

NGO Group for the Convention on the Rights of the Child
**Database of NGO Reports presented to the UN Committee on
the Rights of the Child.**

Document Title:

**A Child in need is a friend of mine. UN Convention on the Rights of the
Child.**

Region:

East Africa, Africa

Country:

Mauritius

Issued by:

Save the Children-Mauritius & Association des Juristes Mauriciens

Date of publication of NGO Report:

11/95

Date of presentation to preessional working group:

02/96

CRC Session

(at which related national state party report was submitted):

13th Session : Sept - Oct 96

Language:

English

Document Text

[Link to the related full text report at UNHCHR](#) (English)

NOVEMBER 1995

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A B S T R A C T

Non Governmental Organisations have always played a determinant role in all spheres of life in the Mauritian society. Children rights and their betterment have been a major preoccupation of related NGO'S. Save the Children - Mauritius is one of these. It is continuously using all available resources to make the Convention widely known in Mauritius and in the neighbouring countries.

There lies its concern to voice out its opinion about the extent to which Mauritius has been

sincered and faithfull to the commitments taken while signing the Convention on the Rights of the Child. Unfortunately the government report fails to offer that platform to Non Governmental Organization working sincerely for the welfare of children.

The main partner of Save the Children - Mauritius in the preparation of this NGO report has been the "Association des Juristes Mauriciens" whose collaboration has been very precious mainly to cover the legal aspect of the report.

This NGO report aims only to depict the true picture of the situation of children in Mauritius and hope that this observation will contribute towards emancipation of the Mauritian children.

ACKNOWLEDGMENT

A committee, composed of Mr Sunil Dowarkasing and Mr Nitin Sewduth of Save The Children Mauritius and Mr Rama Valayden and Ms Vina Luchmeenaraidoo of the Association Des Juristes Mauriciens was set up. They prepared and drafted the report. SCM and AJM are grateful to them.

INTRODUCTION

The Government of Mauritius signed and ratified the Convention on the Rights of the Child on 26 July 1990. As stated in the Convention, the report of the Government should have been submitted by September 1992. Finally it was submitted in July 1995 with a delay of three years. This is perhaps the first indication of the non-serious commitment of the Mauritian Government towards the Convention.

Save the Children - Mauritius has been putting a lot of pressure on Government to prepare this report. On 23 June 1994, as Save the Children - Mauritius wrote a letter (Annexe 1) to the Minister of Women's Rights, Child Development and Family Welfare to outcry our concern about this report and has since behaved constantly as a pressure group. While drafting the report Non Governmental Organisations were completely ignored. In a correspondence to the Permanent Secretary of the same Ministry on 28 March '1995 (Annexe 2) Save the Children - Mauritius clearly voiced out its disapproval concerning the lack of Non Governmental Organization input. During a working session held on March 1995, Save the Children -Mauritius circulated an open letter to all Non Governmental Organisations, (Annexe 3) concerning the contribution of Non Governmental Organisations. But unfortunately they were not convinced as the government lobby was too strong. Save The Children - Mauritius continued its work on the convention alone and later signed a Protocol arrangement (Annexe 4) with the "Association Juristes Mauriciens" to consolidate its work towards the implementation of the convention.

CHAPTER 1

GENERAL MEASURES OF IMPLEMENTATION

ARTICLE 4

In its effort to "undertake all appropriate legislative and administrative measures", the Convention on the Rights of the Child has only been ratified by the Council of Ministers and not by the Parliament. There has been no debate in the Parliament with a result that the convention has been given a very low profile by the Government. Majority of the members of the Parliament are not aware of the convention and this ignorance of the convention was visible during the debates on the Child Protection Act. where only four Members of Parliament out of 70 debated the motion.

There is no provision in our constitution that could force our Government to go to the National Assembly before ratifying any convention. In other words ratification of the Convention was made through the executive in Mauritius.

No debates on the Convention on the Rights of Child in National Assembly also means no publicity within the press on the Convention. There has not been enough effort from the Government. Save The Children - Mauritius has tried to bridge the gap. (Annexe 5) The convention has not been propagated as it should have been.

There was no real desire to implement the convention or to harmonize our laws. The Mauritian Government has set up a Law Commission to review the Mauritian Laws in general. Nothing has been mentioned in relation to the Convention on the Rights of the Child or no relative documents have been submitted by the Ministry of Women's Rights, Child Development Family and Welfare hence the harmonisation process of our laws in favour of children is still awaiting.

POLICY LEVEL

The government report mentions only three major policy decisions:

1. Free Education
2. Adoption Council
3. Child Protection Act

FREE EDUCATION

Free education, though being available, was historically linked with a political decision on the eve of a general election in 1976. Nothing was planned. As a result today free education is producing more failures than passes. The dropout rate is very high at different levels. Free education system has given rise to the phenomena of "Private Tuitions" which is costing more to the parents. A detailed account of the effects of Free Education will be provided under chapter 7.

