



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

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COMMITTEE AGAINST TORTURE

**List of issues prior to the submission of the third periodic report of
MAURITIUS (CAT/C/MUS/3)¹**

**Specific information on the implementation of articles 1 to 16 of the Convention,
including with regard to the Committee previous recommendations**

Articles 1 and 4

1. With reference to the Committee's previous concluding observations, please provide information on whether a definition of torture, encompassing all cases covered by article 1 of the Convention has been incorporated into the State party's internal legislation. In particular, please indicate whether the 2003 Criminal Code (Amendment) Act, by the insertion of a section on torture by public official, has brought the national legislation in line with the Convention? Please also provide detailed information on the application of this legislation.
2. Currently, under which specific norms are perpetrators of acts of torture prosecuted, including with regard to military and police personnel?

Article 2

3. Please provide information on the preventive measures, in particular, legal provisions and administrative instructions, which guarantee the rights of persons under arrest or detention to be brought before a judge. Please indicate the rules concerning the registration of a person from the time of his arrest to the time of his imprisonment as a result of a judicial decision. In this connection, also provide information on the rights of detained persons, to have access to a lawyer access to an independent doctor, if possible of their choice, to inform their family or any person of their choice about the detention, as from the outset of their arrest.

¹ The present list of issues was adopted by the Committee at its forty-second session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

4. Please indicate whether the domestic law specifically provides that no exceptional circumstances whatsoever may be invoked as a justification of torture.
5. With reference to the Committee's previous concluding observations, please indicate whether appropriate legislation has been enacted in order to ensure that superior orders can never be invoked as a justification of an act of torture.²
6. A National Human Rights Commission has been set up in 2001 under the Protection of Human Rights Act of 1998. Please provide detailed information on the mandate, resources, activities and results of this institution and its compliance with the Paris Principles related to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134), including the relevant statistical data.
7. Please indicate which efforts have been undertaken with a view to designate or maintain, at the domestic level, one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment as required under the Optional Protocol to the Convention against Torture. Please also indicate the resources, activities and results of such institutions.
8. Which measures have been implemented to ensure that Inspectors and Chief Inspectors of Police play an active role in the supervision of police stations and police officers and make regular reports? Which independent body monitors the police and the police stations or complaints?
9. With regard to preventing any recurrence of death in police custody, has the State party taken into account the recommendations formulated by the National Human Rights Commission in its 2007 annual report?

Article 3

10. With reference to the Committee's previous concluding observations, please indicate whether legislation has been introduced to give effect to all the provisions of article 3 of the Convention by preventing not only extradition, but also return and expulsion of persons in danger of being subjected to torture.³
11. Please provide information regarding whether, since the previous report, any expulsion, return or extradition has taken place and, if so, which adequate judicial mechanisms for the review of the decision have been put in place. Indicate to which countries and if diplomatic assurances were provided. If so, elaborate on this issue. Also, indicate which post-return monitoring arrangements have been adopted.
12. With respect to anti-terrorism legislation that the State party has enacted since its previous report, please elaborate on the safeguards contained in those instruments to ensure that the right of the Mauritian authorities to extradite persons suspected of 'acts of terrorism' at the request of foreign states take into account the risk of their facing torture or cruel, inhuman and degrading treatment in their country of origin or any other country. Please indicate if under this legislation, any suspects have been extradited, expelled or returned and to which countries.

² A/54/44, para 123 b (May 1999)

³ A/54/44, para 123 b (May 1999) and CCPR/CO/83/MUS, para. 18 (31 March 2005)

Articles 5, 6, 7 and 8

13. With reference to the Committee's previous concluding Observations, please indicate which legislative measures have been implemented with a view to establish universal jurisdiction as required by the provisions of article 7 of the Convention.⁴ In particular, please elaborate on whether the State party has established its jurisdiction over the offences referred to in article 4 of the Convention (Criminal Code Amendment Act, New section 78).

14. Please indicate whether the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed an offence of torture, and thus engaging its own prosecution as a result. If so, please provide information on the status and outcome of such proceedings.

Article 10

15. Provide information on the inclusion of education and information regarding the prohibition of torture in the training of personnel mentioned in article 10 of the Convention, as well as on the results and impact of such programmes. If so, please elaborate. Please provide particular information whether such programmes include curricula for forensic and medical personnel who are assigned to deal with persons under detention to detect physical or psychological signs of torture or ill-treatment and to provide for their rehabilitation. Also indicate whether there has been training on the Istanbul Protocol. Please elaborate on who provided these trainings and what is the methodology of evaluation of such programmes.

