



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

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Committee against Torture

List of issues prior to submission of the fifth periodic report of Mauritius*

Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee’s previous recommendations

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (CAT/C/MUS/CO/4, para. 43),¹ the Committee requested the State party to provide information on follow-up to the Committee’s recommendations on issues of particular concern, namely on interrogation methods and confessions obtained under duress, conditions of detention and complaints mechanisms (see paras. 24 (a), (b), (d) and (e), 30 and 32). The Committee expresses its appreciation for the State party’s follow-up response on those and other matters contained in its concluding observations and the substantive information on the follow-up issues provided on 6 December 2018 (CAT/C/MUS/CO/4/Add.1). The Committee considers that the recommendations included in paragraphs 24 (a), (b), (d) and (e), 30 and 32 mentioned above have not been implemented (see paras. 9, 15, 17 and 18 of the present document).

Article 2²

2. With reference to the Committee’s previous concluding observations (paras. 9–10), please indicate whether the State party has fully incorporated the provisions of the Convention into its domestic legislation so that they can be invoked and applied in domestic courts.

3. With reference to the Committee’s previous concluding observations (paras. 11–12), please indicate:

(a) Whether, in pursuance of the Supreme Court’s referral to the non-derogable right to freedom from torture and other cruel, inhuman or degrading treatment and its peremptory nature, the State party has introduced a statutory provision on the absolute

* Adopted by the Committee intersessionally on 2 December 2020.

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee (CAT/C/MUS/CO/4).

² The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee’s general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.



prohibition of torture, declaring that no justification may be invoked for this crime under any circumstances, in accordance with article 2 (2) of the Convention;

(b) Whether the State party has brought its laws, including the provisions of section 245 of the Criminal Code regarding homicide and wounds and blows “ordered by law, and commanded by lawful authority”, into line with the absolute ban on torture.

4. With reference to the Committee’s previous concluding observations (paras. 13–14), please provide information on any legislative amendments adopted to ensure that acts of torture carry appropriate penalties that correspond to the grave nature of the crime, in line with article 4 of the Convention, and take into account aggravating circumstances such as permanent disability sustained by victims or their death.

5. With reference to the Committee’s previous concluding observations (paras. 15–16), please provide information on any changes made regarding accountability for acts of torture pursuant to the condemnation by the Supreme Court of the perpetration of torture and any form of inhuman or degrading treatment by State agents after the death of Ramdoolar Ramlogun. Also, please indicate whether the persons responsible for his death have been found and prosecuted during the period under review.

6. Please provide information:

(a) On any action taken after the death on 5 May 2020 of detainee Gael Permess, who is alleged to have been beaten to death by prison officers;

(b) Regarding the reported arrest of five prison officers on 12 May 2020, four of whom have allegedly been charged with murder, while one is reported to have been charged for interfering with closed-circuit television footage containing evidence of abuse;

(c) On the current status of the investigation and prosecution of the five prison officers cited in subparagraph (b) above;

(d) On the intention of the State party to install closed-circuit television equipment in all police stations.

7. With reference to the Committee’s previous concluding observations (paras. 19–20), please provide updated information on:

(a) Any modifications made to police standing orders and other relevant regulations to stipulate that visits of doctors to arrested and detained persons should be conducted in a confidential manner and that supervision requested by a doctor should take place within sight but out of hearing distance;

(b) Any improvements made in monitoring respect for fundamental legal safeguards by including in the records transmitted to the police information room and the divisional or branch operations information about access to lawyers, medical examinations and notification of the detention to a family member or a person of the detainee’s choice.

8. Please indicate whether, under section 3 of the Prevention of Terrorism (Denial of Bail) Act, a detainee suspected of an offence relating to terrorism can be denied release on bail in certain cases. Also, please indicate whether a person under suspicion of an offence relating to terrorism can be detained without access to anyone, including counsel, for a period of up to 36 hours.³

9. With reference to the Committee’s previous concluding observations (paras. 21–22), please provide updated information on:

(a) The adoption of the Police and Criminal Evidence Bill and any enactments providing for safeguards to ensure that arrests and detentions may only take place when fully justified;

(b) Steps taken to ensure that persons are placed in pretrial detention only after arrest based on reasonable suspicion of an offence having been committed;

³ CCPR/C/MUS/CO/5, para. 27.

