



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Consideration of reports submitted by States  
parties under article 40 of the Covenant**

**Initial reports of States parties**

**Mauritania\***

[13 February 2012]

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\* 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.

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## Abbreviations and acronyms

AU	African Union
AMU	Arab Maghreb Union
ANAIK	National Agency to Assist and Integrate Refugees
CBM	Central Bank of Mauritania
CDHAHRSC	Commission for Human Rights, Humanitarian Action and Civil Society
CNDH	National Human Rights Commission
GDP	Gross domestic product
HDI	Human Development Index
IAEA	International Atomic Energy Agency
ILO	International Labour Organization
IMF	International Monetary Fund
LAS	League of Arab States
MIDEC	Ministry of the Interior and Decentralization
MINURSO	United Nations Mission for the Referendum in Western Sahara
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
OAU	Organization of African Unity
ONS	National Office of Statistics
SNIM	National Industrial and Mining Company
UNDP	United Nations Development Programme

## **I. Introduction**

1. This report is submitted by the Islamic Republic of Mauritania pursuant to article 40 of the 1966 International Covenant on Civil and Political Rights.
2. It follows the Human Rights Committee's guidelines for the presentation of initial reports and covers the period 2005–2011.
3. It has been drawn up by the human rights section of the Commission for Human Rights, Humanitarian Action and Civil Society (CDHAHRSC) working in partnership with all the departments and bodies concerned.
4. The preparation of this report and its subsequent submission to the Committee were delayed by several factors, the main one being the institutional and political instability reigning in the country from 2005 to 2008.
5. The return to the normal constitutional system following the presidential elections in July 2009 and recent social, economic and political progress are achievements of the current Government, which is committed to promoting human rights and freedoms.
6. The Government wishes to take this opportunity to assure the Committee of its willingness to engage in a constructive, continuous dialogue on the implementation of the provisions of the Covenant.
7. At the same time, it reiterates its commitment to striving to ensure the respect, promotion and protection of human rights in general, including those related to civil and political rights.
8. This report which Mauritania is submitting to the Human Rights Committee comprises two parts: (a) general information on the country, and (b) implementation of the substantive provisions of the International Covenant on Civil and Political Rights.

## **II. General information on Mauritania**

### **A. Demographic, economic, social and cultural information**

9. Mauritania lies between lat. 15° and 27° N and long. 6° and 19° W, with a surface area of 1,030,700 km<sup>2</sup>. 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.
10. The population of Mauritania is estimated to be 3,340,627 inhabitants, most of whom live in Nouakchott, the country's administrative capital, and in Nouadhibou, its economic capital.
11. Mauritania is a multi-ethnic and multicultural country. Arabs make up the majority of the population, which also includes Fulani, Soninke and Wolof minorities.
12. Foreigners constitute almost 2.2 per cent of the population. They mainly live in Nouakchott and Nouadhibou and are active in the fields of industry, construction, services and bilateral and multilateral cooperation.

Table 1

**Demographic data**

<b>Total resident population</b>	<b>3 340 627</b>
Urban population	38.1%
Annual population growth rate	2.4%
Life expectancy at birth	56.6 years
Working population	57%
School-age population	57%
Religion	100% Muslim

*Source:* National Office of Statistics (ONS).

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

**Economic data**

14. 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.”<sup>1</sup>

**Economic structure**

15. 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)

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 (as a % of non-oil GDP)	32%
Budget deficit excluding grants and oil (as a % of non-oil GDP)	9.6%

<sup>1</sup> International Monetary Fund (IMF) Country Report No. 11/189, June 2011.

<i>Indicators</i>	<i>2010</i>
Current account balance (as a % of GDP)	-11.9%
Reserves in months of imports	2.5
Average annual inflation rate	4.8%

*Sources:* ONS and Central Bank of Mauritania (CBM).

## **B. Constitutional, political and legal structure**

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

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

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

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

20. Legislative power is exercised by the Parliament, which adopts laws and oversees Government action. The Parliament is divided into a lower house, the National Assembly, and an upper house, the Senate.

21. 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 to promote political, economic and social development.

22. 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.

23. 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).

24. 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.

25. Article 138 of the Code of Criminal Procedure, which establishes the pretrial detention regime, provides that such detention may be ordered only 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) Abscondence of the accused, or the commission of new offences.

