



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

Distr.: General
21 May 2025

Original: English

Committee against Torture Eighty-second session

Summary record of the 2179th meeting*

Held at the Palais Wilson, Geneva, on Thursday, 10 April 2025, at 3 p.m.

Chair: Mr. Heller

Contents

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

Fifth periodic report of Mauritius (continued)

* No summary record was issued for the 2178th meeting.

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The meeting was called to order at 3 p.m.

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

Fifth periodic report of Mauritius (continued) (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**, replying to questions put the previous day (CAT/C/SR.2176), said that, if the Abolition of Death Penalty Act was repealed, then section 4 (1) of the Constitution, on execution as punishment for criminal offences, would theoretically become effective again. However, the country had moved so far away from the philosophy behind the death penalty that the parliament was highly unlikely, irrespective of composition, to repeal the Act.
3. The purposes of the Police and Criminal Evidence Bill were, among others: to bring together in one enactment provisions on police powers to stop, enter, search, seize, arrest and detain and on the treatment and questioning of detainees; to abolish the system of provisional charges for serious offences; to set a time limit for pretrial detention; to improve procedures for the giving of evidence in criminal proceedings in order to better safeguard human rights and fundamental freedoms; and to uphold the rights of victims and witnesses. In addition, the Bill would establish that a person could not be arrested on the basis of a mere allegation by a third party without appropriate inquiries being undertaken, that the courts had a general statutory power to exclude unfair evidence and that individuals who accepted responsibility for their actions were eligible for more lenient sentences.
4. Under the procedure to replace the provisional charge system, a person held on reasonable suspicion of having committed an arrestable offence would be taken at the earliest opportunity to a police station, where a custody officer – a new position to be introduced by the Bill – would admit the person into custody only if satisfied that the person had been arrested in accordance with the law and that continued police custody was in the public interest. If the police wished to interview the person, the custody officer would have to certify the person's fitness and ensure that he or she had representation. A person could not be held in police custody without notification of charge for more than 24 hours, except in cases of offences of great seriousness, such as murder, where the period of detention before notification of charge could be extended by court order for an additional 48 hours. The abolition of the provisional charge system meant that, prior to being brought before the court, the person would not be formally charged but only informed of the offence of which he or she was suspected. The Bill, which was intended to bring certainty to the law by codifying principles of common law that had been inherited from British colonial rule, would be adopted, if not by the end of the current legislature, then certainly within a year.
5. The courts in Mauritius had not invoked any of the various decisions issued by international courts and tribunals regarding the Chagos Archipelago because there had not been any cases before the courts in which the decisions would have been relevant. Moreover, it would not be appropriate for the courts to refer to the judgment of the European Court of Human Rights in the case of *Chagos Islanders v. the United Kingdom* since, from the standpoint of Mauritius, the United Kingdom did not have sovereignty over the Chagos Archipelago. As to whether the authorities were able to monitor events on Diego Garcia, the Government's stance was clear, namely, that the Chagos Archipelago formed an integral part of the territory of Mauritius, as authoritatively determined by the International Court of Justice, the General Assembly and the International Tribunal for the Law of the Sea, but that Mauritius could not yet effectively exercise its sovereignty over the Archipelago because the islands had been unlawfully excised from its territory prior to independence.
6. The Government continued to take special measures in favour of Chagossians who had been moved to mainland Mauritius and their descendants, through the Chagossian Welfare Fund, the aim of which was the welfare and total integration of Chagossians. The measures financed by the Fund included scholarships and financial assistance for Chagossian students attending universities and vocational institutions, the provision of sports facilities and recreational equipment, a residential camp for and the distribution of food to older

Chagossians, recreational activities for primary and secondary school students, grants for funeral costs and transportation to hospital. The Government also supported the aspirations of Chagossians who wished to resettle in the Archipelago; however, the details of the practical steps to which that support might give rise would remain unclear until the negotiations on the exercise of sovereignty over the Archipelago had been completed.

7. If the national courts referred more frequently to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) than to international treaties and the African Charter on Human and Peoples' Rights, it was likely due to the country's history as a French, then British colony and to the fact that the chapter of the Constitution on fundamental rights had been inspired by the European Convention. Nevertheless, instruments such as the African Charter on Democracy, Elections and Governance and the African Charter on the Rights and Welfare of the Child had been referred to in a number of cases, including as recently as September 2024. Furthermore, the Supreme Court had explicitly referred to the Convention on the Rights of the Child and the relevant African charter in two decisions, as had the Children's Court, most recently in a 2023 case concerning the prosecution of minors.

