



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### 109th session

#### Summary record of the 3018th meeting\*

Held at the Palais Wilson, Geneva, on Monday, 21 October 2013, at 3 p.m.

*Chairperson:* Mr. Flinterman

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\* No summary record was prepared for the 3016th and 3017th meetings.

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*The meeting was called to order at 3.10 p.m.*

**Submission of reports by States parties under article 40 of the Covenant** *(continued)*

*Initial report of Mauritania (HRI/CORE/1/Add.112, CCPR/C/MRT/1, CCPR/C/MRT/Q/1 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Mauritania took places at the Committee table.*

2. **Mr. Khattra** (Mauritania) said that Mauritania welcomed the opportunity to present its initial report on the implementation of the Covenant, which it had ratified in 2004, and to reaffirm its commitment to the principles enshrined in the various international human rights instruments to which it was a party. The report was the fruit of broad consultations between the authorities, the National Human Rights Commission and civil society and had been prepared in accordance with the Committee's reporting guidelines. For more than four years, the Government, under the guidance of President Mohamed Ould Abdel Aziz, had been striving to strengthen democracy, promote social justice, bring morality back into public life, fight poverty and bolster national unity and social cohesion. There were a number of recent achievements regarding the implementation of the Covenant; for example, slavery had been defined as a crime against humanity and was now severely punished under the law, as was torture, and Tadamoun — an agency for the eradication of the legacy of slavery, integration and poverty reduction — had been established to fight the marginalization of disadvantaged groups, especially victims of slavery, and promote the reintegration of Mauritians repatriated from Senegal. Mauritania had ratified the International Convention for the Protection of All Persons from Enforced Disappearance, and also the Optional Protocol to the Convention against Torture and would shortly be setting up the national preventive mechanism required under the Optional Protocol.

3. The Government had also increased its efforts to protect women's rights. It had set up an extensive apparatus to fight violence against women and had taken measures to raise awareness of the issue among decision makers and the general public and to promote better support for victims. Women's participation in politics had been improved by the adoption of a national list reserved for female parliamentary candidates. An action plan on children's rights was being rolled out. The right to liberty and security of person, the right to liberty of movement, the freedom to choose one's residence and leave the country and equality of all before the law were guaranteed under the law. The law also provided for the right of detained persons to be treated humanely and with respect for their dignity. The presumption of innocence and guarantees of a fair trial underpinned judicial proceedings. The right to freedom of opinion, the freedom to demonstrate and the freedom of assembly were guaranteed by law, as shown by the fact that 97 political parties, 5,997 associations and NGOs and 4 trade unions were active in Mauritania. Decriminalizing press law violations and liberalizing audiovisual media had considerably strengthened freedom of expression. Non-Muslims were free to practise their religion. The rights to marry, to have a family and to be registered at birth were protected under the law. Ethnic, linguistic and cultural diversity were guaranteed under the Constitution.

4. **Mr. Malick** (Mauritania), summarizing the replies to the list of issues drawn up by the Committee, said that all the provisions of the Covenant — except articles 18 and 23, paragraph 4 — were reflected in the Constitution and national legislation and were duly implemented. The Government had no plans yet to withdraw its reservations to those two articles. The provisions of the Covenant had never been invoked before the national courts, but the law provided a number of remedies for victims of human rights violations to claim reparation. Accession to both optional protocols to the Covenant was being considered.

5. There was no jurisdictional conflict between the Commission on Human Rights and the National Human Rights Commission. The former was a ministerial body responsible for designing and implementing the national human rights policy, while the latter was an independent institution, in line with the Paris Principles, that conducted unannounced visits to places of detention, alerted the authorities when it found evidence of violations, carried out investigations and reported to the President of the Republic on the human rights situation in the country and the measures needed to improve it. A draft national action plan on racial discrimination had been prepared in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and had been presented during the September 2013 visit of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The draft action plan provided for the adoption of a text defining the offences of racial discrimination and racism. The goal of the 2006 Act on the representation of women in politics and public life had been achieved. The Government was working to align the laws on the promotion of women's rights with relevant international standards. The Ministry of Social Affairs, Children and the Family was actively combating violence against women, including female genital mutilation.