26. At the pretrial detention stage, the investigating judge must expedite the proceedings and is responsible, at the risk of being held guilty of judicial misconduct, for any negligence that unnecessarily delays the investigation and prolongs pretrial detention.

### **C. Political and institutional developments**

27. Mauritania's colonization was brief, stormy, late and superficial. Its present borders were established by the Treaty of Paris of 29 June 1900, but territorial annexation, which met with fierce national resistance, did not end until 1935. After many mutations in the colonial system, Mauritania adopted its first constitution on 22 March 1959.

28. The 1959 constitution, which introduced a parliamentary system, was short-lived. Mauritania's attainment of international sovereignty on 28 November 1960 necessitated the adoption of a new constitution.

29. The Constitution of 20 May 1961 ushered in a presidential regime which inexorably slid into a one-party system. The latter was ultimately worn down by national economic problems and sorely tried by the multiple consequences of drought in the Sahel and, above all, by the repercussions of the war in Western Sahara in which Mauritania was engaged at that time. It came to an end on 10 July 1978.

30. The country was ruled by a military government between 1978 and 1984 against a background of political instability, as well as internal and external strife. Despite the continuing state of emergency, stability and opening up gradually culminated in 1992 in the advent of a normal constitutional regime preceded by the holding of general municipal elections in 1986.

31. The establishment of a democratic, pluralist system after the adoption of the Constitution of 20 July 1991 has meant that the country has held several elections.

32. In 2007, Mauritania completed the process of institution-building after a transition which lasted for 19 months. The municipal elections held in 2006 were followed by legislative and presidential elections in 2007. All observers hailed this electoral process as free and transparent.

33. Since then, the country has embarked on the path of democracy, of addressing national human rights concerns (organization of the voluntary return of Mauritanian refugees from Senegal after the distressing events of 1989, unresolved humanitarian issues and slavery) and of strengthening the rule of law. Eighty-one political parties are currently recognized, some of which are represented in Parliament.

34. In order to encourage political expression, the authorities instituted a mechanism for funding all political parties that received at least 1 per cent of the vote in municipal elections. Unfortunately this experiment failed because the President elect refused to accede to the demands of the parliamentary majority (to convene an extraordinary session of the National Assembly on bringing a motion of censure against the Government).

35. This explains the rectification movement of 6 August 2008, which led to the Presidency being replaced by the High Council of State, although the other democratic institutions were kept in place until the presidential elections. These were initially planned for June 2009, but they were postponed until 18 July 2009 in response to the Dakar Accord brokered by the international community between the various political factions.



36. The presidential elections of 18 July 2009 resulted in the victory of the candidate Mohamed Ould Abdel Azis in the first round (52.58 per cent). This outcome indicates his popularity and that of his programme which was supported by most Mauritians.

37. The elections went smoothly despite the short time available for their organization. Observers from Africa, the Arab countries, Europe and the United States recognized their transparency and genuineness.

38. Today Mauritania, in building on the progress which it has already recorded, is more determined than ever to make the promotion and protection of human rights the linchpin of its development policy. This policy is reflected in the implementation of some ambitious economic and social programmes designed to improve citizens' daily life, such as access to a water supply, health services, education and housing for the poor.

#### **D. Treaty-based undertakings related to human rights**

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

40. 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.

41. Mauritania is a State party to several legal instruments, principally:

(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;
- 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 Protection 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.

## **E. Judicial, administrative or other authorities invested with the power to investigate matters covered by the Covenant**

### **1. Judicial authorities**

#### *(a) Constitutional Council*

42. The Constitutional Council is an autonomous judicial body which was created by the Constitution of 20 July 1991, as amended in 2006, to replace the former Constitutional Chamber of the Supreme Court. Its addition to Mauritanian judicial bodies constitutes a further step towards safeguarding human rights.

43. The Constitutional Court comprises six members nominated 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).

44. The members of the Constitutional Council are appointed for a non-renewable, nine-year term of office. They enjoy security of tenure and the same immunities as parliamentarians.

45. The Council's main duty is to ascertain whether laws, international treaties and the rules of procedure of the National Assembly and the Senate are in conformity with the Constitution. In this capacity, it may declare legislative provisions unconstitutional if they are not in accordance with the Constitution.

