



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.: General
13 March 2012
English
Original: French

Committee against Torture

**Consideration of reports submitted by States
parties under article 19 of the Convention**

Initial reports of States parties due in 2005

Mauritania*

[Received 5 January 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–12	3
II. General information on Mauritania.....	13–95	3
A. Demographic, economic, social and cultural information	13–19	3
B. Constitutional, political and legal structure	20–35	5
C. General legal framework under which torture and other cruel, inhuman or degrading treatment or punishment is prohibited	36–47	6
D. Judicial, administrative and other authorities invested with the power to investigate issues related to the Convention	48–83	9
E. National human rights institutions.....	84–95	13
III. Implementation of the substantive provisions of the Convention	96–207	15
A. Measures taken to implement the provisions of the Convention.....	96–97	15
B. Measures preventing acts of torture during the period of custody.....	98–168	15
C. Prohibition on the use of statements obtained under torture as evidence	169–170	25
D. Measures taken to prevent acts that constitute ill-treatment.....	171–207	25
IV. Conclusion	208–211	29

I. Introduction

1. The present report is submitted by Mauritania in accordance with article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
2. It follows the guidelines of the Committee against Torture for the preparation of initial reports and covers the period from 2005 to 2011.
3. This report is the result of consultation between the Government and national human rights institutions, including, in particular the National Human Rights Commission, as well as other human rights organizations.
4. It has been prepared by an interministerial technical committee chaired by a technical adviser from the Office of the President and comprised of representatives from the Ministry of Justice, the Ministry of the Interior and Decentralization, the Commission on Human Rights, Humanitarian Action and Relations with Civil Society, and the National Human Rights Commission.
5. The report has been coordinated by the human rights department of the Commission on Human Rights, Humanitarian Action and Relations with Civil Society.
6. Several factors contributed to the delay in the preparation of the report and its subsequent submission to the Committee, primarily the institutional and political instability in the country from 2005 to 2008 and the lack of political will during this period to discuss torture and other cruel, inhuman or degrading treatment or punishment.
7. The return to normal constitutional order following the presidential elections in July 2009 and the recent social, economic and political progress are great achievements of the current Government, which is committed to promoting human rights and freedoms.
8. The Government wishes to take this opportunity to assure the Committee of its willingness to engage in a constructive and continuous dialogue on the implementation of the provisions of the Convention.
9. The authorities have expressed this commitment in response to the letter from the Chairperson of the Committee regarding the delay in submitting the present report.
10. At the same time, the Government reiterates its commitment to work on the respect, promotion and protection of human rights in general and, in particular, the prevention of torture and other cruel, inhuman or degrading treatment or punishment.
11. This commitment was recently strengthened when Mauritania signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in New York on 25 September 2011.
12. The report is made up of two parts; the first is a general presentation of the country and the second concerns the implementation of the substantive provisions of the Convention.

II. General information on Mauritania

A. Demographic, economic, social and cultural information

13. Mauritania lies between lat. 15° and 27° N and long. 6° and 19° W, with a surface area of 1,030,700 km². The country is bounded by the Atlantic Ocean to the west, Senegal

to the south, Mali to the south and east, Algeria to the north-east, and Western Sahara to the north-west. Mauritania's geographic position as a bridge between North Africa and sub-Saharan Africa has made it a melting pot of civilizations, with a rich sociocultural heritage.

14. The population of Mauritania is estimated at 3,340,627 inhabitants, most of whom live in Nouakchott, the country's administrative capital, and in Nouadhibou, its economic capital.

15. Mauritania is a multi-ethnic and multicultural country. Arabs make up the majority of the population, which also includes Fulani, Soninke and Wolof minorities.

16. Foreigners represent 2.2 per cent of the population. They mainly reside in Nouakchott and Nouadhibou and are active in the fields of industry and construction, the service industries and bilateral and multilateral cooperation.

Table 1

Demographic data

Total population	3 340 627 inhabitants
Urban population	38.1%
Annual growth rate	2.4%
Life expectancy at birth (2007)	56.6 years
Employed population	57%
School enrolment	57%
Religion	100% Muslim

Source: National Office of Statistics (ONS).

17. Islam is the religion of the people and of the State. The Islam practised in Mauritania is the Malikite rite of Sunni Islam, which preaches tolerance and repudiates all forms of violence.

18. **Economic data.** Macroeconomic developments have been broadly positive.

“Supported by a strong recovery in external demand, the development of mining projects, and dynamic non-extractive industries, non-oil output grew 5.7 per cent in 2010. Booming mining exports, buoyed by high commodity prices, helped offset swelling food and fuel imports and narrow the current account deficit. Monetary policy remained prudent, contributing to containing inflation in single digits. The fiscal deficit was halved in 2010 thanks to higher mining revenues, stronger revenue collection, and an underexecution of investment spending.”¹

19. **Economic structure.** Sectoral distribution of gross domestic product (GDP) in 2010:

- Primary sector: 18 per cent
- Extractive activities: 14 per cent
- Other: 68 per cent

Mean Human Development Index (HDI) (0.520 in 2007 – African median)

¹ International Monetary Fund (IMF) report, June 2011.

Table 2
Economic data

<i>Indicators</i>	<i>2010</i>
Per capita GDP (\$US)	1 036
Real GDP growth	4.6%
Rate of fiscal pressure	14.8%
Spending and net loans (in % of non-oil GDP)	32%
Budget deficit excluding grants and oil (in % of non-oil GDP)	9.6%
Balance of current transactions (in % of GDP)	-11.9%
Reserves in months of imports	2.5
Average annual inflation rate	4.8%

Sources: ONS and Central Bank of Mauritania.

B. Constitutional, political and legal structure

20. In accordance with article 1 of the Constitution of 20 July 1991, re-established and amended by Constitutional Act No. 2006-014 of 12 July 2006, Mauritania is “an Islamic, indivisible, democratic and social republic”. It ensures “all its citizens equality before the law, without distinction as to origin, race, sex or social condition”.

21. Article 3 of the Constitution enshrines the principle of democracy: “Sovereignty belongs to the Mauritanian people, who shall exercise it through their representatives or by referendum.”

22. The republican State is characterized by a clear separation of the executive, legislative and judicial branches.

23. The President of the Republic is elected by direct universal suffrage for a term of five years, renewable once. The President defines national policy, which is implemented by the Government, led by a Prime Minister.

24. Legislative power is exercised by the Parliament, which adopts laws and is responsible for oversight of Government action. The Parliament is divided into a lower house, the National Assembly, and an upper house, the Senate.

25. Mauritania has a decentralized and devolved administrative structure. Its territory is organized into several administrative levels: *wilayas* (13), *moughataas* (54) and districts (216). The manner in which authority is assigned to the different administrative levels ensures that central and local government work together on political, economic and social development.

26. The new powers granted to districts under Act No. 2001-27 of 7 February 2001 have made it possible to strengthen the capacities of local elected representatives to resolve local development problems, and to compensate for the lack of local governance.

27. The Mauritanian system of justice is based on the second-hearing principle, with trial courts at the level of the *moughataas* and *wilayas*, and higher courts (three appeal courts in Nouakchott, Nouadhibou and Kiffa, and a Supreme Court).

28. In terms of guarantees of the right to a fair trial, defendants have the following rights:

- (a) Presumption of innocence;

- (b) Principle of the legality of the offence and punishment;
- (c) Guarantee of due process;
- (d) The presence of a lawyer on being taken into police custody, and the right to contact family members.