6. Homosexuality was a criminal offence. However, it should be noted that the penalties provided for under the law were only imposed following a fair trial and that there had been no recent convictions for homosexuality. Since the ratification of the Covenant, death sentences had been pronounced but none had been carried out, in compliance with the moratorium in force since 1987. All persons concerned had been given a fair trial. None of the Salafist detainees convicted of terrorist activities or of jeopardizing the security of the State had been the victim of enforced disappearance. They were currently in prison and were subject to the same regime as ordinary detainees, and a delegation of the International Committee of the Red Cross (ICRC) had visited them. Only one person had been killed during the very violent demonstrations in Magahama in 2011 and an investigation was under way. No one had been arbitrarily detained or tortured following the 2012 demonstrations. The Government was making great efforts to improve prison conditions, but it had limited resources. Even so, new centres had been built, thus relieving the overcrowding in Dar Naim prison. The legal guarantees of detainees, especially the rights to be informed of the reasons for their detention, to see a lawyer and to contact their family, were provided for under the law. There was no police brutality in Mauritania; demonstrations were frequent and generally peaceful. Asylum requests were processed in accordance with the provisions of the 1951 Convention relating to the Status of Refugees. Possible remedies for rejected asylum seekers were currently being considered in a bill. The rights set out in article 14 of the Covenant were protected under national legislation. The penalties defined in the Criminal Code for violations of the right to privacy ranged from a fine of 5,000 to 60,000 ouguiyas to 2 to 5 years' imprisonment.

7. Article 5 of the Constitution stipulated that Islam was the religion of the State and the Mauritanian people, but the practice of other religions was nonetheless guaranteed. Under the Personal Status Code, minors were prohibited from marrying. The Government was conducting awareness-raising campaigns on that issue, in cooperation with civil society, and was striving to implement the relevant recommendations made by the Committee on the Rights of the Child and the Committee for the Elimination of Discrimination against Women. There were no statistics on the ethnic make-up of the population. Ethnic considerations were not a factor in the attribution of high-level positions in the administration; therefore, there was no discrimination on ethnic grounds. Dissemination of the Covenant was a joint effort between the authorities and civil society. The initial report had also been disseminated among relevant actors.

8. **Ms. Wedoud** (Mauritania) said that the National Human Rights Commission welcomed the Government's efforts to implement the provisions of the Covenant, especially the prohibition of torture and slavery. Pursuant to the 2007 Slavery Act, prison

sentences or suspended prison sentences had been imposed in a dozen cases. Although prison living conditions had been improved, the Commission remained concerned about prison overcrowding, the slowness of judicial procedures and the lack of effective reintegration mechanisms. It was especially concerned about the fact that minors were still detained with adults, thereby exposing them to violence. It recommended the establishment of a closed rehabilitation centre for minors and the adoption of alternatives to pretrial detention in order to reduce the number of detainees awaiting trial. She hoped that the upcoming establishment of the national preventive mechanism would make it possible to better protect the rights of persons deprived of their liberty. Efforts to raise awareness of women and children's rights should be scaled up and legislative measures criminalizing all forms of gender-based violence should be taken to fight such violence more effectively and better assist women victims. Quotas should be increased to improve women's access to elected office and legal provisions regarding women should be reviewed in light of the international conventions ratified by Mauritania. Although it had not impeded the astonishing growth of civil society over the past four years, the 1964 Associations Act was obsolete and should be replaced. The moratorium guaranteed the suspension of executions, but it would be best for death sentences to be systematically commuted to life imprisonment.

