

Convention on the Rights of the Child

ALTERNATIVE REPORT FOR MAURITIUS

MARCH 2014

TABLE OF CONTENTS

TABLE OF CONTENTS	2
INTRODUCTION	3
SUMMARY OF RECOMMENDATIONS.....	4
SITUATION ANALYSIS.....	10
I. GENERAL MEASURES OF IMPLEMENTATION (art. 4, 42, 44(6)).....	10
Legislation	10
Coordination	10
The National Plan of Action.....	11
Independent monitoring.....	11
Data collection.....	11
Training and dissemination of the Convention	12
Recommendations	12
II. GENERAL PRINCIPLES (arts. 2, 3, 6 and 12 of the Convention)	13
Non-discrimination.....	13
Respect for the views of the child	14
Recommendations	14
III. CIVIL RIGHTS AND FREEDOMS (arts. 7, 8, 13-17 and 37 (a) of the Convention)	15
Birth registration.....	15
IV. VIOLENCE AGAINST CHILDREN	15
Corporal punishment	15
Child abuse, violence and neglect	16
Care, recovering and reintegration for child victims of violence.....	18
Recommendations	18
V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE (arts. 5; 18 (paras. 1-2); 9-11; 19-21; 25; 27 (para. 4); and 39 of the Convention)	19
Adoption	19
VI. BASIC HEALTH AND WELFARE (arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1-3 of the Convention)	20
Children with disabilities.....	20
“Child Beyond Control” and support to families	22
Health and health services	22
HIV/AIDS.....	23
Drug use.....	23
Recommendations	24
VII. EDUCATION, LEISURE & CULTURAL ACTIVITIES. (arts. 28, 29 and 31 of the Convention)	25
Recommendations	26
VIII. SPECIAL PROTECTION MEASURES (arts. 22, 30, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention).....	27
Child labour.....	27
Juvenile justice	27
Recommendations	30
IX. FOLLOW UP and DISSEMINATION.....	31
Follow-up	31
Dissemination.....	31
CONCLUSION	32

INTRODUCTION

This alternative report was prepared by a platform of non-governmental organisations (NGOs) and individual members of civil society working with children across various sectors including education, health, and rights. These NGOs are the:

- ADEPED
- ANFEN (Adolescent Non-Formal Education Network),
- APEIM (Association des Parents d'Enfants Inadaptés de l'Ile Maurice)
- Caritas Ile Maurice
- Chrysalide
- Kinouété
- LEAD (Leadership Empowerment & Action for Development)
- OpenMind
- Pédestop
- PILS (Prévention Information et Lutte contre le Sida)
- Safire (Service d'Accompagnement, de Formation, d'Insertion et de Réhabilitation de l'Enfant)
- SOS Children's Village
- SOS Papa
- T1 Diams

Despite the many efforts of the Government of Mauritius in the areas of children's rights, its legal framework and policies in place, and political goodwill, important gaps need to be addressed regarding the implementation of the Convention on the Rights of the Child (CRC). The objective of this report is to shed light on these gaps in order to move forward collaboratively and productively with all concerned stakeholders.

This report highlights the importance and urgency of enacting the Children's Act and improving coordination and collaboration amongst government bodies and non-governmental organisations. Resources should be allocated towards implementing the various areas of the CRC, toward training and capacity building of personnel in the education, child protection, health and juvenile justice sectors.

The Government should also consider implementing measures to reduce discrimination for vulnerable groups, including but not limited to disabled children and street-connected children. Measures should be taken to monitor and reduce child labour.

Access to services, namely psychological and counselling services in schools, at the community level in child protection units and departments and in the justice system should be improved. Access to health services and most notably harm-reduction services should be improved.

Finally, NGOs and individual members of civil society support that measures for national and international adoption should be improved; conditions for arrest and prosecution and detention for juvenile offenders should be improved; the educational system and its competitive components should be reviewed to address the CPE failure rate and the question of Kreol as medium of instruction should be addressed.

SUMMARY OF RECOMMENDATIONS

GENERAL MEASURES OF IMPLEMENTATION	<ul style="list-style-type: none"> • The NGOs represented recommend that the Ministry of Gender Equality, Child Development and Family Welfare circulate the draft Children’s Bill to all organizations working in child rights, child development and child protection so that they can contribute and make their recommendations; • The Ministry and State Law Office take all necessary steps and measures to enact this law in the shortest delay following reviews, consultations and workshops with organizations; • The NGOs recommend the creation of an effective coordination body concerning the Child’s Right, for all NGOs under the aegis of the Prime Minister’s Office. This has been the case when dealing with HIV and AIDS in Mauritius, with the creation of the National Aids Secretariat in 2007, whose main responsibility is to coordinate all actions in this field; • One of the missions of the coordination body should be to facilitate the different interventions with regard to child protection, and the establishment, monitoring and evaluation of the National Action Plan; • NGOs recommend that the Ombudsperson for Children’s Office (OCO) should have more investigators to be able to work efficiently and follow-up on reported cases; • The OCO should strengthen and broaden its sensitization and advocacy campaigns on children’s right. Strategic links should be established with the Ministry of Education to integrate education of children’s rights at all levels of schooling; • The OCO’s role as a watchdog should be strengthened and reinforced; • Updated statistics and reports regarding the situation of vulnerable children in Mauritius should be more accessible through government websites and shared widely amongst stakeholders for transparency; • Funds should be allocated for human rights training programmes for all professions dealing with children; • Trainings in child rights should be done more regularly and systematically and be a core part of the training of police officers, teachers and all other relevant professions; • Trainings should be more in-depth and up to international standards. Follow-up and monitoring of training and implementation of skills should be carried out; • Non-governmental stakeholders should be included in the “Working Together” framework.
GENERAL	<ul style="list-style-type: none"> • Sensitisation sessions and advocacy campaigns should be carried

PRINCIPLES	<p>out on violence (sexual, physical, psychological) against children: definition, consequences, importance to report these cases, to protect children should be carried out at community, institutional and national levels;</p> <ul style="list-style-type: none"> • Impacts of such campaigns should be measured and evaluated; • Training of school personnel on the psychological impacts of corporal punishment and the use of non-violent teaching and conflict resolution methods; • Legislation should be reviewed to more explicitly define and condemn corporal punishment at home and at school; • The OCO should exercise regular spot checks in schools; • The Child Protection Act should be properly enforced and “any suspected abuse” should be denounced; • Psychologists should be mandated by law to report any suspected abuse; • Training of officers (OCO, Police, CDU) on all forms, consequences of violence and importance to report, is recommended; • A fast track should be adopted for urgent cases and for cases where the child is at risk as he/she is living under the same roof as the perpetrator or in the same environment. The child’s voice and testimony should hold more weight than physical evidence, which is in most times unavailable; • NGOs highly recommend that children are interviewed in child friendly offices where he/she feels at ease and comfortable and that the interviews are recorded; • An Ordinance to render discrimination against pupils on the ground of their disability in respect of their education, access to educational establishments, sporting activities and the provision of services and facilities; • Public officers should be trained with regards to discrimination and should be sanctioned if they express or apply discrimination; • Provisions against all forms of discrimination should be included in the Children’s Bill and comprehensive mechanisms put in place to eliminate them; • Teacher training should give tools to teachers on how to encourage children to express themselves and promote their participation whenever possible. For example: “<u>Les amis de Zippy</u>”, an international programme to promote social and coping skills, which was implemented in state schools in Rodrigues and only in catholic and private schools in Mauritius could be replicated throughout the island; • Organizations and institutions working with children should also receive this type of training; • If necessary, the laws should be amended so that in cases involving the courts and administrative bodies, the views of the child should be systematically taken into account whenever a decision concerning him or her is taken.
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<p>VIOLENCE AGAINST CHILDREN</p>	<ul style="list-style-type: none"> • Existing discrepancies regarding the age of sexual maturity in the Criminal code (16 years) and Child Protection Act (18 years) must be addressed; • Sensitization sessions and advocacy campaigns should be carried out on violence (sexual, physical, psychological) against children: definition, consequences, necessity to report these cases, to protect children should be carried out at community, institutional and national levels; • Impacts of such campaigns should be measured and evaluated; • Training of school personnel on the psychological impacts of corporal punishment and the use of non-violent teaching and conflict resolution methods; • Legislation should be reviewed to more explicitly define and condemn corporal punishment at home and at school; • The OCO should exercise regular spot checks in schools; • The Child Protection Act should be properly enforced and “any suspected abuse” should be denounced; • Training of officers (OCO, Police, CDU) on all forms, consequences of violence and importance to report, is recommended; • A fast track should be adopted for urgent cases and for cases where the child is at risk as he/she is living under the same roof as the perpetrator or in the same environment. The child’s voice and testimony should hold more weight than physical evidence, which, is in most times unavailable; • NGOs highly recommend that children are interviewed in child friendly offices where he/she feels at ease and comfortable and that the interviews are recorded.
<p>FAMILY ENVIRONMENT AND ALTERNATIVE CARE</p>	<ul style="list-style-type: none"> • The Labour Law should make provision for parental leave in case of adoption; • An independent body should be set up to deal with adoption processes; • A list of prospective parents should be drawn out and parents screened; • A list of children to be adopted should also be made through the agency.
<p>BASIC HEALTH AND WELFARE</p>	<ul style="list-style-type: none"> • Appropriate structures and services for children requiring psychological support should be made available; • Adequate training is required to further accommodate children with disabilities in the mainstream educational system; • Renew and improve partnership terms between the government and NGOs running specialized institutions for children with disabilities; • Establish stricter standards and norms for non-governmental organizations running specialized institutions should be established;