29. Article 138 of the Code of Criminal Procedure, which establishes the pretrial detention regime, provides that such detention may only be ordered by the investigating judge and when it is justified by:

- (a) The seriousness of the facts;
- (b) The need to prevent evidence of the offence from disappearing;
- (c) Flight of the accused or the commission of new offences.

30. Once a person has been placed in pretrial detention, the investigating judge is obliged to expedite the procedure. He or she is responsible, at the risk of being held guilty of judicial misconduct, for any negligence that unnecessarily delays the investigation and prolongs the detention.

The principal system through which non-governmental organizations are recognized

31. At present, non-governmental organizations are recognized by the Ministry of the Interior and Decentralization in accordance with the Association Act, No. 064-098 of 9 June 1964.

32. Associations that wish to be recognized file an application comprising the minutes of their constituent general assembly as well as their statutes and rules of procedure.

33. The application is transmitted to the administrative authorities in the constituency in which the headquarters of the association is based.

34. A character check is conducted following which the application is sent to the competent authority for approval.

Table 3

Statistical data on associations and other recognized groups

<i>Type</i>	<i>Number</i>
Political parties	81
Associations and NGOs	5 500
Trade union federations	6
International NGOs based in Mauritania	52

Source: Ministry of the Interior and Decentralization (MIDEC) (2011).

35. The Government is working on the adoption of a law in this regard to regulate associations using a declaration-based system.

C. General legal framework under which torture and other cruel, inhuman or degrading treatment or punishment is prohibited

36. Several core legislative texts address the punishment of torture. They include the Constitution, Order No. 2007.36 on the Code of Criminal Procedure, Order No. 2005.15 of 5 December 2005 on the judicial protection of children and the National Police Regulations Act No. 2010.07 of 20 January 2010.

37. Although the Constitution does not expressly prohibit torture, it does place a de facto ban on the practice of torture.

38. Article 13 of the Convention of 20 July 1991, amended in 2006, states:

“All persons shall be presumed innocent until their guilt has been proven by a legally constituted court.

No one may be prosecuted, arrested, detained or punished except in cases determined by law and in accordance with the forms prescribed by law.

A citizen’s honour and privacy, the inviolability of the person and his or her domicile and correspondence are guaranteed by the State.

Any form of mental or physical violence is prohibited.”

39. The preambular article of Order No. 2007.36 amending Order No. 83-63 of 9 July 1983 establishing the Code of Criminal Procedure states that:

“Criminal proceedings must be fair, allow due participation of the contending parties and maintain a balance between the rights of the parties.

They must guarantee separation between the prosecuting authorities and the judicial authorities. Persons in similar conditions who are prosecuted for the same offences should be judged according to the same rules.

The judicial authorities must ensure that information to, and the rights of, victims are safeguarded throughout the criminal procedure.

Any person suspected or prosecuted is presumed innocent until pronounced guilty by a binding judgement following a fair trial fulfilling all legal guarantees.

Any doubt must be interpreted in favour of the accused.

Any confession obtained under torture, violence or duress is inadmissible.”

40. Article 10 of Order No. 2005.015 of 5 December 2005 on the judicial protection of children states: “The subjection of children to torture or to acts of barbarity shall be punishable by six years’ rigorous imprisonment.” Under article 11, the offender may be sentenced to 15 years’ rigorous imprisonment if the offence is committed repeatedly against a child or if the offence occasions damage, mutilation or permanent disability, or to life imprisonment if it unintentionally causes the death of the child.

41. Article 15 of the National Police Regulations Act, No. 2010.07 of 20 January 2010, states:

“Members of the national police shall abstain from any act that infringes individual or collective freedoms, except in cases stipulated by law, and in general from all cruel or degrading treatment that violates human rights.”

1. International treaties dealing with torture and other cruel, inhuman or degrading treatment or punishment to which Mauritania is a party

42. Faithful to its international commitments, Mauritania has transformed its attachment to human values into a vehicle for the protection and promotion of human rights.

43. Since gaining its independence, Mauritania has taken part in the codification of international human rights law by participating in the elaboration of, inter alia, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the African Charter on Human and Peoples’ Rights, the International Convention on the Protection of the Rights of All Migrant Workers and

Members of Their Families and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

44. Mauritania is a State party to several international legal instruments prohibiting torture and other cruel, inhuman or degrading treatment or punishment²:

- (a) African instruments
 - The African Charter on Human and Peoples' Rights
 - The African Charter on the Rights and Welfare of the Child
 - The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
 - The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights
 - The Organization of African Union Convention governing the Specific Aspects of Refugee Problems in Africa
 - The Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines)
- (b) International instruments
 - The Universal Declaration of Human Rights
 - The International Covenant on Civil and Political Rights
 - The International Covenant on Economic, Social and Cultural Rights
 - The Convention on the Rights of the Child
 - The Convention on the Elimination of All Forms of Discrimination against Women
 - The International Convention on the Elimination of All Forms of Racial Discrimination
 - The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
 - The Convention on the Rights of Persons with Disabilities
 - The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
 - The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
 - The Convention on the Political Rights of Women
 - The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages
 - The Slavery Convention of 1926
 - The International Convention against Apartheid in Sports

² For further details, please see the document on Mauritania's accession status to international human rights treaties included as an annex to this report.

- The Convention relating to the Status of Refugees
- The Protocol relating to the Status of Refugees (1967)
- The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field
- The Geneva Convention relative to the Treatment of Prisoners of War
- The Geneva Convention relative to the Treatment of Civilian Persons in Time of War
- The Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea
- The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)
- The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)
- The International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29)
- The ILO Worst Forms of Child Labour Convention, 1999 (No. 182)
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

2. The status of the Convention in domestic legal order

45. The Constitution and the jurisprudence of the Constitutional Council place the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment at the heart of Mauritanian law. Hence, the provisions of the Convention can be invoked before the national courts for direct application.

46. The constitutional character of the provisions of the Convention is strengthened by Article 80 of the Constitution, which states: “Treaties or agreements duly ratified or approved shall, upon publication, outrank laws.”

47. Similarly, legislation ensures the non-derogability of the prohibition of any cruel, inhuman or degrading treatment or punishment.

D. Judicial, administrative and other authorities invested with the power to investigate issues related to the Convention

1. Judicial authorities

(a) The Constitutional Council

48. The Constitutional Council is an autonomous judicial body established under the Constitution of 20 July 1991, which was amended in 2006, to replace the former constitutional division of the Supreme Court. The introduction of the Constitutional Council as one of Mauritania’s courts represents a step forward in safeguarding human rights.

49. The Constitutional Council has six members. They are appointed by the President of the Republic (three members, including the Council President), the President of the National Assembly (two members) and the President of the Senate (one member).

50. Members of the Constitutional Council are appointed for a non-renewable nine-year term. They have tenured status and enjoy the same immunities as members of Parliament.

51. The Constitutional Council is responsible for ascertaining that laws, international treaties and the rules of procedure of the National Assembly and Senate are in conformity with the Constitution. It has the power to declare laws unconstitutional if they are not in accordance with the Constitution.

52. Under article 87 of the Constitution, “the decisions of the Constitutional Council take precedence in all matters brought before it ... They are not subject to appeal and must be complied with by the public authorities and by all administrative and jurisdictional authorities”.

53. One should note the special role played by the Constitutional Council in protecting rights and freedoms: it has already declared unconstitutional a number of legal texts, such as the Rules of Procedure of the National Assembly, the Rules of Procedure of the Senate, the Act on Regulations governing the Judiciary, the Organic Act on the election of senators representing Mauritians residing abroad, and the Anti-terrorism Act.