9. **Mr. Bouzid** commended Mauritania for its obvious determination to fulfil its obligations under the Covenant. Pointing out that the preamble to the Constitution stipulated that Islam was the sole source of law, he wondered about potential contradictions between sharia texts and the Covenant on issues such as polygamy, adoption and apostasy. He asked whether the State party was open to *ijtihad* (exegesis of Islamic law), which might lead to progressive interpretations of sharia law that were more in line with international human rights law. According to civil society organizations, the country's reservations to articles 18 and 23, paragraph 4, were ideological and hindered the enjoyment of freedom of religion. He invited the delegation to clarify the Government's position on that topic.

10. Regarding the remedies available to victims of human rights violations, he feared that judges were not taking the Covenant into account because it had not been published in the Official Gazette. He asked whether the international treaties to which Mauritania was a party were transposed wholesale into national law or whether legislation was amended to incorporate their provisions. He would welcome further details on how article 102 of the Constitution, pursuant to which anyone could challenge the constitutionality of a law, was applied. Noting that Mauritania still had not decided to ratify either of the optional protocols to the Covenant, he asked whether there were any specific barriers preventing it from doing so. He also wished to know whether the National Human Rights Commission was active countrywide and whether it had adequate financial and human resources.

11. **Ms. Waterval** asked whether the draft national action plan on racial discrimination had been prepared with the involvement of NGOs, civil society representatives and members of all the country's ethnic groups. She wished to know how the Government intended to follow up on the forthcoming recommendations of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. She also wished to know whether there was a law on racial discrimination and whether it contained a definition in line with that used in the International Convention on the Elimination of All Forms of Racial Discrimination, to which Mauritania was a party.

12. Regarding the representation of women in politics and public life, she asked how many women ministers, judges, lawyers and police officers there were. She asked whether the women who participated in politics and public life were representative of the country's ethnic composition. She requested a progress report on the review of the Nationality Code and the Personal Status Code and asked whether there were plans to abolish the practice of

placing unmarried adult women under guardianship. Commending the actions of the State party to fight violence against women, she asked whether that issue was also studied from the perspective of racial discrimination. She wished to know whether there were shelters for women victims of violence, whether police officers received special training in handling complaints of gender-based violence, whether measures had been taken to encourage the filing of complaints and whether programmes had been set up to modify the behaviour of assailants. She asked whether rape, including marital rape, was a criminal offence. She enquired about the findings of the study on all forms of violence against women and girls and asked whether the various programmes implemented had been evaluated. She also asked whether female genital mutilation was criminalized and whether any complaints had been lodged. Additional information would be useful regarding the fatwa on abolishing female genital mutilation. Lastly, the State party was urged, once again, to consider decriminalizing homosexual relations between consenting adults.

13. **Ms. Seibert-Fohr**, noting that 16 death sentences had been handed down in 2010, asked whether the State party intended to ratify the second Optional Protocol to the Covenant and whether it was possible to commute death sentences once they had been imposed. Recalling that under article 6, paragraph 2, of the Covenant, the death penalty could only be given for the most serious offences, she requested an exhaustive list of offences carrying the death penalty and confirmation that adultery, apostasy and homosexual acts were among them. She invited the delegation to explain to what extent the definition of terrorism contained in the 2010 Act on terrorism was in line with the provisions of the Covenant and what the impact might be of the Constitutional Court's repeal of article 21 of the Act, which provided for the execution of perpetrators of terrorist acts. She also invited the delegation to comment on information to the effect that the death penalty had been imposed following flawed trials, in some cases on individuals who had not been able to obtain legal assistance. She asked whether confessions obtained under torture could form the basis for a death sentence and whether guarantees were in place to prevent that happening. Citing the case of Mohamed Yahya Ould Salem, Seydina Aly Ould Ahmed and Zeine Ould Abédine Ould Ahmed, who had been sentenced to death on 15 May 2011, she asked what legal provisions permitted the sentencing to death of individuals who had been minors at the time of the events, in violation of article 6, paragraph 5, of the Covenant. Statistics on the ethnicity of those sentenced to death would be useful. She requested further information on the situation of the 14 men who had been convicted of terrorism-related offences and had reportedly been transferred to secret detention centres in May 2011, and on any medical care they were receiving. Lastly, she noted that the investigation into the death of the young man shot by gendarmerie officers during a demonstration in September 2011 still remained open.