	<ul style="list-style-type: none"> • Access to data regarding all disabilities including disabilities such as autism should be improved; • The State should give means to ensure and monitor the right of disabled children to free education; • The practice of Child Beyond Control should be abolished; • Training sessions on parenthood skills, namely regarding the child's personal development and the necessary physical and psychological care should be provided to parents by qualified trainers and psychologists in hospitals, schools, communities, at the institutional and national levels; • Adequate resources should be allocated to the Child Development Unit and to the Family Support Bureaus, in the different ministries, to ensure greater support to families and more capacity for counselling; • Children between 12 and 18 years old should be able to receive paediatric care; • Greater protection and child friendly measures should be ensured for children suffering from type 1 diabetes; • The State should take all appropriate measures so reporting procedures favour the rights and the protection of the child first and foremost; • Child protection policies and procedures should be enforced and respected; • NGOs recommend that a comprehensive sexual and reproductive health education programme be integrated in the national curriculum; • Information on HIV should be made available for school children; • Harm reduction services should be made available for children under 18 years old.
EDUCATION AND CULTURAL ACTIVITIES	<ul style="list-style-type: none"> • NGOs recommend increased collaboration between the Ministry of Education and specialised schools for smooth transition of the system; • The State should review the selective academic system, so 'no child is left outside'; • The State should address the medium of teaching by a national pedagogical, non political, debate; Kreol being the mother tongue of the majority of children, but not academically adequate at college exams level; • The State should make provision for the training of special needs teachers, identification of support teams, enrolment of paramedical staff at MOE to be posted in all schools for assessment, personal programmes and specialised inclusive support and re-education; • Remedial literacy classes should be available for pupils beyond Standard 1; • More school materials should be made available freely; • Closer collaboration with parents should be sought;

	<ul style="list-style-type: none"> • Teaching techniques and methods should be adjusted according to the needs of children.
SPECIAL PROTECTION MEASURES	<ul style="list-style-type: none"> • There should be public campaigns for the prevention of crime; • The availability and accessibility of alternative measures for child offenders using probation services should be increased; • Juvenile detention and deprivation of liberty should only be applied as a last resort; • Preventive detention should be used as a last resort, before we could make use of an electronic bracelet with a time curfew; • Establishing centres or different hosting services depending on the nature of the crime or offence, and ensure the safety of all children, in particular non-violent offenders vis-à-vis violent or sexual abuse offenders; • An individual support and rehabilitation plan for each child including all psychological, medical, educational aspects necessary for his or her personal development and reintegration into his or her family and society should be implemented; • In cases where courses are organized, the medium of instruction should be Kreol; • The establishment of specialized expected rehabilitation / therapy for child victims and / or convicted of sexual abuse; • Establishment of indicators, studies, evaluation of institutions, including recidivism, as well as the progression of academic and integral development of the child and follow-up after release; • Training for police and officers of the RYC and CYC: based on the recommendations of the Committee on the Rights of the Child 2006-67 (d): "Regularly conduct training programmes concerning relevant international standards for all professionals involved with the system of juvenile justice"; • Civil society requests an inspection to the International Observatory of Prisons.

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- ADEPED
- ANFEN (Adolescent Non-Formal Education Network),
- APEIM (Association des Parents d'Enfants Inadaptés de l'Ile Maurice)
- Caritas Ile Maurice
- Chrysalide
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- Safire (Service d'Accompagnement, de Formation, d'Insertion et de Réhabilitation de l'Enfant)
- SOS Children's Village
- SOS Papa
- SPEAK Human Rights - Mauritius
- T1 Diams

There are many others who have contributed their time, energy and invaluable insight who wish to remain anonymous. Nonetheless, their participation and contribution – without which this report could not have been completed – should be acknowledged.

SITUATION ANALYSIS

I. GENERAL MEASURES OF IMPLEMENTATION (art. 4, 42, 44(6))

Legislation

The Convention is not an integral part of the national legislation. There is a plethora of legislation, which touches upon various aspects of child's rights directly or indirectly. There is no compilation of such laws, which make it difficult to have a clear idea of the laws pertaining to children. Legislation is not very well known by the population in general and the children and their families in particular. There is a lack of information and child user-friendly campaigns.

The Children's Act, intended to bring under one aegis the multiple laws concerning children's rights and bring Mauritius into line with the Convention on the Rights of the Child (CRC), has been in the pipeline without any tangible result for at least three years¹. According to the State report, workshops have been held on themes in relation to the Children's Act. However, no formal report or feedback following these workshops has been shared with all stakeholders. A number of civil society organizations were never convened to the workshops and never received the workshop reports or draft bill. Locally based non-governmental organizations (NGOs) deplore the fact that consultation of civil society organizations has been very selective. Those chosen do not represent the views and voices of the body of organizations working with children nor do they represent the voice of all children in Mauritius and Rodrigues.

The lengthy process and delay in coming forward with the Act is a serious matter of concern whereas other legislations are enacted in much shorter periods. NGOs are very concerned that priority on the national agenda is not being given to children's rights.

Coordination

There are several government bodies who work actively in this field namely the Ministries in charge of Education, Health, Justice, Police, Labour and Social Security in addition to the Ministry of Gender Equality, Family Welfare and Child Development (the latter being the lead Ministry in this sector), other public institutions such as the Office of the Ombudsperson for Children and the National Children's Council and numerous NGOs. Institutional fragmentation is prevalent. Difficulties in communication and coordination between all the different actors involved in the children's rights frequently occur. Roles and responsibilities of each government body are not clearly spelled out or communicated.

Efforts to ensure improved coordination between the different government bodies have been articulated through the "Working Together" framework.² NGOs deplore the lack of

¹ *Convention on the Rights of the Child Combined Third, Fourth and Fifth Periodic Report by the Republic of Mauritius*, Government of Mauritius, July 2011.

² *Convention on the Rights of the Child Combined Third, Fourth and Fifth Periodic Report by the Republic of Mauritius*, Government of Mauritius, July 2011. para.20. (hereinafter « *Periodic State report* »)

information from this high-powered committee and the non-inclusion of civil society.

When a child needs to be referred, it is not always clear for NGOs which section or department or even Ministry within the public sector needs to be informed. In addition, there are often times, when a department, to which a child has been referred will pass on the responsibility to another department of the Ministry and so on. This makes it difficult to ensure a follow-up on the particular case.

The lack of coordination and consistency is appalling even amongst various departments of the same service or Ministry. For example, in an instance of child abuse, a victim could contact the Child Development Unit of the Ministry of Gender, the Family Support Bureau of the same Ministry, the Ombudsperson for Children's Office, or the Family Protection Unit, and the "Brigade pour la Protection des Mineurs", which are both part of the Police Force.

The National Plan of Action

The Committee recommended that the State Party implemented a National Plan of Action (NPA), involving civil society and the Ombudsperson for Children's Office (OCO). The NPA is mentioned in several official documents; however the content of the NPA is not easily and readily available, and few NGOs are aware of it. The content as well as the monitoring of the implementation of the NPA is not being communicated.

