



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

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Summary record of the 2176th meeting*

Held at the Palais Wilson, Geneva, on Wednesday, 9 April 2025, at 10 a.m.

Chair: Mr. Heller

Contents

Consideration of reports submitted by States Parties under article 19 of the Convention
(*continued*)

Fifth periodic report of Mauritius

* No summary record was issued for the 2175th meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States Parties under article 19 of the Convention (*continued*)

Fifth periodic report of Mauritius (CAT/C/MUS/5; CAT/C/MUS/QPR/5)

1. *At the invitation of the Chair, the delegation of Mauritius joined the meeting.*
2. **A representative of Mauritius**, introducing his country's fifth periodic report (CAT/C/MUS/5), expressed gratitude to the Committee for acceding to the Government's request to postpone the dialogue by a year. He said that the seven core international human rights treaties, optional protocols and regional human rights instruments ratified by Mauritius had been incorporated into the national legal framework. Moreover, under the Geneva Conventions Act, grave breaches of any of the Geneva Conventions or of Protocol I were criminal offences, and the national courts had universal jurisdiction over war crimes, including torture. On the occasion of the fortieth anniversary of the Convention against Torture, the Government had translated the treaty into the dialect most widely spoken in the country and had posted it on the website of the Human Rights Division of the Ministry of Foreign Affairs. Mauritius had also joined the Convention against Torture Initiative.
3. In line with the new Government's mission to strengthen democratic principles and ensure more effective access to justice, among other objectives set out in its programme for 2025–2029, "A Bridge to the Future", the Government would shortly be establishing a constitutional review commission to make recommendations on modernizing the Constitution. Furthermore, bills to amend the Constitution and the Criminal Code had been submitted to the National Assembly the previous week. The object of the Constitution (Amendment) Bill was to repeal section 7 (2) of the Constitution so that no circumstances could be invoked as justification for acts of torture, in compliance with article 2 of the Convention. The Criminal Code (Amendment) Bill was intended to bring section 245 of the Code, on homicide and wounds and blows inflicted under lawful authority, into line with the absolute prohibition on torture and to remove manslaughter in the context of adultery from the list of excusable offences, in keeping with the Committee's previous concluding observations (CAT/C/MUS/CO/4) and its general comment No. 2 (2007).
4. The Police and Criminal Evidence Bill would be enacted soon, although no specific timeline could be provided, given the import of the legislation. The Government had adopted a zero-tolerance policy and a victim-oriented approach in respect of domestic abuse and trafficking in persons, and consultations were under way on a domestic abuse bill that would define marital rape as a specific criminal offence, as recommended by the Committee. In parallel to the legislative reforms, comprehensive awareness-raising and training initiatives, including by the Crime Prevention, Family Protection and Child Development Units, would remain pivotal.
5. Corporal or humiliating punishment of a child was prohibited under the Children's Act 2020 and was punishable by a fine of up to 200,000 rupees and imprisonment for up to 5 years. The Act also set the age of criminal responsibility at 14 years, made provision for the handling of cases of children under the age of 14 who were suspected of being or found to be in conflict with the law and established that detention of juvenile offenders should be a measure of last resort. The Children's Court, consisting of a protection division and a criminal division, was operational, and the Child Sex Offender Register Act had been adopted in 2020.
6. Mauritius had developed the National Action Plan on Trafficking in Persons 2022–2026 in collaboration with the International Organization for Migration (IOM). The relevant legislation, which was victim-centred, prioritized support for victims over their prosecution, enabled more rigorous identification and prosecution of trafficking cases and conferred additional powers on the police to protect victims. The Private Recruitment Agencies Act, which had been adopted in 2023 to strengthen the legal framework regulating the recruitment of Mauritian citizens for employment locally and abroad and of non-citizens for employment in Mauritius, provided for ethical recruitment standards in line with the recommendations of the International Labour Organization (ILO) and IOM.

