



Universal Periodic Review (UPR) -2nd Cycle

MAURITANIA (03 November 2015)

RECOMMENDATIONS FOR THE GOVERNMENT OF MAURITANIA

1. Juvenile Justice	
SUBJECT	Children continue to be deprived of liberty and protective measures are not adopted.
SUMMARY	Children are to be subject to specific protective measures according to international law. Yet, DCI has found that protective measures violate children's rights in many cases, especially at the CARCEC – the only “protection center” for children in Mauritania.
SPECIFIC OBLIGATIONS UNDER INTL. LAW	
<p>Article 37, UNCRC: Ensure that no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances; Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.</p> <p>Article 9.1, ICCPR: Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.</p> <p>Article 10, ICCPR: All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.</p> <p>The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.</p>	



Article 14, ICCPR: All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

RECOMMENDATIONS

- ✓ Ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules).
- ✓ Raise the age of criminal responsibility to a minimum of 12 years old, with a view to raising the age further in accordance with the Committee's general comment No. 10;
- ✓ Apply a juvenile justice system, with specialized juvenile courts, which ensures that all children are tried as such;
- ✓ Improve training programmes on relevant international standards for all professionals involved with the system of juvenile justice such as judges, police officers, defence lawyers and prosecutors;
- ✓ Provide children, both victims and accused, with adequate legal assistance throughout the legal proceedings;
- ✓ Ensure that detention and institutionalization of child offenders is only resorted to as a last resort and that children remain separated from adults;
- ✓ Seek technical assistance and other cooperation from the Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.
- ✓ Establish effective judicial and monitoring mechanisms to effectively punish



perpetrators of violence against children and to prevent out-of-court/friendly settlements

- ✓ Raise awareness on the Convention on the Rights of the Child through sensitization programs at the national level and by increasing collaboration with civil society organizations.

2. Child Labour

SUBJECT	Child labor and talibé are still in practice in the country
SUMMARY	<ul style="list-style-type: none"> • Child labor remains a common phenomenon. • Legal advancements have been made through the enactment of laws banning child labor and making education compulsory, but those laws have yet to be effectively implemented on the ground. • Mauritanian children continue to be involved in domestic work, as well as begging which is very much related to the phenomenon of 'talibés' being exploited by their Koranic teachers.
SPECIFIC OBLIGATIONS UNDER INTL. LAW	
<p>Article 32.1, UNCRC: States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.</p> <p>Article 32.2, UNCRC: States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular: (a) Provide for a minimum age for admission to employment; (b) Provide for appropriate regulation of the hours and conditions of employment; (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.</p> <p>No. 138, ILO Convention: Minimum Age for Admission to Employment</p> <p>No. 182, ILO Convention: Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour</p>	
RECOMMENDATIONS	
<ul style="list-style-type: none"> ✓ Effectively implement the laws prohibiting child labor; ensure that national legislation is in full compliance with ILO Conventions No. 138 concerning the Minimum Age for Admission to Employment and No. 182 concerning the Prohibition 	

SUMMARY

- Child labor remains a common phenomenon.
- Legal advancements have been made through the enactment of laws banning child labor and making education compulsory, but those laws have yet to be effectively implemented on the ground.
- Mauritanian children continue to be involved in domestic work, as well as begging which is very much related to the phenomenon of 'talibés' being exploited by their Koranic teachers.

SPECIFIC OBLIGATIONS UNDER INTL. LAW

Article 32.1, UNCRC: States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Article 32.2, UNCRC: States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular: (a) Provide for a minimum age for admission to employment; (b) Provide for appropriate regulation of the hours and conditions of employment; (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

No. 138, ILO Convention: Minimum Age for Admission to Employment

No. 182, ILO Convention: Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

RECOMMENDATIONS

- ✓ Effectively implement the **laws prohibiting child labor**; ensure that national legislation is in full compliance with ILO Conventions No. 138 concerning the Minimum Age for Admission to Employment and No. 182 concerning the Prohibition



and Immediate Action for the Elimination of the Worst Forms of Child Labour, which the State party has ratified.