Independent monitoring

The human and organizational resources of the OCO have remained unchanged with the number of investigators being limited to four. The Government should take measures to significantly reinforce the number of investigators of the OCO to ensure efficient and regular follow-up on various cases.

The main sensitization and advocacy campaign of the OCO is the "16 jours 16 droits" (16 days, 16 rights) corresponding to the International Day of the African Child on 16 June. While NGOs support this initiative, they believe that it is equally important to set up island-wide information campaigns for dissemination of child rights for the general population, and more targeted ones for all adults working closely with children.

Data collection

NGOs note that accessibility to up to date statistics, reports and studies is very challenging. The last published report of the Ministry of Gender Equality, Child Development and Family Welfare - *Statistics in Mauritius, A Gender Approach* - dates from February 2013. The data published in this report are up to 2011. Furthermore, statistics on children suffering developmental disabilities such as autistic children are not readily available.

The UN Convention on the Rights of the Child Combined Third, Fourth and Fifth Periodic Report of the Republic of Mauritius mentions a project entitled "Harmonisation of System of Data Collection on Women and Children in Mauritius" in collaboration with the Statistics Mauritius, however to date no figures are available and have been published in this regards.³

³ *Convention on the Rights of the Child Combined Third, Fourth and Fifth Periodic Report by the Republic of Mauritius*, Government of Mauritius, July 2011. para.20. (hereinafter « *Periodic State report* »)

Training and dissemination of the Convention

The State Periodic report states that trainings have been made available to persons operating in the legal profession, the Child Development Unit (CDU) and the police. However, training regarding the Convention on the Rights of the Child and children's rights in general is not part of the teacher-training curriculum. In their work, NGOs often come across many teachers who do not seem to know about the CRC, and the rights of the children they are working with.

In addition, state schools do not include children's rights as part of their curriculum. Children are often not informed about their rights. The annual campaign on children's rights "*16 jours, 16 droits*" organised by the Office of the Ombudsperson for Children (mentioned earlier) is only held in a restricted number of schools.

Recommendations

- The NGOs represented recommend that the Ministry of Gender Equality, Child Development and Family Welfare circulate the draft Children's Bill to all organizations working in child rights, child development and child protection so that they can contribute and make their recommendations;
- The Ministry and State Law Office should take all necessary steps and measures to enact this law in the shortest delay following reviews, consultations and workshops with organizations;
- The NGOs recommend the creation of an effective coordination body concerning the Child's Right, for all NGOs under the aegis of the Prime Minister's Office. This has been the case when dealing with HIV and AIDS in Mauritius, with the creation of the National Aids Secretariat in 2007, whose main responsibility is to coordinate all actions in this field;
- One of the missions of the coordination body should be to facilitate the different interventions with regard to child protection, and the establishment, monitoring and evaluation of the National Action Plan;
- NGOs recommend that the OCO should have more investigators to be able to work efficiently and follow-up on reported cases;
- The OCO should strengthen and broaden its sensitization and advocacy campaigns on children's rights. Strategic links should be established with the Ministry of Education to integrate education of children's rights at all levels of schooling;
- The OCO's role as a watchdog should be strengthened and reinforced;
- Updated statistics and reports regarding the situation of vulnerable children in Mauritius should be more accessible through government websites and shared widely amongst stakeholders for transparency;
- Funds should be allocated for human rights training programmes for all professions dealing with children;
- Trainings in child rights should be done more regularly and systematically and be a core part of the training of police officers, teachers and all other relevant professions;
- Trainings should be more in-depth and up to international standards. Follow-up and monitoring of training and implementation of skills should be carried out;
- Non-governmental stakeholders should be included in the "Working Together"

framework.

II. GENERAL PRINCIPLES (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

There is ample indication that discrimination exists in the form of barriers that prevent children from accessing and enjoying the various services and facilities offered by the state. Such discrimination concerns:

- Children living in deprived regions and coming from poor socio-economic backgrounds;
- Street-connected children whose basic needs are often unmet;
- Children who have committed an offence, and often do not receive adequate legal and psychological support from the state;
- Children who are infected with HIV are unable to access child friendly services which should be in place at the National Day Care Centre for the Immuno-Suppressed (NDCCI) with regular visits from a paediatrician and other related healthcare providers. The Ministry of Health should cater for the psychological support that young HIV positive children will need, and provide for a permanence of psychologists at the NDCCIs;
- Regarding young people who are using drugs, there are no tailored harm reduction strategies such as methadone distribution for them. There are no rehabilitation centres for the young people who consequently prefer to resort to sex work to pay for payment of their drugs. Drug policies in Mauritius still need to be reformed as many young people on drug addiction are treated as criminals rather than people suffering from addiction who should be on the health system. However, treating them as criminals instead put the young people more exposed to more dangerous drugs in prisons and more at risk to infections such as HIV and Hepatitis C.
- Children who are placed in shelters often do not receive appropriate support and consideration in their schools/class. Some cases have been reported where teachers may ignore them. They may also be victims of bullying or stigmatization from their peers and/or school teachers;
- Children who suffer from physical and/or mental disabilities: a case of a parent attempting to enrol her four year-old child in a kindergarten was reported to an NGO. This child was not physically autonomous, neither for meals nor for going to the bathroom. The head of the kindergarten refused categorically to enrol the child, despite the proposal of the mother to hire an auxiliary that could accompany the child in school;
- Children from certain cultural and ethnic backgrounds. Although no official statistics exist due to the current census system not allowing for ethnic disaggregation, NGOs and children themselves often report that police discriminate against children of Creole cultural background. NGOs also report bias and stigmatization, some forms of

verbal violence from the part of civil servants in departments or agencies dealing with children, vulnerable children and juvenile offenders.

Best interests of the child

The mandate of the office of the Ombudsperson under the Ombudsperson For Children Act of 2003 is to ensure that the best interests of the child is the primary consideration in all decision making process by all relevant public and private authorities, with the aim to ensure compliance with the Convention. Additionally article 242 of the Civil Code clearly stipulates that, *‘s’il y a des enfants mineurs, le juge en chambre se prononce sur leur garde, ainsi que sur le droit de visite et d’hébergement, en tenant compte exclusivement de leurs avantages et de leurs intérêts’*. Furthermore, article 353 of the Civil Code provides that, *‘si l’adoption est conforme à l’intérêt de l’enfant.’* It is accepted that the judges always apply the test of the best interests of the child in divorce cases, or separation of parents, custody of children, or orders for alimony or for immediate care and control.

While it is accepted, that the concept of best interest exists in the national legislation, it is hoped that the new Children’s Act will elaborate on the concept more comprehensively.

Respect for the views of the child

To date, there is limited forum that allows children the opportunity to express their ideas and participate in the decisions that concern them. At school, the academic pressure to respect the national curriculum leaves little room for children to express their needs, feelings, ideas and creativity.

Recommendations

- An Ordinance to render discrimination against pupils on the ground of their disability in respect of their education, access to educational establishments, sporting activities and the provision of services and facilities;
- Public officers should be trained with regards to discrimination and should be sanctioned if they express or apply discrimination;
- Provisions against all forms of discrimination should be included in the Children’s Bill and comprehensive mechanisms put in place to eliminate them;
- Teacher training should give tools to teachers on how to encourage children to express themselves and promote their participation whenever possible. For example: “[Les amis de Zippy](#)”, an international programme to promote social and coping skills, which was implemented in state schools in Rodrigues and only in catholic and private schools in Mauritius could be replicated throughout the island;
- Organizations and institutions working with children should also receive this type of training;
- If necessary, the laws should be amended so that in cases involving the courts and administrative bodies, the views of the child should be systematically taken into account whenever a decision concerning him or her is taken.

III. CIVIL RIGHTS AND FREEDOMS (arts. 7, 8, 13-17 and 37 (a) of the Convention)

Birth registration

Cases of adolescents without birth registration were referred to NGOs. Procedures to declare them were lengthy and difficult, and required high-level interventions from the State. While such cases are few, it is suggested that improved communication between authorities and faster procedures for late registration be established.

