

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights Compilation Report –

Universal Periodic Review:

2nd Cycle, 23rd Session

MAURITANIA

I. BACKGROUND INFORMATION

Mauritania is a State party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter collectively referred to as the *1951 Convention*). Mauritania is also a State party to the *1969 Convention Governing the Specific Aspects of Refugee Problems in Africa* (the *OAU Convention*). In 2013, Mauritania signed the *2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (the *Kampala Convention*) and the National Assembly ratified it in December 2014. The ratification still needs to pass the Senate. Mauritania is not yet party to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) or to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

As of the end of November 2014, Mauritania had a refugee population of 56,832, mainly from Mali. 55,380 refugees resided at M'bera camp in the Hodh el Chargui Governorate, and a smaller urban caseload of 1,452 individuals resided mainly in Nouakchott and Nouadibhou. This urban caseload originated mostly from sub-Saharan African countries, including: Côte d'Ivoire (627), Central African Republic (347), Democratic Republic of Congo (111), Syria (69), Senegal (65), Cameroon (34), Togo (30); and other countries (169). In addition, 26,000 Sahrawi people remain in Mauritania in a refugee-like situation. Malian refugees fleeing the 2012 - 2013 conflict are recognized on a *prima facie* basis and are registered by the Government and UNHCR.

In the absence of national asylum legislation, UNHCR conducts refugee status determination (RSD) under its mandate on an individual basis for non-Malian asylum-seekers in urban areas. Recognized refugees receive UNHCR documentation that guarantees freedom of movement within Mauritania. At this date and as a consequence of a *2010 Reform of Civil Status*, Mauritanian authorities do not issue individual documentation to urban asylum-seekers or Malian refugees. However, since October 2014 the Agence Nationale du Registre de la Population et des Titres Securisés (ANRPTS) started to biometrically register urban refugees allowing them to receive refugee cards and a national identification number.

State Decree 022 of 2005 established an inter-ministerial National Consultative Commission on Refugees (NCCR) that can recommend decisions on recognition of refugee status to the Minister of Interior based on positive individual assessments by UNHCR.

From 2005 to 2010, UNHCR has presented 185 cases to the Ministry of Interior and 83 were endorsed by the NCCR. After a complete halt of more than two years, the UNHCR Protection Unit advocated in 2013 for the review of national RSD procedures. In 2013, 24 cases were presented and 20 were endorsed. The processing is slowly improving and UNHCR continues to advocate for assessment of all refugees recognized under its mandate.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Mauritania's response to the influx of Malian refugees has conformed to international standards and has been carried out in close cooperation with UNHCR and the international community. As a consequence of the violence that erupted in northern Mali in January 2012 and the international military intervention in January 2013, some 177,322 persons were forced to flee and seek refuge in neighboring countries, including some 75,000 to Mauritania. UNHCR wishes to commend the Mauritanian authorities for opening Mauritania's borders to these persons in compliance with the principles of admission and *non-refoulement*, and granting them freedom of movement, access to work, health care, education and other public services.

In December 2014, Mauritania's Parliament approved ratification of the *Kampala Convention*, which had been signed in February 2013 by the Government. UNHCR praises this commendable move, which enlarges the number of applicable international instruments and the scope for domestic legislation to deal with forced displacement in a country bordering a turbulent region.

In April 2013, UNHCR and the Mauritanian authorities, through the Agence Nationale du Registre de la Population et des Titres Securisés (ANRPTS), launched a joint biometric registration exercise in M'bera camp to improve the identification process in order to avoid multiple registrations and Mauritanian nationals being registered as refugees.

As part of this procedure, UNHCR established a mechanism with the authorities to cross check the biometric data collected in M'bera camp with their national biometric database, to identify and deactivate Mauritanian nationals from the refugee database.

To date, the cross-checking of data has been accomplished for about 43,000 of the 55,380 individuals registered as Malian refugees by the end of October 2014. Out of the 43,000 persons who were biometrically registered as refugees as of mid-March 2013, 20,300 individuals are reportedly Mauritanian nationals. This represents 36.7 per cent of the population registered in the camp and 23 per cent of the population in the Mouaghataa of Bassikounou.

Pursuant to the principles of institutional integrity, transparency and accountability *vis-à-vis* all its partners, UNHCR is currently working with the Government, partners and refugee and host communities to implement a fair process with legal safeguards for the deactivation of the registered Mauritanian nationals by the second quarter of 2015.

