



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights Forty-fourth session

### Summary record of the 10th meeting

Held at the Palais Wilson, Geneva, on Friday, 7 May 2010, at 3 p.m.

*Chairperson:* Mr. Marchán Romero

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*The meeting was called to order at 3.05 p.m.*

### **Consideration of reports**

#### **(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant** *(continued)*

*Second to fourth periodic reports of Mauritius* (continued) (E/C.12/MUS/4; E/C.12/1995/18; E/C.12/MUS/Q/4 and Add.1; HRI/CORE/MUS/2008)

1. *At the invitation of the Chairperson, the delegation of Mauritius took places at the Committee table.*

2. **Mr. Mownah** (Mauritius), continuing the discussion on articles 1–5 of the Covenant, described the four areas of activity in support of persons with disabilities in the country: development of facilities to encourage their social inclusion; a public relations campaign on their rights to education and employment; a programme to meet special education needs (in ordinary schools for those with slight disabilities and in special schools for those with severe disabilities); and miscellaneous provisions to help persons aged 18 and over who no longer benefited from support services to continue with higher education. Furthermore, with World Bank support, the authorities were conducting a review of the whole social security system and discussing possible amendments to existing legislation that may contain discriminatory provisions.

3. **Mr. Riedel** noted that, while, in its interpretative declaration in relation to article 24, paragraph 2, of the Convention on the Rights of Persons with Disabilities, the State party had stated that it was gradually implementing an inclusive approach to the education of children with disabilities, the examples given by the delegation described, rather, an integrationist approach. Noting that the International Law Commission was currently considering the validity of the State party's reservation to article 11 of the Convention, which referred to all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk and humanitarian emergencies, he suggested that the State party should withdraw the reservation, particularly since all the information provided by the Mauritian delegation seemed to indicate that it was unnecessary.

4. **Ms. Barahona Riera** asked whether the Mauritian Constitution currently contained any provisions that conflicted with the principle of the legal equality of women in certain areas and whether those that did exist in current legislation were applied. Referring to the aim of the Sex Discrimination Act mentioned in paragraph 51 of the report, she sought clarification on the areas that were not among the "certain areas of public activity" and were not covered by the Act, which, she pointed out, was applicable to everyone, regardless of their differing views or cultural traditions regarding the position of women. She was disappointed at the absence of data which, if provided, could give Committee members a better idea of income distribution in the country.

5. **Mr. Kedzia** (Country Rapporteur), noting that no special procedures mandate holder had as yet visited the State party and underlining the usefulness of discussions on issues related to economic, social and cultural rights that took place during such visits, suggested that the State party should issue a standing invitation to all the special procedures mandate holders.

6. **Mr. Mownah** (Mauritius) said that the Government was determined to solve the problems of inequality between men and women, as shown by the recent adoption of the Equal Opportunities Act. Current labour laws guaranteed equal pay and treatment in employment. Furthermore, the Household Budget Survey, conducted every five years, for which information was collected from both men and women, revealed an income inequality

indicator of 0.38, which was fairly low compared to other countries. Over the previous six years, the total income of the top quintile of the population had increased sharply compared to that of the bottom quintile. The inflation rate had been fairly high over the previous three years, widening the gap in income distribution; and the fact that most products were imported adversely affected the most vulnerable groups. A special five-year programme to combat extreme poverty had been set up two years earlier, along with a special fund, with the aim of improving both income and quality of life for the 7,000 families affected.

7. **Ms. Narain** (Mauritius) pointed out that article 16 of the Constitution prohibited any discrimination based on sex. All of the country's legislation was currently being reviewed to eliminate any discriminatory provisions that remained. The provision in article 16, paragraph 4 (c), of the Constitution, on the application of legislation on personal status (adoption, marriage and divorce, in particular) had been included to take account of the concerns of Muslims in Mauritius. The expression "certain areas of public activity" was taken from the text of part 3 of the 2002 Sex Discrimination Act and referred to the areas of education, provision of goods, services and facilities, accommodation, and disposal of property, whether within a company, a partnership or other association or a club. It merely complemented the general provisions prohibiting discrimination contained in part 2.

8. **Mr. Servansing** (Mauritius) said that the country had institutional mechanisms, including salary review commissions, that generally worked towards a more equitable distribution of wealth. In compensating for inflation, for instance, the lowest salaries enjoyed the highest level of compensation, while higher salaries received only partial compensation.