IV. VIOLENCE AGAINST CHILDREN

Corporal punishment

Gaps in the law exist with regards to corporal punishment at home. Although Article 13(1) of the Child Protection Act 1994 prohibits ill-treatment or exposing a child to harm, not all forms of corporal punishment are prohibited. Interpretations of the various pieces of legislation concerning violence and abuse do not prohibit all forms of corporal punishment. The government has accepted the above lacunae and it is hoped that it will abide by its commitment and that, '[T]he question of extending this prohibition and expressly addressing corporal punishment in family settings, penal institutions and alternative care settings will be addressed in the course of consultations for the Children's Bill.'⁴

Corporal punishment is prohibited in schools in article 13(4) of the Education Regulations 1957 and the Child Protection Act 1994 states that any suspected abuse should be reported. However corporal punishment practices are witnessed by NGOs on a day-to-day basis in the schools where they work or reported to NGOs by children: for example, hyperactive pupils being tied to their chairs, pupils being forced to kneel down on *Casuarina* tree pines for periods of time, as well as rulers being used to hit the tips of fingers of children. Other cases include hitting a child on the back of their head or plucking hair.⁵

According to the Child Protection Act, the school community must report any suspected cases of neglect, abandonment, or violence. The teachers report to the headmaster of the school. Often when this is done and the case is reported, no sanction is taken and the children still suffer from corporal punishment. In some schools, it has even been observed that headmasters themselves make use of corporal punishment practices. According to perceptions of a number of civil society members, corporal punishment is part of the school culture and normal practices even though the law clearly states it as an illegal practice.

A common preconception encountered by NGO workers amongst teachers and parents is that corporal punishment is the only effective way to discipline a child, and make him concentrate on academic work. This has an impact on the children who also come to believe that such punishment is normal, and that it is a way to discipline them.

Even though a hotline is operational, children are not aware of their rights. They do not know these are being violated when they are subjected to corporal punishment. The Ombudsperson

⁴ *Corporal punishment of children in Mauritius: Briefing for the Universal Periodic Review*, 17th session, 2013
Dr Sharon Owen, Research Coordinator, Global Initiative to End All Corporal Punishment of Children.

⁵ Puniton corporelle - Quelles conséquences sur l'enfant ? *Le DefiQuotidien*. 14th of October 2012. Retrieved from <http://www.defimedia.info/defi-plus/dp-societe/item/20301-puniton-corporelle-quelles-conséquences-sur-l'enfant?.html#sthash.EWTAU2j4.dpuf>

for Children's Office should take action to raise awareness of child rights in schools and amongst personnel in education, above and beyond the existing kit distributed yearly.⁶

The latest Periodic State report states that the Ministry of Education and Human Resources issued a circular letter to all schools clearly condemning corporal punishment on children and warning as to the legal consequences if the law is broken under the Child Protection Act⁷. There is concern that not all teachers in the schools will have got the information; no other sensitization campaign has been carried out by the government on this issue.

Child abuse, violence and neglect

Each year, there are up to 6000 cases of children victims of violence, ill treatment and sexual abuse, which are reported to the Child Development Unit⁸(CDU). In 2010, there were 6021 cases; in 2011, 5981 cases; in 2012, 5269 cases and from January to April 2013 there were 2073 cases.

The Child Development Unit, as stated on its website is mandated inter alia to:

- Provide for Protection Services to victims of violence, abuse and neglect on a 24 hr 7 days basis;
- Provide community safety and community actions in Child Protection and Child Welfare in general through Community Child Protection Programme and outreach Programmes.

The CDU is staffed with approximately 40 officers and 7 psychologists. This is highly inadequate to deal with the number of cases reported nationally. There are only six CDU units throughout the island that comprise of one officer, one psychologist and one policeman each. They are all appointed to help deal with the number of cases listed above.

This ratio makes it difficult for children and their families to have access to regular and effective psychological services. Often children and their families have to wait one to three months before obtaining an initial psychological session, and it is rare that they can be offered psychological sessions on a regular basis. Several recommendations have been made to increase the human and financial capacity of the CDU, including to the Ministry of Finance and the Government's Annual Budget. These recommendations have been considered in the last budget exercise in 2013. However, from unofficial source, field workers officers from the CDU are still to number of 6 to deal with field issues, as at march 2014.

This lack of human capacity also results in long delays in dealing with cases and even most urgent cases are sometimes delayed. For example, a 5 year-old was reportedly sexually abused by her father in March 2012. Despite testimonies of the psychologist, paediatrician and officers of the CDU, the child had to retell her story nine times. Unfortunately the lack of physical evidence resulted in very lengthy procedures, dropping of interim protection orders and postponed court dates. The next court date is now fixed for May 2014. In the meantime, the father is left free.

⁶Convention on the Rights of the Child Combined Third, Fourth and Fith Periodic Report by the Republic of Mauritius, Government of Mauritius, July 2011.para.356.

⁷Convention on the Rights of the Child Combined Third, Fourth and Fith Periodic Report by the Republic of Mauritius, Government of Mauritius, July 2011. para.41.

⁸“Enfants maltraités – l'autre facette de la société mauricienne”. Published in Le DéfiQuotidien, 27 June 2013.

Moreover the office where the officers of the CDU conduct interviews with children is cold and not child-friendly. Some units have only a table and a chair. There are concerns that the interview room might not be adequate.

In addition, interviews are carried out by staff, who are not always adequately trained to work with children and their approach is reportedly not child friendly. An NGO reports the following cases: an officer asked a 6 year old child “Was there blood when your father introduced his finger inside you?”. In another case, an officer stated to a victim: “There is no use in denouncing because there will be no proof”. The child’s voice and testimony is not given enough importance.

A child has to be accompanied by an adult to lodge a complaint on abuse. Even if more than 70 % (Snamem 2001,) of the child abuses are perpetrated within the immediate family circle, according to many researches on child sexual abuse. Civil society regularly reports cases of children at risk and child abuse to the CDU but there are a lot of cases remain unanswered.

Despite several recommendations and the initiative started by the former Ombudsperson to record the statement of the child on video so as to avoid repetitions, the statement of the child is taken more than once. The victim often has to repeat his or her story several times, thus adding to trauma. NGOs report the case of a six-year old child, victim of sexual abuse, who was requested to come several times to the CDU to relate what she had undergone. Cases of abuse are not dealt in a professional manner as not all of CDU officers are adequately trained.

Recording and follow up of cases are not properly done; victims are not adequately referred to and counselled by trained psychologists, for both first order and long term counselling. In many cases, a CDU officer decides whether it is a trauma or not, whether the child has to be seen by a psychologist or not. There are several shortages with regard to the procedure such as the availability of video evidence as well as in-camera proceedings.

Although the Courts Act makes provisions for a plaintiff in a sexual offence to appear in court via the use of live video or television link, adequate video systems or links have not been established in the various courtrooms across the country.^{9,10}

At the level of the Police Force, enquiries in cases of sexual abuse still take place at the level of the local police. When the victim is a girl, a woman police officer normally attends the case. However, there is an insufficient number of women police officers. Victims of sexual abuse are not examined immediately but are referred to see the medical police officer several hours later due to the absence of transport facilities, leading to the invalidity or validity of reports or evidence. Medical examinations take place either in a main hospital or at the Police Headquarters in Port-Louis. These facilities do not exist in the vicinity of the residence of the child and should be made available in the 5 main hospitals of the island. For example, a case of corruption of minor was reported by a psychologist and a teacher to the director of public vocational training school in the end of 2011. Nothing was reported to the police. The perpetrator’s wife went to the police giving the list of phone calls and messages between her husband and the minor in December 2012. The minor was examined in February 2013,

⁹ *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mission to Mauritius, NajatMaallaM’Jid*, 9 November 2011.A/HRC/19/63/Add.1 para. 42

¹⁰ “ABUS SEXUELS : Aucun projet pour un tribunal spécialisé pour les enfants, a déclaré Satish Faugoo », *Le Mauricien*, 22 Novembre 2013, retrieved from <http://www.lemauricien.com/article/abus-sexuels-aucun-projet-tribunal-specialise-les-enfants-declare-satish-faugoo>

fifteen months after the sexual intercourse.

The Police Department responsible for dealing with abuses is the Police Family Protection Unit. Within this unit, there is one specialized “Brigade pour la Protection des Mineurs” for the whole country (not available in Rodrigues) with 20 police officers (out of a police force of 10,523) and no women officer.