In October 2014, the ANRPTS started to biometrically enroll urban refugees in order to issue national refugee documentation. It is expected that refugees will have access to civil status documentation and access to formal employment.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: National refugee law

Mauritania's progress towards adopting a national asylum law has proved to be lengthy. *State Decree 022 of 2005* regulates the domestic application of the norms contained in the *1951 Convention* and the *1969 OAU Convention*. A draft law providing the basis for a national asylum system was developed in 2010 and is still pending further deliberations between the Government and UNHCR for submission to the Council of Ministers and adoption by the Parliament. UNHCR and the Government were recently able to revive deliberations on an updated draft, and it is hoped that the enactment process will continue smoothly.

The Human Rights Committee¹ in its 109th session in October 2013 regretted that the State party had not yet enacted a refugee law and urged Mauritania to speed up its adoption in order to facilitate the implementation of procedures to receive and adjudicate asylum applications, and to set up a comprehensive refugee management system.

Recommendations:

UNHCR recommends that the Government of Mauritania:

- Give priority to the finalization and adoption of the draft refugee law in close consultation with UNHCR and thereafter take the necessary steps to ensure timely and comprehensive implementation of the law; and
- Develop administrative regulations, policies and procedures to ensure full compliance with its obligations under the *1951 Convention*.

Issue 2: Birth certificates for refugee and asylum-seeker children

We would like to note that urban refugees and asylum-seekers, as well as camp-based Malian refugees, continue to face difficulties in registering their children born in Mauritania. Following the *Civil Status Reform* in 2010, birth certificates can be issued to children born on Mauritanian soil only if their parents are registered according to the 2010 procedure and can provide a marriage certificate in compliance with the *Personal Status Code* of 2001 (*Law 2001-052* of 19 July 2001). This law codifies traditional marriage customs prevailing in Mauritania and requires couples to submit identity documentation from their country of origin, which many recognized refugees do not have readily available.

¹UN Human Rights Committee's Concluding Observations, CCPR/C/MRT/CO/1, para.24, 21 November 2013, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fMRT%2fCO%2f1&Lang=en.

Birth registration is fundamental to the protection of children of concern to UNHCR and to the prevention of statelessness. Failure to document a person's legal existence can prevent the effective enjoyment of a range of human rights, including access to education and health care. Most recently, the Human Rights Council adopted a resolution on birth registration and the right of everyone to recognition everywhere as a person before the law, calling upon "States to ensure free birth registration, including free or low-fee late birth registration, by means of universal, accessible, simple, expeditious and effective registration procedures without discrimination of any kind."² Because birth registration legally establishes the place of birth, proof of age, and parental affiliation, it serves as important documentary proof to acquire the parents' nationality or the nationality of the State in which the child is born. It also provides children with a degree of protection against child labour, illegal adoption, early marriage, sexual exploitation, and trafficking.

As noted in its 2012 report to the Human Rights Committee, Mauritania has adopted an array of legislation designed to enhance the enjoyment of child rights recognized under international law. These include, *inter alia*, laws promulgated to combat child labour and trafficking, and the adoption of a status to ensure adequate protection in situations where children are defendants in the criminal justice system. Effective implementation of child protection statutes, however, often hinges on comprehensive birth registration, as this provides clear evidence that a child is under the age of majority and therefore eligible for the child-specific protections under the law. Consequently, the Human Rights Committee urged Mauritania to "simplify birth registration procedures"³ and in its Concluding Observations of October 2013 requested the country to "remove the legal obstacles to the registration of births of children of refugees and asylum-seekers born in Mauritania."⁴

In its Concluding Observations on Mauritania in 2009, the Committee on the Rights of the Child remained concerned "over the very low rate of birth registration at 55 per cent, which has not increased since 2001,"⁵ further noting that low rates of birth registration can exacerbate child poverty. It therefore urged the State party "to strengthen and further develop measures, in particular in relation to awareness-raising, to ensure that all children born within the national territory are registered," as well as "to create institutional structures at all levels that are compulsory, accessible and free, in order to implement effective birth registration, e.g. by introducing mobile units, especially in rural and remote areas and in internally displaced persons and refugee camps."⁶

Recommendations:

UNHCR recommends that the Government of Mauritania:

- Ensure that all children born in Mauritania are registered at birth by providing access to birth registration; and

²UN Human Rights Council Resolution A/HRC/RES/19/9, 3 April 2012, available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/19/9.

