

Are the Rights of Detainees and Victims Sufficiently Protected in Mauritius? A Comparative Study with UK.



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ABSTRACT: As human beings, we all claim, crave and protect our birthrights. Even history taught us this fact through the wars and rebellions of many. It is in our blood. Denying these rights is equivalent to challenging our very own humanity. In Mauritius, we proudly claim the existence of our fundamental rights in our Constitution. Our Constitution and all the legislations that follow, are promises to safeguard our rights as citizens of Mauritius.

However, are these rights the same for everyone? When thinking of inadequate rights in Mauritius, we immediately think of targeted groups – the poor and discriminated groups. Then, does it seem all rights are protected in Mauritius? What about those at the mercy of the authorities? What about those looking for justice? Do these people feel they belong to this country? This paper focuses on the rights of detainees and victims in Mauritius will be profoundly questioned to know whether they are sufficiently protected or not while comparing with the legal system of United Kingdom.

KEYWORDS: Constitutional Rights, Mauritian Constitution, Rights of Detainees, Right of Victims, Police Brutality, Police and Criminal Evidence Act 1984, Victims Code

INTRODUCTION

Mauritius is a small island nation located in the Indian Ocean. According to the US Department of State's 2020 Country Reports on Human Rights Practices, there were reports of human rights violations in Mauritius, including police abuse, arbitrary arrests and detention, poor prison conditions, and restrictions on freedom of expression and assembly. The report also notes that while the government generally respects the rights of detainees, some detainees have reported mistreatment by police officers. Additionally, the report states that the government generally respects the rights of victims of crimes, but there have been reports of delays in the justice system.

In comparison, the UK has a strong human rights framework, with protections for detainees and victims enshrined in law. The UK has ratified the European Convention on Human Rights and the International Covenant on Civil and Political Rights, among other international human rights treaties. Detainees in the UK have the right to a fair trial, access to legal representation, and protection from torture and other forms of ill-treatment. Victims of crimes have the right to support and protection, and the government has established a Victim Code to outline these rights.

We will first look at the constitutional rights of the detainee at both pre-trial and post-trial stages followed by the rights of victims.

A Detainee: Definition

According to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment by the United Nations Human Rights Office of the High Commissioner, a detained person means “any person deprived of personal liberty except as a result of conviction for an offence.”

However, when looking at the literal meaning in the dictionary, a detainee simply refers to the idea of holding someone into control while implying restraint. Therefore, a detainee can either be an individual who is a suspect or an accused as well.

Constitutional Rights

Before discussing the rights of the detainees, it is important to note that there are permissible inferences with rights of individuals. The right to freedom of movement can be objected by the Police by the prohibition against departure. The right to privacy can be breached as police officers are allowed to search persons and premises with a warrant and without a warrant in exceptional cases. The right to enjoyment of possessions can be restricted as well through the seizure of incriminating materials.

Pre-trial stage: section 5 of the Constitution

Provisional charge – reasonable suspicion

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Before becoming a detainee, an individual has to go through the pre-trial stage. He is arrested by the police with or without a warrant when the latter has reasonable suspicion to believe that the individual committed or will commit an offence. It is noteworthy to understand that at this stage, a detained suspect has more rights than a convicted detainee. Our Constitution provides for the rights of suspects under its section 5.

Based on section 5(1)(e), the police have the right to deprive an individual of his personal liberty “upon reasonable suspicion of his having committed, or being about to commit a criminal offence.” The same notion goes for various subsections under section 5: section 5(1)(h) provides that “in case of a person who is, or is reasonably suspected to be, of unsound mind or addicted to drugs or alcohol”, section 5(1)(j) provides that “upon reasonable suspicion of his being likely to commit breaches of peace” and section 5(1)(k) which provides that “upon reasonable suspicion of his having engaged in, or being about to engage in, activities likely to cause a serious threat to public safety or public order.”

