



**NATIONAL
HUMAN
RIGHTS
COMMISSION**



NATIONAL HUMAN RIGHTS COMMISSION NEWSLETTER

OCTOBER 2025

Remand and Loss of Liberty

Satyajit BOOLELL SC

Chairperson NHRC



If we start from the premise that only those for whom prison is essential should be there, then we should ask why is it that in our prisons more than 50% of the prison population are remand prisoners and out of these fifty percent a significant proportion are awaiting trial for more than 5 years. As a matter of justice those who are on remand should be contained in conditions which reflect the prisoner's remand status, persons who are innocent until proven guilty.

At the NHRC we have been made aware of several cases where remand prisoners are awaiting trial and in one particular case a prisoner has been on remand for the last nine years and has still no clue when his case is likely to be heard. A prisoner awaiting to be formally charged is presumably on a provisional charge, implying that he is regularly seen by a Judge or a Magistrate depending on the where his provisional charge has been lodged. It would appear that in the case of the prisoner of a nine year waiting list, the different layers of supervision which

accompany a provisional charge, the office of the DPP, the Commissioner of Police, and the Court itself, have failed, laying bare an outdated criminal justice system.

In the case of *Dookee v The State 2012UKPC 2021* the Law Lords highlighted the fact that prisoners on remand have almost the same treatment as convicted prisoners. They have almost the same status as convicted prisoners. The Law Lords made the following observations:

“When one comes to analyse the differences in the conditions imposed respectively on remand prisoners and convicted prisoners these really seem to amount to very little, certainly compared to the altogether graver conditions which they have in common: their loss of liberty (in, be it noted, identical physical conditions). The right to wear one's own clothing, to four rather than two visits a month, to write more than two letters a month, not to work, to grow one's hair and not shave, to spend (if one has it)

MRU1000 instead of only MRU200 in the canteen: these are minor benefits indeed compared to the fundamental fact of confinement in prison.”

The remand prisoner like any accused has a right under section 10 (1) to have his case heard within a reasonable time by an independent and impartial tribunal established by law. In the *Attorney General Reference No2 of 2001*, Lord Bingham explained the meaning of reasonable time:

“In criminal matters reasonable timebegins to run as soon as a person is charged, this may occur on a date prior to the case coming before the trial court, such as the date of arrest ...”.On the day of arrest the suspect will be notified by the arresting authority of an allegation that he has committed an offence.”

*Of course, every effort should be made to bring down the population of remand prisoners, and every effort should be made to ensure compliance with section 10(1) to have a case heard within a reasonable time. As far back as the year 2013 in the case of *Rummun v The State of Mauritius*, the Privy Council warned about the lack of judicial oversight observing : “ Magistrates and Judges should be astute to detect delays in the conduct of criminal trials and should be proactive in seeking to eliminate it”.*

It has therefore become imperative as a first measure to have a dedicated fast track from remand prisoners to have a regular and a systematic review of their cases. The lengthy periods of pre-trial imprisonment is in no one’s interest and is inimical to fairness. Delay fades the memory of both prosecution and defence witnesses, affects generally the quality of the evidence and possibly inadvertent destruction of relevant documents. Second it is important that the authorities implement a policy in so far as possible to ensure that the employment and family connections of the remand prisoner remain intact during his period of imprisonment?

Prisoners on remand should be treated with the dignity and respect they deserve and their conditions of confinement should not be punitive. They are innocent until proven guilty a fundamental legal doctrine which cannot be overlooked .

EDITORIAL

The Quiet Devastation of Uncertainty

Touria PRAYAG



“Justice delayed is not justice; it is injustice dressed in robes.”

“Innocent until proven guilty” is a principle enshrined in our constitution. Yet, inside our prisons, nearly half of the detainees are held behind bars for months and even years, before their day in court.

I have talked to dozens of them. Some have been waiting for up to nine years! Nine years during which they do not know whether they will be found innocent or guilty, whether their families can survive the financial strain and whether they will ever regain the life they had. They spend a long slice of their lives suspended between hope and fear, looking at time stretching and warping, waiting for the slow wheels of justice to turn. While we sleep soundly, they don't. They watch sleep coming in fragments, their minds magnifying every doubt as uncertainty gnaws at their spirits and chips away at their resilience. This quiet suffering consuming them is relentless but is invisible to the outside world.

Long pre-trial detention transforms a legal precaution into a prolonged psychological punishment. Add to this staggering human cost the economic cost both to the detainee and to the public purse and you will begin to understand to what extent long pre-trial detention cannot be sustained. Taxpayers cannot continue to foot the bill for the incarceration of individuals who may ultimately be found innocent.

The suffering of Mauritian detainees is real, but it pales beside the harsher tragedy endured by foreigners in our prisons. None of those I talked to has been in detention for less than – hold your breath – six years! One of them has lost both his grandmother and his mother while waiting for his day in court. Some have a vague idea of what their children look like now. Others have lost their partners. One detainee in his eighties is beginning to resign himself to the fact that he might die before justice gives him



a chance. He hasn't seen his family for seven years. And a single telephone call costs foreign detainees more than the wages they make in a whole week.

Whichever way you look at it and whether you are a hardliner when it comes to crime or not, one thing you must ask yourself is: how just is a justice system that takes nine years to decide on the innocence or guilt of someone – even if the person is lucky enough to be out on bail?

Justice is not only about fairness; it is also about timing. If it comes too late, it loses its meaning. Every delay in court is a denial of rights. Victims wait in anguish, the accused remain in limbo, lives are devastated and faith in the system crumbles, raising urgent ethical questions.

The principle of “innocent until proven guilty” is meaningless if detention drags on for years and punishes before the verdict, making the innocent at times pay the price of delay. Justice delayed is not justice; it is injustice dressed in robes.