NATIONAL ADOPTION COUNCIL ACT

The National Adoption Council Act has been enacted without prior debate. The NACA's objective is mainly to regulate foreign parents who want to adopt Mauritian children.

National Adoption Council Act does not uniformise our laws on adoption nor does it legislate about the need for follow up in cases where Mauritian children have been adopted.

National Adoption Council Act does not provide a structure which permits follow up action, an essential ingredient for the protection of children.

National Adoption Council Act does not provide a Right of Appeal within a short delay.

CHILD PROTECTION

Child Protection Act 1994 (hereinafter CPA 1994).

The CPA has been ushered through the National Assembly after pressure and complaints from the civil society. However as all laws are not well thought, it has many imperfections and limitations.

The Government has not seized the opportunity to

(a) Codify

(b) Uniformize the laws on and about children. Child labour has not been outlawed. Compulsory education has not been uniformised - it is not compulsory at all levels.

(c) No codes of practice for those working with children.

(d) Corporal punishment has not been outlawed to be in line with Article 19 of the convention: the right to protection from all forms of physical and mental violence.

Furthermore, the C.P.A has not provided proper mechanism to defend children in need...

No mention in Child Protection Act about compulsory legal aid for children.

Child Protection Act (C.P.A) should have created a new Family Court structure and not a C.P.A within archaic structures.

The lack of clear thinking and with children in perspective can be seen in section 12 of C.P.A. where it is provided to take action notwithstanding the rule of Law!! Clearly a breach of our constitution which will not stand water in any court of our Republic.

New Centres of responsibility:

The Permanent Secretary has been given wide responsibility, which should have been independent of the Government, accountable to the National Assembly and which decisions could reviewed by the Supreme Court / Family Court.

A new structure should have been set up.

Proposals have been submitted to the Law Commission in view of modifying Chapter 2 of our constitution to include three paragraphs on children (Annexe 6).

- The institution of Family Courts has been claimed.
- A symposium in order to formulate proposals to harmonize our laws in relation with the Convention on the Rights of Child will be organised.
- A series of Amendments to the Child Protection Act. (Annexe 7) have been formulated.
- Sensitization campaign through public forum/ street exhibitions/ through media are held.

Existing or planned mechanism at national level or local level

GOVERNMENT LEVEL

In 1991 the government extended the responsibilities of an existing ministry to include child development. No specific structure within the ministry was set until quite recently where a child development unit has been created. No real importance has been given to this unit. The budget allocated in 1993-94 Rs 20,000 approximately -- 1176 USD and in 1994-95 Rs 220,000, -- 12,942 USD accounting for only 0.3% of the budget of the Ministry for Children's Rights.

NATIONAL CHILDREN COUNCIL

The government created the National Children Council not in view of coordinating the work of Non Governmental Organization's but controlling the work of the NGO's and also controlling the financing of all the NGO'S.

The National Children Council itself claims to be a network of NGO'S, but it is composed of sixteen members out of these only three members come from the NGO sector. The NGO sector is in minority and moreover the National Children Council is being chaired by the Permanent Secretary of the Ministry of Women Rights, Child Development and Family Welfare hence operates under the aegis of the parent ministry. Article 13 of the National Children Council Act gives a clear indication of the powers of the minister. (Annexe 8)

The National Children Council is a governmental structure set up to control and to limit the action of Non Governmental Organisations.

FUNCTIONING OF THE NATIONAL CHILDREN COUNCIL

- Being composed of mainly Civil servants, it operates only during office hours. They are delegated only for representation.
- It is totally influenced by the Minister of Women's Rights, Child Development and Family Welfare.
- Since its existence the board of National Children Council meets only thrice a year. There is no real desire to overcome the problems of children.
- The National Children Council gets full support from UNICEF in terms of funding besides being financed by the funds of the Ministry. Most Non Governmental Organisations are financed through it. Thus a.n invisible screening exists.

MONITORING PROCESS

If no concrete action has been envisaged for the implementation process it is preposterous to talk about the monitoring process of the Convention on the Rights of the Child.

Save The Children - Mauritius and "Association des Juristes Mauriciens" have claimed the nomination of an ombudsman for children and the setting up on a monitoring process (Annexe 9).

PROPAGATION OF THE CONVENTION ON THE RIGHT OF THE CHILD-(ART 42)

The government report fails to give information on this section mainly due to the fact that no real campaign has been launched to propagate the articles of the convention.

As mentioned above the Government has not discussed the Convention on the Rights of the Child in Parliament, thus no real attempt was made through the media, through conferences etc.... to propagate the Convention on the Rights of the Child.

The Government with the support of UNICEF has published a book "La Convention Racontée". The message of the book is not very clear and has not been widely spread out.

There was some timid radio programmes on the Convention on the Rights of the Child but limited to only certain articles such as, "Education and Child Protection".

