

MAURITIUS

CAT A/50/44 (1995)

132. The Committee considered the initial report of Mauritius (CAT/C/24/Add.1 and 3) at its 212th and 213th meetings, held on 26 April 1995 (CAT/C/SR.212 and 213), and adopted the following conclusions and recommendations.

A. Introduction

133. The Committee thanks the Government of Mauritius for its report, submitted within an appropriate period and prepared in accordance with the Committee's guidelines.

134. In addition, it followed with interest the oral presentation and the clarifications provided. It also wishes to thank the delegation for its replies and the open spirit of cooperation in which the dialogue was conducted.

B. Positive aspects

135. The Committee welcomes the efforts by the State party in regard to reviewing the Constitution, laws and regulations to ensure that the country's judicial system is in conformity with the provisions of the Convention.

136. These efforts seem to reflect a genuine will to create the requisite conditions for the promotion and protection of human rights and also to prevent the practice of torture and cruel, inhuman or degrading treatment.

137. It welcomes the existence of an ombudsman and the possibility of using the habeas corpus procedure.

C. Subject of concern

138. The Committee is none the less concerned at allegations received from some non-governmental organizations about acts of torture and ill treatment which are said to be practised on police premises.

139. The Committee is also concerned about certain inadequacies in the adoption of suitable measures for the purpose of officially combating torture, particularly the timidity shown in conducting inquiries and promptly bringing the perpetrators of such acts before the courts.

140. This situation gives the impression of comparative impunity for the perpetrators of these offences, impunity that is detrimental to proper implementation of the provisions of the Convention.

D. Recommendations

141. The Committee recommends that the State party should make efforts to incorporate the provisions of the Convention in domestic law for the purposes of adopting and applying domestic enforcement measures.

142. The Committee also recommends that the State party, with a view to ensuring broader protection of persons under arrest, should effectively set up machinery for systematic monitoring of all police premises, to give effect to the commitments undertaken pursuant to article 11 of the Convention.

143. The Committee also recommends that the State party should pursue its efforts to undertake further legislative reforms, more particularly in regard to prison administration, periods of police custody and the right to be attended by a doctor or to be visited by a family member.

144. The Committee recommends that the State party should undertake and press on with inquiries into all actions by police officers, inquiries capable of determining whether acts of torture have taken place and, when the findings of the investigations prove positive, bring the perpetrators before the courts on the one hand, and order and transmit to the police precise and clear instructions to prevent any act of torture, on the other. It recommends that the State party should step up information training programmes for all personnel referred to in article 10 of the Convention.

145. Lastly, the Committee recommends that the State party should take all the requisite measures to ensure effective implementation of article 14 of the Convention for the purpose of full compensation and rehabilitation of the victims of torture or their dependants.

CAT A/54/44 (1999)

118. The Committee considered the second periodic report of Mauritius (CAT/C/43/Add.1) at its 368th, 371st and 375th meetings, held on 28 and 29 April and 3 May 1999 (CAT/C/SR.368, 371 and 375) and has adopted the following conclusions and recommendations.

1. Introduction

119. The Committee welcomes the report of Mauritius submitted on time and supplemented and updated by the Solicitor-General of the State party, who introduced it. The above clearly reflects the continuing efforts of the State party to comply with its international human rights obligations.

2. Positive aspects

120. The Committee takes note of the following, inter alia, positive aspects, many of which closely follow upon recommendations made by it during the consideration of the initial report:

(a) The abolition of the death penalty;

(b) The recent coming into force of the Protection of Human Rights Law, which establishes the National Human Rights Commission, the competence of which includes examination of torture complaints;

(c) The amendment of article 16 of the Constitution in order to prohibit discrimination based on gender;

(d) The training programmes for the police and other law enforcement officials with a human rights component.

3. Factors and difficulties impeding the application of the provisions of the Convention

121. No factors or particular difficulties emerged as a result of the consideration of the report by the Committee and it was clear that the State party, a developing country, is to the best of its ability carrying out its obligations under the Convention.

4. Subjects of concern

122. The Committee is concerned about the fact that six years after its accession to the Convention and four years after the consideration of its initial report, the State party has failed to incorporate into its internal legislation important provisions of the Convention namely:

(a) A definition that encompasses all cases covered by article 1 of the Convention;

(b) Article 3 of the Convention in toto, i.e. covering not only extradition but also, expulsion and return (refoulement);

(c) The provisions of article 5, subparagraphs 1 (b) and (c) and 2 in conjunction with those of articles 8 and 9.

5. Recommendations

123. The Committee recommends that the State party should take the following measures:

(a) Enact legislation defining torture in accordance with article 1 and considering it as a specific crime;

(b) Clarify through appropriate legislation that superior orders can never be invoked as a justification of an act of torture;

(c) Introduce legislation that would give effect to all the provisions of article 3 of the Convention by preventing extradition, return and expulsion of persons in danger of being subjected to torture;

(d) Take legislative measures to establish universal jurisdiction as required by article 5 of the Convention;

(e) Appraise the Committee of the results of the investigation and judicial inquiries into the death, whilst in custody, of Mr. Kaya;

(f) Ensure that all instances of torture and especially those resulting in death, are promptly and effectively investigated by an independent body and that the perpetrators be brought immediately to justice.