³ *Op.cit.*, CCPR/C/MRT/CO/1.

⁴ *Ibid.*

⁵ UN Committee on the Rights of the Child's Concluding Observations, CRC/C/MRT/CO/2, 17 June 2009, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fMRT%2fCO%2f2&Lang=en.

⁶ *Ibid.*

- Review the legislation so as to eliminate the constraints set up in the law, in particular in regards to the necessity to provide official documents in order to receive a birth certificate, and to facilitate access to birth certificates for children born to asylum-seekers and refugees.

Issue 3: Statelessness

Mauritania's nationality law (*Loi N° 1961-112*) fails to guarantee the right of every child to acquire a nationality. More specifically, the *Law* fails to cover the situation where children who are born on State territory or to nationals abroad would otherwise be stateless because both parents are themselves stateless or are unable to confer their citizenship upon the child.

The *Law* moreover includes provisions that discriminate against Mauritanian mothers by denying them the ability to confer nationality upon their children on an equal basis with Mauritanian fathers. Mauritanian mothers are able to confer their nationality in cases where the child is born in Mauritania and the father of the child is unknown, stateless, or a foreigner, but such children may renounce their nationality in the year before reaching majority. In case they opt to do so, renunciation is not conditioned on possession or acquisition of another nationality. As for children born abroad to Mauritanian mothers and foreign fathers, they may only opt for Mauritanian nationality in the year before reaching majority and it is not clear from the law whether this right extends to children born from fathers who are stateless or of unknown nationality. In cases where a child born abroad is unable to acquire the nationality of his or her foreign father, the child will be stateless until the year before reaching majority, which could have serious implications for the child's enjoyment of his or her economic, social, and cultural rights.

We would like to note that States are responsible for conferring nationality and ensuring the right of every child to acquire a nationality. Discharging this responsibility requires the establishment of safeguards against statelessness in a State's nationality law. The *1961 Convention* establishes a range of standards to prevent statelessness at birth and later in life, in particular that States shall grant their nationality to children who have ties with these States through birth on the territory or descent and who would otherwise be stateless. The *1961 Convention* is therefore of central importance to full enjoyment of every child's right to acquire nationality under the *Convention on the Rights of the Child* and under the *International Covenant on Civil and Political Rights*.

Stateless persons who satisfy the refugee definition contained in the *1951 Convention* are afforded the necessary international protection associated with that status. However, the international refugee protection regime does not specifically address the rights of non-refugee stateless persons who are in need of international protection. In many countries, stateless persons are subject to discrimination, in particular where they do not enjoy a legal status in any country. The *1954 Convention* is an important instrument to ensure enjoyment of human rights by stateless persons. The *1954 Convention* establishes an internationally recognized status for stateless persons. It also recognizes a number of key rights such as freedom of religion, freedom of association, access to courts, freedom of movement, identity documentation and internationally recognized travel documents.

These international instruments are complementary to other treaties to which Mauritania is already a party and which also contain key safeguards against statelessness, including the *1990 African Charter on the Rights and Welfare of the Child*.

In view of these concerns, the Committee on the Elimination of Discrimination against Women in its Concluding Observations of 2014 called upon the State party “to amend its *Nationality Code* to bring it into line with Article 9 of the *Convention* and to enable Mauritanian women to transmit their nationality to their children and their foreign spouse on an equal basis with Mauritanian men. The Committee further recommends that the State party consider acceding to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*.”⁷

Amending the nationality law to remove gender-discriminatory provisions would also ensure greater harmony with Mauritania’s *Constitution*, Article 1 of which “guarantees all citizens equality before the law, without distinction as to origin, sex or social condition.”⁸

Recommendations:

UNHCR recommends that the Government of Mauritania:

- Accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*; and
- Review nationality legislation to bring it in line with international standards by eliminating gender inequality, in particular to ensure that Mauritanian mothers are able to confer nationality to children born abroad.

Issue 4: Local integration of refugees

Following the civil registration reform launched in 2010, administrative procedures for obtaining identity or residence papers do not take into account the specific situation of asylum-seekers and refugees.