No information concerning the existence or the contents of the Convention has been available to children by the Government, thus denying the full application of Art 42 "AND CHILDREN ALIKE"

REPORT FROM STATE PARTIES - (ARTICLE 44)

The Government report was published two years later than scheduled and was not send to most NGO's. Even those NGO's which supposedly contributed, were not in possession of a copy of the report. This report has not been discussed at any instance and it has remained within the ministry as a "secret"-document!

OBLIGATION OF STATE PARTIES - (ARTICLE 44/2)

The report itself is extracted to a large extent from the "Situation Analysis of Women and Children in Mauritius" document that has been published by the

Ministry of Economic Planning & Development and UNICEF.

Great care has been taken to omit the detrimental areas referred to the "Situation Analysis".

The report fails to point out three major problems affecting our children namely:

EDUCATION (1) The high rate of failure at the end of the Primary Education level (CPE) which is around 40%.

(2) The high percentage of illiteracy rate after primary education.

20% functionally illiterate.

6% totally illiterate.

HEALTH (3) The high rate of malnutrition 18% affecting the Mauritian child.

LEISURE (4) Lack of leisure facilities and the stress that our children suffer of.

The report mentioned the different laws and has copies of acts and plans annexed, but fails to mention how things are being set up. There is no proper planning and a global plan is inexistent. Structures are just merely being set up. We are of the opinion that Government is always putting the cart before the ox. This report does not acknowledge the breaches of children's rights that do prevail everyday.

PUBLIC AWARENESS OF THE CONVENTION ON THE RIGHTS OF THE CHILD

This report has been drafted with the help of only six Non Government Organisations, none of which is really involved with the Convention on the Rights of the Child. None of these NGO's have since 1991 done any precise activity in making the Convention on the Rights of the Child widely known. No genuine feed back from the NGO perspective have been entrusted in the report. Annexe 1 and 2 in the Government Report are quite eloquent in sustaining our argument. These annexes picture the reticence of NGO consulted to be accomplices of the Government to draw a fake report.

The report has been written with the minimum consultation, collaboration and publicity, despite our requests for a more active participation from the Non Governmental Organization sector.

Government has missed a golden opportunity to create an awareness on the Convention on the Rights of the Child, through the involvement of all sectors of the population.

The Government seemed to be very enthusiastic that NGO's were repulsive to its action.

CHAPTER 2

DEFINITION OF THE CHILD

There is a lack of uniformity within the different Mauritian Laws regarding who is a child. The Government report has covered only four aspects of this section. It has voluntarily discarded some important aspects relevant to the welfare of the child.

Reform institutions, rehabilitation centres and probation hostels in Mauritius are mere prisons and are run by the prison authority. No special provision is made for children.

In Rodrigues reform institutions do not exist, but there is one prison with no provision for women - the worst for children.

According to the CPA

The Child Protection Act defines a child as an unmarried person below the age of 18 years. This definition has a very restrictive implication.

Restriction to CPA

This definition is restricted only to the CPA, therefore other legislation have other age limit defining the child. No uniformity exists.

Section 111 of the Mauritian Constitution

Moreover Section 111 of our constitution does not define "WHO IS A CHILD" (section 111 is the section of definitions in our written constitution.)

The section 111 and chapter 2 of our constitution must be amended to include the definition and three paragraphs on children.

Attainment of Majority

The attainment age of majority in Mauritius is 18 years old. People can vote at the age of 18 but cannot stand as a candidate at the age of 18.

Legal or Medical Counselling

Our laws are silent about it.

End of Compulsory Education

Compulsory education exists at primary level but pre primary education is not compulsory. Further the mechanism to reduce hostility towards education is inexistent.

Part Time Employment

There are no laws for adults regarding part time employment, worse for children.

Full Time Employment

Under the Labour Act , a child above the age of 15 years can be employed. In the public sector, 18 years is the attaining age for employment. There is a disparity between the public and private sector.

Hazardous Employment

Between the age of 15 and 18 years children cannot be employed in hazardous employment. The hours of work is also limited not to more than 30 hours weekly. This is defined in Section 7 and Section 15 of our constitution. Unfortunately in practice, no enforcement of the law exist.

Sexual Consent

The sexual consent is at the age of 16.

Sexual Discrimination

According to the Mauritian Criminal Code, any person who has several intercourse with a female under the age of 16 even with her consent is liable to Penal Servitude but when any adult has sexual intercourse with a boy under the age of 16 it is not considered as an offence. If both are under 16 years only the boy will be prosecuted.

Marriage

Marriage is legal at the age of 18. Between the age of 16 and 18 they need parental consent. Due to the fact that there are numerous cases of forced marriages, it is important that apart

from parental consent which according to us is not sufficient, there should be an investigation to know whether the marriage is consensual.

Criminal Liability

In Mauritius there is no law defining the age where a child can be prosecuted for a criminal offence, but the power to prosecute lies solely in the hands of the Director of Public Prosecutions. Refer to Section 16 of the Juvenile Offenders Act 1935)

Deprivation of Liberty

A person under the age of 18 cannot be sentenced to death.

