



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Concluding observations on the fifth periodic report of  
Mauritius**

Addendum

**Information received from Mauritius on follow-up to the  
concluding observations\***

[Date received: 8 November 2019]

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\* The present document is being issued without formal editing.



## **Follow-up information relating to paragraph 8 of the concluding observations (CCPR/C/MUS/CO/5)**

### **National Human Rights Commission**

#### **The State party should:**

(a) **Ensure a more transparent and participative process for the selection and appointment of the members of the Commission and of its divisions, with a view to guaranteeing their independence;**

(b) **Guarantee their tenure;**

(c) **Take measures to prevent conflicts of interest in relation to members' duties;**

(d) **Clarify the missions of each division of the Commission; and**

(e) **Provide the Commission with sufficient and stable trained staff so as to enable it to properly discharge its mandate, in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

1. (a) The Protection of Human Rights Act (the Act), under section 3(8), provides for the Chairperson, the Deputy Chairperson and the members of every Division to be appointed by the President, acting on the advice of the Prime Minister who consults the leader of the Opposition before tendering advice to the President.

2. Further, Section 3(2) of the Act makes provision for the Commission not to be subject to the direction or control of any other person or authority in the exercise of its functions.

3. (b) The tenure of the members is according to the Protection of Human Rights Act 1998 (PHRA). However, Section 3 (10) of the Act makes specific provisions for the removal of any Member of the Commission from office for inability to perform the functions of his Office, whether arising from infirmity of body or mind, or for misbehaviour.

4. Notwithstanding the provisions of Section 3 (10) of the PHRA, it is to be noted that the Constitution of Mauritius also provides for the termination of an appointment, made to an office by the Prime Minister or on the advice of the Prime Minister, at any time after a general election held after the appointment.

5. (c) There is no conflict of interest in relation to the members' duties.

6. (d) The mission of each Division is clearly defined by law.

7. (e) The Protection of Human Rights Act was amended in 2012 to enhance the role of the National Human Rights Commission (NHRC) as a key institution in the protection and promotion of human rights at the national level. Its functions were aligned with the Paris principles.

8. Section 5 (4) of the Protection of Human Rights allows the NHRC to recruit on contract suitable person on such terms and condition as it thinks fit for the proper discharge of the specific functions of each Division under the NHRC.

9. Moreover, the NHRC has confirmed that it is provided with sufficient staff by the Prime Minister's Office and additional provision will be made in the next Budget to recruit more investigators. It has also informed that it is proceeding with a request to have the law amended to recruit its own Secretary.

## Follow-up information relating to paragraph 38 of the concluding observations

### Refugees, asylum seekers and stateless persons

The State party should consider establishing a national framework on asylum, including a mechanism for assessing and determining refugee status in order to also ensure respect of the principle of non-refoulement. It should take the necessary measures to prevent statelessness, and collect and publish information on the number of asylum seekers, refugees and stateless persons residing in its territory.

10. Mauritius is not party to the Convention relating to the Status of Refugees, the protocol relating to the Status of Refugees, the Convention relating to the status of Stateless Persons and the Convention on the Reduction of Statelessness and neither is it a party to the AU Convention on Refugees. Mauritius, however, does attempt to treat applications for refugee status or political asylum, on a humanitarian and case-to-case basis by facilitating their settlement in a friendly country willing to receive them.

11. Mauritius always respects the principle of non-refoulement. The new Extradition Act 2017 provides namely in its section 8, inter alia, that a request for the extradition of a person by a foreign State shall not be favourably considered where, in the opinion of the Attorney General, there are substantial grounds to believe that the person sought is likely to be prosecuted or punished in that State on account of his race, religion, nationality, ethnic origin or political opinions or where that person is likely to be subjected in that State to torture or cruel, inhuman or degrading treatment or punishment or where that person is not likely to receive the minimum fair trial guaranteed in criminal proceedings in that State.

12. Mauritius, being a small and densely populated country with stretched limited resources, has not yet adopted a policy or laws to grant refugee status to foreigners.

13. Government is working in close collaboration with the United Nations High Commissioner for Refugees (UNHCR) to put in place a mechanism to better handle and assist asylum seekers and refugees. In this respect, a workshop was held in Mauritius in May 2019, with all stakeholders to draw up a guideline / Standard Operating Procedure (SOP). The guideline / SOP has already been prepared to better guide/advise officials on the process to be followed.

14. There are no refugees and stateless persons residing in Mauritius. Statistics about the number of non-citizens who sought asylum or refugee status are as follows:

<i>Year</i>	<i>Nationality</i>	<i>Number of Asylum</i>	
		<i>Seekers and Refugees</i>	<i>Outcome</i>
2017	Eritrean	1	The asylum seeker came to Mauritius on 21.11.2016  With the assistance of the UNHCR, the asylum seeker was resettled in Sweden. He left Mauritius in March.2017.
2018	Congolese (DRC)	11	Their cases were determined by the UNHCR which arranged for their resettlement as follow;  <ul style="list-style-type: none"> <li>• One in Norway – left Mauritius on 23.04.2019</li> <li>• Ten were granted asylum in Canada and left Mauritius on 16.06.2019</li> </ul>

<i>Year</i>	<i>Nationality</i>	<i>Number of Asylum Seekers and Refugees Outcome</i>	
2019	Congolese (DRC)	1	He came to Mauritius on 21.02.2019. On 16.08.2019, the UNHCR granted him a certificate of refugee which is in the process of resettling him in England. He is still in Mauritius (as at 10.10.2019)