We wish to note that some asylum-seekers and refugees, as well as individuals remaining in Mauritania beyond the cessation of their refugee status, thereby choosing local integration as a durable solution, have in the past received identity/residence papers by the authorities. Mauritania has previously ensured some of the rights enshrined in the *1951 Convention* and in the *International Covenant on Civil and Political Rights*, including the right to move freely within the country and the right to work.

The problem created by the civil registration reform affects two main refugee groups, who opted to locally integrate in Mauritania after implementation of the cessation clause.⁹ They

⁷ UN Committee on the Elimination of Discrimination against Women’s Concluding Observation, CEDAW/C/MRT/CO/2-3, para 33, 24 July 2014, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fMRT%2fCO%2f2-3&Lang=en.

⁸ *Constitution de la République Islamique de Mauritanie*, 20 July 1991, available at: <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&docid=3ae6b4f7f&skip=0&category=LEGAL&coi=MRT&querysi=Constitution&searchin=title&sort=date>.

are Sierra Leonean and Liberian refugees who are currently at risk of arrest during security sweeps because they do not hold official residency documents. Furthermore, UNHCR was able in October 2014 to start the ANRPTS biometric registration of urban refugees but not of asylum-seekers. As a consequence, UNHCR's persons of concern are limited in their freedom of movement and do not have access to work permits.

The Human Rights Committee in its Concluding Observations has urged the State party to consider "the situation of former refugees and asylum-seekers with a view to providing them with identity documents, where appropriate, and allowing them to move about more easily."¹⁰

Recommendations:

UNHCR recommends that the Government of Mauritania:

- Continue its effort to provide biometric registration and ensure issuance of identity documents for all asylum-seekers and refugees; and
- Provide valid residency documents to protracted refugees from Sierra Leone and Liberia who decide to remain in Mauritania.

Issue 5: SGBV and protection of women and girls

We wish to note the need to carry out constitutional and legal reforms with a view to eliminating all forms of violence against women and girls that still exist, and to particularly address the lack of programmes and policies related to sexual abuse of women, female genital mutilation and early and forced marriages of girls.¹¹ In this context, it would also be advisable to accelerate the reform of the Mauritanian *Marriage and Family Law* to eliminate all discriminatory provisions so that women enjoy the same legal rights and obligations.

The law enforcement and justice response in handling SGBV cases also needs to be strengthened in order to ensure that the survivors have effective access to adequate protection by the State.

The Mauritanian Government has developed a *National SGBV Strategy* with the technical support of UNFPA, UN Women and UNICEF. UNHCR has participated in this process,

⁹ The *1951 Convention relating to the Status of Refugees* recognises that refugee status ends under certain clearly defined conditions. This means that once an individual is determined to be a refugee, their status is maintained unless they fall within the terms of the cessation clauses or their status is cancelled or revoked. Under Article 1C of the *1951 Convention*, refugee status may cease either through the actions of the refugee (contained in sub-paragraphs 1 to 4), such as by re-establishment in his or her country of origin, or through fundamental changes in the objective circumstances in the country of origin upon which refugee status was based (sub-paragraphs 5 and 6). The latter are commonly referred to as the "ceased circumstances" or "general cessation" clauses. See: *UNHCR Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C (5) and (6) of the 1951 Convention relating to the Status of Refugees*, 10 February 2003, available at <http://www.refworld.org/docid/3e50de6b4.html>.

¹⁰UN Human Rights Committee's Concluding Observations, CCPR/C/MRT/CO/1, para. 32-33, 21 November 2013, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fMRT%2fCO%2f1&Lang=en.

¹¹ Under-reporting of SGBV is an endemic phenomenon that affects the availability of reliable statistics. According to the Demographic and Health Survey (DHS) conducted in 2000/2001, 71 per cent of women in Mauritania have been subjected to female genital mutilation (FGM) and the practice also occurs in M'Bera refugee camp. However, due to strict cultural traditions, collection of data remains challenging within the refugee population.

ensuring that refugees were taken into account. The document was adopted in 2012 and follow-up sessions were organized in 2013 - 2014 to develop an *Action Plan*. In order to respond to SGBV issues affecting the refugee population, UNHCR has also developed its own SOPs in line with the *National Strategy* and with the *UNHCR Global SGBV Strategy*.

