

QUICK GUIDE TO ADDRESSING SEXUAL RIGHTS ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON MAURITUS^[1]

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- The full text of those paragraphs
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.
- In all cases we have included suggested questions and recommendations

References in the two working languages of the Council (English and French) have been kept in their original language.

Issues are highlighted, while **recommendations** are in bold and outlined. References in the National Report are *in Italics*.

All sexual rights issues that do not relate specifically to women are referred to in this Guide. Sexual rights' issues referring specifically to women –as well as other women's issues- are referred to in the Guide on Women's Issues

- OP-CRC-SC not ratified (signature only, 2001). In 2006, Mauritius was encouraged to ratify OP-CRC-SC by CRC (Para 3, Compilation)

Issues	National Report	Compilation	Summary
Gender identity/ Transsexual persons.			Awareness-rising on discrimination. Provision of health care (13). Change of gender in civil status (24)
HIV/AIDS	HIV/AIDS Act (28)	Injective drugs as a new factor (51); Need to integrate rights of the child in policies (50); Employment Rights Bill (20)	Situation in prisons (19)
Sexual orientation / gender identity	Sexual Offences Bill will	Employment Rights Act (20)	Sodomy laws (24); Employment Rights Act (32), Daily discrimination

	decriminalize same-sex activities between consenting adults (19)		and violence; need to punish homophobic acts by law and provide support structures for victims (13) Legal acknowledgement of homosexual couples and their rights (25)
Trafficking/sexual exploitation and violence against children	Child Protection Act (62), facing cases of sexual abuse (63), sensitization(73)	Measures requested to eradicate child prostitution and labour (27). Policies and programmes for victims (26, 25); need to respect privacy of victims (27,25)	

Gender identity/Transsexual persons

Collectif Arc en Ciel (CAC) **highlighted the importance of raising awareness about any form of discrimination and of setting up local structures and facilities offering medical and psychological support to the transgender and transsexual community** (Para 13, Summary). CAC **deemed it important to facilitate change of gender at the civil status** (Para 24, Summary).

HIV/AIDS

The **HIV and AIDS Act** which was passed in 2006 and proclaimed in 2007 provides for a rights-based approach to HIV and AIDS-related issues, and aims in particular at protecting persons living with HIV and AIDS from discrimination. One of the objects of the Act is to respond to the escalating HIV/AIDS epidemic being witnessed in Mauritius through enhanced HIV prevention programmes and scaled up national mechanisms for voluntary counselling and testing. Provision is made for the introduction of risk minimization interventions, namely the Needle Exchange Programme (Para 28, NR).

The **Employment Rights Bill** prohibits discrimination in employment and occupation based on (among others) HIV Status (Para 20, Compilation).

2007 the UNAIDS report noted that **injecting drug use has emerged as a new factor** for HIV infection in Mauritius and that national strategies on HIV in prison settings were being endorsed. The report supported the development of the HIV Preventive Measures Act, which provides for expanded access to confidential, voluntary HIV testing and counseling, and mandates the establishment of a national needle exchange programme (Para 51, Compilation).

The National Human Rights Commission (NHRC) reported that the problem of **HIV-AIDS in prisons** still has to be solved (Para 19, Summary).

The Committee on the Rights of the Child (CRC) was concerned that the lack of awareness about HIV/AIDS leads to fear and discrimination, CRC **recommended the integration of respect for the rights of the child into HIV/AIDS policies and strategies** (Para 50, Compilation).

Sexual orientation

A **Sexual Offences Bill** was referred to a Select Committee in 2007 for further study and consultation. The object of the Bill is to make further and better provision for sexual offences. In that context provision is made for **decriminalizing of sexual activities among consenting adults** (Para 19, NR). CAC denounced the **penalization of sodomy** maintained in Mauritius (Para 24, Summary).

The **Employment Rights Bill** prohibits discrimination in employment and occupation based on (among others) sexual orientation (Para 20, Compilation). CAC indicated that since the Employment Rights Act 2007 was voted, it is now illegal to fire or refuse to employ a person based on sexual orientation, but considered that this first step is not enough (Para 32, Summary).