46. In the words of article 87 of the Constitution "the decisions of the Constitutional Council are final [...]. They are not subject to appeal and are binding on the public authorities and on all administrative and judicial authorities."

47. At this point, it is necessary to stress the particular role played by the Constitutional Court in the protection of rights and freedoms. It has already declared several texts to be unconstitutional, among them the rules of procedure of the National Assembly and the Senate, the Judicial Service (Organization) Act, the Organization Act on the election of senators representing Mauritanian expatriates and the Act on combating terrorism.

#### *(b) Courts and tribunals*

##### *(i) The High Court of Justice*

48. The High Court of Justice is made up 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 its President from among its members. An organization act lays down the Court's membership, its rules of procedure and the procedure for bringing cases before it.

49. It is responsible for hearing cases concerning senior representatives of the State (the President of the Republic, the Prime Minister or ministers).

50. The President of the Republic may not be arraigned for acts committed in the exercise of his or her functions except in the case of high treason.

51. He or she may be indicted only by the joint action of both houses of parliament, provided that their members adopt an identical motion by an absolute majority in a public ballot. He or she is tried by the High Court of Justice.

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

## (ii) Courts

53. 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.

54. 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. 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.

55. The location and jurisdiction of the courts are established by Cabinet decree on the basis of reports by the Minister of Justice. The only exception is the Supreme Court, located in Nouakchott, whose jurisdiction covers the entire country. The judicial year begins on 1 January and ends on 31 December. It includes a vacation period of three months from 16 July to 15 October. Hearing dates, times and venues 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.

56. Courts and tribunals may hold itinerant hearings within their area of jurisdiction.

57. Court hearings are held in public, except when doing so would pose a threat to law and order or constitute 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 delivered 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, registry fees, court officials' salaries and expenses incurred in the investigation of cases or execution of court decisions. Legal fees are set by decree. Means-tested legal aid may be granted to parties, subject to the conditions laid down by the law.

58. 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.

59. Only courts established by law may hand down sentences.

60. Justice is delivered in the name of Allah, the Most High, the Almighty. 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 laid down in the Code of Civil, Commercial and Administrative Procedure and the Code of Criminal Procedure.

61. 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.

62. The general assembly brings together all members of the court under its president.

63. The general assembly deals with 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.

64. A general inspectorate of court and prison administration, which reports directly to the Ministry of Justice, has general responsibility at all times for inspecting courts and tribunals (except the Supreme Court) and all services and bodies that come under the Ministry of Justice. The general inspectorate's organization, running and powers are laid down by decree.

## 2. Administrative authorities

### *Commission for Human Rights, Humanitarian Action and Relations with Civil Society (CDHAHRSC)*

65. The Commission is the ministerial department in charge of human rights.
66. 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 human rights legal 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.

## F. National human rights institutions

67. The main human rights institutions are the Office of the Ombudsman and the National Human Rights Commission (CNDH).

### 1. The Office of the Ombudsman

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

69. 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 Office of 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

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

71. The A status, awarded 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.

72. 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 cancels and 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 measures to prevent 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.

73. 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 the 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*

74. 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.

75. 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 human rights legal 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*

76. In this context, the Commission has already submitted three annual reports (2007–2008, 2008–2009 and 2009–2010) to the President of the Republic. They describe 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.

### **III. Implementation of the substantive provisions of the International Covenant on Civil and Political Rights**

#### **Article 1**

#### **Right of self-determination**

##### **1. Self-determination**

77. The equality of peoples is embodied in the preamble to the Constitution of 20 July 1991, inasmuch as it refers to the Charter of the United Nations, the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights. The preamble further states:

“Aware of the need for closer ties with brother peoples, the Mauritanian people, a Muslim, Arab and African people, proclaims that it will strive to achieve the unity of the Greater Maghreb, the Arab nation and Africa, and to consolidate peace in the world.”

78. In this sphere, Mauritania is still on the path which it has set itself since it attained its international sovereignty. Its attachment to the ideas set forth in the Charter of the United Nations, the Constitutive Act of the African Union and the Charter of the League of Arab States underpins its diplomacy which centres on:

- (a) The principle of respect for States and their sovereignty;
- (b) Friendship and cooperation among nations and peoples;
- (c) Good neighbourliness;
- (d) Support of just causes.