- ✓ Define and implement a **national plan of action** to put an end to the phenomenon of 'talibés' and protect children in vulnerable situations. Develop and implement, with the **support of the ILO, UNICEF, and NGOs**, a comprehensive assessment and a plan of action to prevent and combat child labour, and in particular to eradicate its worst forms, such as slavery. With the active involvement of street children themselves, address the root causes, as well as define **preventive and protective measures** and take effective measures to free victims of slavery and provide them with psycho-social recovery as well as reintegration measures, and establish annual targets for the reduction of their numbers and the allocation of appropriate resources.
- ✓ Take all necessary measures to **eradicate slavery** and in particular to ensure that perpetrators of such practices are held accountable in accordance with the law.
- ✓ Initiate a nation-wide **awareness-raising** programme to eliminate child labour, ensuring families are supported to protect and promote the rights of all children, especially to receive free basic education and to be free from economic exploitation and from performing any work that is likely to be harmful to the child's physical, mental, spiritual, moral or social development.
- ✓ Immediately address the situation of **children talibes**, with a view to eliminating the practice of street begging totally, and take into account the international agreement arrived at by 10 West African States to address migration of *talibes* children.

3. Gender	
SUBJECT	Non-application of girl and women's rights
SUMMARY	<ul style="list-style-type: none">• Sexual and domestic violence: No action has been proposed by the government regarding the issue of sexual violence: outside of sensitization programs run by NGOs, formal initiatives are non-existent. Moreover, adult women victims of rape are often accused of 'zina' (adultery) and placed in prison. Women victims often cannot prove that they have been raped due to the absence of forensic medicine and DNA testing. Consequently, victims can only turn to centers for victims that have been set up by NGOs. More than 921 women have been recorded in such shelters.



- Forced feeding: The practice of forced feeding has drastically reduced over the past years, but cultural perceptions remain.
- Maternal mortality: Efforts have been made by the State to reduce the maternal mortality rate, which stood at 749 deaths per 100,000 live births in 2010. Since, the rate has dropped to 626 deaths per 100 000 live births. However, the results are still below expectations due to the lack of involvement of civil society in the preventive programs set up by the State. Furthermore, the framework of the Ouagadougou partnership, accepted by the State, to reposition family planning (FP) with Francophone African countries, and the increase of the National Budget's allocations to accelerate the reduction of maternal mortality have yet to be implemented on the ground.
- Nationality Code and Land Ownership: There has been no change in the Personal Status Code (2001), which is still discriminatory towards women. While men can freely divorce their wife, a married woman can only ask for divorce before a court, and would subsequently be forfeiting her rights of parental responsibility. A woman cannot give her nationality to her husband or to her child, except after 15 years of marriage and by sending an official request to the President of the Republic. Furthermore, a woman still cannot own a land property of significant utility (e.g. agricultural land).
- Withdrawal of the reserve to the CEDAW: the recommendation of Spain has been partially achieved. The general reservation was lifted in 2014 but was replaced with two reservations on Articles 13 and 16 re. equal inheritance and consent for marriage.

SPECIFIC OBLIGATIONS UNDER THE INTL. LAW

Article 2.1, UNCRC: States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

Article 2.2, UNCRC: States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.



Article 19.1, UNCRC: States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Article 19.2, UNCRC: Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 34, UNCRC: States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials.

Article 32.1, UNCRC: States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Article 32.2, UNCRC: States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular: (a) Provide for a minimum age for admission to employment; (b) Provide for appropriate regulation of the hours and conditions of employment; (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 39, UNCRC: States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

RECOMMENDATIONS

Urgently revise the Nationality Code and Code of Personal Status (2001), notably by including a series of consultations with civil society organizations, in order to ensure that women's rights are guaranteed, especially in regard to land ownership, repudiation and nationality



Withdraw the two reserves on articles 13 and 16 of the CEDAW, and sensitize the whole population on the CEDAW and its principles

Elaborate and implement plans of action aiming at combatting all forms of discrimination and violence against women, notably through intensified sensitization programs and reinforced collaboration with civil society organizations

Respect the commitment taken with the Ouagadougou partnership for repositioning FP (Family Planning) and increase the National Budget to effectively and drastically reduce the rate of maternal mortality

Design programmes which enable the girl to access her rights without discrimination and to raise awareness among all stakeholders and society at large of the value of the girl child. Take adequate measures to ensure the practical application of provisions guaranteeing the principle of non-discrimination and full compliance with article 2 UNCRC, and adopt a comprehensive strategy to combat discrimination on any grounds and against all vulnerable groups.

