

STATE PARTY EXAMINATION OF MAURITIUS' THIRD TO FIFTH PERIODIC REPORT

68TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
12 JANUARY – 30 JANUARY 2015

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Mauritius ratified the Convention on the Rights of the Child (CRC) on 26 July 1990. On 14 and 15 January 2015, the Committee on the Rights of the Child (the Committee) examined the third to fifth periodic report of Mauritius. It was last examined on 19 January 2006.

Opening Comments

The delegation of Mauritius was led by Ms. H.C.L. How For Cheung, Permanent Secretary at the Ministry of Gender Equality, Child Development and Family Welfare. She was supported by representatives from the Permanent Mission of Mauritius to the United Nations and other International Organisations in Geneva, the Attorney's General Office and the Ministry of Gender Equality, Child Development and Family Welfare.

Ms. How For Cheung informed the Committee that Mauritius had known a change of government in December 2014. She reiterated the new government's commitment to the promotion and protection of the rights of the child. She reminded the Committee that the state party had ratified the Convention in 1990; the Optional Protocol on Children in Armed Conflict in 2008; the Optional Protocol on the sale of children, child prostitution and child pornography in 2011; and signed the Optional Protocol on a communications procedure in 2012.

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the rights of the child, being children one third of the population of Mauritius. She added that some measures had been taken in order to improve the life of children in the State party. In December 2008, the Child Protection Act was amended to provide better services for vulnerable children and children living with disabilities. Since 2003, dropping centres had been made available to assist children victims of trafficking. A Children's Bill was currently being drafted and almost finalised. Corporal punishment was prohibited in schools by law. A National Human Rights Action Plan had been enacted since October 2012 to address issues related to the protection of children, especially the sale of children, child prostitution and trafficking. Consultations, seminars and activities for children were regularly organised by the National Children Council. From primary to tertiary school, free transport was provided to students. She added that a cash scheme had been put in place to encouraged children from vulnerable families to attend school. She also added that education was free for all children, including children with disabilities and measures had been taken for inclusive education for children with disabilities to be the rule. A crèche scheme had been introduced by the government to enable children from vulnerable families to have access to proper childcare services. The government also worked in close cooperation with organisations such as SAFIRE (Service d'Accompagnement, de Formation, d'Insertion et de Réhabilitation de l'Enfant) to address issues related to children living in street situation.

Mr. Benyam Mezmur and Mr. Peter Guran, Country Rapporteurs for Mauritius, welcomed the delegation and commended the State party for the steps taken to further improve child rights but highlighted that more efforts were needed for a better implementation of the CRC.

General Measures of Implementation

Legislation

The Committee welcomed the draft Children's Bill and inquired about the exact status of the Bill. The Committee also asked for more information on the National Child Protection Strategy Plan. The delegation explained that the Children's Bill was currently being drafted and was at the stage of finalisation. The delegation stated that the Bill would bring all legislation regarding children into one text and align it with the provisions of the CRC. The delegation also explained that the National Child Protection Strategy had been adopted in 2013 and had required a budget of 64 million Rupees (approximately 2 million US Dollars). The Committee expressed the wish to see the State party ratify the third Optional Protocol on a Communications Procedure, the second Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Convention on the protection of all Persons against Enforced Disappearances. The delegation stated that the Committee's suggestions would be given due consideration. However, some necessary measures were to be taken before the State party took some decisions regarding the ratifications of the different texts. The Committee expressed concerns on the dualist system in place in Mauritius, noticing that the CRC was not referred to in courts. It stated that it was crucial for the State party to include the provisions of the CRC in the domestic law. The delegation explained that judges could mention the CRC in their rulings. However, the delegation agreed that the issue of the full domestication of the CRC needed to be tackled.

Coordination and monitoring

The Committee inquired about coordination and asked if the Working Together framework had improved coordination between the different governmental departments.