Silent Chains: The Hidden Machinery of Human Trafficking

By Touria PRAYAG

A letter denouncing what appeared to be a massage parlour engaged in illicit activities landed at the police headquarters. Though unsigned, it contained compelling details, including the exact location of the premises and a layout of the property. That was enough to prompt immediate action.

Acting swiftly, a police unit specially trained in human trafficking set up surveillance and executed a carefully timed raid. Fourteen Malagasy nationals were rescued, some as young as 23. Thanks to the training the police have been undergoing which emphasises a victim-centered approach and ensures that survivors are treated with compassion, the young women were not arrested or charged with prostitution. Instead, they were placed in a safe shelter, where social workers and psychologists provided vital emotional support.

They were initially quiet when we met them at the shelter. It must have felt as if the parlour had been a nightmare from which they were only now awakening. Each carried invisible burdens of fear, shame and the exhausting weight of survival. Some kept their eyes fixed on the floor, unwilling to meet anyone's gaze; others stared out the window, tracing lines in the sky as if mapping a way back to freedom. One of the girls, the youngest, was desperately clinging to another girl's arm. She did not let go for as long as we were there.

Their relief was only partial. They were still haunted by the shadows reminding them of the uncountable times they had been woken up in the middle of the night, had to dress up and line up like cattle for the customers to choose the ones they wanted to spend time with and the others who had to go back to their rooms. So, though there was enough room for them to sleep at the shelter, they all chose to huddle up in the same room where they scattered mattresses and slept.

Years of fear had also conditioned them to expect judgment rather than protection. So the presence of the police, which to others signaled safety, still carried echoes of intimidation and control. It was difficult for them to believe that anyone in authority could act in their best interest or that the labyrinthine wheels of justice could ever turn in their favour. The very idea of "legal recourse" felt abstract, distant and almost unattainable.

Our assurances had to compete with the weight of past trauma. Trust had to be painstakingly earned. Finally, our explanations and the chance of being heard began to chip away at their doubts, though caution lingered in their expressions and in the careful way they measured every interaction.

The horrendous stories which unravelled revealed the existence of a well-oiled, highly lucrative and vast network of human trafficking. There undoubtedly is an intricate web of exploitation that stretches far beyond the walls of the parlour. The scale and organisation of the network left us dumfounded. The victims we spoke to were lured, coerced and manipulated with chilling precision by agents in their own countries. These agents are not the same but they all followed the same script: they spotted vulnerable young girls, offered them money,



a return ticket to Mauritius and Rs 100,000 to make sure the immigration officers allowed them in for a two-week holiday. Then they set them off on a nightmarish journey they will not come out of as easily as they embarked on it.

The day of the departure, the agent takes a photo of the girls in the clothes they were wearing on the day and sends a screenshot to the taxi driver who will pick them up. No names displayed at the airport pick up when the hapless girls reach Mauritius, no trace, no nothing. They are dropped at a house where they will pay the rent and spend the two free days they are not 'working'. The other five days are spent in the "massage parlour". The jobs of waitresses, shop keepers or whatever they were promised vanish overnight and the victims find themselves indebted up to the hilt, away from their families and directionless. Their voices are immediately silenced in the machinery of greed.

Each account we heard added a new thread to the tapestry of deception, exposing layers of complicity, secrecy and cruelty that spanned borders and blurred the lines between the visible and the hidden.

Their minds were caught between two worlds: the safety of the present and the shadows of what they had endured. And though they could feel the fragile stirrings of hope, it mingled with uncertainty, as if the promise of freedom was something that might dissolve the moment they reached for it. In this delicate balance, they began to learn that relief was not a single moment, but a journey – an evolving awareness that protection, care and justice, however slow, could become a reality they might finally believe in.

Inside, their minds were a tangle of memories – fragments of the parlour, the strangers who had come and gone, the whispered promises that were never kept and the moments when their own voices were silenced and they resigned themselves to accepting their fate.

Each girl's journey had its own path, yet all led to the same destination. Some had devoted years to study and earned impressive qualifications, while others had left school at an early age. Some spoke with ease and confidence; others struggled to find words. Some were married with children; others were tied only to their parents back home. Despite their different beginnings, they all arrived at the same place, burdened by the same shame and caught in the same web of entrapment.

Now that they have been freed, their lives appear to have been reclaimed and their dignity restored. Yet, the path ahead remains uncertain. Debts still weigh heavily, with large sums owed to agents. Families depend on them for survival. Poverty continues to stalk their homes and the search for stable employment remains fraught with difficulty.

Still, it is the end of one nightmare and with it comes the possibility of healing and new beginnings. The road ahead may not be free of challenges but it is no longer walked in chains. For some, it may be a hesitant first step toward rebuilding trust, dignity and dreams once thought lost. For others, it may be the relief of knowing that each sunrise brings the chance of renewal. Freedom has opened a door and beyond it lies the promise of light slowly breaking through.

ÊTRE EN REMAND: UNE PEINE SANS CONDAMNATION?

Par Vijay RAMANJOOLOO

Il est parfois difficile, depuis l'extérieur, de comprendre ce que signifie réellement être en *Remand*, c'est-à-dire en détention provisoire, avant même qu'un procès ne débute ou ne soit complété. Et pourtant, pour ces hommes et ces femmes, cette période s'apparente souvent à une peine - parfois bien plus lourde que la condamnation finale.

En tant que psychologue, j'observe régulièrement les conséquences psychologiques dévastatrices de cet état d'être présumé innocent mais privé de liberté. Cela crée une dissonance insupportable. Chaque jour passé en cellule sans jugement est vécu comme une injustice, un vol de vie, une condamnation invisible. L'esprit oscille entre espoir et désespoir : l'espoir d'un procès équitable qui ne cesse d'être reporté, et le désespoir de voir les années s'effriter sans perspective.