(b) *Courts and tribunals*

(i) High Court of Justice

54. The High Court of Justice is composed of members who are elected in equal number by the National Assembly and the Senate from among their members after each full or partial parliamentary election. It elects a president from among its members. An organic act sets forth the composition of the court, its rules of procedure and the procedures for bringing cases before it.

55. Hearings against senior representatives of the State, such as the President of the Republic, Prime Minister and ministers, take place before this court.

56. The President of the Republic is not held responsible for acts committed in the exercise of his or her functions except in the case of high treason.

57. He or she may be indicted only by the two houses of Parliament, by means of an absolute majority of their members obtained in a joint public ballot, and is then brought before the High Court of Justice.

58. The Prime Minister and members of the Government may be held criminally responsible for acts that are committed in the exercise of their functions and which are deemed to be crimes or offences at the time they are committed.

(ii) Courts

59. The organization of Mauritania’s courts is regulated by the provisions of Order No. 2007-012 of 8 February 2007 on the organization of the courts.

60. Justice is administered in the territory of Mauritania, in conformity with the provisions of this Order, by the Supreme Court, courts of appeal, *wilaya* courts, criminal courts, commercial courts, labour courts, *moughataa* courts and any other court established by the law.

61. These courts hear all civil, commercial, administrative and criminal cases, and labour disputes. They hand down rulings in conformity with the current laws and regulations.
62. The location and jurisdiction of the courts are established by Cabinet decree on the basis of reports by the Minister of Justice. The exception is the Supreme Court, which is located in Nouakchott and the jurisdiction of which covers the entire country. The judicial year begins on 1 January and concludes on 31 December, and includes a holiday period of three months from 16 July to 15 October.
63. Hearing dates, times and locations are established by order of the president of each court at the beginning of the judicial year. Those orders are posted at the court and published in the Official Gazette.
64. Courts and tribunals may hold external hearings within their jurisdiction.
65. Court hearings are held in public, except when doing so poses a threat to law and order or an affront to public morals, or in cases prohibited by the law. In such cases, the president of the court orders the hearing to be held in camera. In all cases, judgements or rulings are handed down publicly and must be accompanied by a statement of reasons, failing which they are null and void. Justice is dispensed free of charge, subject to stamp duties and registry fees, court officials' salaries and expenses incurred in the investigation of cases or execution of court decisions.
66. Legal fees are set by decree. Legal aid may be granted to persons who demonstrate their lack of means, subject to the conditions laid down by the law.
67. No person may be tried without being given an opportunity to present his or her defence. Everyone is free to prepare his or her defence and to choose defence counsel. Lawyers may represent clients before any court. No one shall be brought before any but a lawfully established court.
68. Only courts established by law may hand down sentences. Justice is delivered in the name of Allah the Most High, the Almighty.
69. The enforcement of warrants and initial notifications of arrest, judgements, orders, notarized contracts or other acts capable of being enforced takes place subject to the conditions provided for in the Code of Civil, Commercial and Administrative Procedure and the Code of Criminal Procedure.
70. With a view to ensuring the proper functioning of the courts, a non-litigious grouping known as a "general assembly" has been instituted within each court.
71. The general assembly brings together all members of the court under the court's president.
72. The general assembly addresses issues related to the organization and running of the court. It is consulted on the calendar of hearings. General assembly decisions are adopted in a ballot by simple majority. Where the ballot is tied, the president has the casting vote.
73. A general inspectorate of the courts and prisons administration, which reports directly to the Ministry of Justice, has general responsibility for inspecting courts and tribunals (except the Supreme Court) and all services and bodies that come under the Ministry of Justice.
74. The organization, running and powers of the general inspectorate of the courts and prisons administration are laid down by decree.

2. Administrative authorities

(a) *Commission on Human Rights, Humanitarian Action and Relations with Civil Society*

75. The Commission is the ministerial division responsible for human rights.

76. Pursuant to Decree No. 247-2008, which defines its powers, the Commission is responsible in the field of human rights for:

- (a) Drafting and implementing national policy for the promotion, defence and protection of human rights;
- (b) Coordinating national human rights policy;
- (c) Providing human rights education and awareness-raising;
- (d) Preparing periodic reports pursuant to the requirements of the international and regional legal human rights instruments ratified by Mauritania;
- (e) Harmonizing national legislation with the provisions of the international and regional human rights conventions ratified by Mauritania;
- (f) Drafting and translating action plans and programmes for vulnerable social groups, with a view to better promoting and protecting their rights.

(b) *Administrative authorities responsible for prisons and the police*

(i) Prisons administration

77. The administration of prisons is entrusted to an office of the Ministry of Justice, in conformity with Decree No. 197-2008 of 22 October 2008, which sets out the Ministry's powers and the organization of the central administration of its department.

78. The Office of Criminal Affairs and Prisons Administration is responsible for matters relating to:

- Policy on criminal affairs
- Parole requests
- Petitions for pardon and issues related to amnesty
- Maintenance of the central judicial registry
- International mutual assistance on criminal matters
- Appointment of senior law enforcement officials
- Prisons administration
- Supervision of material and sanitary conditions in prisons
- Social rehabilitation and reintegration of detainees

79. The Office of Criminal Affairs and Prisons Administration is headed by a director, who is seconded by a deputy director. It is comprised of four departments:

- The criminal affairs department
- The central criminal records department
- The prison affairs department
- The social reintegration department

The different departments work together in order to fulfil the Office's missions.

(ii) Police administration

80. Regulations governing the national police are set forth under Act No. 2010-007 of 20 January 2010. According to the Act, the national police is a security force that comes under the Ministry of the Interior.

81. Overall, it is responsible for protecting the fundamental interests of the State. It is also responsible at national level for ensuring public safety, criminal investigation, and the State's internal and external security, combating terrorism, gathering and storing intelligence relevant to its area of competence, maintaining and restoring law and order, protecting persons and their belongings, guarding the State's territory and monitoring immigration, and combating economic and financial crime. It ensures that laws and regulations are enforced and respected.

82. Pursuant to article 5 of Act No. 2010-007 of 20 January 2010, the national police is divided into four corps:

- The Commissioner Corps
- The Officer Corps
- The Inspector Corps
- The Non-Commissioned Officer and Constable Corps

83. Police personnel must abstain from committing any acts that violate individual and collective rights, except in cases provided for under the law, and, in general terms, all forms of cruel or degrading treatment that constitute violations of human rights.

E. National human rights institutions

84. The main human rights institutions are the Ombudsman and the National Human Rights Commission.

1. The Office of the Ombudsman

85. The Office of the Ombudsman is an independent administrative body established by Act No. 93-27 of 27 July 1993.

86. In addition to the traditional prerogatives granted to it under the 1993 Act, it may also receive complaints from individuals, through their elected representatives, and have matters referred to it by the President of the Republic. The Ombudsman plays a vital role of intermediary between the Government and citizens who consider that their rights or interests have been violated or infringed.

2. The National Human Rights Commission

87. The National Human Rights Commission, which has A status in accordance with the Paris Principles, is an independent and autonomous multi-member consultative institution with advisory, observation, early warning, mediation and evaluation functions in the area of human rights.

88. The A status, granted in the light of Mauritania's compliance with the international conventions it has ratified, lends the Commission greater independence and broader scope for investigation. As a result of that recognition, the Commission is seen by the international human rights mechanisms as their national partner and the pivotal element in the system of human rights protection in Mauritania.