NGOs also report cases of children involved in mendicity. They wander in the streets of Port Louis and the parkings of commercial centres every day. One NGO reports notifying the CDU of mendicity without adequate ensuing action. Children suffering from handicaps or various forms of diseases are often exposed to the general public to collect donations.

Regarding the statistics of children’s sexual abuses reported to the CDU, in 2010 there were 317, in 2011 there were 302, in 2012 319 and from January to April 2013 there were 136 cases. It is estimated that 21 % of the Mauritian population in the end of 2011 are children between 0 and 14 year old in Mauritius. The reported cases therefore represent 0.11 % of the 272 000 children. In comparison, according to the WHO in 2010, about 20% of women and between 5 and 10% of men have been victims of sexual abuse in their childhood. In an enquiry done in secondary schools by psychologists in 2012, on 853 students, 9% state they have faced sexual violence. There are concerns about cases of sexual abuses being underreported.

Care, recovering and reintegration for child victims of violence

Although heads of schools are supposed to report cases of violence and abuse, many are scared of the consequences of reporting such cases and they feel unprotected should they report anything. There was such a case at the Mauritius Institute of Training and Development (MITD), reported in the media, where the head did not report and offer referral. The case involved a teacher being accused of corruption of a minor. The teacher denouncing her colleague and the psychologist who heard the child were suspended, while the case was referred to a fact-finding committee before being referred to the police and adequate child protection service institutions.¹¹ NGOs deplore that in addition to the case being poorly handled and the rights and best interests of the child involved not being sufficiently considered, the handling sent the wrong signals to all heads of schools and institutions with regards to the adequate procedure and respect of children’s rights.

Shelters in which are placed children victims of child abuse, neglect and abandonment care for children below 18 year old. There is a major issue with what they become and where they can go after the time in the shelter. There is a lack of place in these shelters, as well as a lack of trained caregivers to deal with and help these children.

Recommendation

- It is recommended that the prevailing legal anomalies pertaining to the age discrepancy in the Child Protection Act and the Criminal Code insofar as sexual offences are concerned must be addressed;
- Sensitization sessions and advocacy campaigns should be carried out on violence

¹¹“Allegation de pédophilie au MITD : J’avais donné des preuves, affirme Sudha Singh”, *L’Express*, 28 April 2013

(sexual, physical, psychological) against children including definition, consequences, the necessity to report these cases and to protect children. This should be implemented at community, institutional and national levels;

- Impacts of such campaigns should be measured and evaluated;
- Training of school personnel on the psychological impacts of corporal punishment and the use of non-violent teaching and conflict resolution methods;
- Legislation should be reviewed to more explicitly define and condemn corporal punishment at home and at school;
- The OCO should exercise regular spot checks in schools;
- The Child Protection Act should be properly enforced and “any suspected abuse” should be denounced;
- Referral to psychologists should be included in the Child Protection Act or the upcoming Children’s Act and they should be mandated to report any suspected abuse;
- Regular and quality trainings of officers (OCO, Police, CDU) on all forms, consequences of violence and importance to report, is recommended;
- A fast track should be adopted for urgent cases and for cases where the child is at risk as he/she is living under the same roof as the perpetrator or in the same environment. The child’s voice and testimony should hold more weight than physical evidence, which is in most times unavailable;
- NGOs highly recommend that children are interviewed in child friendly offices where he/she feels at ease and comfortable and that the interviews are recorded.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE (arts. 5; 18 (paras. 1-2); 9-11; 19-21; 25; 27 (para. 4); and 39 of the Convention)

Adoption

Both simple and plenary adoptions are regulated by the Civil Code Act. Only married couples can apply for a plenary adoption. The best interests of the child are said to be taken into consideration when the Court makes its decision. The National Adoption Council (NAC) handles cases of adoption of Mauritian children by non-citizens.

Mauritius has acceded to the Hague Convention on inter-country adoption in 1999 and is now in the process of reviewing the whole procedures to implement it. Discussions are taking place for defining a clear policy on adoption as one of the possible alternatives to the placement of children. In doing so, the Government should be invited to give full effect to the Hague Convention. Insofar as Article 21 of the convention is concerned, it is appreciated that the National Adoption Council Act is presently being reviewed by the Attorney General’s Office. The main objective of the National Adoption Council (Amendment) Bill is to implement the provisions of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. The implementing legislation will purportedly regulate the adoption of Mauritian children by foreigners, adoption of foreign children by Mauritian nationals and adoption of Mauritian children by Mauritian nationals except for intra familial

cases. Additionally, the provisions will ensure that a child is 'adoptable', that international adoption will only be relevant after local adoption has been ruled out and depending on the degree of maturity, the child's wishes and opinions will be taken on board, the consequences of adoptions are fully appreciated, consent been given freely and no contact between biological and adoptive parents.

In light of the above, the policy on adoption should be reviewed, as there is a demand for adoption of children both by local families and foreigners. Citizens who want to adopt must retain the services of lawyers after having found a child and apply to the judge in chambers. Currently the National Adoption Council only deals with international adoptions and parents need to hire the services of an attorney and barrister at law for local adoptions.

Procedures prior to adoption need to be reinforced. Currently adoptions are considered following a report from the "Probation and Aftercare Service". There is no report from professionals such as psychologists or social workers to state on the real motivation of the couple or single person applying for an adoption. Also there is no established list of Mauritian parents applying for adoption and the principles of the Hague convention are not applied to prioritize local adoption.

There is also no official list of children who can be adopted, limiting the adoption process by Mauritian parents. Any person intending to adopt a child tries to identify willing families from deprived regions or deal with intermediaries.¹²

As per the Hague convention, there should be an independent body to deal with the adoption process to avoid the hassle on the adopting family and avoid discrimination against children to be adopted on the basis of religion and socio economic background.

Recommendations

- The Labour Law should make provision for parental leave in case of adoption;
- An independent body should be set up to deal with adoption processes;
- A list of prospective parents should be drawn out and parents screened;
- A list of children to be adopted should also be made through the agency;
- Families and prospective parents should be properly prepared.

VI. BASIC HEALTH AND WELFARE (arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1-3 of the Convention)

Children with disabilities

Despite the many efforts undertaken to help and support disabled persons, improvement with regard to their situation has been relatively slow and largely unsatisfactory.

¹² "Il manque un register des enfants adoptables" Interview with Narghis Bundhun. *L'Express*. 11 April 2011.

Although disabled children are encouraged to attend regular schools and be part of the regular system, the structures in place are not adequate to allow for their proper adaptation and follow-up. As a result, these children end up by being left aside and have severe difficulties in keeping up with their peers.

According to the latest Mauritius population census, there were 5718 children living with disabilities in 2011.¹³ NGOs estimate that there are 1800 disabled children attending schools through various associations. The associations providing informal schooling have varying capacity, with insufficient norms or standards for registration at the Ministry of Education. NGOs deplore the lack of productive partnership with the government.

In some cases the children would need special care and attention, but their parents deny the disability and do not agree that their children are transferred to specialized institutions even though the child has been diagnosed with a disability. Due to staff shortages within the Ministry of Education, there is no proper psychological follow-up for these children from the government institutions.

Children with disabilities still face the unwillingness of schools to welcome them since they are perceived as slowing down the teaching provided to the other 'normal' students. Some schools have set up special units for children with light and moderate disabilities. A special curriculum has also been designed for teachers to use with children with special needs. However, the number of such schools is very low across the island. Teachers are not properly trained to attend to the needs of such children they do so mainly on a voluntary basis. There is also a lack of early detection programmes.

NGOs face major problems in obtaining statistics on children suffering from specific disabilities. For example, it was almost impossible to obtain disaggregated data on the number of autistic children in Mauritius. Many forms of 'invisible' or 'non-visible' disabilities are not known and no disaggregated data are accessible, if available.

There is a dire lack of information amongst parents on the various forms of disabilities affecting children. Many parents are not even aware of the type of problem affecting their child. Sensitization of parents is urgently needed and also more awareness campaigns to change the approach and the way people consider children with disabilities.

There are specialised centres for children with disabilities. These centres should be integrated, so that disabled children are not excluded from other children. Moreover, an integrated approach will help disabled children to better integrate the society and should help non-disabled children to be aware of the special needs of disabled children and prevent them from developing discriminatory attitudes.