Cette attente, cette incertitude, ce sentiment d'abandon et d'injustice, cette impuissance face au système. Tout cela engendre une détérioration mentale: angoisse chronique, troubles du sommeil, dépression, perte de l'estime de soi, pensées suicidaires.

Le Remand place les individus dans un vide émotionnel et judiciaire, où le temps semble figé, mais la souffrance, elle, avance.

J'ai encore en mémoire cette détenue étrangère, à la prison des femmes. Mère de trois enfants, elle est en Remand depuis sept longues années! En juin 2025, son procès a enfin commencé, ravivant en elle un peu d'espoir. Mais rapidement, cet espoir a été anéanti: l'affaire a été renvoyée à juin 2026 simplement parce que son avocat n'était pas disponible. Un an de plus, sans raison valable.

Je pense aussi à cette autre détenue, en Remand depuis quatre ans, qui attend toujours que le Forensic Science Laboratory (FSL) termine l'analyse des exhibits. Lorsqu'on a demandé des précisions, on nous a dit qu'en 2025, la FSL travaillait encore sur des pièces de... 2019 !

Et que dire de l'épreuve des 21 jours par rapport à la Bail and Remand Court (BRC) ? En effet, chaque détenu en remand doit passer devant le BRC tous les 21 jours. En théorie, ce mécanisme

garantit un contrôle judiciaire régulier.

En pratique, il devient souvent une épreuve supplémentaire : si pour des raisons logistiques ou imprévues de la vie carcérale, le détenu n'est pas présenté, il devra attendre encore 21 jours avant de revoir un magistrat. Un exemple marquant : ce détenu étranger, à qui on a désigné un avocat *pro bono* lors de son passage à la BRC ne maîtrisant pas bien la langue, il n'a pas retenu le nom de son avocat. Résultat : il devra attendre encore 21 jours pour sa prochaine audience. Vingt-et-un jours de plus dans l'oubli, pour une simple information manquante!

Vous qui me lisez, tentez – ne serait-ce qu'un instant – d'imaginer ce que représentent 21 jours d'attente. Ou pire encore : se voir imposer une année supplémentaire après avoir déjà enduré sept longues années. Non pas en liberté, mais derrière les murs d'une prison. Ce ne sont pas 21 jours ou une année ordinaires : privés de liberté, chaque minute pèse, chaque pensée résonne plus fort, chaque émotion s'amplifie, et tout devient plus long, plus douloureux. L'esprit, privé d'horizons, amplifie tout dans une douloureuse démesure. Ce ne sont pas juste des jours ; ce sont des abîmes.

Et pourtant, à Maurice, certains attendent bien plus que 21 jours. Ils attendent des mois. Parfois des années, comme souligné plus haut. En effet, il n'est pas rare que des personnes restent jusqu'à sept, voire neuf ans en détention provisoire, sans jugement, sans condamnation.

Neuf années à vivre dans l'incertitude, dans l'oubli, dans un temps suspendu qui n'a plus de sens. Peut-on continuer à tolérer une telle attente, si longue qu'elle finit par briser ce qui reste d'humain en chacun? Et pourtant, nous devrions pouvoir espérer mieux, car la République de Maurice est signataire des principales conventions des Nations Unies en matière de droits humains.

Ne serait-il pas impératif d'agir sans délai pour mettre fin à l'extrême lenteur qui caractérise le traitement des

dossiers en détention provisoire? Ne serait-il pas urgent, pour notre société, de reconsidérer nos priorités en renforçant significativement les ressources allouées à la justice, en garantissant un accès réel et efficace à une défense digne, en accélérant les procédures médico-légales, et surtout, en réaffirmant la place centrale de l'humain au cœur de tout notre système judiciaire?

La règle fondamentale énoncée par les Nations Unies est que la détention provisoire demeure une mesure véritablement exceptionnelle, appliquée avec discernement et dans le respect absolu des droits humains. Il est temps de repenser notre système avec humanité, courage et volonté politique. Car, les détenus en *Remand* ne demandent pas des privilèges – ils demandent justice. Rien de plus. Rien de moins.



Un jour de trop en prison

Par Michel VIEILLESE

“Je ne suis pas vraiment libre si je prive quelqu’un d’autre de sa liberté. L’opprimé et l’opresseur sont tous deux dépossédés de leur humanité.”

Nelson Mandela

La charge provisoire : une anomalie du système judiciaire mauricien

À Maurice, la privation de liberté n’est pas qu’une mesure judiciaire : c’est aussi une expérience humaine lourde de conséquences. À l’approche de la libération, les détenus connaissent une fébrilité mêlant impatience, insomnie et projets de réinsertion. Mais pour certains, la détention se prolonge au-delà du raisonnable, à cause d’une pratique singulière du système mauricien : la charge provisoire.

Née dans les années 1960, au cœur de tensions sociales et raciales, la charge provisoire est une inculpation temporaire formulée par la police. Elle repose sur de simples « raisons plausibles de croire » qu’un individu a commis une infraction, alors même que l’enquête est toujours en cours. Or, cette pratique ne figure dans aucun texte de loi, ni dans la Constitution.

Une fois inculpé, le suspect est présenté devant la Bail and Remand Court. Le magistrat y décide d’une éventuelle remise en liberté sous caution. Selon la récente Bail Act, seule l’autorité du Directeur des Poursuites Publiques (DPP) peut légalement s’opposer à cette libération. La police, en revanche, n’a plus ce pouvoir. Après ces étapes, le procès suit son cours, jusqu’au jugement et à une éventuelle peine.

Le problème, dénoncé depuis longtemps par les observateurs est que la détention provisoire dépasse fréquemment la durée des peines prononcées par la justice. Chaque mois, plusieurs dizaines de détenus se retrouvent privés de liberté plus longtemps que leur condamnation effective, parfois de quelques jours, parfois de plusieurs semaines. Loin d’être de la fiction, c’est une absurdité qui fragilise la crédibilité du système judiciaire et suscite de vives critiques, tant sur le plan local qu’international.

