be a form of ill-treatment. Nevertheless, the Government was mindful of the fact that Chagos Islanders must be given a fair chance to succeed. Accordingly, it had set up the Chagossian Welfare Fund, which provided a range of assistance.

10. Although marital rape was not a specific offence in the Criminal Code, the act of rape against a spouse was covered under the existing offence of rape. It was also covered under the Protection from Domestic Violence Act, as amended. Consideration would be given to the possibility of establishing the specific offence of marital rape as part of a forthcoming review of the legal framework governing sexual crimes.

11. The Combating of Trafficking in Persons Act had been adopted in 2009 in fulfilment of the obligations of Mauritius under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. However, no perpetrators of trafficking-related crimes had yet been prosecuted under the Combating of Trafficking in Persons Act, as they tended to be prosecuted under other laws, in particular the Child Protection Act. With the support of the Embassy of the United States of America in Mauritius, a training and capacity-building campaign had been launched with a view to raising awareness of the provisions of the Combating of Trafficking in Persons Act. As of October 2017, only two cases had been brought under the Combating of Trafficking in Persons Act, both of which remained at the trial stage. By contrast, 68 of the cases brought under the Child Protection Act over the same period had concerned trafficking. Convictions had been secured in 8 of those 68 cases, and a further 43 remained under inquiry.

12. An interministerial committee on trafficking in persons had been established in November 2015. It conducted training and capacity-building programmes for various categories of public official, including labour inspectors. In January 2016, the first training and capacity-building programmes had taken place. They had been organized for the Office

of the Director of Public Prosecutions and the law enforcement agencies. The most recent such programmes had taken place in November 2017.

13. The Criminal Appeal Act had been adopted to provide for the possibility of reopening a criminal case in certain circumstances, namely when fresh and compelling evidence had come to light that was likely to affect a conviction. The Act did not violate the double jeopardy principle.

14. Juveniles were tried in juvenile courts unless they were being tried alongside adults. Nevertheless, even when juveniles were tried alongside adults, they continued to benefit from a wide range of procedural safeguards. For example, a juvenile's responsible party was required to be present at every stage of the trial process. The juvenile justice system could be improved, and the possibility of doing so was currently under active consideration. In that connection, the forthcoming submission to Parliament of the juvenile justice bill would provide an opportunity to review a number of areas of concern, including the anachronistic concept of a child "beyond control". There had been no reported cases of police brutality or abuse against children.

15. In accordance with a Supreme Court judgment of 2016, the time that a person had spent in pretrial detention was deducted from the length of any sentence of imprisonment imposed on him or her. The Supreme Court had called upon the Attorney-General to introduce legislation establishing that principle, and a bill to that effect had since been drafted.

16. Four police officers had been charged under section 78 of the Criminal Code in connection with the death of Ramdoolar Ramlogun in police custody. They had been acquitted of those charges before the Intermediate Court. The Director of Public Prosecutions had lodged an appeal with the Supreme Court, but it had been dismissed in March 2016. In its judgment on the case, the Supreme Court had stated that, although it could not be established that the four police officers who had been charged had inflicted inhuman or degrading treatment, it was beyond dispute that Ramlogun had been subjected to physical abuse and had died in police custody. The State had paid monetary compensation to his family. In a separate case, five police officers had been arrested in connection with another death in police custody, which had occurred in March 2015. The case had been brought before the District Court of Black River Bambous. The judicial inquiry had been completed, and the case was now in the hands of the Director of Public Prosecutions. In addition, three pending civil cases concerned police brutality. In one of those cases, the litigant was a relative of a person who had died in police custody. The two other cases involved litigants who had themselves been subjected to police brutality.

17. **Mr. Appadoo** (Mauritius) said that the Committee had been provided with inaccurate data on the prison occupancy rate in Mauritius. Following the construction of Melrose Prison, a new open prison for women and a correctional youth centre for girls, prison overcrowding was no longer a problem. There were plans to reopen the Phoenix Prison. The occupancy rate was currently 70 per cent and was likely to be reduced further in coming years.

18. If a pretrial detainee wished to plead guilty, he or she could fill out the appropriate form, with the help of welfare officers, if necessary, and name a second detainee as a witness. His or her counsel would be informed of the plea, and the form would be submitted to the Director of Public Prosecutions and the police prosecutor for an expedited court procedure. Convicted persons were often sentenced to a period of community service instead of imprisonment. Persons convicted of minor offences were usually either released on bail or fined.

19. On average, 35 to 38 per cent of detainees were being held on remand, and the rest had been convicted. Remand and convicted detainees had separate association yards and residential blocks and came into contact only on certain occasions, for example religious festivals. The conversion of Beau-Bassin Prison into a remand facility was a slow process. It had a capacity of 1,034 and currently housed 501 remand and 112 convicted detainees.