Imprisonment - Imprisonment is as from the age of 16.

VOLUNTARY TESTIMONY IN COURT

Criminal Procedure Act

(Section 109) Child Victim as Witness

In every trial of an offence charged as having been committed or attempted to be committed, upon a child of tender years, the child, if under the age of 9 shall be admissible as a witness, where the judge or magistrate by or before whom the case is tried, is satisfied that he has sufficient intelligence to make a correct statement on the subject of the trial, although he may not understand the nature of an oath or of a solemn affirmation.

(Section 110) Child Witness not to be Sworn

A child who is heard as witness under Section 109 shall

(a) not be examined on oath or solemn affirmation

(b) before giving evidence, make, in presence of the judge or magistrate, a promise to speak the truth in terms of the first schedule.

(Section 111) Evidence of the Child

Evidence by a child under Section 109 and 110 shall be regarded in all respects as that of a witness lawfully admitted in the case, and it is for the judge, magistrate or jury, as the case may be, by whom the truth of charge is to be decided to determine what credit, if any, should be given to that evidence.

Evidence of a Child

(1) TENGAH V.REC..... 1976 M.R.11

(Victim of sexual offence under the age of nine).

(2) Basenoo V.REG..... 1983 M.R.89.

(Court's duty to ascertain whether the child understands nature of oath or whether he has the necessary intellect need for promise.

CHAPTER 3

GENERAL PRINCIPLES

Socio-economic barriers, varied geographical location, unequal distribution of resources widen the gap between the rich and the poor and inevitably lead to the predominance of various forms

of discrimination namely in the field of:-

- Education
- Health
- Recreational facilities
- Protection
- Social Security
- Diffusion of informations and access to communication

EDUCATION:-

Free education exists in Mauritius but the existence of star schools and low achieved schools and the high costs of private tutions have made it more difficult for low income groups' children to benefit of the education system.

HEALTH:-

The services and standards of our public health system fail to cope with the increasing demand for proper and adequate health services in a newly industrialised Mauritius. However, wealthy people can afford better forms of health services. The prevailing health system discriminates against the low income groups' children.

SOCIAL SECURITY:-

The low level of allowance granted to children shows that not much provision is made to cater for the social welfare of children.

Social Aid & Welfare for Disabled:-

Only Rs 192,530,000 is provided in 1995/96 budget towards social aid and welfare of the disabled. This accounts for only 12.7% of the budget allocation for the Ministry of Social Security. Only a small fraction of that allocation will go towards the welfare of children.

RECREATIONAL FACILITIES:-

The high cost to be incurred to benefit of available sports and leisure facilities in terms of materials needed for its practice leads to a large majority children being deprived. More emphasis is laid by the parent ministry on elitism Thus its available budget benefiting but a fear.

PROTECTION:-

The 1994 Child Protection Act exists but the mechanism for its implementation is yet to be established. All suggestions made by Non Government Organisations were ignored in the preparation of the Act. (Annexe 7)

DIFFUSION OF INFORMATION AND ACCESS TO COMMUNICATION:-

Informations about facilities offered to children is restricted as no wide diffusion exists. Non-Governmental Organisations working in favour of children access to the media is not that easy.

No regular systems for monitoring exist. No effort is noticed for proper implementation of the Convention on the Rights of the Child guidelines or using them to determine standards.

Under item 13 - General principles, mention is made in paragraph: 3.1 of the Government Report that discrimination based on religious ethnicity, colour, caste, political opinion and disabilities is not permitted. The term discrimination within the constitution has a limited definition and a basic element liked disability is ignored. Nevertheless despite provisions against certain forms of discrimination, in practice colour and ethnic based discrimination manifest themselves. Religious fanaticism, commonly called communalism in Mauritius, is a popular feature of the country.

The Mauritian constitution makes no mention of the rights of the child. How can then a government pretends that the Mauritian constitution recognises the best interest of the child? It is dramatic to note that at no point in the constitution mention is made of the definition of the child itself.

"All legislation are enacted in the best interest of the child" will never cope with the Mauritian situation as political expediency always prevails.

CHAPTER 4

CIVIL RIGHTS AND FREEDOM

NAME NATIONALITY AND PRESERVATION OF IDENTITY

The new legislation on the nationality has been enforced since dated July 1995, specifies Amendment of the constitution section 16 - 27 (Annexe 10).

The previous legislation has till the introduction of the new law been a cause of great frustration for numerous young "Mauritians" who have been debarred the right to be a Mauritian.

There is relatively a good number of children who are not declared at birth. The absence of a birth certificate prevents the child to enjoy the numerous basic facilities necessary for its development, namely education and health.

The reasons for the existence of no declaration or tardy declaration are manifold. The main reasons are:-

- Unknown parents
- Teenage pregnancy
- Born out of wedlock
- Fear of punishment
- Hostility to authority.

The change of name, the right to have a passport are rights, but in Mauritius they are still considered as privileges. Children conceived in Mauritius have the rights to a Mauritian nationality, with deportation of their parents, this right is lost (ANNEXE 11).