(c) The current status of the new Police and Criminal Evidence Bill⁴ and any amendments made to legislation during the period under review to remove the system of provisional charges, under which a person may be detained upon suspicion of commission of a serious offence, which may reportedly result in abusive and arbitrary practices;⁵

(d) Specific steps taken to reduce the duration of pretrial detention, including by amending legislation, and to speed up the examination of cases pending before tribunals and courts;⁶ and on any efforts made during the period under review and in the context of the 10-year strategic plan on pretrial detention⁷ to enact in legislation and promote the use of non-custodial measures and other alternatives to deprivation of liberty, inter alia, in order to reduce the number of pretrial detentions.

10. With reference to the Committee's previous concluding observations (paras. 23–24) and the follow-up information provided by the State party,⁸ please provide updated information on:

(a) Specific training programmes provided to police officers on non-coercive interrogation techniques during the period under review;

(b) The extent to which any improvement of methods of investigation that rely on scientifically-based evidence has reduced reliance on coerced confessions during the period under review;

(c) The current situation regarding the video recording of all statements, noting whether statements obtained through torture or cruel, inhuman or degrading treatment are now not valid as evidence in judicial proceedings;

(d) The current status of the Committee's recommendation that would allow appeal courts to review the admissibility of evidence, building on the jurisprudence of the Supreme Court in the case of *Rudolph Jean Jacques v. the State*, indicating furthermore whether appellate courts have during the period under review quashed any convictions based on a statement that a trial court had deemed inadmissible; and any related changes made to national legislation with a view to invalidating statements obtained through torture or cruel, inhuman or degrading treatment;

(e) Any cases of officials who have been prosecuted for extracting confessions under duress⁹ and, in the case of a guilty verdict, the sentences meted out.

11. With reference to the Committee's previous concluding observations (paras. 25–26), please provide information on:

(a) The current status of the Children's Bill and the setting of a statutory minimum age of criminal responsibility at an internationally acceptable level;

(b) Any steps taken to establish a juvenile justice system¹⁰ and finalize the setting up of a juvenile court in order to ensure that children in conflict with the law are tried in juvenile courts by specialized judges, that they are systematically assisted by a lawyer or counsel and that they appear for trial with their legal representatives;¹¹

(c) Any steps taken to ensure that the pretrial detention of children is only permitted as a measure of last resort and steps taken to amend legislation in order to define the meaning and the duration of "the shortest appropriate period of time" for the pretrial detention of juveniles.

⁴ Ibid., para. 32.

⁵ Ibid., para. 31.

⁶ Ibid., para. 30.

⁷ Ibid., para. 30.

⁸ CAT/C/MUS/CO/4/Add.1, paras. 3–7.

⁹ See https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MUS/INT_CAT_FUL_MUS_35365_E.pdf.

¹⁰ CCPR/C/MUS/CO/5, para. 40.

¹¹ Ibid., para. 40.

12. With reference to the Committee's previous concluding observations (paras. 27–28) and the follow-up information provided by the State party,¹² please indicate whether national legislation has been amended to clearly stipulate that time served in pretrial detention should be deducted from the sentence imposed.¹³

13. With reference to the Committee's previous concluding observations (paras. 41–42), please provide information on:

(a) Further steps taken by the State party during the period under review to modernize its criminal legislation in order to address cases of violence against women and to implement existing legislation on domestic violence and trafficking by bringing perpetrators to justice and sanctioning them;¹⁴

(b) Any steps taken to define marital rape as a specific criminal offence subject to appropriate penalties;

(c) Any steps taken to abrogate section 242 of the Criminal Code, which excuses manslaughter committed against a spouse caught in the act of adultery;

(d) Specific measures taken to ensure the more effective enforcement of the Combating of Trafficking in Persons Act,¹⁵ including by prosecuting and convicting perpetrators of trafficking-related crimes under that Act, and not under other laws;

(e) Steps taken to encourage women to report cases of domestic violence and measures to facilitate the submission of complaints to the police;¹⁶

(f) Any additional training provided to police officers, judges and prosecutors who handle gender-based violence cases¹⁷ and any general awareness-raising campaigns on the negative effects of violence against women.¹⁸

14. With reference to the Committee's previous concluding observations (paras. 33–34), please provide information on any steps taken by the State party during the period under review to guarantee the independence of the National Human Rights Commission and its National Preventive Mechanism Division from the Executive, including by securing in law the tenure of the mandate of their members, clarifying the missions of each division of the Commission so that they do not overlap,¹⁹ and by providing them with the necessary human and financial resources to carry out their mandate, in keeping with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). In addition, please provide an assessment of the contribution of the national preventive mechanism to combating torture.