## **Follow-up information relating to paragraph 40 of the concluding observations**

### **Juvenile justice**

#### **The State party should:**

(a) **Set a minimum age of criminal responsibility in its legislation in accordance with international standards;**

(b) **Finalise the setting up of juvenile justice tribunals and related procedures and provide them with adequate human, technical and financial resources, including designating specialised trained judges;**

(c) **Train police officers to handle cases relating to juvenile justice; and**

(d) **Ensure that children in conflict with the law are systematically assisted by a lawyer or counsel and appear for trial with their legal representatives.**

15. (a) The Juvenile Offenders Act governs the administration of juvenile justice in Mauritius.

16. Section 2 of the Juvenile Offenders Act provides that “juvenile” means a person under the age of 18, whilst “young person” means a person who has attained the age of 14 and is under the age of 18.

17. It is to be observed that the Juvenile Offenders Act makes no provision for a minimum age requirement in respect of the criminal responsibility of a “juvenile”. A “juvenile” is just described as a person under the age of 18.

18. The issues mentioned at paragraph 40 of the Concluding Observations and Recommendations of the ICCPR were taken on board in the draft Children’s Bill 2019 which was introduced in the National Assembly on 17 September 2019.

19. The main object of the Bill was to repeal the Child Protection Act and replace it with a more appropriate, comprehensive and modern legislative framework so as to better protect children and to give better effect to the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

20. The Bill accordingly made provisions for:

(a) The better care, protection and assistance to children and their families;

(b) The respect and promotion of the rights and best interests of children;

(c) The setting up of structures, services and means for promoting and monitoring the sound, physical, psychological, intellectual, emotional and social development of children;

(d) Children under the age of 12 not to be held criminally responsible for any act or omission;

(e) Child witnesses and child victims under the age of 14 to be, subject to certain conditions, competent as witnesses without the need for them to take the oath or making solemn affirmation;

(f) The setting up of a Children's Court, which shall consist of a Civil Division, a Protection Division and a Criminal Division; and

(g) Addressing the shortcomings in the Child Protection Act.

21. Clause 6 of the Bill catered for the recording of statements from children. Every statement recorded from a child during a criminal investigation shall be recorded by a specially trained police officer in presence of the parent of the child.

22. No debate or vote could take place on the Children's Bill as the National Assembly was dissolved on 6 October 2019 and General Elections were announced. Consequently, the Bill became null and void.

## **(b) Children's Court**

23. As regards the proper set up for the Children's Court/Tribunal, Clause 65 of the Children's Bill did provide for the establishment of the Children's Court. The Children's Court would have been a specialised Court to be known as the Children's Court. Moreover, the Bill also provided for the Chief Justice to designate from among the Judges a Judge to be assigned to preside over the Children's Court. The said Children's Court would have consisted of a Civil Division, a Protection Division and a Criminal Division. Provision was also made in the Bill for necessary human and technical resources to be allocated to the Children's Court.

## **(c) Training of Officers**

24. The Brigade Pour la Protection des Mineurs (BDM) was set up in May 2004 within the Mauritius Police Force (MPF) to deal more effectively and efficiently with the problem of child abuse and juvenile delinquency. It focuses on the protection of the child, always ensuring the best interest of children in all actions taken. It will continue to do so and its role will be enhanced with the eventual enactment of the Bill.

25. For the period 2015 to 2018, **1958** Police Officers have undergone training at the Police Training School in integrated approaches in detecting investigating and prosecuting of child related offences".

26. Moreover, in the year 2018, Psychologists of Ministry of Gender Equality, Child development and Family Welfare have conducted 16 training sessions with Police Officers at the Police training school. The following Modules were covered:

- Interviewing techniques [child victims and child perpetrators];
- Causes and effects of domestic violence;
- Profiling child perpetrators;
- Effects of divorce on children and family;
- Helping the non-offending parent in child sexual abuse;
- Reasons why children delay disclosure and what factors assist children to disclose; and
- Interpersonal Communication.

### **Juvenile Offenders**

27. The Reform Institutions Act 1988 (Sections: 15, 16, 17, 38, 39, 40, 49 and 53) makes provision for the treatment of Juvenile Offenders. Juvenile Offenders are at all times kept separate from adult Prisoners.

## **(d) Legal Aid and Legal Assistance**

28. The Legal Aid and Legal Assistance Act allows a person earning less than Rs. 15,000 and whose net worth is less than Rs. 500,000 (excluding apparel and tools of trade)

to obtain legal aid and legal assistance. Even if a person does not qualify for legal aid, the Chief Justice or a Magistrate, as the case may be, has the discretion to grant legal aid where it would not be reasonable and in the interest of justice to require the application to finance the litigation out of his income or his capital asset. In addition, a Minor charged with a crime or misdemeanour, can benefit from legal aid even if the Minor fails to meet the thresholds set out in the Legal Aid and Legal Assistance Act.

29. The Children's Bill also provided for legal assistance to juveniles. Where a juvenile has no parent or legal guardian or his parent or legal guardian refuses to apply for legal assistance on his behalf, the juvenile shall be brought before a Magistrate within 24 hours of his arrest and the Magistrate shall grant legal assistance to him/her.

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