The *Marriage and Family Law (Loi No 2001-052 du 19 juillet 2001 portant code du statut personnel)* contains some provisions that can discriminate against married women, in particular in regard to early marriage, the management of property, and the continuing legality of polygamy and repudiation. In addition, women still face legal discrimination, and in some instances they are considered minors in the eyes of the law (for example the testimony of two women is necessary to equal that of one man).

The Committee on the Elimination of Discrimination against Women in its Concluding Observations of 2014 urged Mauritania to:

“(a) Set up a timeframe and complete the adoption of a law on violence against women and a National Action Plan on Violence against Women and Girls, covering physical, psychological and sexual violence; (b) Define rape as a criminal offense in the Criminal code, in line with international human rights standards; (c) Strengthen efforts to investigate, prosecute, and punish incidents of violence against women both in the private and public spheres and instruct public prosecutors to refrain from prosecuting victims of SGBV for adultery (*zina*); (d) Instruct public prosecutors, judicial authorities and mediators to systematically register cases of violence against women; and (e) Ensure that assistance to victims/survivors, and possibilities for remedial action, are available and accessible to all women, including rural women and refugee, returnee and asylum-seeking women.”¹²

Recommendations:

UNHCR recommends that the Government of Mauritania:

- Pursue efforts aimed at eradicating SGBV;
- Strengthen the mechanisms and procedures for ensuring that refugee women, girls and children are not subjected to sexual and gender-based violence (SGBV) and abuse, focusing on concrete and effective response by law enforcement and justice officials;¹³
- Review the *Marriage and Family Law* to eliminate all discriminatory provisions so that women enjoy the same legal rights and obligations; and

¹² UN Committee on the Elimination of Discrimination against Women’s Concluding Observation, CEDAW/C/MRT/CO/2-3, para. 27, 24 July 2014, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fMRT%2fCO%2f2-3&Lang=en.

¹³ A recommendation was made to “[w]ithdraw the reservation to CEDAW, and carry out constitutional and legal reforms in accordance with the principles of CEDAW with a view to eliminating all forms of violence against women and girls that still exist in the areas of education, labour and the family, particularly adopting the measures necessary to eliminate practices such as female genital mutilation, early forced marriage, polygamy, repudiation and force-feeding” during the 1st cycle UPR examination of Mauritania. See: Report of the Working Group of the Universal Periodic Review: Mauritania, A/HRC/16/17, 4 January 2011, para. 92.13 (recommended by Ecuador), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/101/11/PDF/G1110111.pdf>.

- Ensure that the victims/survivors have effective access to law enforcement and justice for receiving adequate protection by the State.¹⁴

Issue 6: Returnees from Senegal

Pursuant to a Tripartite Agreement between Mauritania, Senegal and UNHCR, a total of 24,536 Mauritanian refugees in Senegal were repatriated between January 2008 and March 2012, when the voluntary repatriation program was officially completed. In order to ensure the durability of return, UNHCR operated a reintegration programme, which ended in December 2012. In line with the country's long-term development strategy, this programme provided reintegration activities for the benefit of both returnees and the host community.

By mid-2014, however, the media reported that only 8,316 returnees out of a total registered number of 24,536 had access to biometric enrolment, and many individuals had failed to enroll despite the fact that they were VRF¹⁵ holders. It should be noted that the absence of nationality documentation may increase the risk of statelessness, in particular for this population, which was deprived of nationality at the time of expulsion from Mauritania in 1989 - 90. Furthermore, it was reported that many returnees "never received the assistance they had been promised." In particular, many farmers had been unable to recover the land that they used to farm before they fled. Similarly, a number of former civil servants had been unable to be reintegrated in the public administration.

Moreover, there is need for further cooperation with UNHCR to implement the organized voluntary repatriation of an additional 800 Mauritanian refugees in Senegal, who expressed their wish to return to Mauritania after the operation was officially concluded.

The Human Rights Committee Concluding Observations for 2013 urged Mauritania to "make it easier for refugees repatriated under the tripartite agreement between the State party, Senegal and the Office of the United Nations High Commissioner for Refugees to obtain identity documents." The Committee also recommended that the Government "should consider establishing a mechanism to address the humanitarian consequences of those events."¹⁶

Recommendations:

UNHCR recommends that the Government of Mauritania:

¹⁴ A recommendation was made to "[i]mplement a comprehensive approach to combating all forms of violence against women, and criminalize the act of rape and other sexual crimes in the Model Penal Code, as recommended by the Committee on the Elimination of Discrimination against Women" during the 1st cycle UPR examination of Mauritania. See: Report of the Working Group of the Universal Periodic Review: Mauritania, A/HRC/16/17, 4 January 2011, para. 92.32 (recommended by Israel), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/101/11/PDF/G1110111.pdf>.