Adopted children and those born by artificial insemination have no right to know who their parents are.

In Mauritius, the right of expression does not exist for children. The social setup favours a certain form of uniformisation which hampers the development of children. There are really few opportunities for children to voice out their opinion.

The right for spontaneous meeting, due to the existence of the Public Gathering Act, is not permitted. Freedom of peaceful assembly is not possible. Freedom of conscience and the choice of religion is parent based, that is children are forced to adopt what their parents want them to do even if they are not agreeable to.

Mauritius is a laic state with a laic education structure financed by the state but with non laic education in practice. Religious values are highly esteemed in the choice of the curriculum.

Children have limited access to media and important reading materials. Children's issues are not given a sane dimension through media coverage.

Protection of Children Privacy is totally absent as :-

- Parents open children's letters
- Searching of pupils exist in schools
- No confidentiality prevails, children being forced to share secrets?

CHAPTER 5

FAMILY ENVIRONMENT AND ALTERNATIVE CARE

PARENTAL GUIDANCE (Art 5)

Article 211 of the Mauritian Civil Code specifies that parents are obliged to sustain the needs of their children and clearly specifies that the interests of children are permanent.

Legal provisions referred to in the Government's report are limited because of :

- a) the perception that the law is nebulous thus causing parents to shy away from court structure.
- b) no monitoring by any structure of parents who are not assuming their responsibilities exists.
- c) access to the service of lawyers is very difficult. One must not earn more than Rs 3,500.00 -- 205 USD monthly and must not be owner of any property to qualify him for obtaining the services of a lawyer.

There should be officers round the island who will be able to offer advice of multiple nature to children and parents alike.

A family education with the objective of sensitising parents of their obligations, limits, and authority must be set up under the aegis of "family court".

In daily life, the situation favours parents to evade their responsibilities be it in matter of education, leisure (video viewing, form of leisure) quality of food pattern (fast food is the mode of living) etc.

PARENTAL RESPONSIBILITIES

Our laws despite having not yet been codified cover quite successfully the role and responsibility of parents however it is the enforcement branch which is non-existent in Mauritius or to put it mildly it exists only on a cosmetic basis.

Datas about children are also very difficult to collect in Mauritius.

SEPARATION OF PARENTS

The Supreme Court deals with all cases concerning family separation from parents but again we note that :-

- (a) There is a court phobia.
- (b) The non-accessibility to the courts both in terms of finance and locality.

NATIONALITY IMPLICATION

The question of nationality has been causing lately many frustration among divided families.

A new law on nationality has been introduced but still the Prime Minister's Office yields a lot of discretion and powers. That power is power which is perceived as being used against some sections of the diversified Mauritian population.

ABUSE AND NEGLECT

Despite the Child Protection Act social workers have not been empowered officially to deal with

abuse and neglect since majority of the cases are dealt by the latter the Child Protection Act may remain therefore a toothless bulldog.

PROPOSALS

(a) A new family court with modern facilities is imperative if we really want the interests of children to be at the heart of any decision.

(b) Police officers from Woman and child Abuse Unit Must be specially trained to deal with child abuse neglect.

(c) Social workers must be given all facilities to reeducate the general public so that their interference in family lives does not boomerang against them.

(d) School teachers will have also a special duty.

CHAPTER 6

BASIC HEALTH AND WELFARE

Health Services are widely available in Mauritius through Government Hospitals, Area Health Centres and Community Health Centres but however the quality of these services is rather poor.

SURVIVAL AND DEVELOPMENT

The infant mortality rate in 1991 was around 18.1% and in 1992 it was around 18.4% showing a slight increase and all indications show that this percentage is bound to increase as a high rate and increasing rate of teenage pregnancy, mainly due to a poor knowledge of sexuality contraception etc..., is witnessed.

The table below gives a clear indication of the nutritional status indicators.

Indicators	Developing Countries	Mauritius	Industrialized Countries
Low Birth Weight babies (1990)	19%	9%	6%
Mothers breastfeeding at 1 year (1980-1990)	73%	40. %	-
Malnutrition (1980-1992) Underweight (<5 years)	36%	24%	-
Wasting (12-23 months)	10%	16%	-
Stunting (24-56 months)	48%	22%	-
Daily calorie supply/capital (1988)	2440	2679	-

Source :- Situation analysis on women and children

About 18% of children in Mauritius are malnourished. There is a high prevalence of low birth weight which is related to the poor nutritional status of the pregnant women. Malnutrition is very common and there is a high prevalence of anemia among children. The percentage of breastfed babies is low.

The impact of malnutrition is marked on the Child Development.

Moreover the highly competitive education system, mainly at the primary level, is also affecting

the development of our children. Private tuition is entrusted on children and leaves them with practically no time for play and leisure, which is detrimental for their true development.