There are no institutions, which provide adequate residential facilities to disabled children who are abandoned, orphaned and homeless. They are placed in shelters but do not receive any special care or psychological support and the personnel is not sufficiently trained to care for them.

¹³ Table 6.1 - Disabled population and disability prevalence by age and sex, Republic of Mauritius, 2000 & 2011 Population Censuses. Statistics in Mauritius, a gender approach. Ministry of Gender Equality, Child Development and Family Welfare. February 2013. Retrieved from <http://gender.gov.mu/English/Documents/Statistics%20in%20Mauritius%20-%20A%20Gender%20Approach%202024.07.13.pdf>. p.61

“Child Beyond Control” and support to families

Many children with behavioural problems can be considered ‘child beyond control’ by their parents. They are referred to the Judge in Chamber who removes them from their family environment to place them in Probation Homes, in shelters or at times the Rehabilitation Youth Centre. Some are often sent to the psychiatric hospital, which is far from being child friendly. The referral does not ensure the best interests of the child as it is done without holistic investigation to determine the cause of the behavioural problems and the type of support to be provided. It has recently been reported in the media that children placed at the psychiatric hospital have been in internship for a period of 6 years. Moreover to calm them down, these children are administered medication that renders them sleepy, and withdrawn without any reflexes. They do not benefit from any psychological support.

Counselling services, which are offered to probationers, community service orders and public at large are dispensed by only 7 psychologists of the Child Development Unit throughout the island, in addition to some services dispensed through schools.

Health and health services

Poverty, maternal malnutrition, unhealthy lifestyles, and inadequate parental care are considered to be primary causes of low birth weight among babies. The solution to this problem includes financial and nutritional support to improve the mother’s health. It appears that there is need for customised and individualised outreach services targeting pregnant women and mothers of vulnerable families.

The NGO providing home support for self care and counselling to children suffering from type 1 diabetes notes that there are gaps in the treatment of patients at the level of medical consultations and casualty service in hospitals, despite the existence of a protocol on the management of type 1 diabetes issued by the Ministry of Health. Doctors have to consult more than 30 patients per hour and as a result they lack the time to provide therapeutic care to their patients and particularly to type 1 diabetic children who need more attention. Those children are reviewed every 1 to 3 months. The definition of children by the health service as being those below 12 years of age (and who therefore attend the paediatric service) creates a stress on children with type 1 diabetes between 12 and 18 years who have to attend adult clinics for treatment.

There is also the fact that the health rights of type 1 diabetic children are not always respected by public servants whose responsibilities are to protect vulnerable children, mostly it seems through an ignorance of their duties under the CRC. This situation is encountered in the health service, schools and workplaces. This may also be the result that type 1 diabetes is not recognised as a ‘handicap’ and type 1 diabetic children are not recognised as having special needs due to their condition.

One NGO has carried a brief medico-social situation analysis of 848 youth who are part of the organization, of whom 709 were referred. The type and amplitude of the health issues have been described as follows:

- 83.6% were referred for health issues. Minor issues were referred to proximity health points and major issues required specialized care in various fields of medicine and surgery.

- 40% of youth screened had a dental problem.
- 8% (65/848) had visual problems with 15.4% (10/65) of them having a major loss of visual acuity essentially due to undiagnosed/untreated/ maltreated squint.
- 50.6% of the students had an abnormal nutritional status. Of these 57.8% (248/429) are either underweight (191/429) or near underweight (57/429). 20.3% are overweight and 14.2% are obese.
- Follow-up of chronic diseases such as bronchial asthma and epilepsy were not optimal and sometimes hindered by transport cost and time constraints
- Immunisations were sometimes incomplete or completely missing
- 7% requires psychological support as a priority and another 7% requires mentoring by the social worker as a priority. Many more are in need of psycho-social support.

HIV/AIDS

The HIV and AIDS Act was passed in 2006 and came into force in 2007. Under the latter legislation, the legal age for consent is 18. Minors need to be accompanied by an adult to have access to health services. This is highly discriminatory against children living with HIV. If there are no adults to accompany them, they therefore cannot have access to health services. However, it is appreciated that insofar as testing is concerned, the child is allowed to conduct it on his/her own without the need of consent of the legal administrator or guardian.

Children do not have access to information on reproductive health. Comprehensive sexual education is not part of the school curriculum. Information, education and communication (IEC) materials are not easily available and accessible to children.

Children receive little or no information on HIV. Moreover they do not have access to information on contraceptive methods and prevention measures. The use of harm reduction strategies for people who inject drugs are not authorised for children. There is no rehabilitation centre for children who inject drugs or youth friendly services. The lack of services and the discriminatory measures increase the vulnerability of children. So, one of the options chosen by the children to have access to these health services is to engage in sex work to pay for methadone on the black market.

The age restriction to harm reduction services is of high concern. A study on street children published in 2012, revealed that 30.2% of children in street situation in Mauritius use drugs¹⁴. Another study revealed that 20% of people living with HIV/AIDS are aged between 15-24 years. These discriminatory legal age restrictions put children at increased risks of HIV/ and deny them the human right to health solely because of their age.

Drug use

NGOs have been refused access in State schools as schools do not wish to integrate the drug awareness sessions in the curriculum. According to responses from the Ministry of Education, such awareness sessions should be requested at least one year ahead, with only

¹⁴ *Study on Street Children in Mauritius*, SAFIRE and the Mauritius Family Planning Association. Prepared by FonkwoNdeboc, Dr. P., Hosenally, M., Ferhat, I., & Putty, R. 2012.

one-hour session. The National Agency for the Treatment and Rehabilitation of Substance Abusers (NATRESA) offers sessions to parents during the day only, consequently many parents do not turn up as they are busy at work.

Regarding harm reduction services, methadone substitution therapy is only accessible to people over 18 and only to people who have been injecting drugs. Young people often resort to sex work to be able to afford illegal smuggled methadone and other drugs as those under 18 are refused access to rehabilitation centres in Mauritius.

Comprehensive sexual education has not yet been introduced and it seems that the Ministry of Education still consider sexual and reproductive health (SRH) as a taboo. NGOs are concerned that limiting sexual education to biology lessons is insufficient and sends the wrong signal. Efforts to lower teenage pregnancy and STIs and HIV infection should start with comprehensive sexual and reproductive health education throughout the school system. No education and awareness is made regarding HPV virus.

Recommendations

- Ensure the availability of appropriate structures and services for children requiring psychological support;
- Increase the number of qualified psychologists
- Employ social worker to liaise with the children and families and institution. Ex: if a child does not come to see the psychologist, it would be important to go at his place and meet the parents and the child.
- Provide adequate training is required to further accommodate children with disabilities in the mainstream educational system;
- Renew and improve partnership terms between the government and NGOs running specialized institutions for children with disabilities;
- Establish stricter standards and norms for non-governmental organizations running specialized institutions
- Improve the access to data regarding all disabilities including disabilities such as autism.
- Give means to ensure and monitor the right of disabled children to free education
- The practice of Child Beyond Control should be abolished;
- Training sessions on parenthood skills, namely regarding the child's personal development and necessary physical and psychological care should be provided to parents by qualified trainers and psychologists in hospitals, schools, communities, at the institutional and national levels.
- Adequate resources should be allocated to the Child Development Unit and to the Family Support Bureaus, in the different ministries, to ensure greater support to families and more capacity for counselling.
- Gaps in the health care system should be identified and dealt with by the Ministry of Health;
- Children between 12 and 18 years old should be able to receive paediatric care;
- Greater protection and child friendly measures should be ensured for children suffering from type 1 diabetes.

- The State should take all appropriate measures so reporting procedures favour the rights and the protection of the child first and foremost;
- Child protection policies and procedures should be enforced and respected.
- NGOs recommend that a comprehensive sexual and reproductive health education programme be integrated in the national curriculum;
- Information on HIV should be made available for school children;
- Harm reduction services should be made available for children under 18.

VII. EDUCATION, LEISURE & CULTURAL ACTIVITIES. **(arts. 28, 29 and 31 of the Convention)**

The best interest of the child does not appear to be at the forefront of the educational policy of Mauritius.