¹⁵ Voluntary Repatriation Form.

¹⁶ UN Human Rights Committee's Concluding Observations, CCPR/C/MRT/CO/1, para. 24, 21 November 2013, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fMRT%2fCO%2f1&Lang=en.

- Ensure comprehensive and prompt issuance of nationality documents to all returnees from Senegal, including birth certificates for children;¹⁷
- Review local integration and livelihood assistance policies in order to provide fair resources, an efficient mechanism and adequate support, including land distribution, for the returnees;¹⁸ and
- Cooperate with UNHCR for implementing the organized voluntary repatriation of an additional 800 Mauritanian refugees from Senegal, who expressed their wish to return to Mauritania.

Human Rights Liaison Unit
Division of International Protection
UNHCR
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¹⁷ A recommendation was made to “[c]ontinue efforts to ensure the voluntary return of refugees while guaranteeing their economic and social integration, and take advantage of the financial and technical assistance available to accompany its efforts” during the 1st cycle UPR examination of Mauritania. See: Report of the Working Group of the Universal Periodic Review: Mauritania, A/HRC/16/17, 4 January 2011, para. 91.22 (recommended by Morocco), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/101/11/PDF/G1110111.pdf>.

¹⁸ A recommendation was made to “[c]ontinue efforts to ensure the voluntary return of refugees while guaranteeing their economic and social integration, and take advantage of the financial and technical assistance available to accompany its efforts” during the 1st cycle UPR examination of Mauritania. See: Report of the Working Group of the Universal Periodic Review: Mauritania, A/HRC/16/17, 4 January 2011, para. 91.22 (recommended by Morocco), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/101/11/PDF/G1110111.pdf>.

Excerpts of Concluding Observations from UN Treaty Bodies

MAURITANIA

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations relating to issues of interest and persons of concern to UNHCR with regards to Mauritania.

Committee on the Elimination of Discrimination against Women
Concluding observations (2014) CEDAW/C/MRT/CO/2-3

Discriminatory Laws

14. While welcoming the legislative reforms undertaken by the State party to repeal discriminatory provisions in the Labour Code, the Committee is concerned that other laws continue to discriminate against women including provisions of the Penal Code and several provisions of the Nationality Code and the Personal Status Code in areas related to transmission of nationality to their children, marriage and family relations.

Violence against women

26. The Committee is deeply concerned about:

- (a) The different forms of violence - sexual, physical and psychological violence, that women, including refugee, returnee and asylum-seeking women face in the State party, in the absence of mechanisms of redress and comprehensive legislation and policies to address violence against women;
- (b) The absence of a definition of rape as a criminal offense in the Criminal Code, the lack of information on prosecutions and convictions of perpetrators, and the practice of accusing women victims of rape of adultery (*zina*);
- (c) The absence of a mechanism to collect information on the incidence of violence against women; and
- (d) The fact that assistance for women victims of violence mainly relies on initiatives by civil society organizations, especially women's NGOs.

27. **In line with its General Recommendation No. 19 (1994) on Violence against Women, the Committee urges the State party to:**

- (a) Set up a timeframe and complete the adoption of a law on violence against women and a National Action Plan on Violence against Women and Girls, covering physical, psychological and sexual violence;**
- (b) Define rape as a criminal offense in the Criminal code, in line with international human rights standards;**
- (c) Strengthen efforts to investigate, prosecute, and punish incidents of violence against women both in the private and public spheres and instruct public prosecutors to refrain from prosecuting women victims for adultery (*zina*);**
- (d) Instruct public prosecutors, judicial authorities and mediators to systematically register cases of violence against women; and**
- (e) Ensure that victim assistance and remedies are available and accessible to all women, including rural women and refugee, returnee and asylum-seeking women.**

Trafficking and exploitation of prostitution

28. While noting that the law of the State party criminalizes sex tourism, pornography and paedophilia, the Committee remains concerned about the absence of a comprehensive policy framework to prevent trafficking in women, and measures to protect victims. The Committee notes with concern the absence of a system to gather information on trafficking in women and girls for purposes of sexual exploitation and forced labour, and to identify women at risk of trafficking. While noting the adoption by Mauritania of a roadmap to combat the legacy of slavery, the Committee is concerned by the fact that the coordination bodies have yet to be appointed and the lack of specific measures to implement such a roadmap. The Committee is further concerned about the criminalization of women engaged in prostitution in the State party, the lack of measures taken to address the root causes of prostitution and the liability to expulsion of foreign women who have repeatedly been arrested for prostitution.

