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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

MAURITIUS

The Committee considered the state of implementation by Mauritius of the economic, social and cultural rights contained in the Covenant at its 22nd and 23rd meetings held on 17 and 18 May 1994, and adopted 1/ the following concluding observations:

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

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

2. The purpose of the reporting system established by the Covenant is for the States parties to report to the competent monitoring body, the Committee on Economic, Social and Cultural Rights, and through it, to the Economic and Social Council, on the measures which they have adopted, the progress made, and the difficulties encountered in achieving the observance of the rights recognized in the Covenant. Non-performance by a State party of its reporting obligations, in addition to constituting a breach of the Covenant, creates

1/ At the 23rd meeting (tenth session), held on 18 May 1994.

a severe obstacle for the fulfilment of the Committee's functions. Nevertheless, the Committee has to perform its supervisory role in such cases, and must do so on the basis of all reliable information available to it.

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

B. Mauritius - Introduction

4. Mauritius has been a party to the International Covenant on Economic, Social and Cultural Rights since 3 January 1976, the date of its entry into force. Since then, it has not submitted a single report. The Committee strongly urges the Government of Mauritius to fulfil its reporting obligations as soon as possible, so that the International Covenant on Economic, Social and Cultural Rights can be given full effect for the benefit of the people of the Gambia. The Committee considers that non-fulfilment of a State party's reporting obligations constitutes a grave impediment to effective and adequate implementation of the Covenant.

C. Factors and difficulties impeding the implementation of the Covenant

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

D. Positive aspects

6. The Committee notes that the overall economic performance of Mauritius in recent decades has been impressive. Its human development index has increased from 0.525 in 1970 to 0.793 in 1992. Mauritius thus stands at the top of the list of African countries in this regard. Per capita income has trebled between 1982 and 1992. Unemployment is all but eradicated. This success has come about through heavy investment on human development. Education has until

recently been free at all levels. The combined primary and secondary enrolment rate has risen from 62 per cent in 1970 to 77 per cent in 1989. The overall literacy rate is moving towards 90 per cent and has passed 95 per cent for the age group up to 30 years. A vigorous birth control campaign has brought the rate of population growth over two per cent a year in the 1960s down to less than one per cent today. The infant mortality rate as well as other health indicators are improving constantly. Mauritius provides an example of a country where structural adjustment appears to have worked to the benefit of the entire population. Mauritius has aptly been called a "cultural laboratory" and a "rainbow nation", in which a variety of religious and cultural groups and communities live together peacefully in a spirit of mutual respect and tolerance.

E. Principal subjects of concern

7. With regard to the general provisions of the Covenant, in particular article 3, the Committee notes with concern that, despite the efforts undertaken by the Government, women still occupy a subordinate role in Mauritian society. Discrimination and violence against women continue to be social problems, also affecting the enjoyment by women of economic, social and cultural rights. Further observations on the prevalence of gender discrimination are to be found in paragraphs 9 and 11.

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

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

10. Moving to article 8 of the Covenant, the Committee expresses its concern about the restrictions of the right to form trade unions in force under the Industrial Relations Act, 1973. Further, genuine collective bargaining is not practised in Mauritius. Wages and benefits are in effect determined by the Government. The Committee is particularly concerned, however, about the fact

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

11. Regarding article 9, the Committee notes that according to the report submitted by the Government of Mauritius to the Committee on the Elimination of Discrimination against Women (CEDAW) in 1992 (para. 188), no employment insurance exists.

12. Concerning article 10, the Committee notes with regret that Mauritian child labour legislation is not strictly enforced. It further takes note of the Government's own view expressed in its recent report to CEDAW (para. 263), that Mauritius does not have a comprehensive system of family benefits through which all families benefit in a universal manner, and that the system of family allowances should be reviewed because the present regulations penalize the very families that need the allowance most (para. 275).

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

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

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

16. With regard to article 13, the Committee takes note of the flaws in the educational system of Mauritius pointed out in the Government's 1992 report to CEDAW (para. 160) and of the measures foreseen to improve this situation (para. 162). In particular, it notes that the Mauritian school system is extremely competitive, which leads to widespread, Government-encouraged and costly private tuition and thus renders access to secondary and tertiary education more difficult for the poorer segments of the population. The Committee is also concerned about the re-introduction of fees at the tertiary level of education, which constitutes a deliberately retrogressive step. The Committee further notes with concern that Kreol and Bhojpuri, the only languages spoken by the large majority of the population, are not used in the Mauritian educational system.

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

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

F. Suggestions and recommendations

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

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

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