79. In this spirit, Mauritania has taken part in several summit conferences of Heads of State and of Government (convened by the African Union, the League of Arab States and the Arab Maghreb Union) which were devoted to freeing peoples from colonial domination.

## 2. Right to dispose freely of natural wealth and resources

80. As a developing country, Mauritania is especially keen to see the coming of a just international economic order. It proclaims its attachment to the right of States freely to dispose of their natural wealth and resources.

81. Since the nationalization of iron ore deposits and the setting up of the National Industrial and Mining Company (SNIM) in 1974, the Government has pursued a policy of maintaining national control over the country's natural assets within a liberal economy. Hence clauses to safeguard the national interest are contained in the contracts to exploit national assets which the country signs with various multinational companies.<sup>2</sup>

82. This applies equally well to the fishing sector, which is a big foreign-currency earner for the country. Significant measures have been taken to protect marine species and ensure their replenishment (three-month ban on fishing during the breeding season). The Mauritanian Oceanographic and Fisheries Research Institute has likewise received support in order to help it to achieve the desired aims.

83. Several aims are pursued:

- (a) To enable the institute to continue its activities in the fields of applied research, the sustainable management of fish resources and the establishment of fisheries and to support professional fishermen through monitoring and health surveys;
- (b) To carry out five-year programmes determined by the Government's fishing policies;

<sup>2</sup> Decrees Nos. 2003-037 of 22 May 2003 granting the Rex Diamond Mining Corporation Limited licence No. 213 for diamond prospecting in the Tasiast area (wilayas of Dakhlet Nouadhibou and Inchiri) and 2003-038 of 22 May 2003 renewing its licence No. 112 for the prospecting of Group 2 substances in the Karet South area (Tiris Zemmour wilaya) specify that this Canadian multinational company undertakes under common article 4 of both decrees “to pay the user fee [...] and annual land royalties [...] to the Treasury's special purposes account”. Similarly, common article 5 of the decrees states that the Rex Diamond Mining Corporation Limited is “bound to observe equivalent price and quality conditions and recruit as a matter of priority Mauritanian personnel and to conclude contracts with national suppliers and entrepreneurs”. Such measures are regularly applied to multinational companies which hold contracts to exploit national wealth, especially in the oil sector.

(c) To build on achievements by gaining a deeper knowledge of fish resources, modernizing the health surveillance of fish farms and completing the establishment and modernization of fisheries infrastructure.

## **Article 2**

### **Implementation of the Covenant at the national level**

84. The preamble to and several articles of the (amended) Constitution of 20 July 1991 refer to and guarantee measures regarding civil and political rights. The preamble to the Constitution proclaims the Mauritanian people's attachment to the "principles of democracy as defined in the Universal Declaration of Human Rights and the African Charter of Human and People's Rights".

85. The articles of the Constitution on elections (art. 3), individual and public freedoms (art. 10), political parties (art. 11), citizens' equality (art. 12), the presumption of innocence and the ban on torture (art. 13) and the right of ownership (art. 15) mean that civil and political rights are incorporated in constitutional law.

86. The courts' independence in matters of establishing and improving appropriate national institutions to promote and protect rights and freedoms is guaranteed by articles 89, 90 and 91 of the Constitution of July 1991 on the independence of the courts and the judiciary's role as a guardian of freedom.

87. The Constitution and the case law of the Constitutional Council make the Covenant an integral part of Mauritanian law. For example, the provisions of the Covenant may be relied upon before national courts and directly applied by them. The constitutional nature of the Covenant's provisions is reinforced by article 80 of the Constitution which states that "treaties or agreements which have been duly ratified or approved shall, as soon as they are published, take precedence over legislation".

## **Article 3**

### **Equality of men and women**

88. This intrinsic constitutional principle is set forth in the preambular article to the order containing the Code of Criminal Procedure and its constitutional status is borne out by the preamble to the Basic Law which reads:

*"Whereas human freedom, equality and dignity may be assured only in a society which honours the rule of law, the Mauritanian people, being minded to create lasting conditions making for harmonious social development respecting the precepts of Islam, the only source of law and open to the requirements of the modern world, proclaims in particular the inalienable guarantee of the following rights and principles:*

- The right to equality;
- Fundamental human rights and freedoms;
- The right of ownership;
- Political and trade union freedoms;
- Economic and social rights; and
- The rights of the family as the basic unit of Islamic society."