29. **The Committee recommends that the State party:**

- (a) Adopt comprehensive legislation and policies aimed at combating all forms of trafficking which must endorse measures to prevent trafficking, including early warning systems, identification, prosecution and convictions for perpetrators, and protection for girls and women victims through psychosocial support and legal aid;**
- (b) Undertake an assessment of the situation of trafficking in the country, with the aim to having a base-line on the measures to address the phenomenon;**
- (c) Establish partnerships with international organizations and civil society stakeholders in order to collect systematic information on trafficking in women and girls in the country;**
- (d) Develop international, bilateral, regional or multilateral cooperation particularly with countries in the region to address trafficking;**
- (e) Set up coordination and monitoring mechanisms for the implementation of the roadmap to combat the legacy of slavery, within a specific timeframe, and allocate sufficient human and financial resources for that purpose;**

Nationality

32. The Committee is concerned about provisions in the Nationality Code which deny Mauritanian women the right on an equal basis with men to transmit their nationality to their children if the father is unknown, or the father is a foreign spouse of a Mauritanian mother. The Committee regrets that public debates on the Nationality Code have not resulted in the amendment of these discriminatory provisions.

33. **The Committee calls upon the State party to amend its Nationality Code in order to bring it into line with article 9 of the Convention and to enable Mauritanian women to transmit their nationality to their children and their foreign spouse on an equal basis with Mauritanian men. The Committee further recommends that the State party consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

Disadvantaged groups of women

44. While acknowledging that the State recognizes ethnic diversity in its Constitution, the Committee notes that this formal protection needs to be translated into practical measures to protect and promote the rights of women pertaining to ethnic minorities. In particular, the Committee notes with concern:

- (c) The lack of data on the situation of refugee women in the State party.

45. The Committee recommends the State party to:

(d) Monitor the situation of refugee women, in partnership with relevant international organizations, with a view to identifying their protection needs, and promote their participation in society.

Human Rights Committee

[Concluding observations \(2013\) CCPR/C/MRT/CO/1](#)

Torture and ill-treatment

14. The Committee notes with concern that neither the Constitution (art. 13), the Criminal Code, nor the Code of Criminal Procedure (art. 58) gives a definition of torture or classifies it as a specific crime, which leads to inadequate repression of the crime of torture. The Committee is also concerned by allegations of the systematic practice of torture and ill treatment or excessive use of force by members of the police or the security forces during demonstrations, arrests and interrogations, including of terrorism suspects and migrants, in places of detention, in particular in Dar Naim. The Committee is also concerned that no specific independent authority has been set up to examine complaints made against the police and security forces (arts. 7 and 10).

The State party should adopt a definition of and clearly criminalize torture in the Criminal Code, in conformity with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the relevant international standards. It should also ensure that any investigation into acts of torture, ill-treatment or excessive use of force attributed to members of the police or security forces should be conducted by an independent authority. The State party should furthermore ensure that members of the law enforcement agencies are trained to prevent torture and ill-treatment, and to investigate such offences, by making sure that the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) is included in all training programmes for them. It should also ensure that allegations of torture and ill-treatment are the subject of thorough and impartial investigations, that the alleged perpetrators are brought to justice and, if found guilty, are sentenced to penalties commensurate with the seriousness of their acts, and that the victims receive adequate compensation. The State party should guarantee regular access to all places of deprivation of liberty and, following its ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, put in place a national preventive mechanism.

Refugees and asylum-seekers

24. The Committee regrets that the State party has not yet adopted the Asylum Act. It is also concerned by the restrictions imposed on the freedom of movement of refugees and asylum-seekers who, since the revision of the Civil Status Act of 2011, no longer enjoy refugee status. The Committee is further concerned that urban refugees and asylum-seekers continue to encounter legal obstacles to the registration of their children born in Mauritania because of the provisions of the Personal Status Code. Lastly, the Committee is concerned that not all the repatriated Mauritanian refugees have obtained identity and citizenship documents yet; this is likely to create obstacles to their enjoyment of some rights and to promote the risk of

statelessness. In addition, the Committee is concerned that other Mauritanian refugees who are in Mali as a result of the events of 1989–1990 do not always have identity documents (arts. 12 and 24).