Dissemination and training

The Committee asked about appropriate training for judges dealing with matters pertaining to children. The Committee stressed the importance of judges receiving training in order to not only listen to children but to also be able to understand their opinion. The delegation explained that some judges were appointed to deal with issues pertaining to children and that they had indeed received proper training to be able to meet children's needs. The Committee also asked if there had been cases of parents complaining about child rights undermining their parental authority. The delegation answered that they had indeed received complaints from parents saying that their authority was being undermined. This was mainly due to the fact that children did not fully understand the rights they were entitled to and misused the provisions of the CRC.

Ombudsman for children

The Committee inquired about the status of the Ombudsman for children and the resources made available for its office. The Committee also inquired about the Ombudsman's capacity to receive individual complaints on behalf of the children. The delegation answered that the Ombudsperson for children was a statutory and independent body. The office had the power to take action and receive complaints. The government had decided to grant more power to the Ombudsperson and details concerning this granting of power were to be given during a future presidential address. The delegation reiterated the importance given to the office of the Ombudsman for children and explained that its budget was allocated directly from the Prime Minister's office. On the question regarding complaints, the delegation said that seven identified complaints had been received from June 2013 to May 2014. The office of the Ombudsman had also received 26 complaints from anonymous sources. The Committee asked whether the Ombudsman could pay attention to the different complaints and whether he/she was reachable. The delegation answered that the Ombudsperson was able to address the different complaints and that regular visits were made to both public and private schools.

Definition of the Child

The Committee expressed concerns about the definition of the child in the Child Protection Act, according to which a child is defined as an unmarried person under the age of 18. The Committee asked whether a married child would benefit from the same protection than children as defined in the Child Protection Act. The delegation explained that a married child under the age of 18 was considered emancipated by the act of marriage. The delegation added that the emancipation of the child did not however prevent him/her to fully enjoy child protection rights.

General Principles

Non – discrimination

The Committee raised the issue of non-discrimination and asked about the extent to which the Equal Opportunity Commission facilitated the implementation of the principle. The Committee also asked whether the members of the Commission were properly trained and if children had access to such Commission. The delegation explained that the Equal Opportunity Commission fulfilled the role of a watchdog in all sectors including child rights. The Commission had examined acts of discrimination and had published guidelines and rules of conduct. Children could access the Equal Opportunity Commission via their parents or legal guardians. The delegation informed the Committee that in case of failure of the Equal Opportunity Commission, plaintiffs could turn to the Equal Opportunity Tribunal. The delegation also added that discrimination against children from all backgrounds was prohibited by the Constitution.

Right to be heard

The Committee expressed concerns about child participation in schools but also in the political life. The delegation explained that the National Children Council Act guaranteed the right of children to voice their opinion in school related matters. Some campaigns were also created to ensure the right of the child to be heard. The yearly campaign '16 Jours, 16 Droits' going from the 1st to the 16th of June gave children the possibility to learn about their rights and the political life of their country. The campaign also created a venue for children to fully express themselves. In 2010, a policy aiming at facilitating the creation of Child Protection Clubs had been elaborated to foster child participation. The delegation also added that a National Children's Forum would be put in place for children from age 12 to 15.

Civil Rights and Freedoms

Birth Registration

The Committee asked about the measures put in place to ensure that all children were being registered right after birth. The delegation explained that the government required all births to be declared within 45 days. There were also provisions for tardy birth registrations. The delegation added that the fast track system in place had helped to significantly lower the number of unregistered births that neared 800 in the past.

Corporal punishment

The Committee stated that corporal punishment was prohibited in school but expressed concerns about the lack of provisions banning it from all settings. The Committee asked whether the draft Children's Bill would address corporal punishment in all settings. The delegation responded that it would prohibit all kinds of corporal punishment and that the wording of this provision would specify all settings, not just in school. The delegation added that the corporal punishment instances could be reported to the police and the prosecutor's office and could be prosecuted under both the Children Protection Act and the Criminal Code.

Early marriage

The Committee commented on the age of marriage being set at 16 and exhorted the government to comply with the CRC and set the age of marriage to 18, in order to stop child marriage. The delegation thanked the Committee for the recommendations and guaranteed that measures will be taken to address the question.