89. The first article of the Constitution confirms this equality when it states that “the Republic guarantees all citizens equally before the law, without distinction as to origin, race, sex or social condition”.

90. The rights which are protected by the above-mentioned first article are also guaranteed by the preamble to the Constitution of 20 July 1991 which says that “human freedom, equality and dignity may be assured only in a society which honours the rule of law”.

91. The principle of citizens’ equality before the law is established by article 1 (2) of the Constitution which specifies that “the Republic guarantees all citizens equality before the law, without distinction as to origin, race, sex or social condition”. Various legal texts (Labour Code, Civil Service Regulations, etc.) abide by this democratic principle.

#### **Article 4**

##### **Derogations in time of public emergency**

92. Article 4 of the Covenant specifies that in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, States parties may take measures derogating from their obligations under the Covenant. Within this framework, article 39 of the Constitution stipulates:

“When an imminent danger threatens the institutions of the Republic, the security or the independence of the nation or its territorial integrity and when the normal functioning of the constitutional authorities is impeded, the President of the Republic shall take such measures as are required by the circumstances, after officially consulting the Prime Minister and the Presidents of the National Assembly, the Senate and the Constitutional Council. He shall inform the nation thereof by a message.

These measures, which shall be prompted by a determination to restore the continued, normal functioning of the public authorities as soon as possible, shall cease to have effect in these forms as soon as the circumstances giving rise to them come to an end.”

#### **Article 5**

##### **Prohibition of a narrow interpretation of the Covenant**

93. The Covenant is often interpreted after it has been studied in detail by a criminal court which, like its civil counterpart, bases itself on the principle *in dubio pro reo*. Accordingly, unless rights stemming from the Covenant are expressly restricted by a law, they are all interpreted broadly in favour of their beneficiaries. To date, no law or regulation has restricted the scope of the rights laid down in the Covenant.

#### **Article 6**

##### **Right to life**

94. The right to life is protected by Part II of Order No. 083-162 of 9 July 1983 establishing the Criminal Code and entitled “Crimes and offences against the individual”. Chapter one thereof, on crimes and offences against persons, lays down penalties for murder and other capital crimes or threatened assault on persons, while reserving the death sentence for murderers, assassins, patricides, infanticides or poisoners.

95. Article 13 of the Constitution stipulates that “all forms of mental and physical violence are prohibited” and that “the honour and privacy of citizens and the inviolability of the human person and of his or her home and correspondence are guaranteed by the State”.

96. There is a moratorium on the implementation of capital punishment. In fact, while provision is made for the death sentence in the Criminal Code, none has been carried out since 1987.

97. The Commission for Human Rights, Humanitarian Action and Civil Society regularly supplies various prisons with material support (food, health products, toiletries, recreational articles, etc.).

98. In addition, in keeping with the recommendations of the African Commission on Human and Peoples’ Rights concerning the implementation of the Robben Island Guidelines, the public authorities are engaged in a policy to prevent inhuman treatment and are constantly endeavouring to improve living conditions for prisoners.

99. Lastly, the President of the Republic, Mohamed Ould Abdel Aziz, has repeatedly pardoned common-law prisoners (more than 100) in order to facilitate former convicts’ social reintegration.

## **Article 7**

### **Prohibition of torture**

100. No provision of Mauritanian law expressly prohibits torture. Article 1 of the Code of Criminal Procedure proscribes it in these terms:

“Any person deprived of liberty as a result of arrest or detention or any other form of deprivation of liberty must be treated in a manner which respects human dignity. The mental or physical ill-treatment of that person, or their detention in premises other than those legally authorized for that purpose is prohibited.”

The preambular article of the Code also specifies that “A confession obtained by torture, violence or constraint is worthless.”

## **Article 8**

### **Prohibition of slavery**

101. Slavery, which constitutes a serious violation of the right to equality and non-discrimination, was abolished in Mauritania by an order in July 1980 and was qualified as a crime in 2007.

102. Although earlier constitutions and that of 1991 affirmed the right to equality and non-discrimination, the adoption of a law specifically abolishing slavery was important, because some consequences of this practice from another age still survived. The promulgation of Act No. 2003-025 of 17 July 2003 on the suppression of trafficking in persons was an attempt to fill that gap.

