

MAURITIUS

CESCR E/1995/22

165. The Committee considered the state of implementation by Mauritius of the economic, social and cultural rights contained in the Covenant at its 22nd and 23rd meetings on 17 and 18 May and, at its 24th meeting on 18 May 1994, adopted the following concluding observations.

A. Review of the implementation of the Covenant in relation to States parties which have failed to report

166. At its seventh session, the Committee on Economic, Social and Cultural Rights decided to proceed to a consideration of the state of implementation of the Covenant on Economic, Social and Cultural Rights in a number of States parties which, despite many requests to do so, had not fulfilled their reporting obligations under articles 16 and 17 of the Covenant.

167. The purpose of the reporting system established by the Covenant is for the States parties to report to the competent monitoring body, the Committee on Economic, Social and Cultural Rights, and through it, to the Economic and Social Council, on the measures which they have adopted, the progress made, and the difficulties encountered in achieving the observance of the rights recognized in the Covenant. Non-performance by a State party of its reporting obligations, in addition to constituting a breach of the Covenant, creates a severe obstacle to the fulfilment of the Committee's function. Nevertheless, the Committee has to perform its supervisory role in such cases, and must do so on the basis of all reliable information available to it.

168. In situations in which a Government has not supplied the Committee with any information as to how it evaluates its own compliance with its obligations under the Covenant, the Committee has to base its observations on a variety of materials stemming from both intergovernmental and non-governmental sources. While the former provide mainly statistical information and apply important economic and social indicators, the information gathered from the relevant academic literature, from non-governmental organizations and from the press tends by its very nature to be more critical of the political, economic and social conditions in the countries concerned. Under normal circumstances, the constructive dialogue between a State party reporting and the Committee will provide an opportunity for the Government concerned to voice its own view, and to seek to refute such criticism and convince the Committee of the conformity of its policies with what is required by the Covenant. Non-submission of reports and non-appearance before the Committee deprives a Government of this possibility to set the record straight.

B. Introduction

169. Mauritius has been a party to the Covenant since 3 January 1976, the date of its entry into force. Since then, it has not submitted a single report. The Committee strongly urges the Government of Mauritius to fulfil its reporting obligations as soon as possible, so that the Covenant

can be given full effect for the benefit of the people of Mauritius. The Committee considers that non-fulfilment of a State party's reporting obligations constitutes a grave impediment to effective and adequate implementation of the Covenant.

C. Factors and difficulties impeding the implementation of the Covenant

170. The Committee takes note of the fact that, although Mauritius has in recent years succeeded in diversifying its economy and reducing its dependence on sugar production, sugar-cane still accounts for more than two thirds of the contribution of the agricultural sector to GDP and for about one third of export earnings. This circumstance makes the economy of Mauritius vulnerable to fluctuations in sugar export. About 75 per cent of the country's food requirements have to be imported. The Committee also notes that the rapid economic growth of the mid-1980s has slowed down as a result of labour shortages. The Committee is not aware of any further difficulties which might impede the application of the Covenant by Mauritius.

D. Positive aspects

171. The Committee notes that the overall economic performance of Mauritius in recent decades has been impressive. Its human development index has increased from 0.525 in 1970 to 0.793 in 1992. Mauritius thus stands at the top of the list of African countries in this regard. Per capita income trebled between 1982 and 1992. Unemployment is all but eradicated. This success has come about through heavy investment in human development. Education has until recently been free at all levels. The combined primary and secondary enrolment rate rose from 62 per cent in 1970 to 77 per cent in 1989. The overall literacy rate is moving towards 90 per cent and has passed 95 per cent for the age group up to 30 years. A vigorous birth control campaign has brought down the rate of population growth from over 2 per cent a year in the 1960s to less than 1 per cent today. The infant mortality rate as well as other health indicators are improving constantly. Mauritius provides an example of a country where structural adjustment appears to have worked to the benefit of the entire population. Mauritius has aptly been called a "cultural laboratory" and a "rainbow nation", in which a variety of religious and cultural groups and communities live together peacefully in a spirit of mutual respect and tolerance.