L’arrivée annoncée du *Police and Criminal Evidence Act* nourrit l’espoir d’une réforme. En mettant un terme à la charge provisoire ou en l’encadrant plus strictement, cette nouvelle législation pourrait aligner Maurice sur les standards internationaux et renforcer la protection des droits fondamentaux.

En attendant, de nombreux détenus continuent de vivre une privation de liberté injustement prolongée, une situation qui interroge sur l’équilibre entre nécessité d’enquêter et respect des droits humains.



THE REALITIES OF REMAND DETAINEES

By Najah AHMED



Mauritius currently holds over 2,800 detainees in its prisons, of which 1,225 are remand detainees. This means nearly half of the prison population (46%) has not been convicted of the crime for which they are being accused and are simply awaiting trial and judgment.

Length of pre-trial detention

The figures speak for themselves. Today, 307 detainees have been on

remand for more than a year. Worse, over 75 have been on remand for more than five years. Each of them represents a life suspended, families fractured, and a presumption of innocence that is quietly eroded.

When trials finally end, the absurdity is laid bare. Between June and August alone, 192 detainees were released immediately upon sentencing because they had already served the full time or more while waiting

for trial. In other words, they had served a sentence without having been sentenced by a Court.

A costly and dangerous burden

Prisons are overcrowded and understaffed. The system is stretched to its breaking point and the risk to both detainees and prison officers is real. The serious events which arose in Eastern High Security Prison on 17 July serve as a prime example of this.

Each detainee costs the State Rs 900 per day. With nearly half of them on remand, the financial cost is staggering. The country is paying dearly for a system that punishes before judging.

Conditions of life on remand

The realities of life for detainees awaiting trial illustrate the paradox of the system. Unlike convicted prisoners, remand detainees are not obliged to work, in line with the Mandela Rules. In practice, they often would like to, if only to pay for their expenses. Indeed, basic rights such as communication are restricted by cost barriers; telephone calls are paid privileges. Even sending a letter of complaint to the National Human Rights Commission to report ill-treatment or on their conditions of detention costs detainees Rs 25 for the stamp. Given that daily earnings for prison work are Rs 30, this amounts to a prohibitive expense for most detainees. However, there are very few postings open to remand detainees and the rare opportunities are attributed on rotation. In most prison, there is no

possibility of furthering education, which means that most of their days are spent idly watching TV.

Extra hurdles for foreigners

For foreign detainees, the situation is harsher still. With no ‘fixed place of abode’, a term which is blanketly used in Mauritian courts to describe their situation, bail is denied. In drug-related cases, detainees languish for months while courts wait for forensic reports. Obtaining an interpreter can prove to be a big challenge and causes lengthier processes. For many foreigners, remand becomes exile behind bars for years and years – without clear visibility of how it will end.

A disconnect across institutions

The high numbers of remand detainees and the proportion of long-term remand detainees expose a deep institutional disconnect between the police, the judiciary and the prison system. Each institution operates within its own limits and constraints but the detainees fall through the cracks. Instead of being a precautionary measure of last resort, remand has become a silent punishment. One more arbitrary, more costly and often harsher than the actual sentence itself.

The question we cannot avoid

The question is simple, though uncomfortable: do remand detainees have it better, or worse, than those already convicted? For too many, the answer is clear. They wait longer, suffer more uncertainty, and pay with both time and dignity for a justice system that has yet to decide of their guilt.

CAPACITY BUILDING PROGRAMME ON HUMAN RIGHTS FOR ALL NATIONAL HUMAN RIGHTS INSTITUTIONS

From 22nd to 27th September 2025

The National Human Rights Commission (NHRC) of Mauritius was invited by the National Human Rights Commission of India to participate in a diplomatic mission in New Delhi for a Capacity Building Programme on Human Rights for all National Human Rights Institutions (NHRIs), held from 22 to 27 September 2025.



सत्यमेव
जयते



Speech of Satyajit Boolell, SC - Chairman of the National Human Rights Commission of Mauritius.

Your Excellency the chairperson of the Indian NHRC, Secretary General Bharat Lal, International Samir Kumar, Fellow Participants

It has been truly an honour to be part of this engaging and insightful workshop, and I wish to extend my heartfelt thanks to our gracious host the Chairperson of the Human Rights Commission of the Republic of India.

From the moment the Mauritian delegation landed at Delhi Airport, we were overwhelmed by the hospitality that only India holds the secret to.

The discussions we have had, rich with diverse perspectives and experience, have provided a profound understanding of the challenges and triumphs within the Indian society.

This Capacity building programme has not only been informative but transformative.

The topics we explored together, ranging from social justice, cybercrime, climate change, and the existential challenges we face today as human beings in our daily lives created a tapestry of knowledge that will undoubtedly resonate with all the participants for a long time.

Your Constitution, President, enacted three years after your independence in 1950, removed the shackles of colonialism and went on to create a new social, economic and political order embedded in the ideals of justice liberty, equality and fraternity.

Part 3 of the Constitution recognises the rights of citizens but, more importantly, the Constitution places a positive obligation on the three organs of the state, the executive, the legislative and the judiciary to ensure through good governance the implementation and enforcement of those rights. The NHRC is instrumental in ensuring the enforcement of those rights for the benefit of the citizen.

Your Supreme Court has in 1970 in a famous judgment “Keswadhanda Bathi” developed the concept of basic structure holding that Parliament does not have unbridled power to amend the constitution when it comes to the values of the constitution that form the basis of the Constitution.

You have also revolutionised access to justice by demystifying the restrictive notion of locus standi by encouraging public interest litigation.