Through all these mentioned sections of the law, we can deduce the main principle would have been to have a ‘reasonable suspicion’. Once again, this idea is provided in section 5(3). In order to ensure the rights of these suspects are respected, section 5(3) states that the police have to bring him before a Court, which indeed is the best recourse of action. With the ideas of habeas corpus and provisional charge in mind, bringing the detained person before the Court will enable the latter to have judicial control over the case and not the police to prevention administrative detention. This was highlighted in the case of **DPP v/s Indian Ocean International Bank and Ajay Shanto [1989] MR 110**. The Court will decide whether the arrest of the suspect is justifiable and whether there are sufficient evidence linking the alleged offender to the case at hand. This proves that the rights of detainees are catered for in Mauritius.

Having a ‘reasonable suspicion’ is of utmost importance to avoid any form of abuse of power from police officers. It was sharply pointed out in the case of **Manraj D & Ors v ICAC [2003] SCJ 75** It was held that reasonable suspicion “is no instinct, allows no guess, no sixth sense. It is scientific. It has to find support on facts, not equivocal facts but facts consistent with guilt... Reasonable suspicion, in contrast to mere suspicion, must be founded on fact. There must be some concrete basis for the officer’s belief, related to the individual person concerned, which can be considered and evaluated by an objective third person.” In the case of **King v Gardner (1979) 71 Cr. App. R. 13**, it was highlighted that reasonability should not derive from the personal viewpoint of an officer but rather from the objective viewpoint of a dispassionate bystander.

Yet it is important to point out that it is in the culture of Mauritian police officers to arrest people, create a provisional charge, detain them and look for concrete evidence later on. It is no secret that there has always been an overuse of provisional charges in Mauritius which is certainly not fair to innocent detainees who might have to later on stay into remand jail for more than 3 years. According to the World Prison Brief, on the 23rd May 2022, it was stated that there were 2472 pre-trial detainees or remand prisoners and these detainees awaiting trial form part of 56.3 percent of the prison population in Mauritius. There is as a matter of fact that among all these detainees, a high number of them has been preys of provisional charges.

Trial stage: Section 10 of the Constitution

Presumption of Innocence

Even at trial stage, a detainee has rights that need to be respected. According to section 10(2)(a) of the Constitution, a person “shall be presumed to be innocent until he is proved or has pleaded guilty.” The presumption of innocence is a very important principle not only at enquiry stage, but at trial stage especially in our dualist court system. The rights of a person have to be fully respected throughout the entire trial. If not, there is no doubt that the sentence of the Learned Magistrate will be quashed during an appeal under the notion that the defendant has faced an unfair trial.

Based on the case of **DPP v Labavarde [1965] MR 72**, it is the prosecution who has the burden of proof to prove the case beyond reasonable doubt as it is the life of an individual which is at stake. The prosecution should be able to prove the “guilt” of the defendant. Yet, it was stated in the case of **Police v Seechurn [1980] MR 248** that the burden of proof can shift at trial stage when the “evidence adduced by the prosecution points to some unlawful or sinister or suspicious act.”

At this point, when questioning whether the rights of detainees are respected are sufficiently protected or not in Mauritius, we can affirm that it is indeed the case. It is the honourable duty of the legal representatives and the Learned Judges and Magistrate to make sure that the life of a person is not played with unfairly and in an ignorant manner. The aim of the criminal justice system is to provide justice and not the opposite.

Constitution and the Judges’ Rules: pre-trial and trial stages

Right to understand

In section 5(2) of the Constitution, it is provided that any person who is detained “shall be informed as soon as reasonable practicable, in a language that he understands, of the reasons” for his detention. Even in section 10(2)(b), it is stated that the person who is charged with an offence has “to be informed as soon as reasonably practicable, in a language that he understands and, in detail, of the nature of the offence. A person indeed has the right to know what is going on when being deprived of his personal liberty and this has to be put into practice by police officers.

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The same notion has been mentioned in the Judges' Rules, being a set of guidelines to be applied by the police, which state in the Annex B section 1(c) that "in writing down a statement, the words used should not be translated into "official" vocabulary; this may give a misleading impression of the genuineness of the statement." Besides in the same annex, in section 5, it is highlighted that in cases whereby there is a need to interrogate a foreigner, the interpreter must take down the statement of the suspect in his own language and then later on there should be an official English translation of the original statement made and proved as exhibit with the original statement.

