



General Assembly

Distr.
GENERAL

A/HRC/WG.6/4/MUS/3
24 November 2008

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
Fourth session
Geneva, 2-13 February 2009

**SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF
THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1 ***

Mauritius*

The present report is a summary of five stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

* The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. According to the National Human Rights Commission (NHRC), Mauritius has signed the Convention on the Rights of Persons with Disabilities but has not yet ratified it. The Government must be encouraged to ratify the Convention, taking into account that its objectives can be progressively realised.²

2. The Commonwealth Human Rights Initiative (CHRI) and the NHRC further noted that Mauritius is not a signatory to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.³

B. Constitutional and legislative framework

3. The NHRC indicated that it has recommended that the Constitution of Mauritius provide explicitly for the protection and promotion of economic, social and cultural rights.⁴

C. Institutional and human rights infrastructure

4. The NHRC was set up in 2001 under the Protection of Human Rights Act of 1998.⁵ In 2002, a Sexual Discrimination Division was added to the Commission following the enactment of the Sex Discrimination Act of 2002. The Commission produces an Annual Report in which it makes recommendations to promote human rights in Mauritius, based on the review of the situation.⁶

5. According to the Service d'accompagnement, de formation, d'intégration et de réhabilitation de l'enfant (SAFIRE), national authorities have been considering opening up membership of the National Children's Council to representatives of non-governmental organizations (NGOs), which could be a useful step to reinforce dialogue and cooperation between the State and civil society on issues pertaining to child welfare.⁷

D. Policy measures

6. According to CHRI, in 2006, the National Action Plan to End Gender Violence was approved. A controversy arose this past year surrounding the attempted passing of the Sexual Offences Bill, which was intended to be a central part of that action plan. Despite some weaknesses, the Bill was considered by some gender activists as a "progressive piece of legislation."⁸

7. CHRI also indicated that in June 2007, activists praised the inclusion of an entire chapter of the national budget on gender discrimination issues. The budget is expected to help close the gap between the five percent unemployment rate for men and the 15 percent unemployment rate for women. The budget also included financial support for women and children who are victims of physical abuse.⁹

8. SAFIRE made reference to corporate tax ceilings and poverty alleviation measures implemented by the Government and referred in particular to a Corporate Social Responsibility Programme, indicating however that responsibilities of corporate bodies have not been clearly defined.¹⁰

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

9. CHRI noted that Mauritius has not extended an open invitation to the United Nations Human Rights Council's Special Procedures.¹¹
10. The NHRC indicated that the Ministry of Justice and Human Rights should be properly equipped to report regularly to treaty bodies.¹²

B. Implementation of international human rights obligations

1. Equality and non-discrimination

11. The NHRC noted that sex discrimination is not widespread in Mauritius, since a multitude of laws protect women, and that only about one fifth of complaints received by the Sex Discrimination Division of the NHRC are justified.¹³ CHRI referred to reports by the NHRC that 61 cases of gender-based discrimination, including sexual harassment, were filed in 2007.¹⁴
12. CHRI also reported that many rape cases filed by victims get dismissed owing to delays before cases reach trial. CHRI also noted that between January and May 2007 alone, there were 239 registered cases of gender-based violence at the Ministry of Women.¹⁵
13. The Collectif Arc-en-Ciel (CAC) reported on the reality and daily discriminations faced by the lesbian, gay, bisexual, transgender community in Mauritius.¹⁶ No possible legal mean is available to seek acknowledgement of and compensation for any discrimination or violence due to sexual or presumed sexual orientation.¹⁷ CAC highlighted the importance of raising awareness about any form of discrimination¹⁸ and of setting up local structures and facilities offering medical and psychological support to the transgender and transsexual community.¹⁹ CAC further wished that all incitement or homophobic act be acknowledged and punished by law and requested the establishment of support structures for victims of physical or psychological abuse, including specialized police units.²⁰

2. Right to life, liberty and security of the person

14. The NHRC indicated that although Mauritius has a good reputation as regards respect of civil and political rights, it has received several complaints alleging police brutality.²¹ The NHRC indicated reports about resort to indiscriminate arrests and use of duress and violence by the police to obtain confessions.²² Similar observations were made by CHRI.²³
15. According to CHRI, incidents of police abuse have been alleged in the media in the past year and reported by the NHRC. One custodial death was also reported on 17 May 2007, wherein the detainee allegedly hanged himself in the cell and evidence of negligence on the part of police officers was found after an independent enquiry into the incident. These events underline the necessity for the establishment of an independent police complaints mechanism, which the Prime Minister promised but has yet to deliver.²⁴
16. The NHRC indicated however that the number of deaths in police custody has been reduced almost to nil annually, barring one or two cases where the police officers have been negligent in their duties in preventing detainees at risk from committing suicide. In so far as police brutality is concerned, about one fifth of the complaints received by the NHRC are found to be justified (about 12 over 60). However it takes too much time to try and punish the culprit

because of the delays in the administration of justice. A fast track should be imposed for the prosecution of police officers.²⁵