7. The safe and humane treatment of prisoners in Mauritius was guaranteed under a number of laws, and the Mauritius Prison Service adhered to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The national mechanism for the prevention of torture, established as a division of the National Human Rights Commission, had led awareness-raising campaigns on the Principles on Effective Interviewing for Investigations and Information-Gathering (the Méndez Principles). Police officers and prison guards received regular training on international and regional human rights standards prohibiting torture and on national and international codes of conduct for law enforcement personnel.

8. **Mr. Tuzmukhamedov** (Country Rapporteur), noting that until such time as the Constitution (Amendment) Bill was enacted, section 7 (2) of the Constitution would remain in force, said that he was curious to know what types of punishment that would now be considered tantamount to torture, in line with the contemporary understanding of the term, had been lawful in Mauritius prior to 11 March 1964 and would therefore be permissible under that section. He was also curious to know whether the right to freedom from torture was absolute and non-derogable in the State Party, irrespective of the gender, nationality, race, age and other characteristics of the victim and of whether the country was at peace, at war or under martial law. More generally, he would like to learn where the Convention and other international treaties ranked in the State Party's legal order and whether international instruments took precedence over national laws and judicial decisions in the event of a conflict between them. Did the absence of the word "cruel" in section 7 (1) of the Constitution mean that references to cruel treatment in the Convention were considered inconsistent with the Constitution and therefore void?

9. He would appreciate clarification as to whether section 78 of the Criminal Code, read in conjunction with other pieces of legislation, encompassed not only premeditated acts of torture but also omissions, as well as attempted commission of, complicity and participation in acts of torture. He wondered whether the Convention could be invoked in the national courts and why the Supreme Court had invoked the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) but never the African Charter on Human and Peoples' Rights.

10. He wished to know whether someone convicted of torture could receive a probation order under the Probation of Offenders Act. To enable the Committee to assess the level of the maximum fine applicable for acts of torture, the delegation might indicate the salary of a mid-ranking police officer or chief prison warden. It would be useful to have confirmation that the penalties applicable for unlawful arrest involving corporal torture under section 259 (a) of the Criminal Code were harsher than those for torture by a public official under section 78 and, if so, to understand the reasons for that difference, with reference to any relevant case law. If a police officer, who was a public official, carried out an unlawful arrest involving corporal torture, which provision would apply?

11. He would welcome further information about the training of judges and the independence and impartiality of the judicial appointment process. He would be interested to learn about the ethnic diversity of the judiciary and law enforcement officers. He wondered whether elements of traditional justice were applied and, if so, how they were harmonized with the formal system.

12. He wished to know whether the national courts had ever referred to international decisions concerning Mauritius, such as the European Court of Human Rights judgment in *Chagos Islanders v. the United Kingdom*, the award of the Permanent Court of Arbitration in the *Arbitration regarding the Chagos Marine Protected Area between Mauritius and the United Kingdom of Great Britain and Northern Ireland* and the International Court of Justice advisory opinion on the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*. He would appreciate an update on the situation of the displaced Chagossians and their prospects of obtaining full redress, including relocation to their native islands.

13. He wondered whether the Government was able to monitor whether Diego Garcia continued to be used as a transit point for rendition flights carrying persons to countries where they risked being subjected to torture or ill-treatment. He would appreciate an update on

measures taken under the Prevention of Terrorism Act; in particular, he wished to know how they had affected human rights safeguards, in law and in practice, and what had been done to ensure that they were in line with the Convention.

14. He wondered under what circumstances the Government might change its position on accession to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. He wished to know whether the State Party intended to complete the ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Optional Protocol to the Convention on the Rights of Persons with Disabilities. He would be interested to hear the delegation's comments on the fact that Mauritius had not recognized the Committee's competence to receive individual communications under article 22 of the Convention or the competence of several other human rights bodies in that regard, although it was a party to the Optional Protocol to the International Covenant on Civil and Political Rights. He wondered why Mauritius had not acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, despite the adoption of the Abolition of Death Penalty Act, and whether the Government would consider amending the Constitution to make reintroduction of the death penalty unconstitutional.