103. Slavery was qualified as a crime by Act No. 2007-048 of 3 September 2007 making slavery punishable by law and criminalizing slavery-related practices. This Act incorporated the Slavery Convention into Mauritanian law. Article 2 of the Act defines this infamous practice as the exercise of powers of ownership, or some of them, over one or more persons, the slave (a man, woman or child) being the person over whom these powers are exercised.

104. Act No. 2003-025 of 17 July 2003 suppressing the trafficking in persons supplies a firm basis for measures to combat trafficking by giving a clear, precise definition of that offence, which has become a crime, and provides for stiffer penalties when the victim is a child.

105. Act No. 2007-048 of 3 September 2007 specifies that anyone who places a so-called “slave” under physical duress is liable to 6 months’ imprisonment and a fine ranging from 50,000 to 200,000 ouguiyas.

106. 2009 saw the introduction of a programme run by the Commission for Human Rights, Humanitarian Action and Civil Society to eradicate the aftermath of slavery, which was given a budget of a billion ouguiyas funded from State resources.

107. Through this programme the Government intends to reduce socioeconomic inequality by offering better opportunities for earning a living and furthering the emancipation of population groups affected by the traditional practices and aftermath of slavery.

108. The programme has the following specific aims:

(a) Identify population groups affected by the traditional practices and aftermath of slavery;

(b) Make lasting improvements to the target population groups’ access to social services and opportunities for economic development;

(c) Promote a drive for sustainable economic development in areas where population groups affected by the traditional practices and aftermath of slavery have settled;

(d) Increase the level of participation in social and political life of population groups affected by the traditional practices and aftermath of slavery;

(e) Increase all citizens’ commitment and contribution to the eradication of the traditional practices and aftermath of slavery;

(f) Improve the managerial skills and creative thinking of leaders and grass-roots organizations, as triggers of local development, in areas affected by the traditional practices and aftermath of slavery.

109. The programme’s operational strategy is therefore predicated on the following principles:

(a) The programme deals with all aspects of development;

(b) The programme follows a participative approach;

(c) The programme is carried out in close liaison with other current projects and programmes in the area covered by the programme.

## **Article 9**

### **Right to liberty and security of person**

110. The right to liberty and security of person is safeguarded by article 13 of the Constitution which reads:

“Every person is presumed innocent until his or her guilt is established by a lawfully established court. No one may be prosecuted, arrested, detained or punished except in cases established by law and in accordance with the procedures which it prescribes. Citizens’ honour and privacy, the inviolability of the human person and

of his or her home and correspondence are guaranteed by the State. All forms of mental or physical violence are prohibited.”

111. The Criminal Code’s provisions on violence against persons bolsters this protection with stiff penalties.

112. Mauritania has striven to consolidate peace and security throughout the world by:

(a) Strengthening the role of the United Nations in international affairs, especially in the organization of peacekeeping operations. To this end, Mauritania provides the United Nations Mission for the Referendum in Western Sahara (MINURSO) with all the facilities which it requires;

(b) Maintaining peace in Africa through its participation in the African Union’s operation in Darfur (Sudan);

(c) Eliminating weapons of mass destruction and trafficking in small arms.

113. Mauritania’s determination to make a contribution in these areas is reflected in its accession to the Convention on the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention), to the Amended Protocol to the Convention on Conventional Weapons and its joining of the International Atomic Energy Agency (IAEA) in 2003.

114. In order to give effect to its accession to the Ottawa Convention, on 5 December 2004 Mauritania destroyed its stock of anti-personnel mines (some 5,000 devices) during a ceremony presided over by the Minister of Defence and attended by the resident representative of the United Nations Development Programme (UNDP).

115. As a further effort towards the achievement of peace and security in the world, in October 2004 Mauritania hosted the tenth session of the Mediterranean Dialogue of the Mediterranean and Middle East Special Group of the Parliamentary Assembly of the North Atlantic Treaty Organization (NATO).

116. Mauritania, which gives diplomatic backing to the global struggle against terrorism, as the latter is the negation of peace and international security, supports all measures taken at the subregional, regional and international levels.

## **Article 10**

### **Rights of detainees and persons deprived of their liberty**

117. In an endeavour to improve conditions of detention, the Department of Justice, acting in cooperation with the relevant ministries, has introduced new practical, financial and staffing arrangements in order to offer detainees dignified conditions in which to serve their sentences.