The State party should speed up the adoption of the asylum bill in order to facilitate asylum application procedures. It should also consider the situation of former refugees and asylum-seekers with a view to providing them with identity documents, where appropriate, and allowing them to move about more easily. The State party should remove the legal obstacles to the registration of births of children of refugees and asylum-seekers born in Mauritania. Finally, it should make it easier for refugees repatriated under the tripartite agreement between the State party, Senegal and the Office of the United Nations High Commissioner for Refugees to obtain identity documents, and consider signing a similar agreement to cover Mauritanian refugees in Mali following the events of 1989–1990. It should consider establishing a mechanism to address the humanitarian consequences of those events.

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Non-refoulement, migrants, refugees and asylum seekers

16. The Committee takes note with satisfaction of the fact that a new title that was added to the Code of Criminal Procedure in 2011 bars extradition if the person whose extradition is being requested would be in danger of being subjected to torture in the requesting State. The Committee is also pleased that the State party has opened up its borders to Malians who have been displaced by the violence that erupted in northern Mali in January 2012. The Committee has taken note of the information provided to it regarding the conclusion of agreements between the State party and Spain to combat irregular immigration and wishes to express its concern about the possibility of asylum seekers being mistaken for irregular immigrants, which could result in their arbitrary detention and violations of the principle of non-refoulement. The Committee finds it regrettable that information has not been made available regarding any decisions that would ensure that the State party effectively fulfils its obligation under article 3 of the Convention to uphold the principle of non-refoulement in the course of extradition proceedings, immigrant visa application procedures and asylum application procedures (arts. 2 and 3).

The Committee recommends that the State party:

- (a) Ensure that no one, regardless of whether he or she is in the country in an irregular situation, is expelled, extradited or returned to a State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture, that decisions in this connection are taken on the basis of an examination of each person's individual case and that the persons concerned can appeal against such decisions;**
- (b) Ensure that any person who is detained in connection with the effort to combat irregular immigration has access to an effective judicial remedy which allows that person to challenge the legality of administrative decisions regarding his or her detention, expulsion or refoulement;**

(c) **Ensure that asylum seekers are held in detention only as a last resort and, if this becomes necessary, that they are held for as short a time as possible and that use is made of alternatives to detention whenever feasible;**

(d) **Issue identity documents to Mauritians who were expelled in the past and then repatriated, as well as to their family members.**

Human trafficking and violence against women

23. The Committee takes note of the numerous legislative, institutional and awareness-raising measures adopted by the State party to prevent and combat human trafficking, including the adoption of Act No. 2003-025 of 17 July 2003 on the suppression of trafficking in persons. However, it remains concerned at the lack of information on: the penalties for rape; the number of convictions for rape; the prevalence of domestic violence and the way that cases are handled; and the extent of human trafficking (arts. 2, 12, 13, 14 and 16).

The State party should:

(a) **Ensure the effective enforcement, in full compliance with the Convention, of existing anti-trafficking laws;**

(b) **Conduct a study to determine the actual extent of human trafficking in the State party and its causes;**

(c) **Put an end to impunity by conducting formal investigations into allegations of rape, trafficking and domestic violence, prosecuting the perpetrators and imposing appropriate punishments on them;**

(d) **Offer victims protection, sufficient compensation and rehabilitation services, as necessary, and step up its awareness campaigns;**

(e) **Provide appropriate training to investigators and other personnel who come into contact with trafficking victims, including immigration service staff, and provide sufficient resources to the shelters set up for victims.**

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Birth registration

19. The Committee is concerned that a large number of births are not registered in the State party and that the reform of civil status introduced in 2010 places additional obstacles to birth registration, including by requiring the marriage documents of parents.(art. 10)

The Committee urges the State party to simplify birth registration procedures so as to take account the constraints faced by the population, such as geographical barriers and the difficulty in obtaining or producing official documents, including in respect to children born out of wedlock. The Committee also calls on the State party to facilitate birth registration by allowing late registration without fines as well as through the healthcare system and by coupling regular vaccination campaigns with campaigns for birth registration.