89. The newly acquired status is the result of a three-pronged effort:

(a) The passing of Act No. 2010-031 of 20 July 2010, which replaces the 2006 Order on the establishment and functioning of the National Human Rights Commission;

(b) The Commission's independent assessment and monitoring activities in the area of human rights, without interference or hindrance on the part of the authorities, particularly with regard to follow-up on the prevention of torture and ill-treatment;

(c) The constant and sustained efforts on the part of a team from the Commission, working closely with representatives of the Government and the Office of the United Nations High Commissioner for Human Rights, and members of NGOs.

The Commission is therefore in a position to:

(a) Play a key role in the system of human rights protection for all;

(b) Ensure the application of international standards at the national level by monitoring the implementation of human rights conventions ratified by Mauritania;

(c) Maintain effective relations with the Government, international organizations, Parliament, the media and civil society organizations.

(a) *Missions and mandates*

90. Since 20 July 2010, the Commission has been regulated by Act No. 2010-031, which annuls and replaces Order No. 2006-015 of 12 July 2006. The aim of the Act is to rectify the shortcomings of the above-mentioned Order and strengthen the independence and effectiveness of the Commission in its role of promoting and protecting human rights.

91. The main mission of the Commission is to advise the Government, Parliament and other concerned bodies on human rights matters, to contribute to the dissemination and inculcation of a human rights culture, to promote and ensure the harmonization of national law with the legal human rights instruments, to contribute to the preparation of reports that the Government is required to submit to United Nations bodies and committees, to cooperate with United Nations bodies in the field of human rights, to make unannounced visits to prisons and places of detention, to examine all cases of human rights violations and to submit an annual report on the human rights situation to the President of the Republic.

(b) *Activities*

92. In that context, the Commission has already submitted three annual reports (2007–2008, 2008–2009 and 2009–2010) to the President of the Republic. They outline all of the activities undertaken by the Commission during those periods and include an overall assessment of human rights issues in Mauritania, particularly with regard to the use of torture and cruel, inhuman and degrading treatment, and their prevention.

93. Pursuant to article 4 of Act No. 2010-031, on the establishment of the Commission, it is authorized to make unannounced visits to all prisons and places of custody in order to ensure that the rights of detainees are respected.

94. The implementation of that provision has led to periodic visits to the country's 13 regions, for example between 25 May and 1 June 2010 and from 15 to 27 September 2011, by four-member teams from the Commission who met and also worked with representatives of the administration, members of Parliament and local government, and representatives of civil society.

95. Members of the Commission were also able to visit places of detention (prisons, police and gendarmerie stations, facilities of the juveniles unit, the reintegration centres for children in El Mina and Beyla, the short-term women's prison in Sebkhla, and so on), accompanied by representatives of local NGOs, with whom they participated in several

work sessions. They also visited various victims, and studied complaints and pending proceedings. Reports and specific recommendations arising from all those activities have been submitted to the Government, which has reacted positively to some of the grievances raised by the Commission, leading to: pardons for more than 350 detainees; improvements in hygiene at the Dar Naim prison; application of the law criminalizing slavery; transparency in the resolution of land disputes in the outer suburban areas of Nouakchott; the reopening of political dialogue; the adoption of legislation to ease restrictions on the audiovisual media and provide support for the independent press; the decision to identify the graves of disappeared persons; considerable progress in the provision of compensation to military victims, and so on.

III. Implementation of the substantive provisions of the Convention

A. Measures taken to implement the provisions of the Convention

Article 1: Definition of torture

96. Mauritania still does not have any specific legislation that criminalizes and punishes acts of torture and its legislation does not contain a definition of this term.

97. However, under Mauritanian law, torturers or perpetrators of other forms of ill-treatment may be prosecuted on the basis of the provisions in the Criminal Code dealing with serious and ordinary offences, such as intentional assault and battery or manslaughter, which are provided for in articles 285 to 287 of Order No. 83.162 of 9 July 1983 establishing the Criminal Code (see annex to the report for the sentences listed in these articles).

B. Measures preventing acts of torture during the period of custody

1. Article 2: Prevention and prohibition of torture

98. Order No. 2007.036 of 17 April 2007, amending Order No. 83-163 of 9 July 1983 establishing the Code of Criminal Procedure, regulates detention in custody by recognizing the rights of detainees, which protect them from torture:

(a) As such, article 58, paragraph 1, of the Code of Criminal Procedure provides that “Any person deprived of their liberty through arrest or detention or any other form of deprivation of liberty must be treated in accordance with respect for human dignity”;

(b) Mental or physical ill-treatment of detainees and the holding of detainees in places other than those provided for by law are prohibited;

(c) Any senior law enforcement officer who takes a person into custody is obliged to inform the detainee’s spouse, parent or child as soon as possible that the detainee has the option to contact his or her spouse or an immediate family member. The officer may authorize a lawyer to interview the person in custody in order to submit a report to the public prosecutor without delay.

99. With regard to the period of custody, article 57, paragraph 2, of the Code of Criminal Procedure states that:

“If there is serious and corroborating evidence against a person that justifies an indictment, the senior law enforcement officer may take that person into custody for 48 hours, not including weekly rest days or public holidays.”

This period can be extended only once, for a duration equal to that of the initial period, by written authorization of the public prosecutor. When the arrest occurs in a place far away from the competent court, the time limit is automatically increased by one day per 100 kilometres, to a maximum duration of eight days.

100. Article 59 of the Code of Criminal Procedure states that a register, coordinated and initialled by the public prosecutor, must be kept at all places where a person may be held in police custody. The following details must be recorded in the register: the person's identity, the reason for the detention in custody, the time when it started and ended, the length of the interrogation, hours of rest, the physical state and health of the arrested person and the food provided. The person held and the senior law enforcement officer must sign the register at the end of the period of custody. The register is presented to the public prosecutor for information and monitoring purposes and he or she initials it at least once a month.

2. Article 2, paragraph 2: No exceptional circumstances to justify torture

101. The preambular article of Order No. 2007.36, amending Order No. 83.36 of 9 July 1983 establishing the Code of Criminal Procedure states that: "Any confession obtained under torture, violence or duress is inadmissible". It does not accept any circumstances as justifying torture.

In its decision issued in 2007 on the Salafist trial, the Supreme Court rejected confessions obtained under torture. This allowed the relaxing of sentences for some of the accused and acquittal for others.

3. Article 2, paragraph 3: Issue of torture in the relationship between subordinates and their superiors

102. Article 15 of the National Police Regulations Act, which obliges police officers to refrain from performing any action that infringes individual and collective freedoms, enables all members of the force to refuse to obey an order to commit acts of torture. In addition, article 14 of the Act limits hierarchical obedience to the respect of laws and regulations.

4. Article 3: Expulsion, refoulement and extradition

(a) Prohibition in domestic legislation of refoulement to a State where the person may be in danger of being subjected to torture

103. The new section on the extradition process added to the Code of Criminal Procedure in 2011 rules out extradition if the person to be extradited is at risk of being tortured in the country to which he or she is to be extradited. If this does happen, the Mauritanian courts are competent to judge whether the events leading to the extradition are covered and punishable under current Mauritanian legislation or if they constitute an international crime.

(b) Absence of security considerations with regard to extradition

104. The reasons for extradition or a refusal to extradite are determined by the Code of Criminal Procedure and the treaties on judicial assistance in place between Mauritania and other countries. Reference is not made to security concerns, such as the fight against terrorism, circumstances arising from a state of emergency or national security.

(c) Authority empowered to grant extradition

105. In extradition matters, the Ministry of Justice is the authority empowered to grant extradition, by an order, on the basis of a bilateral cooperation agreement on extradition or of a reciprocal diplomatic understanding.