15. He would like to hear about training offered to public officials other than police and prison officers and to know whether the Government intended to develop a specific methodology to assess the effectiveness and impact of its training programmes in preventing and reducing the number of cases of torture and ill-treatment. He wished to know what proportion of officials had never completed the relevant training courses, had completed them once and had repeated them. He would like to know how regularly such courses were provided, whether they included tests with the issuance of certificates and what the impact on officials' careers was of failing to take them. He wondered whether training covered the revised edition of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

16. **Ms. Maeda** (Country Rapporteur) said that she would like to know what measures had been taken to facilitate effective and independent engagement with the international human rights system, given that the Government had no plans to strengthen the legal provisions on the independence of the national preventive mechanism. She wondered what had been done to ensure diversity in the composition of the mechanism and of the national human rights institution and to establish a formal selection process encompassing the requirements to publicize vacancies broadly, maximize the number of candidates, promote civil society participation and apply objective and publicly available criteria. It would be helpful to receive information on the allocation of human and financial resources to the national preventive mechanism and national human rights institution during the reporting period.

17. She would welcome an update on the status of the Police and Criminal Evidence Bill, given that, pending the Bill's enactment, the provisional charge system for serious offences, which reportedly resulted in abusive and arbitrary practices, would remain in place. She would like to hear about measures taken to ensure that all fundamental legal safeguards were guaranteed in law and in practice for all detained persons from the outset of their deprivation of liberty, including the right to be promptly presented before a judge. She wondered whether the State Party was considering amending its legislation to ensure that the legality of arrest and detention was reviewed by a judge within 48 hours, without exception. She would also like to hear about steps taken to uphold the rights of detained persons to consult the lawyer of their choice or to be appointed a lawyer in case of insolvency, to hold private and confidential meetings with such lawyers, including before interrogation, and to have access to free, independent and effective legal aid.

18. She would be interested in a response to reports that delays in police investigations, particularly into drug-related offences, increased the duration of pretrial detention. She wished to receive up-to-date information on the average duration of such detention and the proportion of remand prisoners among the total prison population. Details of any measures adopted in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) would be helpful, as would evidence of the impact of

alternatives to pretrial detention and statistics on their use. She would like to know how confidentiality was ensured in the application of complaints mechanisms in detention facilities.

19. She wished to understand how the independence of the Independent Police Complaints Commission was safeguarded when its members were appointed by the President upon the advice of the Prime Minister. She would like to know how many complaints about police conduct remained open and how many had been lodged since March 2024. She wondered what steps had been taken to ensure that the Commission's investigations were conducted in a timely manner. She would like to receive information on the outcomes of such investigations, including the number of findings of torture or ill-treatment and referrals for prosecution, and on the measures taken to ensure that complainants did not risk stigma or reprisals.

20. She would be interested to hear the delegation's comments on the 30-day storage period for closed-circuit television recordings taken at police stations, which appeared insufficient for investigation purposes. She wondered what measures had been taken to make the recording system more effective and to prevent evidence from being misused in a manner that violated suspects' rights. She wished to understand how the Government ensured that recordings made as part of the Safe City project were used in accordance with the principles of legality, necessity and proportionality.

21. While she welcomed the examples provided by the State Party of investigations undertaken by the police into confessions allegedly obtained under duress, she was concerned to note that such investigations were conducted by its own officers. In that connection, she wished to receive detailed information about the outcomes of the "*voir dire*" hearings conducted in criminal prosecutions during the reporting period. She would also like to know how many officials had been prosecuted for obtaining confessions under duress and how many convictions had been quashed by the appellate courts because the evidence had been obtained under torture or ill-treatment.

22. In the light of reports that women detainees and persons detained for drug-related offences received inadequate food and material necessities, were given insufficient access to medical services and rehabilitation programmes and had only infrequent contact with their families and the outside world, the Committee would welcome an update on detention conditions. She wondered what measures had been taken to ensure that detainees could exercise the right to request and receive a medical examination by an independent doctor free of charge, or by a doctor of their own choice, in full confidentiality.