4. Sexual Violence	
SUBJECT	Sexual violence against children continue and no concrete actions have been taken by the government
SUMMARY	<ul style="list-style-type: none"> • Since the last UPR (2010), no action for the prevention and criminalization of sexual offenses has been undertaken by the Mauritanian government and even less so, the rehabilitation of victims. • Children continue to suffer from sexual violence in its more severe forms, such as rape followed by burning and/or murder. Centers run by NGOs have recorded a total of 1,960 sexually abused children between 2010 and 2015.
SPECIFIC OBLIGATIONS UNDER INTL. LAW	
<ul style="list-style-type: none"> • Article 19.1, UNCRC: States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. • Article 19.2, UNCRC: Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as 	



appropriate, for judicial involvement.

- **Article 34, UNCRC:** States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials.

RECOMMENDATIONS

- ✓ Enact a **legislation** that clearly defines and criminalizes sexual violence against children; sexual crimes, including rape, are to be clearly defined, including sharia.
- ✓ Establish **effective judicial and monitoring mechanisms** to effectively punish perpetrators of violence against children.
- ✓ Take all necessary measures to **prevent child abuse and neglect:** finalize and adopt the national plan of action on violence and abuse against children; carry out preventive public education campaigns about the consequences of the abuse and ill-treatment of children.
- ✓ Support centers run by **NGOs** that provide assistance to victims, especially to guarantee their rehabilitation and reintegration; implement a comprehensive policy, with the participation of NGOs, for the prevention, recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996, 2001 and 2008 World Congresses against Commercial Sexual Exploitation of Children.

5. Female Genital Mutilation (FGM)

SUBJECT	Female genital mutilation is still practiced in Mauritania and the government is slow in taking measures to ban this practice
SUMMARY	<ul style="list-style-type: none"> • Mauritanian children continue to suffer Female Genital Mutilation (FGM). • FGM is still practiced on girls, mostly at the time of birth. • The rate of FGM stands at 69% (estimation ENVBG, 2011). • A draft bill banning FGM has been developed with the participation of civil society but it has not yet been adopted.
SPECIFIC OBLIGATIONS UNDER INTL. LAW	
<p>Article 19.1, UNCRC: States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other</p>	



person who has the care of the child.

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Article 39, UNCRC: States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

RECOMMENDATIONS

- ✓ Strengthen efforts to enforce the **criminalization** of FGM and ensure that it applies in all circumstances.
- ✓ Establish an effective **preventive strategy** against harmful traditional practices, including FGM, early marriage and forced feeding (*gavage*), be developed in a comprehensive manner in consultation with civil society.
- ✓ **Awareness-raising campaigns** on the negative effects on the health and self-esteem of children, especially the girl child and her future family, should systematically and consistently be mainstreamed targeting all segments of the society, including the different socio-cultural groups as well as community, traditional and religious leaders. Incentives and support should be provided to families who refuse FGM of their girls.
- ✓ Provide retraining, where appropriate, for **practitioners** of female genital mutilation and support them to find alternative sources of income.
- ✓ Concretely support centers run by **NGOs** that provide support and assistance to victims, especially to guarantee their rehabilitation and reintegration.

6. Child Marriage

6. Child Marriage	
SUBJECT	Children under the age of 18 are married and the law setting marriage at 18 is not applied
SUMMARY	<ul style="list-style-type: none"> • The age of marriage is set at 18 according to the 2001 Personal Status Code, but, if a judge decides so, guardians can still maintain the right to marry their children before the age of 18 for their “best interests”. • Strong social pressures and the “best interests” argument represent clear shortcomings in the effective implementation of the



aforementioned law.

- Recent surveys reveal that 32% of children in Mauritania are married before the age of 18.

SPECIFIC OBLIGATIONS UNDER INTL LAW

Article 1., UNCRC: For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 3.1, UNCRC: In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Article 3.2, UNCRC: States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

Article 12.1, UNCRC: States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

Article 12.2, UNCRC: For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

RECOMMENDATIONS

- ✓ Take adequate measures to ensure that the marriage age is 18 years old, in accordance with the Personal Status Code of 2001, and that girls and boys are treated equally under the law.
- ✓ Concretely implement the law preventing marriage before the age of 18 and consequently revise the responsibility given to the legal tutor of the child.
- ✓ Raise awareness on the Convention on the Rights of the Child through sensitization programs at the national level and by increasing collaboration with civil society organizations.