8. All juveniles had access to legal aid and legal assistance, whereas there were eligibility criteria for adults. Those criteria, particularly the income ceilings, needed to be reviewed and updated because, currently, almost no one was found to be sufficiently economically disadvantaged to be eligible for legal aid. Amendments to that effect would be put forward within weeks. Another difficulty was that the Legal Aid and Legal Assistance Act was not well known; therefore, amendments would also be proposed to require the courts to inform accused persons when they were eligible for legal aid on the basis of the type of offence with which they were charged.

9. Pursuant to the Supreme Court decision in the case of *Kamasho J.N. v. State of Mauritius & Anor*, three pieces of criminal legislation had been amended to require the courts to deduct from a sentence all time spent in custody prior to sentencing, in line with the Committee's recommendation in the previous concluding observations ([CAT/C/MUS/CO/4](#), para. 28).

10. Regarding suicide in prison, in the case of Mr. Juliette, who had apparently committed suicide in January 2023, recordings had been uncovered where a man, believed to be the Commissioner of Police, was heard instructing the chief police medical officer, who would be performing the autopsy, to cover up any incriminating findings. The Director of Public Prosecutions had immediately initiated a judicial inquiry to determine whether a prosecutable offence had been committed, in keeping with established procedure in cases of violent death in custody, irrespective of whether a police inquiry was also conducted. In addition, a foreign expert had been called in to help determine the exact cause of death, since the body had been buried for some time. The case of Mr. Martingale, who had been found dead in his cell in 2024, had also been referred for judicial inquiry.

11. In 2020, the court of first instance, in the trial of the police officers charged under section 78 of the Criminal Code (Torture by public official) following the death of M.J. Toofany during his detention at a police station in Black River, had ruled that, while it was satisfied that severe blows had been inflicted on the victim, it was not satisfied beyond reasonable doubt that those blows had been inflicted on him by the officers on trial for the purpose of extracting a confession or information from him, as per the charges. That judgment was currently pending appeal. The case had brought to light issues with the wording of that section of the Code. Nine prison officers were currently being prosecuted before the Intermediate Court for conspiring to inflict and inflicting bodily harm on Jean Cael Permes, who had died in his cell at Phoenix Prison in May 2020, and for attempting to pervert the course of justice by concealing evidence. Police officers who had abducted a man, stripped him naked and filmed themselves tasing him at a police station for a number of hours had been arrested after their actions had been revealed on social media in 2022 and would face trial on 10 April 2025.

12. Following the exoneration of the police officers who were prosecuted before the Intermediate Court after the death of Ramdoolar Ramlogun in police custody and the upholding of that judgment on appeal before the Supreme Court, the victim's family had sued

the State, which had decided that it could not defend the case on the balance of probabilities and settled it by paying the family 7.5 million Mauritian rupees (MUR) in damages. The Government had not settled the case without any admission of liability, as it sometimes did. In another similar case, the family of Joseph Réginald Topize, a popular musician, had sued the Government following his death in the cell of an anti-drug smuggling unit in 1999 and the Government had settled the case without a hearing in 2006, paying the family MUR 4.5 million. Another civil case, in which it had been claimed that the victim had been subjected to humiliating treatment during the investigative process, had been settled out of court without an admission of liability by the Government. Approximately 20 similar cases brought against the Government over the previous two decades were currently pending before the Supreme Court, including one lodged by the family of M.J. Toofany in which they claimed that acts of cruelty, inhuman treatment and torture had been committed against him. It was likely that the judgment handed down by the Court of Appeal in the related criminal case would influence the approach taken by the State in the civil case. Information on those cases would be submitted to the Committee in writing.

13. Mauritius had not yet ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure because it was first necessary to make a comprehensive assessment of the impact of three major pieces of legislation that had recently been adopted – the Children’s Act 2020, the Child Sex Offender Register Act 2020 and the Children’s Court Act 2020 – with a view to aligning national law more closely with the provisions of the Convention on the Rights of the Child. It was important for that assessment to take into account how well the newly established child protection framework functioned in institutions such as the Children’s Court and the availability and effectiveness of the remedies that had been provided for children. Mauritius might review its position once that assessment had been concluded and the capacity of that framework had been reinforced as required to make it more effective.