E. Principal subjects of concern

172. With regard to the general provisions of the Covenant, in particular article 3, the Committee notes with concern that, despite the efforts of the Government, women still occupy a subordinate role in Mauritian society. Discrimination and violence against women continue to be social problems, also affecting the enjoyment by women of economic, social and cultural rights. Further observations on the prevalence of gender discrimination are to be found in paragraphs 180 and 181 below.

173. Article 6 of the Covenant enshrines the right of everyone to gain his living by work which he freely chooses or accepts. In the light of this provision, the Committee is concerned about certain provisions of the Merchant Shipping Act, No. 28 of 1986, according to which certain breaches of discipline by seamen are punishable by imprisonment (involving an obligation to perform labour), and foreign seamen may be forcibly conveyed on board ships to perform their duties. These

provisions are a subject of concern also to the ILO Committee of Experts on the Application of Conventions and Recommendations.

174. With regard to article 7 of the Covenant, there exists no legislation requiring equal pay for equal work. In this regard, the Committee notes with concern that in the agricultural sector of the Mauritian economy, for work of the same value, women are paid lower wages on the stated assumption that their productivity is lower in such labour-intensive work. The Committee is also concerned about excessive overtime work in the Export Processing Zones. In these zones the Labour Act does not apply fully, which leaves more than 80,000 workers unprotected. Further, concern is expressed about the ineffective enforcement of health and safety standards, as a consequence of which fatal industrial accidents have increased in recent years. With regard to around 10,000 foreign workers, mainly in the textile and construction industries, the Government appears to show little willingness to ensure that these people are treated in accordance with article 7 of the Covenant and with the pertinent international labour standards.

175. Moving to article 8 of the Covenant, the Committee expresses its concern about the restrictions of the right to form trade unions in force under the Industrial Relations Act, 1973. Further, genuine collective bargaining is not practised in Mauritius. Wages and benefits are in effect determined by the Government. The Committee is particularly concerned, however, about the fact that the right to strike, although recognized in theory, cannot be exercised in practice because the Industrial Relations Act, 1973 requires a 21-day cooling-off period and empowers the minister to refer any industrial dispute to compulsory arbitration, enforceable by penalties involving compulsory labour. This has the effect of making most strikes illegal. Participation in a strike not approved by a court is a sufficient ground for dismissal. In this regard, the Committee notes with concern that the respective recommendations submitted in May 1992 by the Special Law Review Committee set up to review, *inter alia*, the Industrial Relations Act (Garrioch Committee) have not yet been released by the Government. Instead, the proposed Trade Union and Labour Relations Act, which is to replace the Industrial Relations Act, appears in some respects to be even less favourable to trade unions. The Committee still shares the hope of the ILO Committee of Experts that the Government will limit compulsory labour to services whose interruption is likely to endanger the life, personal safety or health of the whole or part of the population. However, it cannot but state a certain tendency on the part of the Government of Mauritius to use labour legislation to block trade union recognition and dismiss workers. The Committee's general impression is that Mauritius is returning to its original tradition, according to which Government supports firm control by employers over their workers.

176. Regarding article 9, the Committee notes that, according to a report submitted by the Government of Mauritius to the Committee on the Elimination of Discrimination against Women in 1992, no employment insurance exists.

177. Concerning article 10, the Committee notes with regret that Mauritian child labour legislation is not strictly enforced. It further takes note of the Government's own view expressed in its report, that Mauritius does not have a comprehensive system of family benefits through which all families benefit in a universal manner, and that the system of family allowances should be reviewed because the present regulations penalize the very families that need the allowance most.

178. Regarding the right to food, the Committee is concerned about the fact that in June 1993 the Mauritian Government abolished subsidies on rice and flour without replacing them by a system that would guarantee food security for the most vulnerable groups of the population.