17. CHRI noted that under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Mauritius in June 2005, the Government is obliged to set up a National Preventive Mechanism.²⁶

18. CHRI also indicated that rape and violence against women continue to be regularly reported in the media, with marital rape singled out.²⁷ The draft Sexual Offences Bill however is silent on the issue.²⁸

19. The NHRC reported that overcrowding in prisons has been lessened. The problem of HIV-AIDS and drugs in prisons still has to be solved. The Commission has advocated that drugs offenders, like other prisoners, should benefit from remission of part of their sentence and also recommended that the State should set up rehabilitation programmes instead of leaving this initiative to NGOs. It has also been found that prisoners who are genuinely ill do not benefit from proper medical care.²⁹

20. According to CHRI, juvenile detention centres are reportedly not suited for rehabilitation and often mix violent juveniles with those convicted of less serious offences. Prison guards do not have proper training to care for juvenile offenders. A lack of educational facilities and activities in detention centres, reports of violence and abuse by guards, the non-existence of half-way homes for reintegration into society, and a complete absence of post-release supervision or support have also been noted.³⁰

21. The NHRC noted that searches of premises for drugs should be carried out with due observance for the procedure of securing and exhibiting search warrants.³¹ CHRI noted criticisms that the Police use powers of arrest indiscriminately at the start of an investigation instead of establishing a prima facie case before arresting people. NHRC indicated that warrants of arrest should not be issued for non payment of fines and non appearance in Court.³²

3. Administration of justice and the rule of law

22. The NHRC referred to delays in courts whereby it may take three to four years before important criminal cases reach trial. The NHRC further indicated that it is imperative that this problem be dealt with so that detainees on remand do not have to wait unduly before being tried. An effort has been made to set up a Criminal Division of the Supreme Court. Matters should also be expedited at the level of the Supreme Court.³³

23. According to a 2007 report by the Mauritian Central Statistics Office, cited by CHRI, the rate of juvenile delinquency in Mauritius is increasing, and CHRI further noted that according to the Ombudsperson for Children, the State's response is highly inadequate.³⁴

4. Right to privacy, marriage and family life

24. CAC deemed it important to facilitate change of gender at the civil status.³⁵ CAC further denounced the penalization of sodomy maintained in Mauritius.³⁶

25. CAC hoped that the Equal Opportunities Bill will allow legal acknowledgement of homosexual couples and their equal rights concerning adoption, inheritance rights and procedures, medical and social advantages, taxes, etc.³⁷

26. According to SAFIRE many children are sent to the Rehabilitation Youth Centre (RYC) and Correctional Youth Centre (CYC), suggesting the decriminalization of certain ‘offences’ committed by minors to reduce the number of incarcerated children and channel them toward truly rehabilitating alternative care institutions.³⁸ SAFIRE recommended that the Ministries of Youth and Sports, of Social Security and of Women's Rights and Child Development support the establishment of Drop-in-Centres / Day Care Centres for educational, recreational and counselling purposes to children and their relatives with a view to reintegrating children, and provide housing support to families and training of relevant personnel.³⁹

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

27. According to Reporters sans frontières (RSF), Mauritius benefits from a real press freedom, with pluralistic and multi-lingual media. Daily newspapers and weeklies are often critical of both the government and the opposition parties. The development of private radio stations was initiated in 2002, but no private television stations exist yet. The Prime Minister announced in 2008 a law creating a Media Council, a regulation tool for the press, but without elaborating further. This announcement triggered a debate in the private press, some fearing that it might be an attempt to muzzle the private media outlets. Until now, no text has been presented to the Parliament.⁴⁰ RSF recommended that the Government should establish an original and peaceful dialogue with the independent press, to list the demands of the private sector and make proposals to improve the standards of publications.

28. However, CHRI made reference to reports that three journalists were arrested on charges of defamation and brought into Police headquarters for questioning about a media report that had alleged that a large sum of money had been found in a police officer's mailbox. According to CHRI, on 20 November 2007, Prime Minister Navin Ramgoolam stated in the National Assembly that it would be “totally in order for legislation to be introduced with a view to strengthening existing provisions aimed at preventing abuse of freedom of the press amounting to unwarranted intrusion into the privacy of citizens and scurrilous and defamatory, if not untrue, allegations against citizens of our country” and using the story about the money in the mailbox as an example of why stricter anti-defamation laws were needed.⁴¹

29. According to the NHRC, women are very much under represented at the level of the National Assembly - about one tenth of the seventy members.⁴²

6. Right to work and to just and favourable conditions of work

30. According to the NHRC, many cases of sexual harassment at work go unreported because women are afraid of losing their jobs.⁴³