These are two examples of the forward thinking of your great country whose commitment to human rights and natural justice can be traced back to the teachings of the vedas, the great epics of the Mahabharata and the Ramayana. On the walls of the Constitutional Gallery of your new parliament I read “Indian democracy incorporates the values of harmony, freedom, acceptability equality, and inclusivity in society enabling a dignified life for all citizens”. The Rigveda and atharveda refer to participatory institutions like the Sabha. The Mahabarat and the Ramayana talk about involving people in decision making”.

Last week, the Supreme Court upheld that a secular state cannot exclude a dignitary from state-sponsored events on religious grounds, rejecting a petition sought to block Booker Prize winning author Band Mushtaq from inaugurating the Dassara festivities on the grounds that she was a non-Hindu.

We go back home, President, carrying in our hearts an ancient teaching of the vedas “Vasudeva kutumbakam”, the world is one family, a philosophy that emphasises the interconnectedness and unity of all living beings promoting value like compassion, empathy and harmony. It encourages people to look beyond differences and recognises our shared humanity.

In closing, I would like to reiterate my heartfelt thanks to the Commission for fostering such a thought-provoking event – an environment where dialogue and collaboration flourish. My delegation leaves with a renewed sense of purpose inspired by the teachings of India.

Mahatma Gandhi once said that in our world, there is enough for everyone’s needs but not for our greed. These words resonate even more today in our world faced with economic and political turmoil, regional conflicts and genocide.

We should all reflect on these wise words.

To all my fellow participants, it was a great pleasure to meet and interact with you all. We will build further on this relationship.

Thank you

Truth & Justice Commission

Enn kolaborasion pou reaktiv implemantasion ek rekomandasion

By Jean Marie RICHARD

National Human Rights Commission, (Komisyon nasional Drwa Imin) dan kad so bann konsiltasyon ek bann ONG finn rankontrer Dr. Vijaya Teelock prezidan ONG Le Chantier ek Madam Colette le Chartier membre, Joel Valerie visprezidan ek Isabelle Laurent Volcy Assistant Sekreter Sa rankont la ti debous lor enn akor prinsip pou reaktiv rekomandasion Truth & Justice Commission

Dr Vijaya Teelock, pou rapel ti Vis Prezidan *Truth & Justice Commission* ek Madam Le Chartier responsab resers. Bann dialogue ti otour koman pou reaktiv ek implemant propozisyon ek rekomandasion *Truth & Justice Commission*.

Tou finn dakor ki li importan travay ansam pou ki sa rapor 6 volim ki finn prodwir sou direksion defun Profeser Alex Bhorane dan enn perspective reparasion par examp, ek antrot lor

kestion depossession ek restitution later a traver land restitution committee.

Ena ossi enn lot laspe ki nomm proze prizon ki konsern enn letid fondman nou system penitansyer dans enn perspectiv listwar lesklavaz ek langazman a traver enn apros rehabilitasyon bann prizonier ki pran so distans ek leritaz colonial nou system penitansyer. Pou enan bann kontak ant ban serser Guyana ek Maurice lor sa laspe spesifik listwar ki nou de pei partage.



Sharing Minds

PILS SE PRONONCE EN FAVEUR DE LA 'REGULATION PREVENTIVE' ET DE L'EDUCATION EN MATIÈRE DE LUTTE CONTRE LE VIH ET DU TRAFFIC DE DROGUES

By Jean Marie RICHARD

La National Human Rights Commission (NHRC) a inauguré, au mois de septembre dernier, un cycle de conversations avec des ONG et d'autres acteurs de la société civile. Sous l'appellation *Sharing Minds*, la NHRC affirme ainsi sa volonté d'être à l'écoute des organisations et des personnes en contact direct avec le terrain.

La première session de ces échanges a été consacrée à l'ONG PILS, qui œuvre depuis 30 ans dans l'information, la prévention et la lutte contre la propagation du VIH/Sida. Le point fort de la rencontre a été la présentation de Nicolas Ritter, fondateur de PILS et chargé de mission de Coalition Plus, un regroupement d'organisations mondiales engagées dans la lutte contre le VIH. Il était accompagné de Mme Monica Padaruth, responsable du suivi,



de la recherche et du transfert de connaissances, ainsi que de Jacques Achille, responsable de communication de l'ONG.

D'entrée, Nicolas Ritter a dressé un constat sans équivoque de la situation actuelle à Maurice : le pays figure parmi les plus touchés par la progression du VIH, avec 11 000 personnes infectées pour une population d'un million d'habitants. Or, sur près de 12 000 malades, seulement 2 400 bénéficient d'une charge virale contrôlée.

Cette situation a entraîné une augmentation de 35 % du nombre de personnes vivant avec le VIH en 2024, dont 90 % sont également atteintes du virus de l'hépatite C.

Une réalité qui pousse Nicolas Ritter à s'exclamer : « Nous avons échoué à protéger les personnes et à garantir leur dignité. » Pour le fondateur de PILS, l'une des principales raisons de cet échec est l'absence d'une politique fondée sur la science et sur les droits humains : « Nous avons échoué dans la guerre contre la drogue en raison d'une approche basée sur la prohibition et la répression. C'est un cercle vicieux qui favorise la désocialisation, alimentée par la stigmatisation et l'exclusion. »

Il estime nécessaire d'adopter une autre approche du problème de la dépendance, en s'écartant des jugements moraux qui renforcent la répression, au lieu de privilégier une démarche scientifique : « C'est un amalgame que de mettre le cannabis et l'héroïne dans le même sac. Cela conduit à des jugements disproportionnés, renforcés par le rôle du certificat de caractère, qui demeure un obstacle majeur à la réhabilitation sociale des détenus. »

À noter que 60 % des détenus sont liés à la consommation de drogues, avec un taux de récurrence de 66 %.