Family Environment and Alternative Care

Alternative care

The Committee inquired about the strengths and the weaknesses of the strategy put in place by the government in regards to alternative care. The delegation explained that the CRC guidelines were used to develop minimum standards for alternative care. Minimum standards had been developed for shelters. Menu checks were carried out and institutions were checked for tidiness. The Committee added that actions were being taken to have a more sustainable, efficient Family Reunification Program. Although a study on alternative care would not be done because it was not a priority for the government, foster care had been promoted as an alternative to the institutionalization of children. The Residential Care Home Act had also been strengthened.

The Committee asked for more information on the measures used to deal with parents of children beyond control who wish to abandon them. The delegation answered that parents of children beyond control could go to a magistrate and the child would be moved to a

rehabilitation centre. However some procedures had to be followed. The government required social inquiry reports, screenings and police reports from the parents of the children beyond control. The delegation added that the children could be provided mentoring and that there were different setups to address the different needs of those children beyond control.

Adoption

The Committee expressed concerns about the involvement of intermediaries in the determination of adoptability and asked about the measures taken by the State party to prevent such behaviour. The delegation explained that an Adoption Bill was currently being drafted and that the bill would revise the procedures on adoption.

Basic Health and Welfare

Living standards

The Committee asked for more information of measures adopted to fight poverty in Mauritius. The delegation explained that the Ministry of Social Integration and Empowerment had been created in 2010. These measures had shown significant results. However, poverty still persisted in the country.

The Committee also raised the issue of climate change and its impact on child rights. The delegation agreed that climate change did in fact have a settled impact on children. The delegation reassured the Committee that measures had been taken to address the issue. A Natural Disaster Committee had been set up to look into the impact of natural disaster on people in general, and on children in particular. Currently a cyclone was undergoing and schools had been closed to ensure the safety of children.

Health care

The Committee asked for details on malnutrition programmes and for individual outreach programmes on child pregnancy. The Committee was also concerned about sexual health services. The delegation responded that the government was making significant efforts to fight malnutrition. Attentive care was provided to pregnant women. Screenings were administered to women in the first three months of their pregnancy to make sure that both the pregnant women and their infants did not suffer from any deficiency. The delegation added that sexual health was comprised in school curricula. Teenagers had access to contraceptive and the National Children's Council held sensitization campaigns on sexual and reproductive health.

The Committee inquired whether children with HIV/AIDS were provided care, even if they were unaccompanied. The delegation explained that the legislation allowed children to undertake medical treatment even without the approval of their parents/guardians.

Children with disabilities

The Committee welcomed the legislation guaranteeing education and prohibiting discrimination and asked for more information on governmental programmes and measures to fight discrimination against children with disabilities. The delegation reaffirmed that some measures had been taken to ensure that children with disabilities were not discriminated against. Educational programmes free of charge were made available to children with learning disabilities and special education needs and resources centres had been created.

Some infrastructures had been retrofitted with ramps and adapted toilets for disabled children to promote inclusive education. Teachers were provided training plans to know how to properly address the needs of children with disabilities. The delegation added that teachers supporting children with disabilities were given an additional monthly allowance of 300 Rupees on top of their salaries.

Drug and substance abuse

The Committee asked for more information on the continuous use of smuggled drugs. The delegation stated that an aggressive campaign was conducted. School authorities handled cases of drug abuse on school premises but they needed to be reported to the police for legal proceedings.

Education, Leisure and Cultural Activities

Education

The Committee commended the State party for being among the countries in Africa that provided free education to children. However, the Committee expressed concerns about certain problems, such as human rights not being part of school curricula and the discriminations related to the access to education based on economic status. The delegation explained that education was a key point for the State party. The government had ensured that all children had access to a qualitative education. The Child and family Welfare Programme had been established to facilitate the inclusion of children in pre-primary education and covered 229 pockets of poverty. Children from poor families were provided with a monthly allowance to help alleviate the cost of school supplies. A tailor-made curriculum focusing on the holistic needs of the children existed and creole was taught and school. This had led to a significant increase in the pass rates. Measures were also taken to ensure that facilities were up to code to promote inclusive education for children with disabilities. The State party had one of the highest enrolment rates for children from age 3 to 5. According to the Ministry of Education, the enrolment rate in childhood education was 98.3 percent.