9. He pointed out that the first visit of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had been to Mauritius in October 2007, and a decision was due to be taken in the near future on extending invitations to special procedures mandate holders, an issue raised recently in the Human Rights Council during the universal periodic review and one which was under serious consideration by the Government.

10. **Mr. Sadi**, referring to the discrimination based on sex that was authorized in order to cater to certain religious sensibilities, which he supposed to relate to Islam, suggested that the State party should opt for enlightened, progressive interpretations on the subject, rather than retrograde, outdated ones.

11. **Mr. Zahn Daode**, turning to articles 6 to 9 of the Covenant, asked whether the draft Employment Relations Bill released in August 2007 and mentioned in paragraph 203 of the report had been adopted.

12. **Ms. Bras Gomes** pointed out that, despite its efforts to promote gender equality, the State party still had much to do to achieve parity between men and women, as shown by statistics relating to ambassadorial or technical positions in the Ministry of Foreign Affairs.

13. She would like to know whether the State party had carried out the study recommended by the Mauritius Council of Social Service in 2008 to identify the underlying causes of unemployment, the absence of incentives to work and certain areas' lack of appeal. She would also like to learn whether the country had, more generally, been affected by the crisis, how that had influenced unemployment rates and what was preventing the State party from raising the current minimum wage — which was not enough to meet minimum needs — given that salaries actually paid were far higher. Given the inadequate number of labour inspectors in the country, she wished to know what was being done to solve the problem of the wage differential between men and women, which seemed to be persisting in some sectors of industry, such as sugar, salt and tea, and what the real situation was in terms of equal pay for work of equal value.

14. Noting that the right to security was not included in the Constitution, she called on the State party to do so, particularly since the National Human Rights Commission considered that the country had the means to offer its population such a guarantee; she further called on it to ratify International Labour Organization (ILO) Social Security (Minimum Standards) Convention (No. 102). Surprised that paternity leave was granted only to men who were married — in either a civil or a religious ceremony — she wanted to know why the recognition of paternity should be linked to marital status. The minimum requirement of 12 consecutive months in employment to qualify for the right to maternity leave was excessive. It was, moreover, important that social assistance should be provided across the board rather than to Mauritian nationals alone, and that the State should establish a minimum wage.

15. **Mr. Kedzia** (Country Rapporteur), referring to the right to strike, asked why the Government was able to declare a strike illegal if it might cause serious harm to the economy. He also asked for information on migrant workers' trade union rights.

16. **Ms. Barahona Riera** asked what the minimum wage for women was compared to that for men in the different sectors of the economy. Regarding paragraph 185 of the report, she was surprised at the low level of employment in the hotel and restaurant sector. Could the delegation indicate each sector's contribution to the Government's revenue?

17. **The President**, speaking as a member of the Committee, asked which sectors migrant workers were involved in, what sort of work they did, the types of contract they were offered and where they came from.

18. **Ms. Narain** (Mauritius) said that the Employment Rights Bill had been adopted and had become the Employment Rights Act, which had come into force in 2009. In respect of women's participation in some sectors of the economy, there were no obstacles preventing them from joining certain professions; rather, it was a matter of personal choice, sometimes a poor perception of what the jobs actually entailed, or even for historic reasons. Under the Employment Rights Act all employers were required to ensure that employees received an equal wage for work of equal value, the same being true for subcontracted employees. The delegation would, on its return home, recommend that the right to social security should be included in the Constitution and that the Act that granted paternity leave only to married men should be amended.

19. Responding to a question from Mr. Kedzia, she explained that the Government was no longer able to declare a strike illegal but that, in exceptional circumstances, the Prime Minister could appeal to the courts to ensure a minimum service, or to the Supreme Court to stop a strike. The new Employment Rights Act had relaxed restrictions to the grounds on which workers were allowed to go on strike, as long as certain conditions were met. It also provided that, in certain key sectors such as air traffic or health services, the employers themselves were required to organize a minimum service. In addition, the legal provisions on trade union freedoms also applied to migrant workers.

20. **Mr. Mownah** (Mauritius) explained, with reference to the causes of unemployment, that 75 per cent of the country's 40,000 unemployed were not originally from Mauritius, which highlighted the imbalance between labour market supply and demand. To resolve the situation, the State had drawn up a very comprehensive human resources training plan for those sectors of the economy that created jobs. Migrant workers were concentrated primarily in the construction sector (mainly Chinese) and textile sector (Chinese, Sri Lankans, Bangladeshis and Indians) because Mauritians preferred more skilled jobs. The communications and information technology sector and the finance sector also employed migrant workers, generally highly specialized professionals. All migrant workers had temporary contracts of no more than three years' duration.