#### **1. Institutional measures**

118. An interdepartmental committee has been set up as a channel of constant consultation on detention conditions. Its members are drawn from the ministries of justice, health, the interior and decentralization and town planning. It is responsible for taking urgent decisions in the areas which concern each department in order to improve offender population management.

## **2. Distribution of the prison population**

119. In order to give detainees more space, some prisoners have been transferred to the civilian prison in Nouakchott. Games areas accessible to detainees give them an opportunity to take walks in the sunshine and to practice sport.

120. Similarly, instructions have been given to judges to follow a sentencing policy based more on alternatives to imprisonment which is only a last resort.

121. Lastly, the registration of cases has been facilitated by closer consultation between judges and prosecutors in order to avoid lengthy procedural delays. Moreover, in this context, prison directors have been instructed to preserve each detainee's right of appeal to make up for the fact that some prisoners are unaware of that right.

## **3. Food**

122. The quantity and quality of prisoners' diet has improved thanks to a more efficient stock management and control system covering a whole week. This makes it possible to avoid shortages.

123. A commission chaired by a member of the Cabinet supervises all stages of the supply chain in order to make sure that the food has reached detainees.

124. Similarly the Department of Justice has set itself the goal of ensuring that prisons benefit from the support measures introduced by the authorities to cushion the effects of the rising cost of living.

125. The efforts made by the authorities are supplemented by the food aid supplied by non-governmental organizations and by detainees' families.

## **4. Health and hygiene**

126. In the sphere of hygiene, the prison at Dar Naim now has a hygiene service and a shop containing the requisite products.

127. A senior technician from the Ministry of Health helps the prison staff to manage this sector and ensure that the prison complies with normal standards of cleanliness.

128. It also benefits from cooperation with development partners active in this sphere and with civil society.

129. In the sphere of health, a team of experts examined all the detainees and the premises and subsequently supplied the department with a diagnosis of vital measures to prevent the outbreak of any epidemics in the prison and to eradicate, treat or contain diseases there.

130. As a result of this plan, the prison at Dar Naim has two doctors, nine nurses and a senior hygiene officer.

131. A sufficient stock of the most common drugs and those necessary for urgent medical care are available for use by the medical staff running outpatient services.

132. Prisoners suffering from contagious diseases can be hospitalized in the isolation ward which has been added to the sick bay.

133. Hospitalization and referral to specialists have formed the subject of agreements with the Ministry of Health which has put in place the necessary mechanisms to give detainees adequate emergency care and treatment at any time.

## 5. Personnel

134. Warders and administrative personnel have been made aware of ways and means of improving communication with detainees and of making prison management more efficient by sharing duties between the prison director and his staff.

135. Thus administrative, social and judicial issues are each the responsibility of a separate official and the prison director must bring them to the attention of the central administrative authority in good time.

## 6. Looking ahead

137. In order to rationalize these actions, heighten their efficiency and put them on a permanent footing, there are plans to turn the Dar Naim prison into a health centre, to carry out renovation work to improve hygiene conditions there and to relieve overcrowding in the prison by opening a short-stay prison at Aleg.

### **Article 11**

#### **Imprisonment on the ground of inability to fulfil a contractual obligation**

137. Mauritanian law allows imprisonment for debt. It is used to punish failure to honour contractual obligations. Provision is made for it in (new) article 428 of Order No. 2007-035 of 10 April 2007 amending the Code of Civil, Commercial and Administrative Procedure.

### **Article 12**

#### **Freedom of movement and right to leave and enter one's home country**

138. The Constitution establishes the right of freedom of movement and of choice of place of residence in articles 10 (nationals) and 22 (aliens).

The effectiveness of this right can be seen every day in:

- (a) The prompt issuing of passports to citizens and residence permits to aliens;
- (b) The representation of expatriate Mauritians by three senators covering three geographical areas (Arab countries, Africa, Europe-America and other);
- (c) The simplification of procedures for refugees living in the country. They may travel and enjoy conditions promoting their harmonious integration in the host society.

139. These procedures have just been strengthened to give refugees better protection. For example, a decree of the Council of Ministers of 21 July 2004 re-enacts the measures in favour of refugees which are laid down in the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees and the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa of the Organization of African Unity.

140. Pursuant to this decree, the Government provides the various departments responsible for dealing with the refugee issue with the means to look after them better through measures to implement the above-mentioned Conventions at the national level.

