

Establishment and Functions of the National Human Rights Commission

The National Human Rights Commission was established by the Protection of Human Rights Acts 1998 (PHRA) and it became operational in April 2001.

The Commission enquires into any written complaint from any person alleging that any if his human rights has been, is being or is likely to be violated by the act or omission of any other person acting in the performance of any public function conferred by any law or otherwise in the performance of the functions of any public office or any public body. It also enquires into any other written complaint from any person against an act or omission of a member of the police force in relation to him, other than an act or omission which is the subject of an investigation by the Ombudsman.

The Commission may also start an enquiry on it's own motion. In addition the Commission visits any police station, prison or other place of detention under the control of the State to study the living conditions of the inmates and the treatment afforded to them.

The Commission also reviews the safeguards provided by or under any enactment for the protection of human rights and the factors or difficulties that inhibit the enjoyment of human rights.

To fulfill its objectives, the National Human Rights Commission summons witnesses and examines them on oath and calls for the production of any document or other exhibit.

Recommendations of the Commission

On completion of its enquiry where it discloses that a violation of human rights or negligence in the prevention of such violation and the matter has not been resolved through conciliation, the Commission refers the matter to:

- (i) The Director of Public Prosecutions where it appears that an offence may have been committed;
- (ii) The appropriate Service Commission where it appears that disciplinary procedures may be warranted;
- (iii) To the Chief Executive of the appropriate public body where it appears that disciplinary action is warranted against an employee of a public body who is not within the jurisdiction of a Commission.

The Commission may also recommend the grant of such relief to a complainant or such other person it thinks fit.

National Human Rights Commission

27 August 2008

UNIVERSAL PERIODIC REVIEW

1. The National Human Rights Commission was set up in 2001 under the Protection of Human Rights Act in 1998. In 2002

a Sexual Discrimination Division was added to the Commission following the Enactment of the Sex Discrimination Act of 2002.

2. The Commission produces an Annual Report by the 31st of March each year. In this Annual Report the Commission reviews the Human Rights situation in the country and makes recommendations to promote Human Rights in Mauritius.

3. Over the years as per its enabling enactment the Commission has been more concerned with Civil and Political Rights which are fundamental rights entrenched in Chapter II of the Constitution of Mauritius. Chapter II is largely based on the European Convention on Human Rights and Political Freedoms of 1950. 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 preprimary to the tertiary level, access to free medical services, and social security benefits for widows, orphans, persons with disabilities, and needy students.

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.

4. More recently, the Commission has recommended that the Constitution of Mauritius should provide explicitly for the protection and promotion of Economic, Social and Cultural Rights. Although education is free, one third of children do not pass the Primary School Leaving Certificate examinations. One of the reasons may be the language problem. English and French are used as medium of instruction whereas most people speak Creole (a kind of broken French). The Commission has 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. One other recommendation made by the Commission is that land should be made available to poorer families to enable them to build their houses.

5. Although Mauritius has a good reputation as regards the respect of Civil and Political Rights, several complaints alleging police brutality are received by the National Human Rights Commission. The Police is reproached for using duress and violence to obtain confessions from suspects instead of using modern methods of investigation.

Confessions should not be readily admissible in Courts unless they are made before a Magistrate or they are video recorded or made in presence of Counsel.

6. The Police is also reproached for using powers of arrest indiscriminately at the start of an investigation instead of establishing a prima facie case before arresting people.

Warrants of arrest should not be issued for non payment of

finances and non appearance in Court.

7. Though Mauritius is faced with a serious drugs problem, searches of premises for drugs should be carried out with more circumspection, with due observance for the procedure of securing and exhibiting search warrants.

It must be added that the number of deaths in police custody has been reduced almost to nil annually, barring one or two cases where the police officers on sentry over police cells have been negligent in their duties in preventing detainees at risk from committing suicide.

8. In so far as police brutality is concerned about one fifth of the complaints 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 trial of police prosecution of police officers.

Prisons

9. Overcrowding in prisons has been lessened. There is now a population of 2000 instead of 2500 prisoners for 1500 places in the seven prisons in the country. 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 has also recommended that the State should set up rehabilitation programs 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.

Sex Discrimination

10. Sex Discrimination is not widespread in Mauritius as a multitude of laws protect women. Only about one fifth of complaints received by the Sex Discrimination Division are justified. Nevertheless women are very much under represented at the level of the National Assembly. Only about one tenth of the seventy members are women. Many cases of sexual harassment at work go unreported because women are afraid of losing their jobs.

Migrant Workers

11. Mauritius has not signed and ratified the Convention on the Rights of Migrant Workers, although many migrant workers from China, India, Bangladesh and other countries are present in Mauritius. The Ministry of Labour, Industrial Relations & Employment has set up a unit to provide help to migrant workers when labour problems crop up.

12. The Commission has recommended that a proper legal framework should be put into place to protect the Rights of Migrants Workers.

Persons with Disabilities

13. Mauritius has signed the convention on the Rights of Persons with Disabilities but has not yet ratified the Convention. The Government must be encouraged to ratify the Convention, taking into account that its objectives can be progressively realised.

14. Administration of Justice, as in many countries of the world, is subject to systemic problem of delays in Courts whereby important criminal cases may take more than 3 to 4 years before coming for trial. It is imperative that this problem of delays 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. But matters should also be expedited at the level of the Supreme Court.

15. The Ministry of Justice and Human Rights should be properly equipped to report regularly to the Treaty Bodies.

16. A culture of Human Rights should be encouraged from an early age by the introduction of Human Rights education in schools.

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