16. Did the State party include the prohibition against torture in the rules or instructions issued in regard to duties and functions of the persons mentioned in article 10 of the Convention?

Article 11

17. Please explain which measures to prevent torture and ill-treatment have been put in place to guarantee the rights of suspects in detention, in particular during interrogation, including the guarantees contained in the Prevention of Terrorism Act 2002. Also highlight whether the State party intends to revise the provisions denying bail and access to counsel for 36 hours which can be found in both the Prevention of Terrorism Act.⁵ Please also indicate when the State party reviewed last – and the outcome of that review - its interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment.⁶ In this regard, please also elaborate on the activities carried out by the Commission established by the Law Reform Commission Act 2005.

⁴ A/54/44, para 123 d (May 1999)

⁵ CCPR/CO/83/MUS, paras. 12 and 15 (31 March 2005)

⁶ CCPR/CO/83/MUS, para. 12 (31 March 2005)

Articles 12 and 13

18. Please provide detailed statistical information on the number of complaints, investigations, prosecutions and convictions of perpetrators of acts of torture, in particular police officers.

19. Please indicate measures taken to reduce delays in the administration of justice so as to allow more speedy trial and punishment of culprits, in particular for cases of police brutality and excessive use of force.

20. Please provide an overview of the different complaint mechanisms at the disposal of any individual who alleges he has been subjected to torture in any territory under the State party's jurisdiction. Please also indicate the measures taken to ensure that the complaints are promptly and impartially examined by the competent authorities.

21. Please indicate the measures taken to ensure that complainants and witnesses are protected against ill-treatment and intimidation when they complaint or give any evidence.

22. Please provide detailed statistical information on the number of complaints against State officials of ill-treatment of persons in custody and in prisons, the nature of the violations, the State departments involved, the number and nature of the investigations.⁷ Please, also elaborate about the outcome of such investigations and if the complainants are informed on this outcome. If so, please indicate whether they are informed verbally or in writing.

23. With respect to the Committee's previous concluding observations, please highlight measures taken to ensure that all instances of torture and especially those resulting in death, are promptly and effectively investigated by an independent body and that the perpetrators be brought immediately to justice.⁸ In this regard, elaborate on the investigations carried out by the Complaints Investigation Bureau as well as by the National Human Rights Commission.⁹ Please indicate when the draft Bill setting up the Independent Police Complaints Commission will be adopted¹⁰. Please also elaborate on the extent of powers of this Commission, the guarantee of its independence and the type of cases which will be investigated.

24. With respect to the Committee's previous concluding observations, please appraise the Committee of the results of the investigation and judicial inquiries into the death, whilst in custody, of Mr. Kaya.¹¹

25. Please also provide detailed information regarding the case of Mr. Ramlogun, who was a suspect in a murder case and who died in police custody in 2006, in particular regarding the outcome of the case, the punishment of the culprits. Indicate if compensation has been paid to the family of the victim.

⁷ CCPR/CO/83/MUS, para. 13 (31 March 2005)

⁸ A/54/44, para 123 f (May 1999)

⁹ CCPR/CO/83/MUS, para 7 (31 March 2005)

¹⁰ CCPR/CO/83/MUS, para. 13 (31 March 2005)

¹¹ A/54/44, para 123 e (May 1999) and CERD/C/304/Add.106, para. 8 (10 August 2000)

26. Please also provide detailed information regarding the outcome of investigations into the case of the death of “B” whilst in police custody in 2007, as mentioned in the report of the National Human Rights Commission.

Article 14

27. Please provide detailed information and statistical data concerning redress, compensation and rehabilitation provided to victims of an act of torture since the previous report. Also indicate the legislation and the procedures set up for victims of torture for obtaining redress, fair and adequate compensation, including rehabilitation, as well as for the dependants in case of the death of the primary victims.

Article 15

28. Please provide information on the measures taken to prohibit the using of any statement obtained under torture in any proceedings. Please indicate in which cases these measures have been applied.