Pre-primary education is run privately. The enrolment ratio of 94% for pre-primary takes into account enrolment as from the age of four. The government subsidizes pre-primary education as from the age of 4, equivalent to the second and final year in pre-primary cycle. It is observed that many poor families wait to send their children to school in the final year when they will benefit from the assistance. The implication is that children aged 3 years old coming from poor families do not benefit from pre-primary education. Consequently, they are ill-prepared for the primary cycle and are very likely to have difficulties in adapting to the competitive educational system in Mauritius.

Although primary education is provided universally, the examination driven system characterizes the primary education sector in Mauritius. In such a system, the end goal is directed towards children's successful completion of final examinations and passing of the Certificate of Primary Education (CPE), rather than skills development in and of itself. Subjects such as arts, physical education, music that have been proven to be fundamental to the overall development of the child, are not given the same importance as other subjects and are not evaluated in the examination. This is to the disadvantage of children and consists of a form of discrimination. Children are assessed only on academic performance on subjects such as mathematics, English and French. Their individual cognitive and intellectual abilities and their personal development are not considered in a holistic approach.

Another topic, which has led to much debate over the years, has been the use of Mauritian Kreol in the schools, both as subject but also as medium of instruction. Kreol has been introduced in primary schools as a subject since 2012 for Standards I to III. This initiative has been very much welcomed by most of civil society. However, the question of use of Kreol as medium of instruction, as opposed to merely a support language, remains important. Currently, there are only pilot projects and catholic vocational schools, which use creole as a medium of instruction, with limited books and teaching materials available in topics such as Mathematics.¹⁵

Due to the high failure rate of the Certificate of Primary Education (CPE) at the rate of

¹⁵ Parliamentary Question between (No.B/823) Mr. G. Lesjongard (Second Member for Port-Louis North and Montagne Longue) and Dr. Bunwaree, Minister of Education. 14 July 2009. *Kreol Language – Medium of Instruction*

31.5%¹⁶ at the end of primary school, and subsequent number of dropouts from the school system, many children do not benefit from access to opportunities at secondary, vocational and tertiary levels and are deprived of proper education to ensure their development. A study carried out regarding street children showed that 45.5% of school dropouts among street children occur at primary level.

Youths interviewed in the above mentioned study claim that some of them had to drop out of school due to insufficient family resources to purchase school materials or food. Others mention 'family problems' characterized by separation of parents, conflicts within the family and either physical violence between parents or conflicts with parents.

This competitive system has laid to a parallel education system, namely paid private tuition done by school teachers. Low-income families cannot afford private tuition. Moreover, it is not targeted to provide coaching to children with real difficulties but is a complement to the school curriculum. Many children, whose parents can afford to pay, take tuition seven days a week and this puts pressure on the child and deprives them of their rights to rest and leisure.

Last, psychological support and counselling in schools remain insufficient. In 2011, at the Ministry of Education, there were only 10 school psychologists and 15 social workers for about 300 000 learners. Such a low ratio of psychologists has a negative impact on the health and support that students require.¹⁷

Recommendations

- The State should carry out more in-depth surveys of disabled children;
- NGOs recommend increased collaboration between the Ministry of Education and specialised schools for smooth transition of the system;
- The State should review of the selective academic system, so 'no child is left outside';
- The State should address the medium of teaching by a national pedagogical, non political, debate, Kreol being the mother tongue of the majority of children, but not academically adequate at college exams level;
- The State should make provision for the training of special needs teachers, identification of support teams, enrolment of paramedical staff at MOE to be posted in all schools for assessment, personal programmes and specialised inclusive support and re-education;
- Remedial literacy classes should be available for pupils beyond Standard 1;
- More school materials should be made available freely;
- Closer collaboration with parents should be sought;
- Teaching techniques and methods should be adjusted according to the needs of children.

¹⁶ Parliamentary Question between (No.B/279) Mrs F. Labelle (Third Member for Vacoas&Floreale) and Dr. Bunwaree, Minister of Education. 12 June, 2012. *Educational Psychologists – Recruitment*

¹⁷ Parliamentary Question between (No.B/279) Mrs F. Labelle (Third Member for Vacoas&Floreale) and Dr. Bunwaree, Minister of Education. 12 June, 2012. *Educational Psychologists – Recruitment*

VIII. SPECIAL PROTECTION MEASURES(arts. 22, 30, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention)

Child labour

From the period of January to October 2011, no cases of child labour were reported by the Inspection and Enforcement Division of Ministry of Labour, Industrial Relations and Employment (MOLIRE)¹⁸. However, a report published by a local NGO in 2012 on street children reveals that 35% of interviewees are involved in economic activities. The study also found that the average age at which children started working was 13 years old but could start as early as 5 years old. Types of labour cited included unskilled labour (24.3%), including carriers in the market, dish washers, masonry, cleaning (18.9%) and fishing (12%). The Observatoire des Droits de l'Enfant de la Region Océan Indien (ODEROI) observed that there are quite a few children working in shops or in bicycle workshops as apprentices. They also suspect that given the increase in demand for domestic work from families belonging to the middle to high income, some children may be engaged in such activities. This may be a resort for children who have not been able to complete their primary education successfully and may not find alternative activities or education opportunities.

As there is no proper mechanism to monitor the exact situation in the field, it is considered that the figures do not reflect the actual situation. These are rights violations as children are meant to remain at school until the age of 16 and benefit from services and support for their development and security.

Juvenile justice

Procedures for arrest

The protocol for the arrest of minors exists but is not practiced. Cases of police brutality during arrests are regularly reported. Parents are not automatically contacted. There is a bias in police investigations towards young persons' guilt. However, according to Article 40 of the Convention on the Rights of the Child: "Every child alleged as or accused of having infringed the penal law has at least the following guarantees: (i) To be presumed innocent until proven guilty according to law; (ii) To be informed promptly and directly of the charges against him or her and, if appropriate, through his or her parents or legal guardians and to have legal or other appropriate assistance in the preparation and presentation of his or her defence". When children and youth are arrested, they are very often not informed of their rights, such as the right not to give a statement, or the necessity to be accompanied by their parent/legal guardian.

A practical problem is also posed by the fact that the children must sign the report of the police, but many are illiterate as most juvenile offenders are from deprived socioeconomic backgrounds. The statement is taken in Kreol verbally, however the report is written in English, adding to the potential for error and misreporting. Because the statement is summarized in English, most children cannot understand, so cannot check the facts upon signing the statement.

¹⁸2011 Findings on the worst forms of child labor, Mauritius. United States Department of Labor's Bureau of International Labor Affairs. pp 406-409

Not all police stations and regions of the country have a “brigade pour la protection des mineurs” set up in 2004¹⁹, and many police officers outside of this department do not have adequate training for the examination and investigation of juvenile offenders.

Only one police station in the island is equipped for the custody of boys when investigations are not finalized. At times, boys are temporarily placed in the Rehabilitation Youth Centre.

Preventive detention for minors should be abolished. Minors who have committed offences should no longer be judged at the same time as adults, even if the minor is an accomplice. Moreover, the juvenile preventive detention should be advocated as a last resort.

With regards to prosecution of sexual abuse, there is no systematic psychological evaluation of the presumed juvenile offender to support the investigation. Procedures should be reviewed in many aspects to make them more child-friendly.

Court proceedings

NGOs deplore the delays for cases to be heard, which are considered as too long and must be reduced to diminish the anguish and unnecessary suffering of children.

Children in conflict with the law are currently judged by ordinary courts (though a special sitting) and detained in the Correctional Youth Center (CYC) and Youth Rehabilitation Center (RYC), depending on the offence. There is an urgent need to review the current legal system for children by establishing special courts with judges for children and special investigators, trained for this purpose.

Specialized judges for Juvenile Court do not exist. A Family Court exists but deals only with matrimonial matters including custody issues. Suspected juvenile offenders have no court-appointed lawyer, even though legal aid can be granted for adults. Children may be tried without the presence of their parents or teacher or lawyer. The lack of legal aid, and oftentimes absence of a parent or guardian in court is in direct contradiction to section 2 (b) (ii) of the CRC.

The opinions of the social workers who work with the juvenile offenders are seldom taken into account, depending on the NGO involved or the magistrate. If there has been a committal order made at the request by the Child Development Unit, the NGO where the minor is placed can be heard, otherwise most often not. However, the study of family background of the child is important to consider as part of the judgment and the NGO educator, mentor or social worker knows the families and their respective situation.