21. In respect of income inequalities, recent figures showed that there had been an overall increase in household income among the middle and upper classes. Aware that the market often allowed workers to earn higher wages than the established legal minimum, the authorities did not want to raise the minimum wage. The tourism industry was highly capital-intensive rather than labour-intensive, hence its small workforce; it also offered a good return on investment. It came third, after services and the manufacturing sector, in terms of national revenue.

22. **Ms. Bras Gomes** pointed out that the minimum wage was an obligation under article 7 of the Covenant, which was intended to guarantee decent living standards for workers and their families; that did not seem to be the case with the minimum set by the State. She wanted, moreover, to know the exact situation regarding social assistance to non-nationals.

23. **Ms. Barahona Riera** asked for information on job distribution between the formal and the informal sectors and the rights (minimum wage, social security, pension) of persons working in the latter. She also was interested to know what the State was doing to fight drug trafficking and resultant money laundering.

24. **Mr. Mownah** (Mauritius) said that he would provide some figures on the economy later on. The minimum wage was set, and regularly updated, by the National Remuneration Board. It was the minimum remuneration to which a worker was entitled, and was supplemented by overtime and bonus payments, depending on the health of the sector. In the textile sector, for instance, employees received the minimum wage plus bonuses per item produced. Social assistance was reviewed each year on the basis of inflation. Although the non-contributory pension system covered 100 per cent of the population, the pensions paid were only a guaranteed minimum, enough to meet the basic needs of food and accommodation; any increase in the minimum would threaten the sustainability of the system and would entail a rise in taxes.

25. In Mauritius 90 per cent of the working population were employed in the formal sector. Most of the remaining 10 per cent in the informal sector, mainly street sellers, managed to live on their earnings, while the others had various social safety nets. Tourism accounted for between 10 and 15 per cent of gross domestic product (GDP), followed by the manufacturing sector and agriculture. Financial services and the construction sector accounted for between 6 and 7 per cent.

26. Unemployment stood at about 8 per cent, compared to 10 per cent in 2005, since some 6,000 jobs had been created each year. Budget measures to cope with the crisis had focused on stimulating economic activity and on providing assistance to vulnerable groups. In 2008, the authorities had made sizeable investments in infrastructure (airports, ports, roads) and had established a food security fund of one billion rupees per year over five years to encourage small farmers to produce food crops not only in Mauritius but also in other countries of the region, such as Mozambique and Madagascar, under bilateral agreements. At the same time, the Government had put together aid programmes for vulnerable groups in the areas of social housing, employment and microenterprise.

27. **Mr. Servansing** (Mauritius) underlined that there was no minimum wage applicable nationally to all sectors in Mauritius, and that there were no plans to establish one. Salaries, and thus minimum wages, were set by a series of orders on remuneration by sector. However, the economic situation was such that salaries paid were almost always higher than those set by the orders. The country's economy was primarily formal, and the informal sector, which was very small, consisted overwhelmingly of independent workers. There were no illegal businesses employing 10 or 15 workers; any company of that size came into the category of small and medium enterprise and was documented.

28. The Government was planning to ratify the ILO Social Security (Minimum Standards) Convention (No. 102), but had not as yet set a date for doing so.

29. Mauritius had a large offshore financial sector, and the subject of laundering money from drug trafficking, for example, was a very sensitive topic. The sector could exist only if it maintained its reputation, and international regulations were strict. Mauritius was not on any blacklist of countries or territories involved in money-laundering. It was committed to respecting the Organization for Economic Cooperation and Development (OECD) standards on transparency and exchange of information for tax purposes, and had signed bilateral agreements in the area with several countries. Current banking regulations in the territory were equally rigorous, and the banks were subject to very strict requirements concerning the origin of funds received.

30. **Ms. Barahona Riera**, moving on to articles 10–12 of the Covenant, asked whether domestic violence, marital rape and corporal punishment of children at home and in other contexts were criminal offences, whether there was legislation against trafficking in persons, whether it was an offence under the Criminal Code, and if legitimate and illegitimate children enjoyed equal treatment.

31. She would be interested to know what measures the Government had taken to deal with the social causes of illicit drug use, whether at family level, among young people, or through the courts and the police, to prevent violence, combat easy access to money and drugs and fight corruption.