15. Please indicate whether the State party envisages strengthening the provisions relating to the functional independence of the national preventive mechanism, including the provisions relating to immunity of its members from politically motivated dismissal, since the National Preventive Mechanism Act does not specify the conditions under which its members may be dismissed. Please also indicate whether members of the National Preventive Mechanism Division of the National Human Rights Commission currently enjoy immunity from politically motivated dismissal. In this connection, please provide information on:

(a) The reasons for the termination by the President of the Republic of the appointment of a member of the National Preventive Mechanism Division, Anishta Babooram-Seeruttun, citing article 113 (4) and (5) of the Constitution of Mauritius, which is used for the removal of political nominees after a change of Government;

(b) The reason for Ms. Babooram-Seeruttun's appointment being terminated on 5 June 2017 rather than 17 June 2017, by which time she would have completed three years in

¹² CAT/C/MUS/CO/4/Add.1, para. 12.

¹³ CCPR/C/MUS/CO/5, para. 30.

¹⁴ *Ibid.*, para. 20.

¹⁵ *Ibid.*, para. 26.

¹⁶ *Ibid.*, para. 20.

¹⁷ *Ibid.*, para. 20.

¹⁸ *Ibid.*, para. 20.

¹⁹ *Ibid.*, para. 8.

the position, which would have entitled her to receive compensation of three months' salary under the Employment Rights Act;

(c) The reasons why the letter of termination of her appointment did not cite any "inability to perform the functions of his (her) office, whether arising from infirmity of body or mind, or misbehaviour", as provided for in section 3 (10) of the Protection of Human Rights Act 1998.

Article 3

16. With reference to the Committee's previous concluding observations (paras. 17–18), please provide updated information on:

(a) Any measures taken by the State party to establish national asylum legislation and a functioning national asylum framework, including procedures and mechanisms for refugee status determination and the regulation of expulsions and refoulement, in order to safeguard the rights of persons in need of international protection and ensure respect for the principle of non-refoulement in accordance with article 3 of the Convention. Please also provide information on existing mechanisms or protocols for the early identification at borders and immediate referral of vulnerable asylum seekers, including victims of torture, and indicate whether these mechanisms include an independent medical examination;

(b) Any measures taken to prevent statelessness²⁰ and accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;

(c) Any consideration given by the State party during the period under review²¹ to acceding to the Convention relating to the Status of Refugees, the Protocol relating to the Status of Refugees and the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa.

Article 10

17. With reference to the Committee's previous concluding observations (paras. 39–40), please indicate whether the State party has ensured that training programmes on the Convention, its Optional Protocol and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) are provided to all law enforcement personnel, both civil and military, medical personnel, public officials, judges, prosecutors and other persons dealing with persons deprived of their liberty. Please indicate whether the training is mandatory or optional; how often it is provided; how many officers and public officials, as a proportion of their total number, have received the training; and whether the State party has developed a specific methodology to assess the effectiveness and impact of its training programmes in terms of preventing and reducing the number of cases of torture and ill-treatment.

Article 11

18. With reference to the Committee's previous concluding observations (paras. 29–30) and the follow-up information provided by the State party, please provide updated information on:

(a) The functioning of the Committee on Capital Projects and any improvements in the material conditions in prisons, including in respect of the basic rights of all detainees to water, sanitation and adequate food, in addition to those cited in the follow-up information provided by the State party;²²

(b) Medical examinations that are carried out upon admission to detention centres, including whether they are conducted routinely, describing the procedure by which medical personnel can document and report signs of ill-treatment without risk of reprisals. Please also

²⁰ Ibid., para. 38.

²¹ CAT/C/MUS/CO/4/Add.1, para. 12.

²² Ibid., para. 8.

provide information on the efforts made by the State party to prevent HIV/AIDS, tuberculosis, hepatitis and other infectious diseases in places of detention and steps taken by the prison authorities to hire psychologists and psychiatrists;

(c) Specific steps taken to investigate and prevent suicide by detainees, in particular in Phoenix Prison (the high-security prison also known as “La Bastille”); to ensure the separation of remand detainees from those serving a prison sentence; and to continue to apply alternatives to detention, where possible.²³

19. Please indicate:

(a) Whether Phoenix Prison was closed in 2007 on the recommendation of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment because of the conditions there, and whether it was subsequently re-opened seven years ago;

(b) Whether the report on the 2007 visit of the Subcommittee on Prevention of Torture to Phoenix Prison has been made public in the State party.