DISABLED CHILDREN

Disabled children amounting to 2,300 in number represent about 0.8% of the total population of children, but it is believed that this low figure is due to many unreported cases. The Government fails to address the needs of disabled children. They are excluded from many aspects of the day to day life. Leisure, cultural and art facilities are nearly inexistent. Public transport and majority of our buildings are inaccessible to disabled children. There are practically no government structure to cater for disabled children. Most of the rehabilitation work has been carried out by voluntary action of NGO'S. These NGO's are mostly located in urban areas, hence making access difficult for children living in rural areas. The disabled children enjoy no right for social integration.

HEALTH AND HEALTH SERVICES

Health services and facilities has been made accessible to nearly every part of the island. However the quality of care and the commitment of the staff does not address the needs of the people. Due to this, the private sector is fully expanding. Unfortunately children of low socioeconomic group cannot enjoy these private health facilities due to its high cost. They have to make do with the poor public services.

SOCIAL SECURITY AND CHILD CARE SERVICES

As mentioned in sub section of the General Principles the total social aid allocated to meet children's need is around 12.2%.

Child services are inexistent - less are child care services. Most of the child care services are being offered by NGO'S. Child care facilities are not known to the population at large. No effort is made by the government to popularise them. In this context, Save the Children -Mauritius along with other partners organised a "SALON DE L'ENFANCE" to expose children and their parents with available child care facilities and who supply them.

Only one ward is made available per hospital for children and often the service of relative specialists are not made available (pediatricians).

Only recently the police service has established a woman and child abuse unit. Unfortunately the service is not well organised, the staff is not trained in child care services and thus not really functional.

Government has never thought of establishing a section (ward) for children in the only psychiatric hospital in Mauritius. It is only now, upon the initiative of an NGO, that this ward is being set up. Further this ward can extend its services to psychologically disturbed abused children.

Shelter for children by itself does not exist. Only one shelter for women and children is operational. The risk of promiscuity prevails and may be detrimental to children. This is confirmed in paragraph 8.3.17.4 of the Government Report.

STANDARD OF LIVING

The economic upliftment of Mauritius has led to a situation where people are aware of their necessities and their needs. They constantly aim at satisfying them.

The standard of living rests on these basis:

- Socio-economic situation

- Geographical location
- Family background and cultural belief.

A big gap exists in Mauritius where 4% of the population control nearly 70% of the economy and 60% of the population have access to 10% of the GNP of the country. Unequal distribution of the country's wealth lead to great disparity. This situation is bound to prevail for quite a long period of time due to the intensive liberal economic policies practised-by the government. Almost 30% of the Mauritian population live below the poverty line. In this present economic set up low income group parents are not in position to provide for the needs of their children, thus depriving them of a reasonable standard of living. This argument is sustained by the high level of malnutrition prevailing among children in Mauritius.

Despite being a small country, geographical location accounts a lot for disparity in the standard of living of people. Some regions are isolated through lack of access to facilities and availability of means to satisfy basic needs- 7% of the population of Mauritius do not have water on their premises - they have recourse to public fountains and other sources. Such geographical isolation automatically leads to exclusion. Excluded people, even to a limited extent, are unable to keep pace with the economic development of the country.

The low socio - economic group suffers of a lack of awareness about their influence and are often hostile to the general social Organization. This family background persists from generation to generation and imprisons the members in a vicious circle of deprivation. Inability to move from this vicious circle of poverty leads to children adapting themselves to their poor situation and coping to this poor standard of living without making any sustained effort to move from it.

Inevitably, a culture of poverty develops. By standard of living, is understood the creation of a suitable environment for the integral development of the child be it

- physical
- mental
- emotional
- cultural
- psychological

or - spiritual

The government fails to develop policies in short/medium/long term that will enable people to move out of this state of poverty and provides their children with a decent standard of living. However the 1995/96 Budget speech under item 120, Government has allocated Rs 25 million out of estimates of Rs 500 million for the setting up of a TRUST FUND that will help to combat social exclusion.

This initiative sustains the argument about exclusion as specified above. Nevertheless, it must be noted that exclusion was completely ignored in the government report.

CHAPTER 7

EDUCATION, LEISURE AND CULTURAL ACTION

PRIMARY AND SECONDARY

It is an undeniable fact that education is free in Mauritius but it has to be considered also that the education system has made children a commodity for money. Despite the fact that about 13% of total government recurrent expenditure is spent on education, the outcome is not up to expectations.

The Mauritian education system is mainly, elitist and cannot claim that equal chances are offered to children of different socioeconomic background. The holding power of the school system is very low as shown in the table below for the year 1992.

<u>End of Primary Level.</u>	34,032
No. of candidates for the Certificate of Primary Education	
No of passes	21,086
<u>END OF SECONDARY LEVEL</u>	4,306
No of candidates for the Higher School Certificate	
No of passes	2,311

The basis of all education systems is the pre-school education. Pre-school education in Mauritius is very costly and a large proportion of children of pre-school age cannot attend. Equality of opportunity is therefore inexistent. Further most of the schools are not up to the required standards and often the teachers are not adequately trained. All this lead to a situation where linguistic competencies, abilities 'to learn and familiarity with books and learning materials are not reached.