14. According to the Passport and Immigration Office, as at the end of March 2025, 98 holders of Refugee Certificates issued by the Office of the United Nations High Commissioner for Refugees were present in Mauritius, of whom 18 were refugees and 80, including 14 children, were asylum-seekers who were applicants for refugee status determination by UNHCR. Information published by UNHCR that, as at 31 March 2025, there were 144 such applicants had been determined by the Passport and Immigration Office to be incorrect. While it was government policy that access to school education was available only to residents of Mauritius, Caritas Internationalis, which helped asylum-seekers in Mauritius to exercise their fundamental rights, provided children seeking asylum with access to private education on its premises. At a workshop organized in Mauritius in 2019 in collaboration with UNHCR, a recommendation had been made to draft standard operating procedures on the roles and responsibilities of concerned stakeholders in dealing with requests from refugees and asylum-seekers in the country. Following consultations and the submission of draft standard operating procedures, the Government had informed UNHCR that, despite the excellent collaboration that existed between UNHCR and Mauritius on such matters, the Government did not intend to proceed further with the exercise given the current practice and legislation in the country. That position might be reviewed in the future.

15. Under Mauritian law, the Prime Minister could use his or her discretion to grant Mauritian nationality to any person at any time if he or she was satisfied that it was in the public interest to do so. There were currently no reported or recorded cases of statelessness in Mauritius.

16. The ratification of the 1951 Convention and the 1967 Protocol relating to the Status of Refugees by Mauritius would have far-reaching implications for the country, including a high inflow of migrants, and would not be in alignment with government policy on refugees and asylum-seekers. There were currently over 48,000 migrant workers in Mauritius. An interministerial committee had been established to review processes and protocols in individual industries, including the tourism industry, and the situation in Mauritius as a whole with the aim of resolving workforce shortages through foreign labour policies. The question as to whether Mauritius should become a party to the two conventions must be considered in that context, as part of a holistic process.

17. In accordance with section 3 (1) of the Probation of Offenders Act, which provided that courts could make probation orders in respect of offences for which the sentences were not fixed by law, probation orders could be made in respect of both the offence of torture, which under section 78 of the Criminal Code was punishable by a maximum of 10 years' imprisonment, and unlawful arrest, which under sections 258 and 259 was punishable by a minimum of 3 and a maximum of 20 years' imprisonment. That was an unfortunate state of affairs and it was clear that the Act needed to be amended. Given the seriousness of those offences, it was unlikely, in practice, that a judge would sentence a perpetrator to a fine or probation. A community service order might, however, be imposed under the Community Service Order Act of 2002 if the judge considered that imposing the minimum custodial sentence would be grossly disproportionate and that the convicted person should be given the opportunity to reform himself or herself through means other than incarceration. With the availability of such alternative mechanisms, probation was now used very rarely in Mauritius. Even when an offence carried a fixed penalty of imprisonment, judges could invoke the proportionality principle to impose a lesser penalty that was more commensurate with the offence.

18. Section 235A of the Criminal Code provided for the lawful termination of pregnancy under certain circumstances. Under section 235A (1), treatment to terminate a pregnancy could be provided only by a registered specialist in obstetrics and gynaecology, in a prescribed institution and in compliance with all the requirements set out in law. Under section 235A (2), the specialist could provide the treatment referred to in section 235A (1) only when a second specialist in obstetrics and gynaecology and another in a relevant field shared his or her opinion, formed in good faith, that the pregnancy, if continued, would endanger the life of the pregnant person; that termination was necessary to prevent grave permanent injury to the physical or mental health of the pregnant person; that there was a substantial risk that the continued pregnancy would result in a severe malformation or severe physical or mental abnormality of the fetus that would affect its viability; or that the pregnancy had not exceeded the fourteenth week and was the result of rape, sexual intercourse with a female under the age of 16 or other unlawful intercourse that had been reported to the police.

19. A new bill on domestic abuse was being developed in which marital rape was defined as an act of domestic violence, as was the commission or threat to commit any act of a sexual nature to which the spouse had not consented. Under the bill, rape would be punishable by a term of penal servitude of not less than 10 years. The delegation would provide statistics in relation to such offences in its written response to the Committee.

20. The Ministry of Gender Equality and Family Welfare had conducted nationwide awareness-raising campaigns to educate the public on domestic violence and the availability of free support and reporting services. Those services include a toll-free hotline and a mobile telephone application. Reports submitted via the application were directed to nearby police officers, who carried out the initial intervention. Following a police referral, victims could receive further assistance such as psychological support, legal advice and representation and access to shelter. Since 2024, the Government had also been implementing a policy to combat sexual harassment in the workplace across all public service sectors.