CAC reported on the reality and **daily discriminations** faced by the LGBT community in Mauritius. No possible legal mean is available to seek acknowledgement of and compensation for any discrimination or violence due to sexual or presumed sexual orientation (Para 13, Summary). CAC further **wished that all incitement or homophobic act be acknowledged and punished by law and requested the establishment of support structures for victims of physical or psychological abuse, including specialized police units** (Para 13, Summary).

CAC **hoped that the Equal Opportunities Bill will allow legal acknowledgement of homosexual couples and their equal rights concerning adoption, inheritance rights and procedures, medical and social advantages, taxes, etc.** (Para 25, Summary).

Sexual exploitation/violence against children

The **Child Protection Act** was enacted in 1994 to ensure protection of children from all forms of abuse. The word "harm" includes physical, sexual, psychological, emotional or moral injury, neglect, and ill-treatment, impairment of health or development. The Act provides for the issue of an emergency protection order by the Magistrate where it is reasonably believed that a child is suffering or likely to suffer significant harm (Para 62, NR).

Programmes on the Convention on the Rights of the Child are carried out in schools by the Ministry of Women's Rights, Child Development and Family Welfare. However, some cases of physical molestation including **sexual abuse** are reported every year to the Ministry and, in most cases, they are referred to the police and disciplinary action is taken against the culprit. The Office of the Ombudsperson for Children also monitors any allegation of child ill-treatment (Para 63, NR). The

Ombudsperson for Children organizes training sessions and a number of talks, seminars and workshops, both in Mauritius and in Rodrigues, in order to sensitise stakeholders working with children on the Convention on the Rights of the Child and on related issues such as violence against children, child abuse and prostitution, and child labour. A kit on violence against children addressed to the personnel working in the education sector has been prepared by the Ombudsperson in collaboration with the Ministry of Education (Para 73, NR).

CRC welcomed the adoption of the National Plan of Action on the Protection of Children against Sexual Abuse including Commercial Sexual Exploitation of Children (2003-2004). It remained alarmed however at the high number of children involved in commercial sexual exploitation, and **recommended strengthening the implementation of policies and programmes for the prevention, recovery and reintegration of child victims** (Para 26, Compilation). In 2005, the Human Rights Committee **recommended that Mauritius pursue and strengthen measures aimed at eradicating child prostitution and child labour** (Para 27, Compilation). Noting with concern the incidence of child abuse and neglect, including sexual abuse, CRC **recommended that Mauritius provide facilities for the care, recovery and reintegration for child victims of violence; ensure that their privacy is protected in legal proceedings; and train parents, teachers, law enforcement officials, care workers, judges, health professionals and children themselves in the identification, reporting and management of cases of violence and abuse** (Para 25, Compilation).

Sharing Mauritius' concern that the **privacy of children victims of abuse or in conflict with the law** is not always respected by the press, CRC **recommended that all measures be taken to fully protect the right to privacy, and that the initiatives of the Ombudsperson for Children in this domain be supported, including the proposals of drafting a Code of Ethics** (Para 27, Compilation).

Suggested questions and recommendations

- While congratulating Mauritius for prohibiting discrimination based on sexual orientation in the workplace, ask about the status of legislative consultations to decriminalize consensual same-sex practices through the Sexual Offences Bill and recommend that, in an independent process, Mauritius takes measures to address discrimination and violence against LGBT persons in daily life.
 - Congratulate Mauritius for establishing an Ombudsperson on the Rights of Children and ask what concrete measures are being taken to assist children victim of sexual exploitation and if a gender perspective is applied to them, that is, if there is any consideration to the specificities of girls and also of boys, and if so how is it expressed in practice.
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[1] These Guides were produced by the Sexual Rights Initiative, a coalition of organizations based in Africa, Asia, Eastern Europe, Latin America and North America whose mandate is to advance women's issues broadly and sexual rights issues in the Human Rights Council. For questions, comments, suggestions please contact Alejandra Sardá-Chandiramani at alejandra@mulabi.org