106. Extradition may be refused, in particular in cases of:
- (a) Political or related offences;
 - (b) Absence of dual criminality;
 - (c) Offences considered as failure to comply with military obligations;
 - (d) Offences that have been the subject of a final judgement by the courts of Mauritania;
 - (e) Time-barring of prosecution or punishment according to the legislation of Mauritania or of the requesting State;
 - (f) Offences that were committed either wholly or partially on Mauritanian territory;
 - (g) Amnesties declared in one of the two States.

(d) *Authority empowered to decide on expulsion and refoulement*

107. The Minister of the Interior may issue an Order for the expulsion or refoulement of an alien if his or her presence in the country constitutes a threat to the maintenance of public order, health, morals or security, if his or her entry to the country was illegal or if his or her residence permit has expired.

(e) *Appeals against an expulsion or refoulement decision*

108. Any alien who is to be expelled or returned (“*refoulé*”) and who wishes to challenge that decision has the right to submit an application for reconsideration for the decision to be revoked or suspended. If the application for reconsideration is rejected, the complainant may apply to the administrative division of the Supreme Court for the administrative decision to be set aside on grounds of abuse of authority.

109. The national police are responsible for escorting to the border aliens who are being expelled or returned.

(f) *Specialized training of those responsible for the expulsion, refoulement and extradition of aliens*

110. The officials responsible for the expulsion, refoulement and extradition of aliens undergo training based on respect for human dignity and the rights of persons in such a situation.

111. Moreover, a draft ethics code for the national police is currently being drafted in order to equip officers with an effective tool for the promotion and protection of human rights, particularly those of persons undergoing refoulement, expulsion or extradition.

5. Article 4: Definition and criminalization of torture

112. As mentioned above, there is no specific legislation that criminalizes torture, and torture is not a criminal offence in its own right. Acts of torture are however punished as assault and battery or homicide.

113. The main sanctions contained in the Criminal Code and Code of Criminal Procedure are:

- (a) Order No. 83.162 of 9 July 1983 establishing the Criminal Code:
 “**Article 279** – All criminals, regardless of their crime, who use torture or acts of barbarity in committing their crimes shall be punished as if guilty of murder.

[...]

Article 285 – Any adult who deliberately inflicts injury on, strikes, amputates a limb of, or inflicts any form of violence on an innocent person shall be punished by *qisas*, except in the following cases:

1. If the victim and guilty party are not of the same religion;
2. If the guilty party has been pardoned by the victim, whether against payment or free of charge;
3. If the injury is so severe that the *qisas* punishment would risk endangering the life of the guilty party: stabbing in the abdomen, damage to the brain, blow to the brain or damage to a bone;
4. If the guilty party does not have the limb that was damaged;
5. If the limb that was damaged is fully and permanently incapacitated and use of *qisas* risks removing it;
6. If it is impossible to proceed with a proportional assessment of harm caused by these types of assaults or violence.

In all of the cases listed above, punishment will only take the form of civil reparations (*diyah*), except for the case listed in subparagraph 6, where the punishment is laid out in article 287 of the same Code.

Article 286 – When the assaults or injuries result in the loss of an eye in someone who only has one eye, the victim will have the right to decide between two options:

- (1) *Qisas*;
- (2) Full *diyah*.

If both the perpetrators and the victims have only one eye, the punishment is full *diyah*. The same applies if the guilty party has had more than one finger amputated. In all cases, *qisas* and *diyah* may take place only after recovery.

In all cases, only a qualified physician may determine the extent of the blows and injuries and their effects, and the performance of *qisas*.”

(b) Order No. 2007-036 of 17 April 2007, establishing the Code of Criminal Procedure:

“**Article 58** – Any person deprived of his or her liberty as a result of arrest or detention or any other form of deprivation of liberty must be treated in accordance with respect for human dignity. Mental or physical ill-treatment of detainees and the holding of detainees in places other than those provided for by law are prohibited.”

6. Article 5: Jurisdiction

114. Articles 222 and 340 of the Code of Criminal Procedure grant the correctional courts and criminal courts full jurisdiction over acts of torture, which are classified as serious or ordinary offences.

7. Article 6: Pretrial detention

115. Perpetrators of acts of torture are detained based on the classification of the act that they have committed.

116. According to the Code of Criminal Procedure:

“Pretrial detention may only be ordered by the investigating judge when it is justified by the seriousness of the events, or if it is necessary in order to prevent the disappearance of evidence of the offence, the flight of the accused or the commission of new offences.”

117. If the act of torture is classified as an ordinary offence, the period of pretrial detention may not exceed 4 months, renewable only once. If it is classified as a serious offence, the duration of pretrial detention may not exceed 6 months, renewable only once.

118. In all cases of pretrial detention, the investigating judge is obliged to expedite the collection of information as far as possible. He or she is responsible, at the risk of being found guilty of judicial misconduct, for any negligence that unnecessarily delays the investigation and prolongs the detention.

8. Article 7: Procedure guaranteeing rights of defence

119. Within the scope of application of article 7 of the Convention, the Public Prosecution Service and the Prison Administration Department inform the diplomatic and consular representatives of countries whose citizens are being detained in Mauritania of the progress of their legal situation in order to protect their rights as far as possible.

(a) Right to counsel

120. Any person, regardless of nationality, who is prosecuted for acts of torture under the classifications used by Mauritanian law has the right to counsel in accordance with article 57 of the Code of Criminal Procedure, which enables a senior law enforcement officer to authorize the presence of a lawyer.

(b) Fair treatment at all stages of the proceedings

121. The preambular article of Order No. 2007.36 amending Order No. 83.63 of 9 July 1983 establishing the Code of Criminal Procedure states that “criminal proceedings must be fair, allow due participation of the contending parties and maintain the balance between the rights of the parties”. They must guarantee separation between the prosecuting authorities and the judicial authorities.

122. Persons in similar conditions who are prosecuted for the same offences should be judged according to the same rules.

(c) Presumption of innocence

123. The presumption of innocence is guaranteed by the Preamble to the Constitution which states that presumption of innocence is the guiding principle and that every person is presumed innocent until a court establishes his or her guilt.

(d) Equality before the courts

124. According to article 21 of the Constitution, “Any alien who is regularly present in Mauritanian territory enjoys the protection of the law in respect of his or her person and property.” This constitutional protection grants aliens the same status as Mauritanian nationals, thus guaranteeing equal treatment before the law.

125. The rules of evidence for torture are the same for both Mauritanian nationals and aliens. Aliens are entitled to equal access to justice, without any discrimination based on their nationality. They are entitled to effectively exercise the rights to legal recourse, including formal objections, appeal and judicial review.

126. Offences may be proven by all means of evidence in line with articles 293 to 317 of the Code of Criminal Procedure: confession; witness evidence; official records and reports relating to the offence in general; and forensic reports.

127. An expert may be called to testify under oath, if necessary.

9. Article 8: Extradition

128. Under the Code of Criminal Procedure, all perpetrators of serious or ordinary offences may be extradited if they are not of Mauritanian nationality and if their alleged offences are not covered by the following criteria:

(a) The offences have already been subject to final judgements in Mauritania;

(b) The time limit for prosecution or enforcement of the sentence has expired;

(c) The offences were committed wholly or partially in Mauritanian territory;

(d) The offences were committed outside the territory of the requesting State by an alien to that State, where Mauritanian legislation does not authorize the prosecution of those offences when committed outside its territory by an alien;

(e) An amnesty has been granted in the requesting State or an amnesty has been granted in Mauritania, provided that, in the latter case, the offence is among those that may be prosecuted in Mauritania in cases where it is committed outside its territory by an alien.