21. Under section 49 of the Children's Act 2020, children under the age of 14 were not considered criminally responsible for any offence. When children in that age group were suspected of committing a criminal offence, they were not detained. Instead, the police initiated an inquiry and immediately notified the Probation and Aftercare Service. The child remained in the care of a parent or guardian, under the condition that they must be presented before the investigating authorities when required. If necessary, the child could be placed under the care of the Probation and Aftercare Service, in which case a child psychologist was called upon to provide continuous support.

22. Under section 51 of the same Act, adolescents aged 14 to 17 suspected of committing an offence were first assessed by a probation officer before being brought before the Criminal Division of the Children's Court. If it was established that there were reasonable grounds for suspicion, an interim report was submitted to the Director of Public Prosecutions for a decision on whether to file a provisional charge. If an adolescent was arrested outside regular working hours, during the weekend or on a public holiday, and if detention was deemed

absolutely necessary, he or she was held at a juvenile detention centre, separate from both pretrial detainees and convicted prisoners. However, in most cases, adolescents were released on bail.

23. In terms of statistics, 59 children had been arrested in 2022, 33 in 2023, 12 in 2024, and 4 in the first quarter of 2025. In 2022, shortly after major new legislation had been introduced, provisional charges had been filed against children in 300 cases. That figure had significantly declined since then, with only four such cases recorded in the first semester of 2025, reflecting increased familiarity with and improved application of the legislation by relevant personnel.

24. A digital audiovisual interview recording system was currently operational at eight police division headquarters across Mauritius, including Rodrigues Island. The system was primarily used to record interviews and interrogations in high-profile, complex or sensitive cases, including those involving children. In certain instances, when the police requested the use of audiovisual recording, the interviewee retained the right to decline. Such refusals were systematically documented in the relevant police register. Additionally, all police stations were equipped with closed-circuit television cameras and audio recording systems.

25. If a statement made by a suspect, accused person or defendant during a police inquiry was found to have been obtained unlawfully and was therefore deemed inadmissible in court, the case could still proceed if the prosecution was supported by other evidence. Between 2018 and 2024, the admissibility of statements made during police inquiries had been challenged in 33 cases. Of those, only 13 had been resolved and the court had ruled the statements inadmissible in just a few instances.

26. There was an urgent need for reform within the criminal justice system, particularly through the adoption of the Police and Criminal Evidence Bill. Currently, police procedures lacked strict protocols and law enforcement officers had shown resistance to new legislation, favouring the traditional system of provisional charges. That system allowed for the detention of individuals based on reasonable suspicion for up to 24 hours, giving the police a significant procedural advantage.

27. Proving police misconduct remained a major challenge for the defence, as officers were often skilled in concealing improper practices, for example, by recording detailed entries in the occurrence book to create a consistent narrative. In the absence of intervention by a judge, such as ordering a medical examination following allegations of abuse, defendants were left without concrete evidence of mistreatment. Without such proof, motions to suppress confessions alleged to have been coerced were rarely successful.

28. **Ms. Maeda** said that she would welcome the delegation's comments on reports that the involuntary hospitalization and institutionalization of persons with disabilities, including children, was still allowed in Mauritius. She would appreciate information on the composition and resources of the Mental Health Commission and the Managerial Committee, the training provided to their members, the number of cases that those bodies had reviewed and their outcomes. She also wished to know whether the national preventive mechanism was mandated to visit residential care homes. She wondered whether there had been any allegations of ill-treatment in such institutions.

29. In the light of reports of arbitrary arrests, threats and attacks experienced by human rights defenders and obstacles to their access to detainees in prisons, she would be interested to learn what had been done to ensure that human rights defenders and journalists were able to carry out their work in an enabling environment, free from threats of violence or other forms of harassment.

30. She would welcome information on the measures taken by the State Party to ensure that support services, including access to shelters and psychological assistance, were available to all victims of trafficking in persons, in view of reports of the continued prevalence of trafficking in women and children for sexual exploitation and trafficking for the purpose of labour exploitation in the manufacturing or construction sectors.

31. Lastly, she would appreciate an explanation of the steps taken by the State Party to encourage greater civil society participation in reporting processes, as well as information on

measures taken to disseminate the Convention and the Committee's recommendations among the public.

32. **Mr. Tuzmukhamedov** said that he would appreciate further clarification regarding the application of sentencing guidelines in criminal proceedings. He would also be interested to learn more about the distinction between penal servitude and imprisonment.

33. He wondered whether minorities were recognized in Mauritius, whether their status was legally defined and how they were represented in various branches of government, from the executive to the judiciary and law enforcement.