NGOs and civil society organizations are only called upon in situations that benefit the State rather than the children. For example, NGO workers were called upon in 2006 when 3 days of mutiny occurred in the Girls' Rehabilitation Youth Centre.

" Child Beyond Control "

Last but not least many children are being sentenced and confined in youth Correctional Centre on the ground of "child beyond control" as their parents have no control over and cannot discipline them, .The State is urged to remove this arbitrary ground of conviction,

¹⁹Contribution to the OHCHR Study on children working and/or living on the street. Permanent mission of the Republic of Mauritius to the United Nations and other International Organisations. November 2011 (p2).

which goes against child welfare.

Parents can have their child admitted to the Rehabilitation Youth Center (RYC) or other institutions on the grounds of being a "Child Beyond Control". This appears to happen more frequently in broken and reconstituted families, where the new spouse and child do not get along.

Children were reported to have been placed in the psychiatric hospital Brown Sequard for indefinite periods of time, with parents unwilling to pick up their child after the child was discharged, and the responsible government bodies unable to find placement in adequate institutions.²⁰

Child victims in the Justice System

Child victims have been reported to end up in the justice system in the suspect's seat. Children who end up in prostitution rings are often involved other illegal activities, which they are forced to partake in. Theft and other illegal activities have led such child victims to fall at the hands of the police as exemplified in the case of a child victim being sent to the RYC despite being the victim of abuse for many years.²¹

The role of institutions

It has been demonstrated that the social environment in which a child is brought up plays a key role in the child's emotional, mental and physical health. Yet, institutional and legal frameworks lead to greater emphasis being laid on the child's behaviour as the source of the problem.

Further, little information on the management of probation hostels, RYCs and CYCs is publicly released or available. If existing, no assessment is currently readily and easily available on the outcome of a child's time spent in these institutions, whether he or she has shown improvement in behaviour or has learned new skills. There are no diplomas or certificates issued through training received in these institutions, recognizable on the labour market.

Health care, and particularly psychological care is very limited. Little prevention work is carried out on risky behaviours; sexual education is inadequate and does not include access to condoms. Alcohol and drug addictions are not sufficiently considered or cared for. There is no family therapy available to restore parental links with the child and parents are not obligated to visit their children. Some families do not have enough money to pay for transport to the centre.

There is a lack of adequate and specialized training amongst officers – ranging from ethics to child psychology. Children leaving the RYC/CYC have regularly reported corporal punishment. For girls, only one institution exists: the RYC. There is no CYC for girls. Girls in custody, young girls guilty of more or less serious offences must cohabit. They have no access to education outside the prison and they have access only to vocational activities and

²⁰ À L'HOPITAL PSYCHIATRIQUE : Ces enfants "oubliés" de Brown Sequard. Le Weekend, published on 17 March 2013. Retrieved from <http://www.lemauricien.com/article/lhopital-psychiatrique-enfants-oublies-brown-sequard>

²¹ DANS UNE POCHE DE PAUVRETÉ : Des mineures piégées par la prostitution. Le Weekend, published on 7 October 2012. Retrieved from <http://www.lemauricien.com/article/poche-pauvrete-des-mineures-piegees-la-prostitution>

no academic courses. Children over 16 years and depending on the seriousness of the offense may be sent to the CYC. The CYC is modelled on the prison with prison officers, who can make use of force similarly to the penitentiary system using batons and solitary confinement. In case of dispute, it is the word of the child against that of the officer.

There is no 24-hour medical attendant on watch for suicide attempts, although a case of suicide was reported, for a child who was in the RYC for over ten months for theft.

There is limited psychological follow-up of children who have committed sexual abuse, although many are likely to have been child victims. Recidivism is high; the centres are punitive and corrective centres rather than rehabilitation centres. There is also the question of what happens to the child if he or she is from Rodrigues: a child was brought to Mauritius by a CDU officer and placed in the RYC; at his release the child was found on the streets because he had not been returned to Rodrigues and had not means to contact his family or afford a return ticket.

It is appreciated that the Government is reviewing the Juvenile Offenders Act and one of the main aims will be for instance cater for 'mediation between interested parties with a view to explore diversionary measures as an alternative to prosecute child offenders. It will also provide for the calling of a pre-sentence report from a probation officer by a court before which a juvenile is convicted.'²²

Recommendations

- There should be public campaigns for the prevention of crime;
- Detention centres except for preventive detention to ensure the safety of children;
- Based on the recommendations of the Committee on the Rights of the Child 2006 – 67 (b) " Increase availability and accessibility of alternative measures for child offenders using probation services " and recommendation 67 (c) "Take all necessary measures, to limit the use of de facto deprivation of liberty , and ensure that it is genuinely only used as a last resort ";
- Preventive detention should be a last resort, before we could make use of an electronic bracelet with a time curfew;
- Establishing centres or different hosting services depending on the nature of the crime or offence, and ensure the safety of all children, in particular non-violent offenders vis-à-vis violent or sexual abuse offenders;
- The implementation of an individual support and rehabilitation plan for each child including all psychological, medical, educational aspects necessary for his or her personal development and reintegration into his or her family and society;
- In cases where courses are organized, the medium of instruction should be in Kreol;
- The establishment of specialized expected rehabilitation / therapy for child victims and / or convicted of sexual abuse;
- Establishment of indicators, studies, evaluation of institutions, including recidivism, as well as the progression of academic and integral development of the child and follow-up after release;
- Training for police and officers of the RYC and CYC: based on the recommendations of the Committee on the Rights of the Child 2006-67 (d): "Regularly conduct training

²² *Convention on the Rights of the Child Combined Third, Fourth and Fifth Periodic Report by the Republic of Mauritius*, Government of Mauritius, July 2011. (para 200)

programmes concerning relevant international standards for all professionals Involved with the system of juvenile justice. ";

- Civil society requests an inspection to the International Observatory of Prisons.
- Civil society must be systematically and constantly be kept abreast of all legal reforms, their grievances addressed and taken on board.

IX. FOLLOW UP and DISSEMINATION

Follow-up

The Law Reform Commission, which is supposed to keep under review in a systematic way the laws of Mauritius is not very collaborative with the civil society; one NGO asked for a meeting in June 2010 and is still waiting for their response.

According to the State, the Sub-Committee on Accreditation of the International Coordination Committee of National Human Rights Institutions recommended in April 2008 that the Commission be re-accredited Status A. However a lot of people having contacted this institution complain about the fact nothing is done or followed up in many cases of human rights transgressions, such as maltreatment by the police.

Dissemination

Dissemination of the CRC to the population appears limited. It is of concern to note that there young university graduates entering the labour market to work with children, who have never heard of the CRC. Efforts to train primary and secondary school teachers, in addition to civil society organizations should also be reinforced and most teachers have only a very vague notion of the CRC.

CONCLUSION

NGOs and members of civil society acknowledge that many structures are already in place and many efforts have been made through policies legal frameworks in order to implement the CRC and ensure that children fully enjoy their rights in Mauritius.

It strongly appears in this report, however that a number of actions need to be urgently taken into consideration or reinforced to allow all children to properly enjoy their rights under the Convention.

- The Government should take steps to enact the Children’s Bill to bring Mauritius in line with the Convention on the Rights of the Child. Steps should be taken to improve coordination, information and communication flows amongst government bodies and agencies and non-governmental organisations to ensure a more targeted approach towards the different issues faced by children.
- More in-depth and specialized trainings should be carried out with all sectors in contact with children, including but not limited the education sector, the Child Development Unit and all departments concerned with the protection of the child, the health sector and the juvenile justice sectors.
- National advocacy and information campaigns should be carried out on child rights, including but not limited to issues relating to violence and abuse, at home and at school, regarding definition, consequences, necessity to report these cases; to protect children, carried out at community, institutional and national levels.
- Improved access to youth friendly services, including regular, accessible, professional psychological and counselling services for children and families should be made available across the country, as well as harm reduction services and adequate health services.
- Any new educational policy should consider reviewing the current competitive system which leads to a nearly a third of pupils failing their primary cycle yearly and should consider the use of a mother tongue language –Kreol – as medium.

These recommendations aim to build upon the above-mentioned existing structures while addressing the important gaps highlighted in this report. NGOs hope that these recommendations will lead to closer collaboration between the State and civil society to collectively promote and protect children’s rights in Mauritius.