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## **Committee against Torture hears response of Delegation of Mauritius**

Committee against Torture  
AFTERNOON

20 May 2011

The Committee against Torture this afternoon heard the response of Mauritius to questions raised by Committee Experts on the initial report of that country on how it is implementing the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Responding to a series of questions raised by Committee members on Thursday, 19 May, Shree Baboo Chekitan Servansing, Permanent Representative to the United Nations Office at Geneva, noted that the Government was working to mainstream the various human rights mechanisms against torture within the constraints of a small jurisdiction that faced economic, financial and social difficulties. Other members of the delegation explained that the sanction for torture had increased from a sentence not exceeding 5 years in 2003 to a sentence not exceeding 10 years in 2008. Mauritius had a unique requirement that police must dislodge provisional information on a person's arrest within 72 hours, which would bring them from administrative detention into judicial supervision; if the person was not brought before the Court within this time, the Court could release the prisoner on bail or strike out the provisional charge.

Since the submission of the report from the Subcommittee on Torture in 2008, the Government had taken concrete actions to implement many of the recommendations, including the administrative establishment of the National Preventive Mechanism within the National Human Rights Commission, the finalization of the Police Complaints Division Bill, regular training for police officers, an amendment to Standing Order 120 of the Police to provide that detained prisoners have the right to inform their family of their detention, and improvements to prison facilities including the ongoing construction of a new prison to accommodate 750 detainees at a cost of 1.5 billion rupees. Delays in finalizing legislation were due to a new Government voted in a year ago with a heavy legislative programme from 2010 to 2015 and because the National Assembly did not sit throughout the year.

Luis Gallegos Chiriboga, the Committee Expert serving as Rapporteur for the report of Mauritius, stressed that these draft laws were needed and could not wait years until implementation. He urged the Government to eliminate an environment of impunity created by the differential in punishment of 10 years for torture and the sentence of 40 years for terrorism. Would the Government consider giving torture the highest sanction under the Criminal Code? The Rapporteur asked for statistics on those cases which had been struck out because of delay in pre-trial detention.

Alessio Bruni, the Committee Expert serving as Co-Rapporteur for the report of Mauritius, asked if the Government had a timeline for publishing the preventive recommendations in the report from the Subcommittee on Torture's visit. The Co-Rapporteur said there appeared to be a lack of urgency in implementing recommendations following visits to detention facilities by the National Human Rights Commission and asked for information on the outcome of police complaints cases which were prosecuted, including examples of the crime and sentence.

Other Committee Experts asked if the provision that debtors who could not repay would be put in prison was still valid; was there corporal punishment in prison and if a detainee died in custody, could a civil suit be pursued while the criminal case was underway?

The delegation from Mauritius included representatives from the Permanent Mission of Mauritius to the United Nations Office at Geneva, the Attorney General's Office and the Office of the Prime Minister.

The Committee will meet at 10 a.m. on Monday, 23 May when it will consider the initial report of Ireland (CAT/C/IRL/1).

#### Response by Delegation of Mauritius

SHREE BABOO CHEKITAN SERVANSING, Permanent Representative of Mauritius to the United Nations Office at Geneva, noted that the Government was working to mainstream the various human rights mechanisms against torture within the constraints of a small jurisdiction, including the structural economic, financial and social difficulties. The Government respected the independence of the judiciary, and all detainees had the right of appeal to the judicial committee of the Privy Council. The Ambassador said that the Government could take leadership in the work of Parliament but could not subdue Parliament and that was why bills could take a long time to be passed. The Chagos Archipelago was an outstanding issue that the Government continued to resolve.

Another member of the delegation said there was no need to provide statutorily for the offense of complicity in torture. In 2003 the sentence for the offense of torture was a fine not exceeding 50,000 rupees with a sentence not exceeding 5 years, in 2008 this was amended to a maximum fine 150,000 rupees with a sentence not exceeding 10 years. There was no statutory aggravating circumstance in the case of torture but the judge would consider the conditions of the case. All arrested persons had the right to counsel and the police must dislodge provisional information on a person's arrest within 72 hours, which would bring them from administrative detention into judicial supervision. If the person was not brought before the Court within this time, the Court could release the prisoner on bail or strike out the provisional charge.

A draft police complaints bill was intended to create a national police complaints division to investigate the death of any persons in police custody and advise on police misconduct; it would consist of the chairperson or the deputy of the National Human Rights Commission. With regard to financial independence, the National Human Rights Commission enjoyed financial autonomy and had its own budget which was voted by Parliament every year.

The extradition act dated back to 1970 and would shortly be reviewed to incorporate counter terrorism conventions. In Section 78 of the Criminal Code, which referred to torture, the Mauritian courts could try offences committed outside Mauritius where the victim was a citizen of Mauritius, the alleged offender was in Mauritius, or the alleged offender was in Mauritius and had not been extradited. There was provision for extra territorial jurisdiction where an offense was committed aboard a ship or aircraft registered in Mauritius. There were no prosecutions brought under Section 78 of the Criminal Code; provisional charges were laid in the La Bastille case but no formal charges were brought forward. Exceptional circumstances, such as a state of war, could not be used to invoke torture. Police inquiry files were regularly reviewed to ensure there were no violations.

Concerning cases of extradition, expulsion and return cases after 1999 would be submitted. Four cases of surrender: three to the United Kingdom and one to Canada, diplomatic assurances were not obtained and all had applications for habeas corpus submitted to the Supreme Court with the cases upheld. Monitoring was requested in all cases and for the one in the United Kingdom, a person was tried. The Government introduced special measures, including the elaboration of a witness protection programme, to protect witnesses from intimidation which occurred often in drug cases. 'Trial within a trial' would be held if a confession was ruled as inadmissible by a judge and the burden of proof rested with the prosecution to prove the confession was valid. The maximum offense was 20 years and would be changed to 60 years.