20. Every prison had a welfare unit, which served as a liaison between detainees and their families. In addition, there was a detainees' council, which met on a monthly basis to

facilitate the submission of complaints. Soap rations had been increased in response to a recent complaint. Prisons were continuously supplied with water. In the event of a failure in the central water supply, plans had been put in place to ensure that prisons remained adequately supplied. The tap water in Mauritius was potable. In 2014, an internal inspectorate mechanism had been set up to ensure that prisons complied with international human rights standards, were safe for detainees and staff and were conducive to rehabilitation. Detainees could submit complaints to, inter alia, the Commissioner of Prisons, welfare officers, the national preventive mechanism and the Commissioner of Police. There was a technical team on hand to ensure the maintenance of prison infrastructure, including sanitation facilities.

21. On average, there were approximately two suicides per year in the prison system. Several preventive measures had been taken, including the Government Life Plus programme, through which training was given to prison personnel to identify suicidal tendencies among detainees. Suicides were treated as violent deaths and all cases were subject to a judicial inquiry.

22. Officers in detention centres received regular training on how to intervene in situations of unrest. According to the standing orders of the Mauritian prison system, officers were prohibited from using force against a detainee except such force as was reasonably necessary. Between 2014 and 2017, nine complaints of brutality had been lodged by inmates against prison officers. One case had been referred to the police, while the others had been deemed unfounded following an investigation.

23. All detainees were seen by a physician upon admission to and release from prison. Furthermore, detainees were permitted to be seen by their own family doctors. Each institution had a dispensary where medical treatment was delivered. A team of health-care workers saw to the physical and mental well-being of detainees. Women's prisons had 24-hour medical coverage. The central prison had a methadone injection unit.

24. *Mr. Modvig resumed the Chair.*

25. **Mr. Bruni** (Country Rapporteur) said that, under the Paris Principles, national human rights institutions were required to be entirely independent. That the revocation of the mandate of Anishta Babooram had been justified by the political nature of her appointment in no way allayed his concerns regarding the independence of the National Human Rights Commission; the matter remained a significant issue for the Committee. Similarly, pursuant to the relevant legislation, the president of Mauritius had the authority to remove from office the chair of the Independent Police Complaints Commission. That the president had those powers indicated that the commission was not, in fact, independent.

26. He welcomed the confirmation that, even under extreme circumstances, torture was not allowed. However, given the absence of a law formally condemning the practice, he would like to know what legal measures were available to implement the principle of the prohibition of torture.

27. He would be interested to hear the reasons for the excessive length of pretrial detention periods. He would also appreciate clarification on government policy on the treatment of asylum seekers, including whether the principle of non-refoulement was applied, and details of plans to amend the Criminal Code to render marital rape an offence.

28. He was pleased to hear that overcrowding in places of detention was no longer a problem. He would like to learn more about the new prison on the island of Rodrigues, including details as to its operational status and its particular advantages.

29. **Mr. Hani** (Country Rapporteur), echoing the point raised by Mr. Bruni, said that the dismissal of a member of the National Human Rights Commission clearly undermined its independence and ran counter to the Paris Principles. He would like to learn more about the bill addressing the issue of whether time spent in pretrial detention should be considered time served. He was troubled by the fact that an appellate court would not disturb the findings of a trial court and wondered whether the principle of the inadmissibility of coerced statements could be established through legislation.

30. Although he welcomed the updated statistics on complaints against the police provided by the delegation, he would appreciate clarification as to how they related to issues such as the independence and effectiveness of complaint mechanisms.

31. In the light of reports that prisoners did not have access to sufficient food, water or means of hygiene, it would be useful to learn more about the basic rights of persons deprived of their liberty by the State. In connection with the Police and Criminal Evidence bill, he wished to know whether procedures were systematically reviewed to ensure that interrogation methods did not involve torture. Finally, he would appreciate information on the results of alternative sentencing measures, including details of their effect on recidivism rates.

32. **Ms. Belmir** said that she would appreciate clarification on the treatment of minors who appeared before the courts, including details on whether the guarantees associated with age were taken into consideration. She also wished to reiterate her concerns regarding the issue of double jeopardy and the consideration of time spent in pretrial detention for the purposes of sentencing.

33. **Mr. Zhang** said that although, owing to economic circumstances, Mauritius was not yet in a position to ratify certain international instruments such as the 1951 Convention relating to the Status of Refugees, the State party should be commended for its efforts to apply the corresponding principles where possible. He appreciated the delegation's considered responses to his questions.

34. **The Chair** said that the presence of police and prison officers during medical examinations of detainees could represent a breach of medical confidentiality and could inhibit victims from reporting cases of torture or police brutality, as well as giving the officers present an insight into the detainee's vulnerability. He requested assurances that the State party would bring its practices in that regard into line with international standards.