« Nos institutions restent prisonnières du cercle vicieux de l'exclusion et de l'insécurité. Il convient donc de changer de paradigme. Cela suppose de placer la santé, la dignité et la justice au premier plan. Nous devons revoir l'approche de la consommation occasionnelle, en reconnaissant que notre véritable addiction est notre dépendance à la répression. »

Pour Nicolas Ritter, la dépénalisation de l'usage de toutes les drogues s'impose. Elle permettrait de dégager des ressources pour cibler les trafiquants plutôt que les consommateurs, tout en investissant dans l'éducation préventive et dans une prise en charge médicalisée des usagers. « Nous avons transformé un problème de santé publique en une guerre répressive », déplore-t-il.

Il alerte également sur les effets pervers du système carcéral : « Le monde de la prison est devenu une source de propagation du VIH et de l'hépatite C, à cause du partage de seringues.





Des consommateurs y sont envoyés et en ressortent séropositifs ou porteurs de l'hépatite C. »

Autant de raisons qui, selon lui, expliquent l'échec de la politique répressive et la flambée des cas de VIH à Maurice. Pour conclure, il a cité l'exemple du Portugal et de la Suisse, où l'éducation, la prévention et la dépénalisation ont permis de réduire drastiquement les contaminations liées aux injections. Il a également rappelé que 70 pays dans le monde évoluent dans cette direction, ayant compris que réguler protège, alors que prohiber échoue.

Hussainara Khatoon & Ors v Home Secretary, State of Bihar (1979) 1 SC 98 - By Najah Ahmed

This landmark judgment handed down by the Supreme Court of India in 1979 is one of the most significant judgments in Indian constitutional law. It exposed the shocking condition of pre-trial detention detainees in the state of Bihar. The Court demonstrated an activist role in safeguarding human dignity against systemic injustice. It established that the right to a speedy trial formed part of the fundamental rights to life and personal liberty under Article 21 of the Constitution and that free legal aid was part of the rights guaranteed under Articles 21 and 39A. It further gave birth to the concept of Public Interest Litigation (PIL) in India.

Facts

The case was lodged on the collective interests of detainees, following a public report which shed light on the fact that thousands of detainees, in the State of Behar, remained in prison for years, awaiting trial. Many had already spent more time incarcerated than the maximum term of imprisonment prescribed for the alleged offence. This was said to be partly due to high levels of illiteracy and lack of access to legal advice.

Issues raised

1. Whether the prolonged detention of under-trial prisoners violated Article 21 of the Constitution.
2. Whether the right to a speedy trial was a fundamental right of an accused party.
3. Whether free legal services formed an essential ingredient of “reasonable, fair and just” procedure.

Conclusion

The Court reshaped the Indian judicial system into one which is more responsive to the needs of the disadvantaged and laid the foundation for a more expansive interpretation of constitutional rights.

Held

1. The right to a speedy trial is a fundamental right implicit in Article 21. The State cannot plead financial or administrative inability to justify delays.
2. Articles 39A and 21 together require that free legal services must be provided to those unable to afford them. Without the possibility of counsel, trials cannot be fair or just.
3. The Court strongly condemns the delays in trial by the State and Courts, and qualifies the prolonged detention of detainees having already served de facto sentences as a gross violation of human rights.
4. The Court further made a direction to the State of Bihar ordering the immediate release of detainees who had already been in custody longer than the maximum term of imprisonment prescribed and providing detailed records of all pending cases and undertrial detainees.

Birth of Public Interest Litigation

For the first time, the Court recognised that a concerned citizen could approach the judiciary to vindicate the rights of others; this lowered the barriers of locus standi, enabling the latter to address systemic injustices affecting disadvantaged groups.

From this foundation, PILs expanded to cover environmental protection, bonded labour, women’s rights and access to education. The case demonstrated the judiciary’s willingness to take an activist role in transforming constitutional ideals into lived realities for India’s most vulnerable.



DERRIÈRE LES BARREAUX, IL SOUFFLERA SES 18 ANS!

Par Vijay RAMANJOOLOO

Il n'a que 17 ans. Il aurait dû, comme tant d'autres adolescents, célébrer son 18^e anniversaire entouré de sa famille, d'amis, d'un gâteau et de rires. Mais cette année, il soufflera ses bougies derrière les barreaux d'une prison pour adultes. Il n'y aura ni gâteau, ni famille, ni lumière... juste les murs froids d'une prison, les barreaux d'une cellule et le silence coupable d'un système qui l'a oublié.

Je l'ai rencontré au cours de mes visites au Correctional Youth Centre (CYC). Son histoire, comme tant d'autres, n'est pas celle d'un criminel né pour faire le mal. Il est né enfant, comme les autres, avec des rêves, des rires, des colères, des fragilités. Mais là où certains ont reçu des bras pour les retenir, lui n'a eu que des chutes: victime d'un système défaillant, d'un environnement familial fracturé, d'une école qui n'a pas su l'inclure, d'une société qui l'a oublié.

Issu d'une famille éclatée, il quitte l'école après avoir échoué au Certificate of Primary Education. Le programme «Extended», censé lui offrir une seconde chance, n'a été qu'un passage vide. Très vite, la rue devient sa salle de classe et, à 15 ans, le brown sugar et les drogues chimiques deviennent ses professeurs. Comme tant d'autres adolescents livrés à eux-mêmes, il glisse du statut de victime à celui de bourreau – non par choix, mais par conséquence.

Son comportement dérape. Tantôt chez son père, tantôt chez sa mère – qui ont refait leurs vies respectives – il vole, ment, frappe, explose. L'usure émotionnelle pousse ses parents à baisser les bras. Une grand-mère paternelle lui ouvre alors sa porte avec compassion. Mais l'addiction est plus forte que l'amour: il ira jusqu'à la voler elle aussi. Arrêté en août dernier pour vol, il est envoyé en centre de détention pour mineurs.