31. CHRI indicated that according to media reports, migrant workers continue to face very difficult living and working conditions and are afforded little, if any, legal protection. Long working hours and pay below minimum wages as well as abusive living conditions have been reported.⁴⁴ Many migrant workers from various countries are present in Mauritius, as indicated by the NHRC. The Ministry of Labour, Industrial Relations and Employment has set up a unit to provide help to migrant workers in case of labour-related problems. The NHRC recommended that a proper legal framework be put into place to protect the rights of migrant workers.⁴⁵

32. CAC indicated that since the Employment Rights Act 2007 was voted, it is now illegal to fire or refuse to employ a person based on his/her sexual orientation, but considered that this first step is not enough.⁴⁶

7. Right to social security and to an adequate standard of living

33. According to the NHRC, economic, social and cultural rights exist in Mauritius by virtue of the fact that Mauritius is a Welfare State which provides free education from the pre-primary to the tertiary level, access to free medical services, and social security benefits for widows, orphans, persons with disabilities, and students in need. The State also provides subsidies for housing for poor people and has set up a Trust Fund for Poverty and an Empowerment Programme to encourage small entrepreneurs.⁴⁷

34. SAFIRE, highlighting that some regions are afflicted by diseases and are deprived of water supply, hygienic conditions and visits by health personnel, recommended that access to health services and adequate water supply be facilitated in these regions.⁴⁸

35. SAFIRE referred to the situation of street and socially marginalized children, highlighting the absence of State-led rehabilitation initiatives since 2006; the lack of long term rehabilitation programmes for teenage mothers, as well as for children using illicit and harmful substances. SAFIRE also indicated that there is an urgent need for more regular and systematic teenage pregnancy prevention campaigns.⁴⁹

8. Right to education and to participate in the cultural life of the community

36. Although education is free, one third of children do not pass the Primary School Leaving Certificate examinations, as indicated by the NHRC which highlights language problems as a possible reason for such situation. English and French are used as media of instruction whereas most people speak Creole. The NHRC recommended that in the early years of schooling Creole should also be used as a medium of instruction to help children who are at a disadvantage.⁵⁰

37. The NHRC considered that a culture of human rights should be encouraged from an early age by the introduction of human rights education in schools.⁵¹

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

N/A.

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

N/A.

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

N/A.

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council. Two asterisks denote a national human rights institution with “A” status).

Civil society

RSF	Reporters sans frontières, Paris (France)*
CAC	Collectif Arc en Ciel, Belle Rose (Mauritius)
SAFIRE	Service d’accompagnement, de formation, d’intégration et de réhabilitation de l’enfant, Mauritius
CHRI	Commonwealth Human Rights Initiative, New Delhi (India)*

National human rights institution

NHRC	National Human Rights Commission-Mauritius, Port Louis (Mauritius)**
------	--

² NHRC, p. 3.

³ CHRI, p. 2; NHRC, pp. 4-5.

⁴ CHRI, p. 1.

⁵ NHRC, p. 1.

⁶ CHRI, p. 1.

⁷ SAFIRE, p. 1.

⁸ CHRI, p. 3.

⁹ CHRI, p. 3.

¹⁰ SAFIRE, p. 2.

¹¹ CHRI, p. 3.

¹² NHRC, p. 3.

¹³ NHRC, p. 3.

¹⁴ CHRI, p. 3.

¹⁵ CHRI, p. 3.

¹⁶ CAC, p. 1.

¹⁷ CAC, p. 1.

¹⁸ CAC, p. 1.

¹⁹ CAC, p. 1.

²⁰ CAC, p. 1.

²¹ NHRC, p. 2.

²² NHRC, p. 2.

²³ CHRI, p. 2.

²⁴ CHRI, p. 2.

²⁵ NHRC, p. 2.

²⁶ CHRI, p. 3.

²⁷ CHRI, p. 3.

²⁸ CHRI, p. 3.

²⁹ NHRC, p. 3.

³⁰ CHRI, p. 2.

³¹ NHRC, p. 2.

³² CHRI, p. 2.

³³ NHRC, p. 3.

³⁴ CHRI, p. 2.

³⁵ CAC, p. 1.

³⁶ CAC, p. 1.

³⁷ CAC, p. 1.

³⁸ SAFIRE, pp. 2 -3.

³⁹ SAFIRE, p. 3.

⁴⁰ RSF, p. 1.

⁴¹ CHRI, p. 1.

⁴² NHRC, p. 3.

⁴³ NHRC, p. 3.

⁴⁴ CHRI, p. 2.

⁴⁵ NHRC, pp. 4-5.

⁴⁶ CAC, p. 1.

⁴⁷ CHRI, p. 1.

⁴⁸ SAFIRE, p. 4.

⁴⁹ SAFIRE, pp. 2 -4.

⁵⁰ CHRI, p. 1.

⁵¹ NHRC, p. 3.