The aim of this right to ensure that the individual is understanding every single part of the procedure he has to be part of. In the Constitution, section 10(2)(f) provides that every person who is charged with a criminal offence "shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the offence." An example would be the case of the case of **Kunnath v The State (Privy Council Appeal no. 41 of 1992)**. The conviction of the Indian accused was quashed in order to prevent an evil precedent in the future. Although the case was not conducted in the defendant's language, he still had the right to retain the assistance of an interpreter for his own good. This became the precedent in the case of **Sannassy Pilly D. v The State [2017] SCJ 327** whereby Learned Judge, Honourable P. Fekna clearly stated that "this goes to the very foundation of a fair trial that an accused party should understand the proceedings against him."

Right to have legal assistance

The right to retain legal assistance is a tricky one in Mauritius. While section 5(3) of the Constitution states that when an individual is detained and who is not released, that individual "shall be afforded reasonable facilities to consult a legal representative of his own choice," section 10(2)(d) provides every person who is charged with a criminal offence "shall be permitted to defend himself in person, or at his own expense, by a legal representative of his own choice or, where so prescribed, but a legal representative provided at the public expenses. But of course, as per the said section 10(2)(d), it is the right of the accused to defend his case of his own. He is free to be *inops consili* at his own risk before Court.

In the case of **State v Moazzam Ali Shaikh & Anor [1998] SCJ 80**, the distinction between the two sections were well explained. While section 5(3) of the Constitution allows the suspect to have access to a legal representative, this section does not provide for an entitlement of it. Seeking legal assistance should derive from the personal choice of the suspect and not otherwise. As in the case of **The State v Coowar [1997] SCJ 193**, even the Judges' Rules does not provide for an entitlement to have access to legal representatives.

Instead, its section 7 of the Annex B entitled 'Facilities for defence' goes in line with the said section 5(3). It mentions that a person in police custody "should be allowed to speak on the telephone to his legal adviser". There is no suggestion of any legal adviser. Therefore, we can conclude that at enquiry stage, there is no constitutional requirement for the suspect to have legal aid. This part of the law is questionable. Is it thus safe and fair to suspects who cannot retain the services of a counsel at enquiry stage to stay at the mercy of police officers? This part of the law should be closely reviewed as it is unfair to those who cannot afford the services of counsels.

However, in section 10(2)(d) provides for a constitutional requirement to provide the accused with the services of legal representative as it is at trial stage. It could either be legal representative of his own choice or the Court may provide the accused with legal counsels through *in forma pauperis*. Unless of course, his counsel decides to deal with the case *pro bono*. At this stage, it is fair to say that the rights of the accused are indeed respected. But how did this right become a constitutional right?

The landmark case for both UK and Mauritius would be the case of **Powell v Alabama 287 U.S 45 (1932)**. At its pages 68 till 69 it is mentioned that "The right to be heard [in court] would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence... He lacks both the skill and knowledge adequately to prepare his defense, even though he has a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence."

For the UK context, section 58(5) of the Police and Criminal Evidence Act 1984 states that "In any case he must be permitted to consult a solicitor within 36 hours from the relevant time." Here the relevant time is mentioned in section 41(2)(a) which is considered to be the time at which the person arrives at the first police station to which he is taken in the police area or the time 24 hours after the time of the person's arrest. In the book of Michale McConville entitled 'Custodial legal advice and the right to silence' which is a great book to explain the practice in UK, at page 5, it is provided that "the provision of legal advice is seen as an essential part of the empowerment of suspects which has been determined to be necessary in order to counterbalance the increased powers of the police."

Right to silence

The right to silence is one of the most popular rights of any individual. It is a fundamental constitutional right provided under section 10(7). "No person who is tried for a criminal offence shall be compelled to give evidence at the trial." It is either by his own choice or by the recommendation of his counsel that the accused will remain silent.

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Although it is not specified in section 5 of the Constitution, it is well-understood in the rules II and III of the Judges' Rules. Rule II provides that once a police officer has evidence which would afford reasonable grounds for suspecting that a person has committed an offence, he shall caution that person. The caution shall be in the following terms: "You are not obliged to say anything unless you wish to do so but what you say may be put into writing and given in evidence." As for rule III, the caution will be in the following terms: "Do you wish to say anything? You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence."