10. Article 9: Mutual judicial assistance

129. Mauritania is a State party to the Convention concerning Mutual Judicial Assistance between France and a number of Francophone countries and the Riyadh Convention on Judicial Cooperation between Arab countries.

11. Article 10: Education and information regarding the prohibition of torture

130. Since 2007, those involved in the justice system have attended training sessions on the prohibition of torture and the disciplinary, penal and civil sanctions incurred by perpetrators of such acts. To that end, training and information seminars for persons who may be involved in the custody, interrogation or treatment of any individual arrested, detained or imprisoned are regularly organized by the Ministry of Justice in collaboration with the National Human Rights Commission and the Ministry of the Interior.

131. More specifically, in order to give practical effect to article 10 of the Convention, modules on the prohibition and prevention of torture have been taught since 2010 by the National School of Administration, Journalism and the Judiciary, and the National Police School, for judges, police officers and senior law enforcement personnel, and at the El Mina Care and Social Reintegration Centre for children in conflict with the law, which provides regular training on the prevention of torture for prison administration officials.

132. In addition, awareness-raising seminars are given to physicians in order to enable them to assist in the fight against torture in all forms. This training emphasizes the prevention and prohibition of torture and other cruel, inhuman or degrading treatment.

12. Article 11: Monitoring and treatment of persons subject to arrest or detention

(a) Protection of the person in custody

133. Under article 37 of the Code of Criminal Procedure, the public prosecutor directs the work of the law enforcement staff, in particular the officers responsible for gathering evidence and proof with a view to establishing that an offence occurred. In carrying out

their duties, they act under the direction and control of the public prosecutor, who, in his or her role as member of the Prison Oversight Commission, may at any point initiate a review of the regularity and legality of detention in police custody or in prison. The law enforcement staff are obliged to report the results obtained to the public prosecutor and submit to him or her the records of investigations, including information on the period of custody.

134. In order to prevent all acts of torture, article 36, paragraph 3 of the Code of Criminal Procedure states that:

“When a suspect is detained by law enforcement personnel, the public prosecutor is obliged to carry out, in the presence of a lawyer, an interrogation regarding the suspect’s full identity, the accusation being brought and the conditions in which the event occurred. This interrogation should be recorded in a written report.”

Non-respect of these provisions renders the procedure null and void.

135. Moreover, the presence of a lawyer from the first hour of custody for minors and from the last hour of the first period of custody for adults makes it possible to avoid torture or ill-treatment taking place during interrogation or custody.

(b) *Detention in prison establishments*

136. Pretrial detention may only be ordered by the investigating judge when it is justified by the seriousness of the events, or if it is necessary to prevent the disappearance of evidence of the offence, the flight of the accused or the commission of new offences.

137. However, under article 139 of the Code of Criminal Procedure:

“In all cases of pretrial detention, the investigating judge is obliged to expedite the collection of information as far as possible. He or she is responsible, at the risk of being found guilty of judicial misconduct, for any negligence that unnecessarily delays the investigation and prolongs the detention.”

138. Indeed, in accordance with the provisions of that article, if the investigating judge does not conclude investigations by issuing rulings, the detainees are brought by the governor of the prison before the public prosecutor, who brings them before the investigating judge, who must release them immediately, except if they are detained for another reason.

(c) *Independent control and monitoring mechanism at places of detention*

139. Prisons are monitored in three ways. Firstly, systematic visits are organized by the prison administration. The services responsible for social reintegration, follow-up of criminal prosecution and health care are present every day, and the dietary services ensure that menus are adhered to and food is provided in sufficient quantity and of sufficient quality.

140. Secondly, the judicial authorities, in particular the prosecutors, investigating judges and court administrators, are obliged to monitor the situation of the detainees they send to prison. The institution of the position of judge responsible for enforcing sentences also contributes to enhanced monitoring of prison establishments.

141. Lastly, following the example of many countries, Mauritania has a Prison Oversight Commission which is responsible for the monitoring of prisons with regard to cleanliness, safety, food, health care, work and discipline, observation of regulations, record-keeping, teaching and the preparation of detainees for their return to society. In addition, the National Human Rights Commission may take up cases of human rights violations,

including torture and ill-treatment. It submits reports to the relevant authorities if it finds human rights violations, including any ill-treatment or torture of persons deprived of their liberty.

142. Similarly, Mauritanian prisons are visited by national and international human rights NGOs, such as Amnesty International, as well as international organizations, such as the International Committee of the Red Cross or United Nations rapporteurs on human rights-related issues.

13. Article 12: Impartial investigation in the event of an act of torture

(a) Competent authorities in criminal matters

143. As no definition of acts of torture is included in Mauritanian law, persons suspected of committing an act of torture are prosecuted under the terms used for assault and battery or intentional homicide. In addition, when there is reason to think that an act of torture or ill-treatment has been committed, senior officers of the law enforcement agency of which the alleged perpetrator is a member, the public prosecutor or the investigating judge, once informed of the situation, may then take the necessary measures to organize an immediate investigation to establish the facts.

144. The law enforcement agency of which the alleged perpetrator is a member is then able to proceed with an investigation and replace the offending agent with another. The situation should then be reported to the public prosecutor and instructions requested on how to proceed.

145. On the basis of information or reports regarding the occurrence of an act of torture or ill-treatment (as defined in current national legislation), the public prosecutor may launch an investigation to establish the truth of the allegations. Where there is found to be a serious case to answer, the person may be charged and brought before the relevant court.

146. The investigating judge may inform the public prosecutor of any act of torture or ill-treatment uncovered by the investigation. The public prosecutor decides what course of action to follow and may take steps to open an inquiry. The results of such an inquiry may be communicated to the investigating judge in order to help him or her to reach a decision, excluding any confessions obtained by torture. The perpetrator of acts of torture is prosecuted in separate proceedings.

147. It is thus the responsibility of the criminal court hearing the case to pronounce a sentence against a torturer, where there is deemed to be sufficient evidence.

(b) Competent authorities in disciplinary matters

148. The body that has disciplinary powers and is competent to institute disciplinary procedures against an offending judge is the Supreme Council of the Judiciary. This body has a disciplinary section, presided over by the President of the Supreme Court, for cases involving a judge, and a disciplinary section presided over by the Prosecutor-General of the Supreme Court, for cases involving a prosecutor.

149. The competent authority for the national police is the National Police Disciplinary Board.

150. For the gendarmerie, the competent authority is the National Gendarmerie Disciplinary Board.

151. For the prison service, the relevant body is the Civil Service Council, which has the power to take disciplinary action against all civil servants.

(c) Medical examinations and forensic expertise

152. Article 58 of the Code of Criminal Procedure states that:

“Any person deprived of their liberty through arrest or detention or any other form of deprivation of liberty must be treated in accordance with respect for human dignity. Mental or physical ill-treatment of detainees and the holding of detainees in places other than those provided for by law are prohibited.”

Often, on their own initiative or at the request of detainees, law enforcement officers have requested medical expertise to determine a detainee’s state of health before custody begins.

(d) Sanctions imposed

153. Following prosecution for acts of torture, if there is sufficient evidence, the sanctions set out in the Criminal Code and Code of Criminal Procedure are imposed by the courts.

14. Article 13: Right of complaint

154. Acts of torture come under common law and are prosecuted in accordance with the procedures used to investigate, prepare, rule and, where appropriate, punish cases of intentional assault and battery or homicide. To that end, the victims of such acts may use common law procedures to recover their rights. This means that many remedies are open to them.