20. Please provide information relating to reports that detainees incarcerated in Phoenix Prison are hand- and foot-cuffed for 24 hours each day; are beaten and waterboarded by prison staff; are subjected to sleep deprivation; are allowed to leave unventilated cells for only half an hour each day; do not have sufficient clothing or hot water for bathing; are forced to drink water from toilet bowls; and are denied adequate food and family visits.

21. Please provide information on the mechanism or procedure for involuntary placement of persons with mental or psychosocial disabilities, including children and elderly persons living in residential care homes. In addition, please indicate the measures adopted to prohibit forced treatment and forced sterilization of women and girls with disabilities in hospitals and institutions. Furthermore, please clarify whether there is an independent mechanism for overseeing residential care homes and whether there are accessible mechanisms for reporting and investigating any ill-treatment that occurs within such institutions.

Articles 12 and 13

22. With reference to the Committee’s previous concluding observations (paras. 31–32) and the follow-up information provided by the State party,²⁴ please indicate:

(a) Whether there has been an increase in the number of investigations into complaints of torture and ill-treatment by law enforcement officials since the establishment of the Independent Police Complaints Commission; and the number of public prosecutions of alleged perpetrators that have been brought by the Director of Public Prosecutions and by the Office of the Attorney-General;

(b) Whether the Independent Police Complaints Commission has taken into account the difficulties encountered by the Police Complaints Division when designing its procedures and operations; and whether the Police Complaints Division has been provided with the necessary capacity, including human and financial resources,²⁵ to carry out timely, impartial and exhaustive inquiries into complaints of improper conduct by the police;

(c) Whether the Independent Police Complaints Commission has the power to refer cases of torture and ill-treatment for prosecution and whether it has the mandate to carry out disciplinary investigations and to issue recommendations on corrective measures to prevent future misconduct by law enforcement officials and improper treatment of arrested and detained persons;

²³ CCPR/C/MUS/CO/5, para. 36.

²⁴ CAT/C/MUS/CO/4/Add.1, paras. 9–11.

²⁵ CCPR/C/MUS/CO/5, para. 34.

(d) Whether any steps have been taken during the period under review to amend the Independent Police Complaints Commission Act 2016 in order to ensure the independence of the Independent Police Complaints Commission from the Executive;²⁶

(e) How the State party guarantees the confidentiality and independence of the system for receiving complaints of torture and ill-treatment and ensures follow-up to cases, including those where the victims are deprived of their liberty. Please also indicate what mechanisms are in place to protect victims of torture and ill-treatment, members of their families, witnesses and investigators against any form of intimidation or reprisal arising as a consequence of complaints submitted.

23. With reference to the Committee's previous concluding observations (paras. 37–38), please provide information on:

(a) Steps taken during the period under review to ensure that complaints mechanisms designed to address violence against women police officers are effective, gender-sensitive and gender-responsive;

(b) Specific steps taken to further investigate the slowness of proceedings in cases of violence against women police officers and the current status of the investigations into these cases;

(c) Steps taken to ensure the prevention of such violence, inter alia, by providing gender-sensitive training.

Article 14

24. With reference to the Committee's previous concluding observations (paras. 35–36), please provide information on any steps taken by the State party during the period under review to ensure that legal provisions and procedures are in place to enable victims of torture and ill-treatment to access and enjoy the right to adequate and appropriate redress, including restitution, compensation, as full rehabilitation as possible, satisfaction, the right to truth and guarantees of non-repetition, and not only monetary compensation. Please also provide information on rehabilitation programmes designed for victims of torture and ill-treatment, and the degree of cooperation with specialized non-governmental organizations in this respect.

Article 16

25. Please provide information on measures taken by the State party to enact legislation in order to explicitly prohibit corporal punishment in all settings, including in the home, in alternative and day-care settings and in penal institutions.

Other issues

26. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the coronavirus disease (COVID-19) pandemic to ensure that its policies and actions comply with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement, such as in homes for the elderly, hospitals or institutions for persons with intellectual and psychosocial disabilities.

General information on other measures and developments relating to the implementation of the Convention in the State party

27. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes.

²⁶ See https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MUS/INT_CAT_FUL_MUS_35365_E.pdf.

Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.