With all these laws in mind, the question which might arise is, are the police satisfied with the right to silence at enquiry stage? Obviously, the answer will be no. A confession is an admissible evidence in court, thus it is not surprising that police officers will tend not to respect this right. In parallel with the right to silence, a confession has to be done voluntarily, an aspect which is clearly not respected nowadays in Mauritius. As stated in the 'Judges' Rules and Police Interrogation in England Today' by T.E St. Johnson, "it has been a well-established proposition of the laws of evidence for over 100 years that a confession is admissible at a trial only if it was made voluntarily and without inducement, threats, tricks, or force."

Yet, it is no truism that in practice, not all confessions are done voluntarily. As stated in the book 'Custodial legal advice and the right to silence' at page 19, confessions tend to be forced out of the mouth of the suspects. Once the police officers have a reasonable suspicion, they will use all sorts of techniques to "trip people up". "They can change the tone of their voice, or they suddenly

procedure documents or they can put pressure on people in a number of different ways." It is of course the same practice in Mauritius. It became a culture for police officers to use intimidation to get confessions from suspects. The rest cases of police brutality are the living proof of it.

Furthermore, the at trial stage, the right of silence is a tricky one. As stated in the case of **Sabapathee v. State (1999) MR 233 [Privy Council Appeal No. 1 of 1999]**, remaining silent is at the own risk of the defendant as the Court is open to any form of interpretation of his silence. It can either be in his favour or not. Besides, a defendant's non-verbal language can be considered as evidence as well in Court. Apart from non-verbal language in court, even at enquiry stage, there is the famous case of **R v Mann (1972) 56 Cr. App. R. 750, C.A** which state that "evidence may be admitted of the suspect's reaction to unanswered questions..."

Right to be tried at reasonable time

Section 10(1) of the Constitution provides that when a person is charged with a criminal offence, "the case shall be afforded a fair hearing within a reasonable time." In the case of **Boolle v The State [2005] PRV 39**, it was stated that there is a breach of reasonable time only if a fair trial is not possible or if there are other unfair reasons to try the accused.

Right to know the exact charge at pre-trial stage

There is no requirement from the police to inform the suspect of the exact charge against him. The same was stated in the case of **Seetahul V v The State [2015] SCJ 328**. Well this might appear unfair, it is logical as it will enable the police to further their investigations. However, as unusual there is an abuse of it. Since there is no need to tell the exact charge, police officers try their best to use the said tricks to extract a confession from the suspects.

Bail

There is the bail pending trial and the bail pending appeal. As the detainees has a right to liberty and release on bail, it is the duty of the Court to do a risk assessment exercise to see whether they can grant the bail or not. In the section 4 of the Bail Act, it is provided the considerations which the Court has to analyse. Some examples would be the risk of absconding, the risk of interfering with the course of justice, the risk of interfering with the witnesses and the risk of tampering with evidence.

Post- trial

Principle of Double Jeopardy

As per section 10(5) of the Constitution, "no one who shows that he has been tried by a competent Court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial of that offence, except upon the order of a superior Court in the course of appeal or review proceedings relating to the conviction or acquittal." In the case of **DPP v Jahaly S. [2012] SCJ 159**, it was stated that an individual cannot be tried twice for the same offence. This is a great section of the law as it makes sure that there is no abuse of power from law enforcement authorities. \

A victim: definition

According to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power by the United Nations Human Rights Office of the High Commissioner, there are two different types of victims, namely, victims of crime and victims of abuse of power. 'Victims' means "persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws... including those laws proscribing criminal abuse of power.

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Men, women, children and disabled people

Men victims

According to Statistics Mauritius in 2020, there are 12.7 percent of men who were victims of domestic violence in Mauritius and 4,887 men were victims of homicides and assaults. 48 men were reported to be victims of sexual violence and sexual exploitation, however, strangely enough, compared to the statistics of Statistics Mauritius, the report of the Ministry of Foreign Affairs, Regional Integration and International Trade (Human Rights Division) stated that there were 309 male victims of gender-based violence in 2020 and 0 male both in the year 2020 who reported being victims of conflict gender-based violence including sexual violence. This does raise questions. Can we even consider the reports of Mauritius as reliable when focusing on victims?