(a) Remedies open to victims

155. **Judicial remedy.** Victims have the right to complain to senior law enforcement officers or the public prosecutor, who will assess the advisability of prosecution. If they consider the complaint to be well founded, they initiate a prosecution by means of direct summons, summary proceedings or a pretrial investigation.

156. Victims may also apply to the National Human Rights Commission, which is able to carry out investigations and inform the competent authorities. It is authorized to receive and examine individual and group complaints related to human rights violations. The results of the investigations may be used by the competent authorities to establish the truth of the allegations.

157. Lastly, the possibility of suing for compensation in criminal proceedings before an investigating judge also allows victims of torture to recover their rights, in accordance with article 75 of the Code of Criminal Procedure, which states that:

“Any person who claims injury as a result of a serious or ordinary offence may sue for compensation in criminal proceedings before an investigating judge by lodging a complaint.”

158. In this case, the proceedings are brought and referred to the court, unless there are legal reasons that prevent such a referral, such as the expiry of the time limit for prosecution, an amnesty, the death of the perpetrator, or if the case has already been heard.

(b) Mechanisms to ensure the protection of complainants or witnesses

159. Mauritanian legislation still does not contain any specific legal measures on the protection of complainants, witnesses or investigators and their families against any act of intimidation or reprisals resulting from complaints related to torture or ill-treatment. Mauritania also does not have any services specialized in dealing with the fight against torture.

160. However, legislation on the fight against terrorism includes provisions that cover the protection of investigators and their families. It is planned to extend this protection to cover those involved in the fight against torture who could be the subject of acts of intimidation or reprisals as a result of investigations carried out or reports issued within the scope of a complaint made regarding torture or ill-treatment. This process will begin once discussions regarding the development of a national law against torture have finished.

15. Article 14: Right to obtain redress

(a) Procedures for obtaining compensation for victims of torture

161. Mauritanian legislation does not contain any specific provisions relating to the procedure for obtaining compensation for victims of torture; such victims must refer to the common law in order to claim redress. In order to do so, they can cite article 2 of the Code of Criminal Procedure, which states that: “Civil proceedings for redress for harm caused by a serious, ordinary or minor offence are available to all persons who have personally suffered harm as a direct result of an offence.”

162. Claims for compensation may be instituted at the same time as the case is prosecuted and before the same court. Such proceedings are admissible for all types of loss or injury, whether material, physical or mental, resulting from the offences forming the subject of the proceedings. They are also admissible for all types of loss or injury attributable to the person being prosecuted that are connected with the events for which the prosecution is being brought.

(b) The “humanitarian liability”

163. 2009 saw a satisfactory outcome to the continued “humanitarian liability” of acts of violence committed at the heart of our armed forces and security services between 1987 and 1991.

164. The process of resolution of this significant issue has led to the recognition of the responsibility of the State in the painful events, the duty to provide justice and redress, the duty to remember and forgiveness.

165. This has materialized thanks to a consultative process between the Government and claimants, leading to commitment on the part of both parties to reach an arrangement in accordance with Mauritanian law and the values of this Mauritanian, Muslim, Arab and African people, as well as international commitments.

166. All of these elements resulted in the prayer in memory of the victims, held at Kaédi on 25 March 2009, the payment of compensation to claimants and the taking of a census of civil servants and government contract staff who were victims of the events of 1989, with a view to paying them compensation.

167. By organizing the day of national reconciliation held at Kaédi on 25 March 2009, our country decided to turn that page in its history forever.

168. This reconciliation constitutes a crucial step in the resolution of this national issue which lasted for decades and hindered the social, political and economic development of the country.

C. Prohibition on the use of statements obtained under torture as evidence

Article 15: Inadmissibility of any statement obtained under torture

169. The preambular article of Order No. 2007.36 amending Order No. 83-63 of 9 July 1983 establishing the Code of Criminal Procedure states that: “Any confession obtained under torture, violence or duress is inadmissible.” The courts may therefore not consider any evidence that was obtained under torture.

170. To that end, where a confession has been obtained under torture, criminal courts must base their decisions on other evidence. This course of action is further facilitated by the fact that, for criminal cases, Mauritania’s legislation enshrines the freedom of evidence, which may include confessions, witness statements, material or medical evidence and expert opinions. The criminal judge may then base a conviction on evidence other than that obtained under torture.

D. Measures taken to prevent acts that constitute ill-treatment

Article 16: Prohibition of cruel, inhuman or degrading treatment or punishment

171. Mauritania’s legislation defines torture indirectly. Article 13 of the 20 July 1991 Constitution, amended in 2006, states that: “Any form of mental or physical violence is prohibited”.

172. The preambular article of Order No. 2007.36 amending Order No. 83-63 of 9 July 1983 establishing the Code of Criminal Procedure states that: “Any confession obtained under torture, violence or duress is inadmissible”.

173. Article 10 of Order No. 2005.015 of 5 December 2005 on the judicial protection of children states that: “The subjection of children to torture or to acts of barbarity shall be punishable by six years’ rigorous imprisonment”. Under article 11, the offender may be sentenced to 15 years’ rigorous imprisonment if the offence is committed repeatedly against a child or if the offence occasions damage, mutilation or permanent disability, or to life imprisonment if it unintentionally causes the death of the child.

174. Article 15 of the National Police Regulations Act, No. 2010.07 of 20 January 2010, states:

“Members of the national police shall refrain from any act that infringes individual or collective freedoms, except in cases stipulated by law, and in general from all cruel or degrading treatment that violates human rights.”

175. Training provided to custodial staff underlines the criteria for determining cruel, inhuman or degrading acts, based on the idea of the inviolability of the person and respect for personal dignity.

176. Furthermore, based on the experience of States governed by the rule of law, the trainers use the following in defining acts that constitute ill-treatment:

- (a) Long-term detention of asylum seekers during consideration of their application;
- (b) Detention in a cell for 22 hours per day without any activity to occupy the prisoner;
- (c) Lack of separate facilities for men, women and children held in detention;
- (d) Inappropriate use of chemical, irritant, incapacitating and mechanical weapons by law enforcement authorities in the context of crowd control;

- (e) Reprisals, intimidation or threats against persons who expose acts of torture or ill-treatment;
- (f) Payment by prisoners for part of the cost of their imprisonment.

Living conditions in prisons

177. With a view to preventing arbitrary detention, the conditions for admission to a detention centre are regulated by articles 642 to 650 of the Code of Criminal Procedure.

178. No one may be deprived of liberty except by a decision of the judicial authorities ordering his or her detention pending trial or in application of a binding judgement sentencing him or her to imprisonment, detention or enforcement against the person.

179. Detention may take place only in prisons under the authority of the Ministry of Justice.

180. Accused persons, defendants and persons charged may be held in pretrial detention from the day of their arrest, whatever the grounds for their imprisonment.

181. When a custodial sentence is handed down, the period of pretrial detention is deducted from the length of the sentence.

182. During the pretrial detention, the investigating judge, the presiding judge of the court of misdemeanors, the presiding judge of the criminal court, the public prosecutor and the prosecutor-general at the court of appeal can give all the necessary orders, in respect of both the investigation and of any other step in the proceedings.

183. Accused persons, defendants and persons charged who are held in pretrial detention are placed in a special section of the prison at their place of detention. They are held separately from convicted prisoners and kept in individual cells day and night.

Enforcement of sentences of imprisonment

184. Those sentenced for serious indictable offences, those sentenced for misdemeanours and those sentenced for minor offences are, where possible, held in separate quarters within the same prison.

185. Convicted prisoners are separated in prisons according to their category of offence, their age, sex, state of health and personality.