179. Regarding the right to housing, the Committee expresses its concern about the discontinuation of the Government's programme for providing low-cost housing in Mauritius. In this regard, the Housing Development Company Ltd., established in 1992, is in no position to replace the former Central Housing Authority, as was sadly demonstrated after the recent cyclone Hollanda. Further, concern is expressed with regard to Government harassment of hundreds of homeless people who built shacks on "State land".

180. With regard to article 12, the Committee notes the deplorable state of mental health care in Mauritius. It is also concerned about information according to which half the maternal deaths since 1982 have been due to complications following abortion, which is prohibited by law.

181. With regard to article 13, the Committee takes note of the flaws in the educational system of Mauritius pointed out in its report and of the measures foreseen to improve the situation. In particular, it notes that the Mauritian school system is extremely competitive, which leads to widespread, Government-encouraged and costly private tuition and thus renders access to secondary and tertiary education more difficult for the poorer segments of the population. The Committee is also concerned about the reintroduction of fees at the tertiary level of education, which constitutes a deliberate retrogressive step. The Committee further notes with concern that Kreol and Bhojpuri, the only languages spoken by the large majority of the population, are not used in the Mauritian educational system.

182. Regarding article 15 of the Covenant, the Committee is concerned that the use of the two main languages spoken by 92 per cent of the population, namely Kreol and Bhojpuri, is still banned in the Mauritian National Assembly and actively discouraged in all Government institutions.

183. The Committee is also concerned that the population of the island of Rodrigues enjoys the right to health and the right to education to a markedly lesser degree than the people on the island of Mauritius itself.

F. Suggestions and recommendations

184. The Committee reiterates its request that the Government of Mauritius should actively participate in a constructive dialogue with the Committee about how the obligations arising from the International Covenant on Economic, Social and Cultural Rights can be fulfilled in a more adequate manner. It calls to the Government's attention the fact that the Covenant creates a legal obligation for all States parties to submit periodic reports and that Mauritius has been in breach of this obligation for many years.

185. The Committee recommends that the Government of Mauritius should avail itself of the advisory services of the United Nations Centre for Human Rights in order to enable it to submit as soon as possible a comprehensive report on the implementation of the Covenant in conformity with the Revised General Guidelines adopted by the Committee in 1990 (E/C.12/1991/1) and with

particular emphasis on the issues raised and concerns expressed in the present concluding observations.

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228. The Committee considered the initial report of Mauritius on articles 1 to 15 of the Covenant (E/1990/5/Add.21) at its 40th, 41st and 43rd meetings on 27 and 28 November 1995 and, at its 55th meeting on 6 December 1995, adopted the following concluding observations.

A. Introduction

229. The Committee welcomes the comprehensive initial report of the State party, prepared in accordance with its revised general guidelines, which was submitted shortly after substantive concluding observations were adopted by the Committee in May 1994. The Committee recalls that, prior to this, Mauritius had not fulfilled its reporting obligations under articles 16 and 17 of the Covenant since it became a State party on 3 January 1976. In the continued absence of the report, the Committee proceeded at its tenth session to consider the state of implementation by Mauritius of the economic, social and cultural rights contained in the Covenant.

230. The Committee thanks the State party for the written response to the list of issues and for the additional information during its open and constructive dialogue with the Committee.

B. Factors and difficulties impeding the implementation of the Covenant

231. The Committee considers that, notwithstanding the geographical isolation of the island of Rodrigues and the consequent logistical problems in the delivery of basic government services, a fact which is a considerable impediment, the Mauritian Government is still under the obligation to ensure the enjoyment by the population of Rodrigues of its economic, social and cultural rights.

C. Positive aspects

232. The Committee commends the positive reaction by the State party to the concluding observations referred to in paragraph 229 above, which have been taken into account in introducing changes in Mauritian law. In particular it welcomes the amendments in August 1995 of Section 16 of the Constitution of Mauritius, which now prohibits discrimination on the basis of gender in addition to "color or creed", and of the Citizenship Act of 1968, removing gender discrimination in relation to foreign spouses of Mauritians.