Furthermore, unfortunately in Mauritius, we do not have much information on victims and more specifically men victims. It seems that there is a stigma surrounding men victims reporting. Compared to our country, in UK there was a policy paper published on 5th May 2022 entitled 'Supporting male victims' since a lot of emphasis on women and girl victims. By the end of March 2020, it was estimated that 155,000 males were victims of sexual assault including attempts ranging from the age of 16 to 74 years old. Furthermore, the Center of Expertise on Child Sexual Abuse estimates that at least 5 percent of boys and young men experience sexual abuse before the age 16. 526,000 men aged between 16 and 74 were estimated to have been victims of stalking in the year ending March 2020. The study keeps going. It ranges from domestic violence to forced marriage.

It is rather shameful from our part that Mauritius does not have this much updated detailed information easily available at hand for further analysis to know whether our country is improving or there are still further developments to be made at various levels. There are indeed reports of Mauritius especially for gender-based violence but sadly they are more easily available in international reports than on national level.

Women victims

In Mauritius in 2020, there were 87.3 percent of women who were victims of domestic violence and 4229 women who were victims of homicides and assaults. 521 women were victims of sexual violence and sexual exploitation. Unlike men, since there is way more women victims, the process is different as there is a woman involved. For example, based on a document of the British High Commission Mauritius, it is mentioned that being a domestic violence victim in Mauritius may be different to UK. The Mauritian police may not respond as the UK police. It might also be that it is not all the time that there is a female police officer present. There is even an entire paragraph explaining the possibility of not all police officers being trained to deal with domestic violence cases. If not now, when are the police actually start having proper training in relation to their job?

Luckily, there are places ready to provide the necessary support to these women. There is the Family Welfare and Protection Unit working alongside the Ministry of Gender Equality to be line with the United Nations recommendations. Associations and shelters such as the SOS Women's shelter, the Family Counselling Service and the Shelter for Women and Children in distress are available to provide these victims with the proper support needed.

Compared to Mauritius, the UK report is not surprisingly more in detail. There are 618,000 female victims who were victims of sexual assault including attempts of sexual assault in 2020 and 977,000 women were victims of stalking. Certainly the numbers will be higher seeing the population number in UK however, what is commendable here is that despite the huge population of UK, the report provides for very in-depth information about which types of offences are these women victims of.

Child victims

With the introduction of the Children's Act in 2020 with its harsher punishments to offences against children, we hoped there would have been changes in the behaviour of people towards in Mauritius and yet, we were proved wrong many times. Children are still victims of sexual harassment, of brutality, of bullying, of child pornography and sadly for some, 'wounds and blows causing death'. Based on the number of child abuse cases registered at the Child Development Unit (CDU), in 2021, there were 53 children victim of abandonment (33 boys and 20 girls), 464 children were victim of physical abuse (233 boys and 231 girls), 696 children victim of neglect (351 boys and 345 girls), 422 children were victim of sexual abuse including incest (72 boys and 349 girls) and finally 730 children were victim of psychological and emotional abuse (324 boys and 406 girls).

While focusing these cases, the most horrifying problem would be the number of sexual abuse cases against girls in Mauritius. Besides, the harsh sentences in section 19 of the Children's Act 2020 entitled 'Causing, inciting or allowing child under 16 to be sexually abused' which are a maximum of 30 years of penal servitude for cases where the child is physically or mentally handicapped and a maximum of 20 years of penal servitude in other cases, there seems to be nothing much done at the educational level to ensure that children especially girls are safe from child predators.

Recently the famous case of Ayaan Ramdoo which woke up the anger of many was brought up. It is after about 2 years after his death on the 12th November 2020, that his step-father was convicted without any hesitation for 39 years in prison in the Assize Court. For now, there is the case of children with disability being sexually harassed which is being dealt with. If the suspect is indeed guilty, there is no thought that once again he will face a really harsh sentence.