C'est là que l'histoire prend une tournure plus sombre encore. Aucun protocole médical de sevrage n'existe pour les mineurs dépendants. En plein manque, il se frappe violemment la tête contre le mur de sa cellule: deux fois, nécessitant des points de suture à l'hôpital. Parce qu'il s'agit de sa première infraction, il obtient une libération sous caution de 5,000 roupies. Une somme dérisoire pour certains, mais insurmontable pour une famille épuisée, et quand bien même cette caution serait réunie, pour aller où? Vers quel avenir sans accompagnement, sans filet de sécurité?

Où sont nos réseaux de collaboration entre nos décideurs politiques, judiciaires, institutionnels, les ONG, les écoles, les services de santé et de protection de l'enfance? Qui a vu l'enfant sous la colère? Qui a entendu l'appel au secours caché derrière ses actes? Où est cette chaîne solidaire qui devrait entourer nos jeunes les plus vulnérables avant qu'ils ne tombent?

Car que faisons-nous, en tant que société, pour prévenir ces destins? Que faisons-nous pour soutenir les familles en détresse, pour accompagner les victimes d'addiction avant qu'elles ne deviennent des délinquants?

Du coup, on est en droit de se demander si nous remplissons réellement nos engagements en matière de droits humains, notamment ceux pris auprès des Nations Unies? En tant qu'État signataire de ses nombreuses conventions sur les droits de l'enfant et

la justice juvénile, n'avons-nous pas le devoir de garantir un traitement humain, adapté et protecteur à chaque enfant en conflit avec la loi?

La justice des mineurs ne peut se résumer à l'enfermement. Elle doit être avant tout préventive, éducative, thérapeutique. Elle doit soigner les blessures, pas les punir. Elle doit tendre la main avant de pointer du doigt.

Victor Hugo disait: *«Éduquer un enfant, c'est fermer une prison.»*

Et pourtant, ce jeune garçon semble être la tragique exception à cette maxime.

“REPARATIONS MUST INCLUDE THE RETURN OF DOCUMENTS AND ARTIFACTS”

Interview by Jean Marie RICHARD :

Dr Beningma Zimba Director Intercontinental Slavery Museum Member of the Advisory Board to the Government of Mozambique



The Human Rights Commission has had the privilege to interview Dr Beningma Zimba. Dr Zimba, a Mozambican Citizen and scholar was on our island to participate in the Week of Remembrance of slavery and the abolition of the slave trade. She is one of the presidents and conceptors of the Intercontinental Slavery Museum based in Mauritius. Having had a university career and now a retired professor, she is a member of the advisory board to the Government of the Republic of Mozambique. She agreed to answer our question, particularly as Mozambican, fully aware that Mozambique is the country from which a portion of the Mauritian population originates.

Q: Dr Zimba What can you tell us about the remembrance of the transportation of Mozambicans to Mauritius as enslaved people, and what is the situation today?

A: First of all, thank you very much. It has been a very emotional day and occasion. Let me begin with some background. One thing is what we know from papers, archives and official records. Another is the communication and opportunities among the peoples of the countries. In the first three decades of the 19th century, about 24 to 26 percent of the enslaved population in Mauritius came from Mozambique, which is quite

significant. At that time, the trade was carried out mainly by the French, but also by many entrepreneurs, including the Portuguese.

Mozambique has always been central to the slave trade in the 18th, 19th and early 20th centuries because of its geography and ports spread along the coast.

Some ports, such as Ilha de Mozambique, were official and under control, but many others—Mossoril, Musimba da Praia, Pemba, and Inhambane— were out of control. This lack of oversight facilitated

the trade of human beings. Another point is that many enslaved people who became known as “Mozambics” or “Mozbickers” were not originally from Mozambique. As Slave raids reached far into the African interior, they were brought to Mozambique’s ports, stayed briefly and were then transported.

Today, unfortunately, if you ask in Mozambique whether people know that Mauritians were enslaved here, the answer is usually no. The memory of Mauritians enslaved in Mozambique is very weak compared to the stronger memory of Mozambicans sent to São Tomé to work on cacao plantations, or to Guinea. Some Mauritians have tried to trace their roots in Mozambique, particularly in sugar cane areas, where locals noticed similarities, but this remains rare.

Q: What could or should be done to reestablish the missing link?

A: This must be addressed at all levels. The economic level is fundamental because the slave trade itself was driven by economics. Cultural links are also important. For example, Mauritians could share their knowledge of sugarcane production adapted to local conditions, while Mozambicans could share traditions such as music.

In my view as an educator, the most important form of reparation is not financial but intangible: memory and identity

Music developed enormously through slavery. Today, we talked about Sega. When you look at Sega instruments, you see they come from Africa—not necessarily Mozambique alone, but from many parts of the continent. In my case, I have six names: five Portuguese and only one Mozambican. This raises questions of identity and re-appropriation. Most importantly, we must write. Oral history is central to Africa, but if we do not document it, in 30 years, it will be lost. Testimonies must be collected, written down and published. The difficulty, of course, is that many of the documents are not in our countries. This is true in Mozambique and Mauritius. That is why reparations must include the return of documents and artifacts.



In my view as an educator, the most important form of reparation is not financial but intangible: memory and identity



The African Union has declared this the year of reparation. In my view as an educator, the most important form of reparation is not financial but intangible: memory and identity. Money is important, but it is not enough. If we do not safeguard our identity, money will not save us. True reparatory justice would require former colonisers to return original documents and artifacts. Some countries, like Benin and Senegal, have begun this process but often only copies are given back. To access originals, you must travel to Lisbon or Paris. Reparation means bringing those originals home so that our history is preserved where it belongs.

Q: So you are saying that, in other words, reparation is repatriation and this is applicable to the exhibition of the busts of liberated Africans which were displayed at the Intercontinental Museum of Slavery?

A: This is recognition. It is a way of saying: this is yours. The money required to fully repatriate such objects is far beyond Mauritius' means. But thanks to the efforts of the government, friends and particularly the Froberville family, this became possible to a great extent. And this is what will sustain us today, tomorrow and for future generations.