35. With regard to monitoring pretrial detention, records should be kept of the time of each interrogation session — its start, finish and any breaks — the time spent in the presence of a lawyer, the time at which the detainee's family or next of kin were notified of his or her whereabouts, and any requests for ad hoc medical examinations. The records, which should be signed by the custody officer, the detainee and the detainee's legal counsel, would be key to ensuring the implementation of fundamental legal safeguards. Although enshrining those safeguards in legislation was admirable, legislation was meaningless if not adequately implemented. Evidence showed that the presence of a lawyer during questioning would halve the risk of police brutality.

36. **Mr. Gobin** (Mauritius) said that detailed logs of pretrial detention were kept both by the police and the inquiry team, and could therefore be cross-checked. They were written by hand and included detailed information about every aspect of the custody, from the moment of arrival until the moment of departure, including medical reports, visits received, the presence of legal counsel and interviews conducted. The logs were kept as archives for many years. The data recorded were not, however, reported as a matter of course to the Police Information Room. The duration of pretrial detention depended on the facts of the case; a simple offence would require less time to be brought before the courts than a complex case with international ramifications. The limit was therefore set by the courts on a case-by-case basis, in line with the Constitution. If the time limit as decided by the courts was not respected, the court could order that the case be expedited.

37. Police and prison officers would only be present at the medical examination of a suspect or prisoner for increased security at the request of the medical officer. They would remain out of earshot to ensure that there was no breach of patient confidentiality. The deduction of the duration of pretrial detention from the subsequent sentence was already applied in practice, by a ruling of the Supreme Court. A bill to enshrine that principle in criminal procedural law had been prepared and was awaiting adoption. While the bill was unlikely, owing to legislative priorities, to be passed in 2017, it might be passed early in 2018. The duration of sentences was the decision of the judge alone. Legislation provided for minimum and maximum sentences only, and previous jurisprudence could be used for comparison.

38. Police brutality and the use of duress in interrogations were already prohibited by law. The eventual entry into force of the Police and Criminal Evidence Bill would simply serve to consolidate and elaborate on certain aspects of existing provisions. Consideration would be given to enhancing training for police, prison staff and medical officers on the Istanbul Protocol. A Supreme Court ruling authoritatively stated that there could be no derogations of the rights to life or to protection from torture. It was particularly regrettable that the accused parties in the *Director of Public Prosecutions v. Jagdawoo et al.* case had been acquitted. As well as an unfortunate lack of evidence in the case, the case had not been handled adequately. It was a clear example of why CCTV and proper records of detention were essential. Unfortunately, there had been no record of what had taken place within the four walls of the detention facility in that case.

39. In the event of a criminal case being reopened, it would be heard by a different court. Cases involving minors, either as suspects or as victims or witnesses, could be heard in closed court, at the decision of the trial judge. Regarding the rate of reoffending among those submitted to community service orders, statistics could be made available to the Committee. The Mauritian authorities took pride in the independence of their institutions, in particular the judiciary. That independence, however, came with responsibilities that must be upheld.

40. **Mr. Appadoo** (Mauritius) said that all persons sentenced to deprivation of liberty were given a medical examination before being taken into custody. The examinations were conducted within the sight, but not the hearing, of prison officers, in order to maintain confidentiality. Medical officers could, however, request increased security if they deemed it necessary. The medical reports would not be shared with the national preventive mechanism of the National Human Rights Commission without the individual prisoner's consent. The basic needs of prisoners with regard to nutrition and hygiene were always met. On overcrowding, while there were currently 2,326 individuals imprisoned in Mauritius, prison capacity was 3,222.

41. **Ms. Gordyal-Chitto** (Mauritius) said that the Office of the Director of Public Prosecutions had advised "no further action" on two cases of violence against women police officers, following due inquiry, owing to insufficient evidence to proceed to prosecution. The case involving a death in custody in 2006 had been complex, and had led to a particularly lengthy judicial inquiry. Eventually a verdict of manslaughter had been given. The particularly slow nature of those proceedings was a matter of concern to the Government, and further investigation was required to establish where and why the delays had occurred.

42. **Mr. Gobin** (Mauritius) said that his delegation was grateful to have had the opportunity to engage in a constructive and interactive dialogue, and that he wished to assure the Committee of his Government's commitment to ensure that Mauritius upheld the highest standards of human rights. Torture was a grave and unacceptable violation of those rights, which should be condemned vehemently wherever it occurred.

43. **The Chair** recalled that the delegation had 48 hours in which to submit any further written information that it wished to share with the Committee, and was invited to not only respond to the Committee's follow-up requests, but also to present a plan on how the Government intended to implement the Committee's recommendations.

The meeting rose at 5.45 p.m.