29. In light of the high reliance on confessions as the most cogent item of evidence in securing convictions, and the corresponding increased risk of torture, cruel, inhuman or degrading treatment, what are the measures taken by the State party with a view to developing other measures of investigations.

Article 16

30. Please indicate whether corporal punishment of children in schools, penal institutions and alternative care settings has been prohibited through legislation and other measures.¹² Please indicate the outcome of the campaign carried out by the Ombudsperson for Children to prevent the violence against children.

31. Please elaborate on legislative and policy measures, including training and awareness-raising programmes, undertaken with a view to prevent and reduce cases of domestic violence against women and children and address obstacles that prevent the reporting of such incidents.¹³ In this regard, please provide information on the implementation of the “Joint State-Civil Society Action Plan” adopted in 2007 designed to better coordinate prevention and support initiatives as well as the degree of cooperation between the State and the civil society. In this connection, please indicate the number of complaints received, investigated, the number of persons prosecuted and convicted.

32. Does the State party intend to criminalize marital rape, defining such rape on the basis of lack of consent of the wife?¹⁴ Has the report of the Select Committee on the Sexual Offences Bill been finalized? If so, please elaborate on its recommendation concerning the marital rape.¹⁵

¹² CRC/C/MUS/CO/2, para. 38 (17 March 2006)

¹³ CCPR/CO/83/MUS, para. 10 (31 March 2005)

¹⁴ CEDAW/C/MAR/CO/5, para 19 (August 2006)

¹⁵ CEDAW/C/MAR/CO/5, para 19 (August 2006)

33. Please also indicate which measures have been put in place with a view to eradicating child prostitution and child labour.¹⁶
34. Please indicate which measures have been put in place in order to address the problem of trafficking, in particular in women and girls.¹⁷ Please also provide information on the complaints, the cases investigated, the prosecution, the conviction and the punishment of the culprits.
35. Please provide information on which concrete measures have been taken to address the overcrowding of prisons, the brutality of prisons officers and the long period of preventive detention in particular raised by the Sub-Committee on the Prevention during its visit in 2007. Please elaborate in particular on the detainees' situation of the "Bastille Prison".
36. With reference to the Beau Bassin prison incidents of 26 September 2003 and the report "Developments in the conduct of imprisonment" drawn up in the wake of it, please indicate what measures have been taken to address the considerable percentage of the inmate population in pre-trial detention and the excessive length of such detention for serious offences.¹⁸ Did the State party introduce, if any, none custodial measures?
37. With respect to juvenile justice, what are the measures taken to increase availability and accessibility of alternative measures for child offenders using probation services, and to limit the de facto use of deprivation of liberty ensuring it is genuinely only used as a last resort? Also, what are the other measures taken to introduce, if any, none custodial mechanisms? Provide information on the training programmes concerning relevant international standards for all professionals involved with the juvenile justice system have been introduced?¹⁹

Other issues

38. Please provide information on the legislative, administrative and other measures the State Party has taken to respond to the threat of terrorist acts, and please describe if, and how, these measures have affected human rights safeguards in law and practice and how it has ensured that those measures taken to combat terrorism comply with all its obligations under international law. In this respect, the Committee would like to recall Security Council Resolutions 1456 (2003), 1535 (2004), 1566 (2004), and 1624 (2005) all of which reiterate that States must "ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law." Please describe the relevant training given to law enforcement officers, the number and types of convictions under such legislation, the legal remedies available to persons subjected

¹⁶ CCPR/CO/83/MUS, para. 11 (31 March 2005) and CRC/C/MUS/CO/2, para. 64-65 (17 March 2006)

¹⁷ CEDAW/C/MAR/CO/5, para 20 (August 2006)

¹⁸ CCPR/CO/83/MUS, para. 16 (31 March 2005)

¹⁹ CRC/C/MUS/CO/2, para. 67 (17 March 2006)

to anti-terrorist measures, whether there are complaints of non-observance of international standards, and the outcome of these complaints.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

39. Please provide detailed information on the relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level, that have occurred since the previous periodic report, including any relevant jurisprudential decisions and statistical data.

40. Please provide detailed information on any new political, administrative and other measures taken to promote and protect human rights at the national level, that have occurred since the previous periodic report, including any national human rights plans or programmes, and the resources allocated to it, its means, objectives and results.

41. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 1999, including the necessary statistical data, as well as on any events that occurred in the State party and are relevant under the Convention.