THE LANGUAGE FACTOR

The Mauritian mother tongue is CREOLE while the main medium of instruction in schools is ENGLISH. Insufficient exposure of Mauritian children to English penalises such children. The language issue explains why some children achieve more in schools than others. The Mauritian situation confirms basil Bernstein's class codes and control analysis concerning the relationship between social class and children acquisition and use of language. Working class children in Mauritius cannot cope with the language in use in school and develop hostility to education. (Annex 12)

PRIVATE TUITION

The competitive nature of the education system has led to the establishment of a parallel system - PRIVATE TUITION. It is often referred to as a "11 necessary evil". Parents with financial means can afford to buy the service of the best teachers. High quality teaching are on sale for a price.

LOW ACHIEVING SCHOOLS AND STAR SCHOOLS

Some schools are reputed for their good performance. They are located in the areas where mostly the rich and the middle class people live. There is a great demand for admission to these schools. They are known as STAR SCHOOLS.

On the other hand, low achieving schools are located in deprived areas and cater mainly for the working class children. (Annex 13, 14,15,16)

PARENTS PASSIVENESS

Having attributed an economic characteristic to the provision of education , parents have turned out to be a passive partner within the education arena. They consider that financial means is the main determinant towards enjoying the best form of education and neglect to play their

roles in a positive way. Poor parents, ignorant about the functioning of free education and the nature of subsidies are sincere to the principle that "beggars are not choosers".

NON CAREER ORIENTED

The Mauritian education system operates in isolation to other sectors of life. It is of pure academic nature based only on the attribution of certificates after a number of years of study. It is not the least career oriented.

COSMETIC MEASURES

The various reports of international fame and reputation have not changed the structure and functioning of the education system to a reasonable extent.

The most important objective of all education systems, to provide SOCIAL TRAINING, is ignored. No effort is there for the true real transmission of values. Nothing aim to help towards the smooth adjustment / adaptation of individuals in society. It is not even a social selector as the financial means of people is the only determinant towards success of school. The welfare /social/ training aspects of education are completely ignored. It is no wonder that under such circumstances, a high illiteracy rate 7.5% exist among the 12 to 19 age group.

LEISURE AND CULTURAL ACTIVITIES

No definite policies adapted to the needs of ' children from different socioeconomic groups exist in Mauritius for leisure and cultural activities.

Ministries entrusted with leisure and cultural responsibilities have always ignored this section of the ministries. Sports activities have always been elitist, meant mainly for competition. Sports facilities do not provide a certain period of the day (number of hours) for children. Facilities for girls are worst.

There is a lack of amenities and often there is no equal distribution of the facilities. There are only three public garden in Mauritius. In only one, special facilities are provided for children. There is no security. They are not lighted nor attended.

With urbanisation and vertical expansion of residential areas, there is a serious problem of lack of space for children. The problems are compounded. No social hall nor any playground exist.

In some pre-primary schools, there is not even any school yard which explicitly confirm the absence of playgrounds and any other necessary leisure infrastructure.

Further the administrators of available leisure facilities, if any, are mere civil servants working but during office hours, they do not even care to make any provision for children.

NEW SOCIAL "PHENOMENON"

The erecting of high walls to close household premises as a matter of security has lead to destruction of interacting neighbourhood. As a result more cloistered family are rampant. This lead to

- No interaction between children
- No interactive play
- Less collective play
- Less leisure opportunities
- Selfishness among children

Culturally, there is lesser and lesser effort to encourage the sharing of values in terms of dressing and culinary particularities. No interaction among the different groups on such aspects

are entertained among the young people. Instead the policy of "DIVIDE TO RULE" predominates. It is noticed that more sharing exist among the higher socioeconomic group rather than the lower one.

Accessibility to books/magazines or even newspapers are poor in many areas. Libraries are mainly located in towns. The reading habit is not there in deprived areas.

Cultural activities are based on family background and mainly on religious belongingness. Activities organised at regional and national level are often costly and children of low socioeconomic group cannot attend.

Cultural policies have never been clearly determined and devised.

CHAPTER 8

SPECIAL- PROTECTION MEASURES

REFUGEE CHILDREN

The state and the civil society deny the fact that there is the existence of refugee children in Mauritius. Through Mauritian standards some categories of refugee children emerge from the group.

- Exiled families from Diego Garcia.
- Rodriguan families living in refugee conditions in search of improvements of their economic situation.
- Refugees after the passage of cyclones living for a long period in refugee camps.

These refugees cannot be compared to refugees in countries undergoing serious problems (social, economical or war situation). Nevertheless in line with the local standard of living of the lowest income group these people, automatically fit the label "REFUGEES".

Fortunately in the Republic of Mauritius, children are not faced with armed conflict. But lack of alertness toward social fragmentation based on ethnic and religious belonging may lead to serious conflict, thus children through their innocence, may be involved - we have had serious civil wars in the past.