23. It would be helpful to know how the State Party ensured that all alleged cases of torture and ill-treatment were promptly medically documented in line with the Istanbul Protocol, as revised. She wished to hear what steps the State Party had taken to ensure that deaths in police custody were investigated without delay and that rules on interrogation practices were systematically enforced at places of deprivation of liberty. It would be useful to receive information on any preventive measures put in place in the light of allegations of suicides and/or deaths of detainees who had been subjected to torture. She would welcome clarification as to what factors might have adversely impacted the mental and emotional well-being of the detainee who was believed to have committed suicide at Phoenix Prison in April 2019, what the cause of death had been, and whether the cause of death and the factors involved had been covered by the subsequent investigation.

24. She wondered what steps the State Party had taken to address the problem of prison overcrowding, which had led to remand and convicted prisoners being held together in contravention of the Nelson Mandela Rules. The Committee would welcome an explanation as to why the majority of women prisoners were foreign nationals, what crimes those foreign nationals had been charged with and what sentences had been handed down to them. It would be useful to hear what steps had been taken to ensure that the needs of women prisoners were provided for in line with the Convention and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

25. The Committee would be grateful to receive updated information on the development of the juvenile justice system since the entry into force of the Children's Act 2020. It would welcome statistics on those juvenile cases in which pretrial detention had been used, with

disaggregated data on age, sex and category of crime. It wished to know what measures had been taken to ensure that such detention was exceptional and time-limited, in line with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules). Information on steps taken to promote non-custodial and non-judicial measures, and on rehabilitative measures designed specifically for children in conflict with the law, would also be appreciated. The delegation might clarify whether, despite the availability of legal aid to all juvenile defenders under the Legal Aid and Legal Assistance Act, it was possible for children to be tried in the absence of their legal representative or guardian. She would be interested to learn more about the historical and cultural reasons for which corporal punishment had formerly been considered acceptable in Mauritian society.

26. It would be helpful to receive an update on the specific steps taken to establish marital rape as a stand-alone offence incurring appropriate penalties and to set up effective mechanisms for lodging complaints of violence against women, including sexual harassment. The Committee would appreciate information on medical, psychological, legal, accommodation and other support services available to victims of gender-based violence. She wondered whether the State Party planned to change its policies with a view to ensuring that women had effective access to means of terminating pregnancies when it was likely that their continuation would result in serious pain and suffering or the pregnancy was the result of rape. Information on any legislative or policy measures intended to combat discrimination and violence against LGBT+ persons would also be welcome.

27. She would be grateful to learn about any measures that the State Party was taking to reform procedures and policy with a view to better protecting the rights of asylum-seekers and refugees, upholding the principle of non-refoulement and fostering a more inclusive and supportive environment for those seeking refuge in Mauritius, with the aim of better fulfilling its obligations under article 3 of the Convention. Lastly, she wished to know what plans the State Party had put in place for acceding to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

28. **Mr. Kessing** said that he would be interested to learn more about whether asylum-seekers were detained in Mauritius while awaiting processing, whether they had access to free healthcare and whether children seeking asylum were able to attend school.

29. **Mr. Iscan** said that the Committee wished to receive up-to-date information on the implementation of current legislation concerning the right of victims of torture and ill-treatment to obtain redress, including the number of applications made to the Supreme Court, the number of civil cases opened concerning alleged violations of rights under article 14 of the Convention and the number of cases in which applicants had been granted redress. He wondered whether the State Party was considering taking any steps to incorporate the elements of redress as set out in article 14 of the Convention into legislation. Did the recently proposed bills for amending the Constitution and the Criminal Code include any provisions in that regard?

30. **Mr. Contesse** said that, in its judgment of 28 January 2021 in *Delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)*, the International Tribunal for the Law of the Sea had found that advisory opinions such as that issued by the International Court of Justice of 25 February 2019, while non-binding, had legal effect. He would be interested to learn about the impact of that decision on the process of decolonization that was taking place between Mauritius and the United Kingdom.