*The meeting was suspended at 4.25 p.m. and resumed at 4.50 p.m.*

14. **The Chairperson** invited the delegation of Mauritania to respond to the questions asked by the Committee members.

15. **Mr. Malick** (Mauritania) said that the Government had no plans to withdraw its reservations to those provisions of the Covenant that were contrary to Islam, the main source of law in Mauritania. The Covenant was directly applicable and its provisions could thus be invoked before the courts. Efforts were under way to align national law with the international instruments ratified by Mauritania, including the Covenant, and the text of those instruments would be published in the Official Gazette. Regarding the Commission on Human Rights and the National Human Rights Commission, he recalled that the former was a ministerial department, responsible for designing and implementing the Government's human rights policy, while the latter was an independent institution tasked with alerting the authorities to violations, submitting annual reports and making recommendations. The Commission on Human Rights was also responsible for follow-up

to international commitments at the regional level. There was legal provision for decentralizing the National Human Rights Commission but, owing to a lack of resources, no regional offices had yet been set up. The draft national action plan on racial discrimination had been formulated in cooperation with representatives not only of all the ethnic groups but also of foreigners living in Mauritania. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance would in theory be issuing his recommendations in June 2014 and the Government would follow up on all those it deemed applicable.

16. **Mr. Ramdan** (Mauritania) said that the Covenant had become enforceable as soon as the Act on ratification had been published in the Official Gazette. It was mostly invoked before the courts by foreign nationals in divorce or child custody cases. Article 102 of the Constitution stipulated that anyone who considered that a given law violated freedoms could petition the Constitutional Council under ordinary law, even if they were not a party to a dispute over the application of that law. There was one female judge and six female lawyers in Mauritania, as well as many women in the investigative police. The review of the Personal Status Code, aimed at correcting the unpredictability of the justice system in family matters, had shed light on procedural, terminological and training problems. A three-year action plan had been devised to address the situation. The alignment of the Nationality Code with international conventions was ongoing and amendments regarding the terms for granting nationality to women and men would be submitted to parliament. Under article 12 of the Code governing the judicial protection of children, female genital mutilation was subject to prison and a fine, and the fact that the act was committed by a member of the medical or paramedical profession was an aggravating circumstance. Members of the investigative police received special training in assisting victims. Sentences for rape depended on the status of the perpetrator and possible sentences included the death penalty. Homosexuality remained a criminal offence, in accordance with Islamic law.

17. Regarding the case of the two minors who had been sentenced to death, the nature of the events (i.e. a child brutally murdered by two other children) had probably swayed the sentencing judge. The Appeal Court prosecutor himself had appealed the sentence, which in the end had been commuted to 6 years' imprisonment. In Mauritania, capital punishment was applied only to serious offences; 62 final judgements had been given since the moratorium on executions had been declared. Terrorists were not automatically sentenced to death, but the death penalty did apply if the acts committed constituted serious offences and had caused casualties. Judges were now obliged to follow up on all allegations of torture and no one could be tried for a serious offence without the assistance of a lawyer. Thus, in 2007, several terrorists had been released by order of the presiding judge of the Criminal Court, who had found that their confessions had been obtained under torture. The decision to transfer several Salafists from the central prison in Nouakchott to another facility had been taken to prevent them from carrying out terrorist acts they had planned from inside prison. They were visited by ICRC representatives and their relatives were kept informed. Regarding the Mangane case, the administrative inquiry had found no link between the actions of the gendarmerie and the victim's death; the judicial investigation was ongoing.