23 (b) ADMINISTRATION OF JUVENILE JUSTICE

The Juvenile Act is 60 years old and during these years the act has not been revised properly. The government missed a chance when they passed the Child Protection Act through the Parliament, to bring the Juvenile Offender Act in line with the Convention.

Main criticism of the Juvenile Offender Act.

(a) Age - Children are divided into 3 categories

(i) Child under the age of 14

(ii) Juvenile means under the age of 17

(iii) Young person is a person above 14 and under 17

A Juvenile should be defined as per Act 1 of the Convention on the Rights of the Child. Secondly the term Juvenile itself is obsolete.

No Juvenile Court as such exist in Mauritius but district courts sitting in another capacity, within the same surrounding court structures and setup and the same magistrate with another hat. These magistrates do not have any proper training on how to solve the cases of children in conflict with law. The magistrate acting within the same court structure as adults and with no trained personnel often leads **unconsciously** to great psychological and irreparable setbacks.

No lay persons are involved in whatever capacity in the administration of "juvenile 11 justice.

Some offences are even excluded from jurisdiction of the Juvenile Court. All offences against the state are excluded. (Section 50 - 76 of our Penal Code)

e.g. (i) Trusting

(ii) Failing to reveal plot against the state.

(iii) Harboring armed band.

(iv) setting fire or destroying state property or stirring up civil war.

FROM ARREST TO IMPRISONMENT

Arrest - Reasonable suspicion

The same standard of suspicion is applied for both adults and children, thus causing great prejudice to children who have been arrested by the police specially those related to cases with drugs. Standards should be higher than reasonable suspicion.

After arrest - police station / charging / police cell

The Juvenile Offenders Act is silent about the three above named stages that the Adults standards again apply. The arrest of a child is usually done with no prior restraint meaning that the child is arrested in full public view, often handcuffed and escorted by police male officers, with no training whatsoever in dealing with children.

Charging officers do not exist in the Republic of Mauritius. Often the one performing such jobs is himself the investigating officer.

The same language of warning is used for adults, if ever used.

No police station in the Republic of Mauritius has a room which provides facilities for children, worse for those who are physically and mentally handicapped. Children are kept in custody together with adults in police cells, which are always cramped, filthy - sub human standards - not providing the basic facilities.

Bail

Children should be given bail in every condition unless when the police officers can persuade the court beyond any reasonable doubt that the interest of justice will not be hampered. No recognizance should be used as a condition for bail.

Conviction and Sentencing

Once found guilty by the family court, there should be an in-depth probation report on the child's family and his surrounding. The report should be written in a simple language and should be disclosed to the lawyer of the child well in advance so that he may comment, argue and amend before the court sentences the child.

Sentencing which includes deprivation of liberty, should be done only in exceptional cases. The Juvenile Offenders Act does not leave many options to the sentences. A special education

home for those children, who have been deprived of liberty access to social life (foster families), must be provided.

The children ombudsman must monitor the house or "child-minding" families on a constant basis. Hygiene should be of the highest standard. Access to health and education must be provided.

Economic exploitation including child Labour

Child labour, with 26.4% of the primary school dropouts entering the informal sector, is an acute problem prevalent in Mauritius. Child labour is a resultant of the misadministration of the education sector. It produces child labour. Another factor contributing to child labour is the need to sustain the family budget. The market for child labour is mostly the deprived regions of the island. Paragraph 8.4/8.5 of the Government's report refer to this aspect.

LEGAL ASSISTANCE

Every child suspected of an offence should be given legal assistance at the expense of the state.

Drug abuse:- (a) Dangerous Drugs Act
(b) Alcohol Abuse
(c) Abuse of medicines.

(a) Recently with limited access to the traditional/ conventional market drug traffickers is entering the school sector to try to look for new markets. Court statistics show that very few students are sentenced for drug cases.

(b) Alcohol is ravaging the youth of Mauritius. No serious control is envisaged in the sector.

EXPLOITATION AND SEXUAL ABUSE

Child prostitution, though in a significant proportion, is invisible but rampant. Prostitution is taboo in Mauritius and intervention to control it is very low. The level of child prostitution is highest in tourist areas.

Sexual abuse is not reported to its full extent as often children are not even aware when they are abused as no awareness campaign for same exists.

C O N C L U S I O N

Mauritius is a country which enjoys a good reputation internationally in the economic field. The Mauritian society is often depicted as the world in miniature. The situation has improved to a large extent but comparative analysis demand that a certain standard is maintained. It is to be reckoned that the social fabric is undergoing a rough crossing through industrialisation, increased state intervention and influence of foreign cultures through the media and flourishing tourist industry. The aim of this report is to insist that the welfare of children be improved and maintained at all levels.

Children of today embody the Mauritius of tomorrow. A wise nation always plans ahead.

[Home](#)

must be duly acknowledged.

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