31. Given that countries like the Bahamas and Nauru had a similar gross domestic product to that of Mauritius and were parties to the 1951 Convention relating to the Status of Refugees, he would be grateful if the delegation could elaborate on the explanation provided by Mauritius that, as a small island developing State, it lacked the resources it needed to introduce laws or a policy for granting refugee status and establish a functioning national asylum framework.

32. **Mr. Liu** said that the Committee would be grateful to receive an update on the legislative developments that had taken place since the decision of the Supreme Court in 2023 that had effectively decriminalized same-sex relations between consenting adults. What legislative steps would be undertaken next?

The meeting was suspended at 11.40 a.m. and resumed at 12.20 p.m.

33. **A representative of Mauritius** said that the elections held in November 2024 had returned an absolute majority to the Government, which would enable it to enact the constitutional amendments it had proposed, including the repeal of section 7 (2), and the proposed amendments to the Criminal Code. The constitutional review commission that was shortly to be set up would consider whether section 7 (1) of the Constitution should be amended to include the word “cruel”, thereby aligning it with the Convention.

34. Under section 2 of the Constitution, national law took precedence over the international treaties to which Mauritius was a party. Nonetheless, in the context of the forthcoming legislative reforms, the State would endeavour to ensure that the national legal framework was fully in line with its international obligations.

35. While section 78 of the Criminal Code criminalized only intentional acts of torture, in cases where prosecutors were unable to pinpoint a specific offence, they could apply section 109 of the Criminal Code (Supplementary) Act, which criminalized conspiracy to commit unlawful, wrongful or harmful acts, including those that were not specifically defined in existing law. The Government would look into eliminating the disparity between the penalties provided for in sections 78 and 259 of the Criminal Code. While public prosecutors preferred to charge the offence that carried the harshest sentence in a given case, they had to ensure, on the basis of the available evidence, that they would be able to secure a conviction. For that reason, they might on occasion be required to charge an offence that carried a lesser penalty.

36. Attorney-General, Director of Public Prosecutions and Solicitor-General were separate positions. The Office of the Director of Public Prosecutions fell under the administrative responsibility of the Office of the Attorney-General but was operationally independent and had its own budget and staff. The Attorney-General had no power over prosecutions. All judges of the Supreme Court had worked their way up from positions within the offices of the Director of Public Prosecutions and the Solicitor-General and the judiciary. While private practitioners were eligible to apply for appointment to the Supreme Court, none had ever done so, likely because they lacked the extensive experience required.

37. The executive was not involved in the appointment of judges, which was the remit of the Judicial and Legal Service Commission. The Commission was composed of the Chief Justice, who acted as chair, the Senior Puisne Judge, the Chair of the Public Service Commission and one additional member appointed by the President. The ethnicities and backgrounds of judges had become more diverse as training for judicial and legal professionals had become available locally. Such training had previously been provided in the United Kingdom, requiring Mauritians to study there before returning to their own country, but was now provided at the national university and through the Council of Legal Education. Appointments were made on the basis of seniority, without discrimination. The Institute for Judicial and Legal Studies provided continuous training for all judicial and legal professionals. Most of the persons who provided training were former chief justices, high-ranking prosecutors or senior solicitors. There were long-standing plans to establish a school for the judiciary, which he hoped would be brought to fruition in the near future.

38. The Supreme Court had only recently become proactive on human rights issues. However, human rights were now a primary consideration in the Court’s reasoning. In the case of *Director of Public Prosecutions v. Jagdawoo V. & Ors*, for example, the Court had made a strong statement in that regard in its obiter dictum. The failure to ensure impartiality in investigations, especially when police officers investigated their peers, as seen in the case of *Hemery v. Ramlogan*, was being addressed by the Independent Police Complaints Commission, which now played a greater role in investigations.

39. While the National Assembly had passed an act abolishing the death penalty in 1995 and all death sentences had been commuted to life imprisonment, section 4 (1) of the Constitution continued to provide for the possibility of capital punishment, allowing for its potential reinstatement. That was why Mauritius had not acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. The constitutional review commission would consider whether the amendment of that section was appropriate.

The meeting rose at 1 p.m.