Leisure and cultural activities

The Committee was concerned about the usage of Internet by children and inquired about the steps taken by the government to minimize the dangers linked to the uninformed usage of the Internet. The delegation reassured the Committee that measures had been taken on the national level to make sure that certain websites considered harmful were blocked. The government had also launched, in partnership with Orange, a sensitization campaign on the dangers of Internet for parents buying electronic devices such as computers and tablets.

Special Protection Measures

Asylum seekers

The Committee asked why the State party had not yet signed and ratified the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The delegation explained that a lot of policies needed to be addressed before the State could sign and ratify both Conventions.

Child Labour

The Committee was concerned with the fact that children were employed in the informal sector (mainly agriculture) and inquired about the actions taken by the government to prevent child labour. The delegation said that the law prohibited child labour. Information campaigns were held and inspections were also conducted. The delegation added that six cases of child labour had been prosecuted last year.

The Committee also inquired about the measures taken to fight the worst forms of child labour and the growing phenomenon of child sexual tourism. The delegation explained that since 2003, the government had implemented an Action Plan to fight the worst form of labour and the sexual exploitation of children. An amendment to the Child Protection Act had been made in 2011 to criminalize the sexual exploitation of children.

Street Children

The Committee was concerned by the delegation saying that there were no street children in Mauritius. It referred to a report written by SAFIRE that indicated that more than 6000 street children lived in Mauritius. The delegation explained that the children were not considered street children because they were only spending a certain amount of time in the street. The delegation referred to them as children in street situation. The Committee reminded the delegation that these children were between the age of 11 and 16 and that they should be in school and not in the streets and encouraged the delegation to take measures to address this issue.

Juvenile justice

The Committee raised concerns about the fact that there was no minimum age for criminal responsibility and asked for more information. The delegation explained that while there was no explicit minimum age for criminal responsibility, prosecutors tended to use 14 as the minimum age for criminal responsibility. However, the draft Children Bill had the minimum age for criminal responsibility currently set to 12. That provision could be modified to meet the Committee's recommendation to increase the minimum age to 13.

The Committee inquired about police brutality and the measures taken by the government to prevent such phenomenon. The delegation said that there had been few instances of police brutality. Police officers were trained, minors were treated with due care and attention and they were told their rights in front of their parents or legal guardians. The interrogations of children would be videotaped to prevent police brutality.

The Committee noted that there were no juvenile justice courts and expressed concerns about children committing crimes with adults and being tried and sentenced as such. The delegation explained that while there were no juvenile courts, district courts had the authority to act as such. Judges and prosecutors received training on human rights from the Institute of Judicial and Legal Studies. On the issue of children being tried as adults, the delegation said that there was a provision in the Juvenile Justice Act that stated that a child that committed a crime with an adult would be tried in adult court. However, the delegation was very hopeful that the draft Children's Bill would address this issue.

The Committee asked for more information about the lack of legal aid for children. The delegation explained that the Legal Aid Act had been adopted in 2012 to ensure that children in conflict with the law had access to free legal aid.

Concluding Remarks

Mr. Benyam Mezmur, the Country Rapporteur, expressed the Committee's gratitude to the delegation for their openness and cooperation throughout the dialogue with the Committee. He commended the State party for taking the right measures to properly implement the CRC. He insisted on the fact that efforts needed to remain constant despite the fact that a new government had been elected. He encouraged the State party to adopt the draft Children's Bill as soon as possible and to ensure that a National Human Rights Plan would be implemented. Finally, he invited the delegation to translate and disseminate the Committee's Concluding Observations.

Ms. How For Cheung, the Head of the delegation, thanked the Committee for the interactive dialogue. She reaffirmed the importance of the recommendations made by the Committee. She also reassured the Committee that the government of Mauritius was very committed to promoting the rights of children. She stated that the Children's Bill would constitute an efficient tool for the implementation of the CRC.