We are very thankful to the Mauritian government for the efforts made to bring these masks and busts. The feeling is beyond words. But this is not repatriation. This is recognition, because they have been away for more than 150 years. This is reparatory justice—true

reparatory justice. And it also creates connections between people and these objects. For the first time, we can see them as they were. This is justice at the level of memory. You do not need to speak much or involve money for each individual. Names and ancestries are present and, soon, traditional healers will come. They will play drums, identify ancestors and say: “he is ours; he is from this lineage”. This has already happened in Mozambique. Reparatory justice has been taking place there instinctively even before we called it that.

There is a story that will be included in the museum about a former enslaved woman. Before dying, she told her grandson: “We are not from here. After I die, go back 120 kilometres inland and tell them: I am the one. They will recognise you and give you the pots that were waiting for me.” Her grandson later became one of the greatest healers. When he returned, the community recognised him, played the drums and said: “Yes, it is you. Now we can break the pots.” Similar stories exist in Mozambique, Kenya and other parts of Africa.

Q: Looking ahead, how do you see the Intercontinental Slavery Museum developing over the next 10 to 20 years? What role will it play and how can we continue benefiting from it?

A: Mauritians have a great responsibility in this museum. For ordinary people, the word “intercontinental” may not matter but

the museum does. Bit by bit, Mauritians must be involved in shaping it, Museums develop slowly –five years is nothing– but, in time, this museum will become one of Mauritius’ greatest cultural flags, an international reference in heritage and history.

The museum itself is already a material form of reparation. It was first planned for Mozambique but dialogue about reparations was not advanced there. So it was relocated to Mauritius. That decision created momentum.

Q: But descendants of slaves do not always show much interest. Should the museum not move towards the people, instead of staying in Port Louis or within academia? Should there not be traveling exhibitions in towns and villages to remind people: this is your history, your memory? From a human rights perspective, people have a right to reappropriate their memory.

A: Exactly. You have taken the words out of my mouth. This is also the mission of the Human Rights Commission. We must take the museum to the people through outreach, banners and educational programmes. Mauritius is small compared to Mozambique but the challenge remains.

Q: So where do we go from here?

A: It is not easy but I take your words as excellent advice. Tomorrow, for example, there will be a section at the Intercontinental Museum focused on interaction and memory. We also have a publication where people can contribute their views. With today’s technology, it is

even easier. A museum can be carried on a cell phone, making memory accessible to everyone. The museum has a pedagogical mission: to explain, to teach and to transmit.

COMBLER LE FAUSSÉ ENTRE LES DROITS DE TRAVAILLEURS MAURICIENS ET LES TRAVAILLEURS MIGRANTS POUR MIEUX PROTÉGER CES DERNIERS

By Melany NAGEN



Lors de la journée inaugurale des Assises du Travail et de l'Emploi le 23 Septembre dernier, la vice-présidente de la Commission Nationale des Droits Humains, Mme Melany Nagen, s'est imposée comme l'une des voix majeures du débat sur la Constitution et Le *Workers' Rights Act*. Son intervention, consacrée à la défense des travailleurs migrants a mis en évidence les limites persistantes du cadre législatif mauricien en matière de protection de cette catégorie de salariés. Elle a rappelé avec force que la Constitution mauricienne garantit des droits fondamentaux à

toutes les personnes relevant de sa juridiction, mais que la *Workers' Rights Act*, pourtant destinée à traduire ces principes dans le domaine du travail, demeure trop souvent insuffisante, voire excluante, à l'égard des migrants.

Selon ses propos, les lois doivent être évolutives et refléter la transformation constante du marché du travail. Or, les lacunes actuelles favorisent la création d'un segment vulnérable de la main-d'œuvre, dépourvu de garanties essentielles et exposé à diverses formes d'exploitation. Elle a ainsi souligné que la



non-protection des travailleurs migrants ne saurait être considérée comme une simple question technique ou juridique, mais bien comme une problématique fondamentale de droits humains. Ces travailleurs contribuent de manière significative à l'économie nationale, tout en restant parmi les plus exposés aux abus en raison de leur statut précaire, des barrières linguistiques et d'une connaissance limitée de leurs droits.

La vice-présidente de ladite Commission a attiré l'attention sur plusieurs angles morts de la législation actuelle, notamment l'exclusion explicite ou implicite de certaines catégories de migrants des dispositions essentielles de la loi, l'accès restreint aux mécanismes de règlement des litiges, l'absence de couverture sociale complète et la faiblesse des recours disponibles face aux licenciements abusifs ou aux conditions de travail dégradantes. Devant un auditoire composé de représentants du gouvernement et de divers acteurs sociaux, elle a lancé un appel ferme à une réforme profonde de la *Workers' Rights Act*.

Les recommandations formulées par la Commission insistent sur trois points

principaux : redéfinir la notion de « travailleur » afin qu'elle englobe explicitement l'ensemble des travailleurs migrants ; renforcer les mécanismes de suivi et d'application pour s'assurer que les employeurs respectent leurs obligations ; et mettre en place une aide juridique accessible et multilingue pour garantir aux migrants une meilleure connaissance et un exercice effectif de leurs droits.

La participation remarquable de la Commission à ce forum de haut niveau a été perçue comme un signal fort. En plaçant la question migratoire au cœur des discussions, l'institution contribue à rapprocher les idéaux constitutionnels de la réalité vécue par des milliers de travailleurs étrangers présents à Maurice. Les débats engagés aux Assises laissent entrevoir la possibilité d'un tournant décisif vers l'instauration d'un environnement de travail plus juste, équitable et respectueux des droits de tous, indépendamment de la nationalité ou du statut migratoire.



3rd Floor, [Ebene Heights](#), [Ebene](#).
+230 460 5148
nhrc.govmu.org