186. Persons given custodial sentences for crimes or offences under ordinary law are compelled to work. Each prisoner's earnings are allocated according to regulations established by decree.

187. Every prison has a register which is signed and initialled on each page by the public prosecutor. Any agent enforcing a sentence or judgement, a judgement or conviction and sentence, a committal or arrest warrant, or a warrant to bring a suspect or an accused person before the investigating judge or public prosecutor immediately, on the basis of which the suspect is placed in pretrial detention or given a committal note, must, before delivering the person concerned to the prison governor, ensure that the details of the document are entered in the prison register. The governor shall sign a discharge on receipt of the prisoner.

188. Where performance of the penalty is voluntary, the governor shall include on the prison register information from the sentence or judgement submitted by the prosecutor-general of the court of appeal or the public prosecutor.

189. In all cases, the governor shall note the date of imprisonment and the prison register number on the document submitted, and send that document immediately to the prosecutor-general of the court of appeal or the public prosecutor.

190. The prison register must also record the prisoner's date of departure in accordance with the release order and, where applicable, the court decision or the legal provision on which the release is based.

191. On pain of being prosecuted and found guilty of arbitrary detention, a prison governor may neither accept nor hold any person except pursuant to a judgement or conviction and sentence, a committal or arrest warrant, or a warrant to bring a suspect or an accused before the investigating judge or public prosecutor immediately, on the basis of which the suspect is placed in pretrial detention or given a committal note, nor without the detention being noted in the prison register.

192. Non-respect of these provisions is punishable by disciplinary and criminal proceedings.

Prison violence and related prosecution

193. A detainee who utters threats or insults, resorts to violence or commits a disciplinary offence may be isolated in a special cell or even subjected to means of coercion or pressure in the case of rage or serious violence, in addition to any proceedings that may be brought against him or her.

Prison oversight

194. The investigating judge, the judge responsible for the enforcement of sentences, the public prosecutor and the procurator-general to the court of appeal carry out prison visits. Prisons are also placed under the oversight of prison oversight commissions.

Juvenile detention conditions

195. Juveniles are placed in separate quarters from adults. Detained juveniles are held in age-appropriate conditions. They enjoy the right to education and training. They also enjoy the same rights as adults, including the right to receive visits, the right to communicate with family members and the right to be assisted by counsel.

El Mina Reception and Social Reintegration Centre

196. Mauritania's semi-open centre for the social reintegration of children in conflict with the law was set up by Ministry of Justice Decree No. 0692 of 21 March 2010 establishing the El Mina Reception and Social Reintegration Centre.

197. The Centre, which comes under the Ministry of Justice, has the mandate described in Order No. 2005.015 of 5 December 2005 on the protection of children under criminal law.

(a) It accepts children of both sexes who are aged between 13 and 18 years, or were minors at the time of the offence, who are in the judicial system (whether detained or not) on the basis of a judicial placement order, and have been sentenced or are at another stage of the criminal procedure, with the aim of their social reintegration;

(b) It gives judges the possibility of adopting educative measures as an alternative to simple detention (preamble) and ensures that the judicial authorities work together (e.g., ensuring that the child is accompanied during the hearings, contact between judges and juveniles);

(c) It provides training for the Centre's staff.

198. The Centre's services are intended to help children of both sexes in conflict with the law, their families, juvenile judges and prosecutors, and Ministry of Justice staff.

199. The services provided by the Centre are:

(a) Care: information on the child's rights, medical check-up and health care, psychological counselling and consultation, the provision of clothing and personal hygiene supplies, accommodation, canteen facilities and leisure activities (sports, videos and library);

(b) Education and training: educational counselling and support, literacy training, civic education, school enrolment, vocational training (dressmaking, information technology, mechanics, carpentry), the arts and sport;

(c) Social reintegration: involvement of families and staff of the social services and the judicial system, funding and establishment of individual projects, educational monitoring and technical assistance for the child.

200. The Centre has the following facilities and equipment:

(a) Accommodation (three dormitories with a total capacity of 40 places for boys and 20 for girls) with showers and toilets;

(b) A canteen, a football pitch and a volleyball court;

(c) A multipurpose hall with a projection screen and a television for literacy training in Arabic and French, events and awareness-raising activities, vocational training workshops (dressmaking, hairdressing, cooking, electrical training, information technology, bricklaying, tiling, mechanics, carpentry and metalwork, plumbing) and a library;

(d) An administrative office with computers and printers;

(e) A hospital wing with basic medical supplies, isolation rooms, beds and qualified nursing staff, a psychological counselling room;

(f) A guardroom for the security and monitoring service;

(g) Three vehicles.

201. The educational message is that:

(a) The child must understand that the Centre is not a prison. In a prison, the term served is based on a penalty proportionate to the seriousness of the offence, whereas in the Centre the length of stay is based on re-education and hence can be personalized for each child and independent of the seriousness of the offence;

(b) The child is reminded that every human being has rights (the rights to life, to health, to respect, to physical integrity and security, to property, etc.);

(c) Rights and duties go together: duty is generally defined as meaning respect for the rights of others. For instance, the Centre's internal regulations require that the child carries out certain duties to facilitate its activities, which are intended to help realize the child's rights and aid his or her social reintegration.

202. Social reintegration is possible if the child participates willingly and sincerely. The Centre can offer the child a training programme in areas that can help with finding a job later on. The Centre is committed to including the child's family, social environment and the various authorities concerned (judges, police, social workers, etc.) on the path to social reintegration. However, the child must take an active part in the process and demonstrate through his or her behaviour that social reintegration is a possibility.

203. The Centre thus offers the child civic values through different forms and means (classes in civic education, audiovisual sessions, testimonies, role play, sport) whereby the child can make an active contribution. In monthly assessments, the staff team then looks at the level and sustained nature of the child's participation to see how far he or she has come

in civic education, which is indispensable to his or her social reintegration. The Centre uses a system of monitoring and evaluation forms for each child.

204. In pedagogical terms, individual social reintegration projects are put together by the director, the educational coordinator, the social health worker, educators and monitors, who all help to identify the young person's potential and build up relations with the family and a partnership with the juvenile judges, social workers and police in the area where the child will be reintegrated.

205. Gaining the child's trust is the most important part of the project because, if the child will not participate, it is doomed to failure. The heart of the educational approach is to transmit to the child the desire for knowledge, a love of work and confidence in his or her own resources.

206. The child must feel respected, encouraged, informed and guided so as to be capable of making the most of his or her own personal capacities. For example, sports competitions should be based on the child's desire to take part, acceptance of his or her limits, recognition of others' capacities, respect for the rules of the game and on solidarity between the competitors, all of whom are committed to extolling the virtues of competition.

207. The educators should pay particular attention to those pupils who come last and have more problems, trying by all means to understand the causes of their lack of success. A teacher must be able to teach the most reluctant of pupils; if not, it is the teacher, not the child, who is not up to the mark.

IV. Conclusion

208. In accordance with its obligations under the Convention and with its candidature for membership of the Human Rights Council, Mauritania is working tirelessly to promote and protect human rights.

209. In that context, the Government, on the instruction of the President, has today, with the drafting and submission of this report, decided to begin a permanent constructive dialogue with the Committee Against Torture on the implementation of the Convention.

210. Mauritania thereby reaffirms its commitment, made when it appeared before the Working Group on the Universal Periodic Review in November 2010, with the intention of defining and punishing acts of torture through the adoption of a special Criminal Code and bringing to justice the perpetrators of torture and other cruel, inhuman or degrading treatment or punishment.

211. It also reiterates its commitment to the ideals, principles and values expressed in its Constitution and the regional and international instruments to which it is a party.