34. Section 31 of the Dangerous Drugs Act and section 27 of the Prevention of Terrorism Act allowed for detention of terrorism suspects without access to anyone except a senior police officer for up to 36 hours. By international standards, that might be considered incommunicado detention. He would appreciate the delegation's comments in that regard. He also wished to know whether section 3 of the Prevention of Terrorism (Denial of Bail) Act, which had been rendered void by the decision of the Judicial Committee of the Privy Council in the case of *State v. Khoiratty*, had been formally repealed.

35. Lastly, he wondered whether Mauritius had any regulation prohibiting the production of or trade in tools that served no purpose other than to inflict torture or other cruel, inhuman or degrading treatment or punishment.

36. **A representative of Mauritius** said that, following the change of government in November 2024, efforts were being made to ensure that police officers complied with the law. There were plans to adopt a code of practice for the police. The authorities were aware that greater efforts were needed in the area of police training to ensure that all officers were familiar with the law.

37. Information regarding the Mental Health Care (Amendment) Act would be provided in writing. Although the National Human Rights Commission had not conducted inspections of residential care homes, there was nothing to prevent it from doing so.

38. There were approximately five human rights lawyers in the country who took cases pro bono. Under the previous Government, they had often had difficulty in gaining access to their clients and had sometimes themselves been subjected to criminal prosecution in the course of their duties. Since the election of the new Government, there had been no reports of ill-treatment of them by police officers.

39. With regard to civil society participation in the drafting of the report, the people of Mauritius had feared speaking out during the previous decade. That fear had now dissipated. Under the new Government, the Law Reform Commission would be reinvigorated and its reports would be publicly disseminated. Two of the newly appointed commissioners were from civil society and had previously been outspoken on a range of administrative and legal issues.

40. Mauritius was a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Government was firmly committed to combating trafficking in persons. The National Action Plan on Trafficking in Persons 2022–2026 had been developed in collaboration with the International Organization for Migration. The legal framework had been strengthened to ensure that victims of trafficking in persons did not face prosecution and were provided with medical, psychological and other forms of support. The Director of Public Prosecutions had established a task force to liaise with stakeholders working on trafficking-related matters, provide timely legal guidance, suggest improvements and enhance coordination to ensure that convictions could be secured. Under the Migration EU eXpertise (MIEUX) initiative of the European Union, a standard operating procedure had been developed and training had been delivered on the effective investigation and prosecution of cases of trafficking in persons. A new unit had been created within the police force to deal with trafficking.

41. A large proportion of the more than 48,000 migrant workers in Mauritius did not have permission to work, having failed to renew their initial work permit after it had expired.

Efforts were under way to adopt legislation that would oblige employers to declare that they had informed newly recruited migrant workers of their rights.

42. The average monthly salary of police and prison officers with 10 years' experience amounted to around MUR 37,500, while the maximum fine provided for under section 78 of the Criminal Code (Torture by public official), was MUR 150,000. It was unlikely, however, that a judge would impose a fine on an officer convicted of torture. Hard labour did not exist in Mauritius. Penal servitude referred to a prison sentence of between 3 and 20 years.

43. The well-being of minorities was of the utmost importance in Mauritius. While the Constitution listed seven prohibited grounds of discrimination, the Equal Opportunities Act, which had entered into force in 2010, listed an additional five. Minorities were recognized in the Constitution for electoral purposes. Under the best loser system, the Electoral Supervisory Commission examined election results to identify which community was most underrepresented and awarded a certain number of additional seats to unsuccessful candidates from those communities. For that reason, candidates were required to declare to which community they belonged; however, that practice would soon end. The Government was not in favour of introducing an electoral quota system since it would amount to a form of positive discrimination that did not take account of merit.

44. In the previous 10 years, incommunicado detention had been used in only two or three instances. For example, a suspect in a case relating to the discovery of large quantities of drugs had been held incommunicado while the authorities sought other suspects. Section 3 of the Prevention of Terrorism (Denial of Bail) Act could no longer be applied. Mauritius did not trade in items used for capital punishment. Under the Police Act, the importation of equipment necessary for the effective discharge of police duties was permitted, subject to strict customs controls.

45. **The Chair** said that the Committee appreciated the frank dialogue with the delegation. Given the recent change of government, it was understandable that it would take time to change attitudes and practices on the ground.

46. **A representative of Mauritius** said that his delegation's interaction with the Committee would enable the authorities to ensure that any residual gaps in his country's legislative and policy framework were addressed.

The meeting rose at 5.20 p.m.