32. **Mr. Sadi** wondered whether prostitution was legal, why it was so widespread among children and why it was tolerated. He drew attention to the link between child prostitution and the high school drop-out rate. Did the Government intend to deal with prostitution, at least child prostitution, by adopting legislation against trafficking of women and children? He questioned the absence of legislation against corporal punishment in the family. Lastly, he sought information on the rules concerning marriage, whether polygamy was permitted, whether the grounds for divorce were the same for men as for women, and what the minimum age of marriage for girls was.

33. **Mr. Atangana**, referring to the 2006 concluding observations of the Committee on the Rights of the Child (CRC/C/MUS/CO/2), which called on the State party to simplify the procedure for registering births, asked what had been done.

34. He would also like to know which authority issued orders giving the victims of domestic violence the right to occupy the family home. The 2007 National Action Plan to Combat Domestic Violence was supposed to have been evaluated. He wanted to know whether the evaluation had taken place and whether action taken under the Plan had alleviated the problem.

35. **Mr. Zhan Daode** asked about maximum working hours and the minimum age of employment.

36. **Mr. Dasgupta** noted that there were significant disparities in public health between Mauritius and Rodrigues. On Rodrigues, access to health services and drinking water was problematic, infant mortality was high and there were cases of maternal and infant malnutrition. He would be interested in the reasons for the situation and what the Government was doing to deal with the problems on Rodrigues?

37. The State party had taken measures to combat the HIV/AIDS epidemic since 1987; however, the situation had deteriorated seriously since 2000 and the number of new cases was now doubling each year. The rate of adult intravenous drug users was estimated to be 2 per cent of the population in 2004, and figures from the United Nations Office on Drugs and Crime put Mauritius second in the world in terms of per capita opiate consumption. The HIV/AIDS control programme was clearly quite ineffective, partly, no doubt, because

the 1987 programme focused on sexual transmission of the disease while, since 2000, the main transmission route had been use of injecting drugs. What measures had the State party taken to prevent the explosion of drug consumption in the country?

38. **Ms. Bras Gomes** asked how the State party, which had not set an official poverty line, decided which groups to target with its poverty-reduction programmes and how it assessed their effectiveness. Was it correct that there was no national poverty-eradication plan? Rural poverty seemed to be increasing and, despite some improvement in middle-class purchasing power, that of the poorer classes had not increased.

39. She also wished to know whether the Government offered free treatment with the new antiretroviral drugs.

40. How was the national housing strategy being implemented? And which groups needed additional assistance?

41. Lastly, she wished to know whether the State party had introduced sex education in primary school curricula.

42. **Mr. Kedzia** (Country Rapporteur) asked the delegation to provide more detailed information on trafficking in children and child prostitution, and the results achieved by several quite remarkable programmes intended to combat those problems and child abuse. He wanted to know why the State party had not yet ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

43. Noting that the number of disadvantaged students who received loans had fallen significantly between 2005 and 2007, he wondered why that was so.

44. The rapid growth in tourism had certainly increased GDP but must also have had an effect on the environment. What measures was the State party taking to ensure a balance between the tourism's essential contribution to the economy and protection of the environment?

45. **The Chairperson**, speaking as a member of the Committee, requested figures that would allow the Committee to assess how the situation on Rodrigues had developed between 1995 and 2010 and to understand why the Covenant was not implemented there.

*The meeting was adjourned at 5 p.m. and resumed at 5.20 p.m.*

46. **Mr. Servansing** (Mauritius) said that the country needed to do more to combat the rise in HIV/AIDS infection rates, which was certainly linked to drugs, in order to prevent it becoming a threat to national security. The authorities had already begun to respond by adapting their HIV/AIDS policy to include methadone substitution therapy and syringe exchange programmes.

47. **Ms. Narain** said that domestic violence was penalized under the section of the Criminal Code dealing with assault and battery. Although there was no offence of domestic violence as such, a spouse or any member of the household could be prosecuted for assault and battery against the other spouse, a child or any other member of the household. Breach of an order intended to protect the victim or to give the victim the right to occupy the family home was also an offence. Such orders were issued by a district court on the request of the victim or of the Ministry of Women's Rights, Child Development, Family Welfare and Consumer Protection acting on behalf of the victim. There was no legal provision specifying marital rape as an offence but she thought that case law did make it possible to prosecute in those circumstances, and the courts had already convicted someone in such a case. Marital rape was specifically included in a bill on sexual offences that had recently been put to the National Assembly, but the Select Committee that was to pronounce on certain aspects of the text had not yet delivered its opinion when the Assembly had been

dissolved in March 2010. The case would therefore have to be taken up by the new Government.