18. **Ms. Taghi** (Mauritania) said that the Government had four female ministers, some of whom headed key ministries such as employment and the civil service, and that there were women in all ranks of the police. However, despite the Government's efforts, women accounted for only 6 per cent of senior posts in the administration and further progress was needed. A civil service examination reserved for women had been organized, leading to the recruitment of 50 successful candidates. Regarding the Nationality Code, a Mauritanian woman could transmit her nationality to a child born abroad and with a foreign father only by making a special application, and the procedure was lengthy. Sociocultural factors and a misguided interpretation of Islam were at the root of most violence against women in

Mauritania. A national survey had found that sexual assault accounted for 14 per cent of such violence, domestic violence for 2.5 per cent and verbal abuse for 63 per cent. Awareness-raising campaigns were carried out, with the help of religious leaders, with a view to changing mindsets. The role played by civil society in victim assistance should also be recognized. Several NGOs had opened shelters which received support from the authorities. The practice of female genital mutilation was waning. The issuance of the fatwa regarding female circumcision had drawn public attention to the harmful effects of such practices on health, and religious leaders had helped raise awareness of the issue. A new study would measure the real impact of those actions. Under article 12 of the Code governing the judicial protection of children, complaints could be only lodged if the mutilation had caused harm. It was hoped that, despite the cultural obstacles encountered, it would be possible to enact the bill on female genital mutilation, the consideration of which had been greatly delayed.

19. **Mr. Neuman** said he took it that, by virtue of a reservation to provisions of the Covenant, the death penalty could apply to sexual offences. However, to the best of his knowledge, the only reservations Mauritania had made concerned articles 18 and 23 and he therefore failed to see how they might affect the scope of capital punishment.

20. **Mr. Bouzid** asked the delegation to give examples of cases where individuals had asked the Constitutional Court to repeal a law whose provisions contradicted the human rights provisions of the Constitution and whether the Court had ever granted such petitions.

21. **Ms. Seibert-Fohr** pointed out that the State party's reservation to article 18 of the Covenant was drafted in broad terms when in fact reservations should be specific enough to make clear the exact scope of obligation accepted by the State party. According to the delegation, capital punishment applied to serious offences, yet article 6, paragraph 2, of the Covenant stipulated that it should be imposed only for "the most serious crimes". She invited the delegation to comment on that point as well as on the definition of terrorist activities and the provisions prohibiting the use of confessions obtained under torture.

22. **Ms. Waterval** asked whether marital rape was punishable and whether the draft action plan on racial discrimination provided for a mechanism to oversee its implementation.

23. **Mr. Ben Achour** noted that Mauritania was making considerable efforts on the legal front to implement the international instruments it had ratified. However, in anything to do with identity, relations between men and women, inter-ethnic relations and freedom of religion, it was not enough to consider only the legal aspect; a cultural policy and extensive awareness-raising by the State were also necessary. It would be interesting to know what the State party was doing to foster a human rights culture.

24. **Mr. Shany** said that several NGOs had reported that rape victims were reluctant to file complaints for fear of being accused of adultery under article 307 of the Criminal Code. He asked whether that provision was in fact applied to rape victims, whether there was a mechanism for women to file complaints safely and whether rape victims were permitted to seek an abortion.

25. **Mr. Salvioli** wondered about the problem of international instruments that had been ratified by the State party but never published. He pointed out that, given that the State party, had not made any reservations to articles 2 or 26, it was obliged to adopt all national legal provisions needed to effectively implement the rights guaranteed under the Covenant. Accordingly, not decriminalizing homosexuality constituted a breach of its obligations under the Covenant. Lastly, he asked whether abortion was legal when the woman's health or life was at risk and whether anyone had been tried convicted for and performing genital mutilation.

26. **Mr. Fathalla** asked whether the law contained a definition of acts of terrorism or whether Mauritania applied the definition adopted by the League of Arab States or the Organization of Islamic Cooperation.

*The meeting rose at 6 p.m.*