This is a proof that the Judiciary is trying its best to bring justice to child victims in Mauritius. However, is it enough? Certainly, it is a great initiative to teach aggressors of children the price they might pay, yet, it is not enough. The Mauritian society cannot

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simply be satisfied with justice given to the victims. We need to adopt a lifestyle whereby children are respected. Since the creation of the Children's Act and the Children's Court Act, are the rights of children taught to them at any educational level in Mauritius? Are adults taught of the rights of children in Mauritius?

Furthermore, there is the existence of the 'Mandatory reporting for child in danger' under the section 34 of the Children's Act 2020. Although it is a great amended law in Mauritius, how can we ensure that the population is going to report cases of children in danger? Until now, do we have a number of cases whether people have reported?

We are well-aware there are a lot of victims in Mauritius and we are still facing challenges to diminish this problem, however, in UK, the number of child victims are frightening. Based on the National Referral Mechanism (NRM) provided a report with the number of potential victims for the year ending December 2021. According to the report, 5,468 children are considered to be potential child victims. 62 percent of boys received a positive reasonable grounds decision (RGD) were most likely to have been criminally exploited while 42 percent of girls were most likely to have been sexually exploited according to the NRM report.

Although UK provides for a lot of support to child victims such as the National Society for the Prevention of Cruelty to Children (NSPCC), the Victim Support and the Crimestoppers, it does not appear that just like Mauritius, they are in control of the number of offences against children. Not only there would clearly be several unreported cases, there is an uncontrollable number of child victims of modern slavery and human trafficking which is horrifying.

Victims with disability

The report of the Ministry of Foreign Affairs, Regional Integration and International Trade (Human Rights Division) stated that there were 5 persons with disability victim of violence and abuse in 2020, 1 of them being a man and 10 persons in 2021 with 2 of them being women.

Detainees as victims

Detainees are also victims. Although they have the right of protection from inhuman treatment in section 7 of the Constitution, it is not secret that they are victims within the four walls of prisons. Not only are they victims of the system, they are victims of this 'tag' as detainee. In prison, they become victims of diseases which obviously are difficult to cure. Even worst, most of detainees suffer from psychiatric disorders. Is that justifiable? Is it not inhuman from our system to punish them more than they already are with the deprivation of their liberty?

Constitutional Rights

Every type of victim has the same constitutional rights. They are humans first of all. Just like everyone else, there is a need to protect their fundamental constitutional rights under the Chapter II of the Mauritian Constitution. No matter what do the legislative and the judiciary plan to do, there is a duty to ensure that all these victims' rights are respected. They have a right to life (section 3(a)), a right of protection from slavery and forced labour (section 6), the right to be protected against inhuman treatment (section 7), the protection against deprivation of property (section 8), the protection for privacy of home and other property (section 9), the protection of freedom of conscience (section 11), the protection of freedom of expression (section 12), the protection of freedom of assembly and association (section 13), the protection of freedom of movement (section 15) and the protection from discrimination (section 16).

As far as victims are concerned in Mauritius, as discussed above, there is a really need to put safeguards to protect their being and rights. As stated by Martin Luther King Jr., "a right delayed is a right denied."

The Office of the Ombudsman

Even if we do not have direct laws for victims in Mauritius like the UK, there are laws providing for protection of victims. First, there is the Office of the Ombudsman provided in the Chapter 9 of the Constitution. The Office has a duty to investigate any case of maladministration towards citizens in Mauritius. It can investigate cases which fall under its jurisdiction. The victims can fill in a complaint form on the website of the Ombudsman or pay the office a visit. Alongside the Office the Ombudsman, there are specific Ombudspersons such as the Ombudsperson for Children and the Ombudsperson for financial services which investigate and provide justice to cases in relation to their allocated duty.

What is left to be done?

Until now, we have discussed about the rights provided to detainees and the state of victims in Mauritius. Although their rights are respected, they are not sufficiently respected. This is why, now we are going to look at recommendations which would help to improve the system and protect the rights of these people.