48. Violence against a child, including corporal punishment, was also subject to prosecution under the Child Protection Act. The reason why violent parents were rarely prosecuted was that children did not generally report parental violence. Over the previous few years, the Ombudsperson for Children had campaigned a great deal against corporal punishment in all contexts. Training courses had been organized for school principals, school inspectors, teachers, other educational staff, doctors, psychologists and social workers, as well as for parents and children. The Ombudsperson had also produced publications and participated in television and radio programmes on the subject.

49. She said that the Combating of Trafficking in Persons Act was described in paragraph 144 of the Government's written replies to the list of issues. The legislation had not yet led to any case being brought as it had been adopted only recently.

50. Children born out of wedlock had the same rights as children of married couples. While the children had full protection, the law did not afford the same protection to unmarried partners in certain areas because of the importance of marriage as an institution in Mauritian society, which was still fairly conservative. The law did, however, protect unmarried partners to the same degree as married partners in areas considered by the legislators to be particularly important, such as domestic violence.

51. The Independent Commission against Corruption, set up in 2002, comprised not only enforcement units but also an education unit to help raise awareness of the problem in public institutions and administrations. The Commission had adopted the principles of the United Nations Convention against Corruption as its guidelines for action.

52. Prostitution was an offence under the Criminal Code, and child prostitution was subject to specific measures. The 1994 Child Protection Act had been amended in 2005 to include offences related to trafficking in children. Penalties included a maximum fine of 75,000 rupees and imprisonment of up to 8 years. The Act had been further amended in 2008, establishing a mentoring programme for vulnerable adolescents at risk of commercial or sexual exploitation. To combat the problem in the tourism sector, the authorities had set up the tourism police and published brochures aimed at tourists and those involved in the sector. The authorities strictly monitored the situation and, significantly, the United States Department of State's annual Trafficking in Persons Report had upgraded Mauritius to Tier 1, as a country that complied fully with the minimum standards of the Trafficking Victims Protection Act of 2000. The Ministry of Women's Rights, Child Development, Family Welfare and Consumer Protection was implementing a national action plan on commercial and sexual exploitation of children, which included specific services for the victims, and training for persons working with them, in cooperation with the relevant police departments. One of the main problems on the ground was the fact that it was often the parents who forced their children into prostitution; and the children did not report their parents, which made inquiries difficult. The authorities were dealing with the problem by asking police officers, specifically police women, to try to help the children understand that there were other solutions, and to win their cooperation for the possible prosecution of their parents. More was being done to clamp down on organized prostitution rings.

53. Polygamy was not allowed. It was punishable under the Criminal Code, and several sentences had been handed down in recent years. The minimum age of marriage for girls was 18, but it could be reduced to 16 if an exception was made by a competent court. In respect of child registration, the Ministry of Women's Rights and the Ministry of Justice had set up a high-level committee to take stock of the situation and propose measures to address the problem. Since the committee had been set up, 479 undeclared persons had been registered; 110 further cases — 84 children and 26 adults — were pending.

54. The minimum age of employment was now set at 16. Some children began apprenticeships or employment at about that age. The Ministry of Labour worked actively to combat child labour, including through inspections. The normal working day was eight hours, and the restrictions on women working between 10 p.m. and 5 a.m. had been lifted to prevent discrimination.

55. The State party had not yet ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography because it needed to amend its legislation, particularly on certain offences. A bill covering all issues related to the rights of the child was being drafted.

56. **Mr. Mownah** (Mauritius) said that Rodrigues was an integral part of the national territory. The population there enjoyed the same social services and programmes as were available on Mauritius. Since the establishment of its Regional Assembly in 2002, the island had won broad autonomy in most areas. The annual subsidy it received from the central Government had practically doubled over the previous 10 years. As it received less rainfall than Mauritius, some aid, including a food security fund, was provided for its agriculture sector. The fund had last been used to help pig breeders affected by the swine influenza epidemic. Support was also being offered to fishermen and women to encourage them to buy boats that would allow them to fish off the coast. The poverty level was indeed higher on Rodrigues, with 17 per cent of the population affected, compared to between 7 and 8 per cent on Mauritius. Programmes had been introduced to help the inhabitants set up small-scale industries or small companies and to encourage Mauritian companies to move to Rodrigues. A large development project was also being implemented under the European Development Fund. Funding was also earmarked for reservoir and road infrastructure construction.

57. With regard to training infrastructure and scholarship programmes, the Human Resources, Knowledge and Arts Development Fund had student loan and scholarship programmes and infrastructure programmes. In 2009, 173 grants had been awarded to female students and 163 to male students.

*The meeting rose at 6 p.m.*