233. The Committee notes with satisfaction the repeal of the 1984 Newspaper and Periodicals Act, which had hindered the freedom of expression regarding the Government's policies, including in the sphere of economic, social and cultural rights.

234. The Committee appreciates the measures being taken by the State party to improve legislation in the field of mental health and physical disability.

235. The Committee notes with satisfaction that the continuing economic growth in Mauritius has been accompanied by considerable achievements in human development, a fact already noted in the concluding observations of May 1994. The statistical profile on socio-economic indicators reflects

a positive assertion of the avowed commitment by the Government to ensure better education, health and nutrition and a cleaner environment, to improve the quality of life, and to promote equality.

236. The Committee notes with appreciation the readiness of the State party, as expressed by the delegation, to continue constructive dialogue and cooperation with the Committee, with a view to ensuring the effective implementation of the provisions of the Covenant.

D. Principal subjects of concern

237. The Committee reiterates its concern that, despite encouraging developments in legislation, women in Mauritius continue to occupy a subordinate role in society affecting their full enjoyment of economic, social and cultural rights, particularly in the area of equal pay for men and women. In the agricultural sector for example, the Committee is not satisfied with the explanation of "differentiation but not discrimination" proffered by the delegation of Mauritius.

238. The Committee expresses its concern regarding the uncertain situation of foreign workers, and at the inability of the Government to ensure their rights as set forth in the Covenant, in particular in articles 6, 7 and 9.

239. With regard to article 8 of the Covenant, the Committee reiterates its concern as to the adverse effects of the Industrial Relations Act of 1973, which is still in force, on trade union rights and the right to strike. The Committee notes with concern that the Trade Union and Labour Relations Bill proposed in 1994, far from following the recommendations of the Special Law Review Committee, appears to be even less favourable to the exercise of these rights and was thus rejected by the entire trade union movement of Mauritius. The same observation applies to the proposed National Pay and Productivity Council Bill.

240. The Committee expresses grave concern at the reported rise in child abuse, child prostitution, domestic violence against women, teenage pregnancy, abortion, suicide, and alcohol and drug abuse. The Committee regrets the apparent absence of Government information and statistics on these matters, in spite of assurances from the delegation that further information will be sent in writing very soon.

241. The Committee expresses its regret that the State party has failed to disseminate public information concerning human rights in general, and the International Covenant on Economic, Social and Cultural Rights in particular. In addition, it notes with concern the absence of human rights education in all school curricula.

E. Suggestions and recommendations

242. The Committee encourages the Government to pursue its current efforts to eliminate discriminatory practices against women and to ensure in the practical application of the new laws the full enjoyment of their economic, social and cultural rights.

243. The Committee recommends a review of the situation of foreign workers to ensure the same protection enjoyed by Mauritian nationals, in particular with regard to articles 6, 7 and 9 of the

Covenant.

244. The Committee recommends that the revised industrial relations legislation to be proposed in the near future should take into account the report of the Special Law Review Committee and effectively enable the exercise of trade union rights, particularly the right to strike in conformity with the obligations which Mauritius has undertaken in this regard.

245. The Committee recommends an in-depth study and analysis of the situation of child abuse, child prostitution, domestic violence against women, teenage pregnancy, abortion, suicide, and alcohol and drug abuse, and of how the State party can best protect and ensure the economic, social and cultural rights of the population of Mauritius affected by those problems. In this regard, the State party should, inter alia, initiate efforts to gather statistics and other information relevant to the situation.

246. The Committee recommends that the Government of Mauritius adopt without delay an intensive and systematic public information campaign on human rights in general, and on the International Covenant on Economic, Social and Cultural Rights in particular.

247. The Committee recommends that steps be taken to incorporate human rights education in all school curricula, in accordance with the goals and objectives of the United Nations Decade for Human Rights Education