Recommendations

Recommendations for the rights of detainees

In order to improve the rights of the detainees in Mauritius, for now, there is a need to introduce the PACE as it was done in UK. There could also be an implementation of a Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers. However, it would be preferable to include laws of the PACE which would be easily implemented in the Mauritian context

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and not simply copy and paste the entire legislation. We have to make sure that everything in the PACE can financially affordable and possible.

There is a need to review the incarceration system in Mauritius. We need to find new ways to prevent overcrowding and unreasonable detention of people in prisons. It would have been great if the system could free very old detainees although they have not fully served their sentence. It cannot be in a human's hand to decide where a person will die. It is painful to think of detainees who die within four walls.

For those who did not commit severe crimes, they should be released and forced to do unpaid community service order. They could monthly pay for fines. They could be provided with jobs to earn some money and provide for their own families. For those who wish to change their life, they should be allowed to study and learn a skill. The State should provide all those who learned a skill with a job within the realm of their expertise. Everyone should be given a second chance especially those who faced the harsh life of prison for too long.

Besides detainees who are about to finish their sentence should be allowed to be released briefly on parole, work for a bit and readjust to our fast-paced society so that he can rebuild his life alongside his family for instance.

For women detainees, they should have an unlimited access to sanitary facilities such as sanitary pads. There should be facilities provided to women who gave birth in prison. It would be great if these detained mothers could have a chance to develop a mother-child bond with their child. However, there should be a close evaluation of their behaviour with their child to avoid any case of torture.

At enquiry stage, just like in UK, every statement should be mandatorily recorded. This way, all the discussed issues with the abuse of powers from the police will not be tolerated if the video is produced before the Court. This is to ensure that the rights of the suspects are closely monitored and respected. Besides the police should be provided with the latest technology to make sure that no innocent person is unfairly detained.

From the bird-view of the society, there is a high need to educate people not to be prejudicial towards those who were once convicted even those who were simply unjustly detained. They need to learn that no one deserves to be discriminated. As stated before, these people have the right to a second chance. Therefore, people need to be more open-minded and avoid becoming preys of trials by the press.

As far as child offenders are concerned, there needs to be a constant evaluation of what is happening in correctional youth centers and rehabilitation youth centers. These child offenders should be offered a second change by teaching them skills of their liking. As their brains are still developing, they should have access to all sorts of games to improve their memorizing skills and help with their brain development.

In order to help detainees with disability, the prisons must be laid out in such a way that every impaired detainee has the same access to communication through sign language. They should be offered activities that suit them and they must be assisted by qualified staff.

Recommendations for the rights of victims

Just like in the UK, we need to include a Code of Practice for Victims of Crime (the Victims' Code) in Mauritius. We seriously need to give importance to victims in this country since until now, there is mere anything to compensate victims. Apart from section 5(5) of the Constitution which provides that "any person who is unlawfully arrested or detained by any other person shall be entitled to compensation from that other person", there are no other section providing for any form of remedy in our Constitution. This is even a recourse mechanism which is not well-applicable in Mauritius.

Having a Victims' Code in Mauritius will provide victims with basic rights as minimum level of service which they should receive from the Criminal Justice system. Even more surprising with the UK criminal justice system, the victim can even produce a 'Victim personal statement' to write about his grief, his financial and emotional distress, basically all his feelings about his losses. This is shown in Court and the best part is that this statement is a proof that the victim's thoughts in a case is not ignored. It would have been great if we could have introduced it in our system.

Additionally, just like in other countries and especially the UK, Mauritius should introduce more ombudspersons and give more importance to the Office of the Ombudsman. The Office needs to be provided with financial help to increase the awareness campaigns around the island and to employ more people to help in the investigation process of the cases.

CONCLUSION

The rights of detainees are well-protected in Mauritius. It is however, the system and the abuse of the police which do not provide them with their due respect and protection. As for the rights of victims, it is rather the contrary. The rights of victims in Mauritius compared to UK is clearly ignored if not for the presence of some authorities such as the Ombudsman. The only aims of our country for now are to reform and restore our system as there is not worst form of injustice than pretended justice.

Are the Rights of Detainees and Victims Sufficiently Protected in Mauritius? A Comparative Study with UK.

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