141. In this connection, the decree grants any asylum seeker the possibility of obtaining refugee status if he or she is under the protection of the Office of the United Nations High Commissioner for Refugees, or is recognized as a refugee by a decision of the Mauritanian Government.

142. This decree establishes the essential, formal conditions for applying for refugee status and the procedure for obtaining it. It also defines the conditions on which this status may be revoked, asylum seekers' rights and the obligations inherent in this status.

### **Article 13**

#### **Prohibition of the expulsion of aliens without legal guarantees**

143. As far as refugees are concerned, Decree No. 2005-022 establishing the terms and conditions for implementing international conventions on refugees in Mauritania stipulates in article 9 that "a person enjoying refugee status may be expelled from the territory solely on grounds of security, or if he or she has been given a prison sentence for acts qualified as a crime or an offence".

144. Article 10 of the decree states that "except on compelling grounds of national security or public policy, expulsion shall be ordered only after an opinion has been given by the National Advisory Refugee Commission, to which the person concerned may put his or her case".

145. Expulsion is subject to the following further reservations:

(a) No expulsion order against a person with refugee status may be executed until all judicial remedies have been exhausted;

(b) The procedure for enforcing a final expulsion decision must allow the person concerned a reasonable period of time to gain entry to another country.

146. These provisions apply to anyone whose application for refugee status has been denied.

### **Article 14**

#### **Equality before the law and the right to a fair trial**

147. This right is safeguarded by two fundamental provisions of the Code of Criminal Procedure in addition to those of the Constitution.

(a) Preambular article:

"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 must be judged according to the same rules. The judicial authorities must ensure that victims are informed of their rights and that their rights are safeguarded throughout the criminal procedure. Any suspect or person charged with an offence 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 worthless."

(b) Article 642:

"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, subject to the provisions of articles 57 and 58 on police custody. Detention may take place only in prisons under the authority of the Ministry of Justice. Accused persons, defendants and persons charged may be held in pretrial

detention from the day of their arrest, whatever the grounds for their imprisonment. When a custodial sentence is handed down, the period of pretrial detention is deducted from the length of the sentence.”

148. The right to a fair trial is anchored in article 13 of the 1991 Constitution which reads:

“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.”

149. Article 89 of the Constitution proclaims the independence of the judiciary, while article 90 stipulates that “judges shall obey only the law. In discharging their duties, they shall be protected against any form of pressure that may be detrimental to their free judgement.” Article 91 adds that “no one may be detained arbitrarily. The judiciary, as guardian of individual freedom, shall ensure that this principle is respected in accordance with the law.”

150. Article 7 of Order No. 2007-012 of 8 February 2007 on the organization of the judiciary, specifies that:

“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. Only courts established by law may therefore deliver sentences.”

151. This order gives poor people the means to turn to the courts in the same way as other citizens. This order also establishes the principle of the right to appeal.

152. Means-tested legal aid may be granted, subject to the conditions laid down by the law. Justice is dispensed free of charge, subject to stamp duties, registry fees, court officials’ salaries and expenses incurred in the investigation of cases or execution of court decisions. Legal fees are set by decree.

153. Legal and judicial reforms are pursued in greater depth in several components of the National Good Governance Programme which focuses on four priority areas:

- (a) The quality of laws and regulations;
- (b) The quality of case law, which presupposes the existence of professional, honest, well-trained, highly motivated and independent judges;
- (c) The acceptability of law to society as a whole and the law’s effectiveness;
- (d) The high calibre and good moral character of lawyers and court officials.

154. These reforms will have to be accompanied by institutional capacity-building, the training and management of human resources and the equipping of courts and tribunals.

155. In order to improve the functioning of the legal profession and to make the administration of justice more citizen-friendly, the legislature has revised Act No. 95-024 of 19 July 1995 on the organization of the National Bar Association. The following innovations have been introduced:

- (a) It is obligatory to call on the services of a lawyer at the appeal stage (Supreme Court);
- (b) Entrance to the Bar is restricted to university graduates and members of the legal profession with the requisite qualifications;



(c) Courses are organized for lawyers who have been members of a foreign Bar association for at least five years;

(d) Lawyers who have been exempted from training must have a suitably staffed legal practice in order to raise professional standards.

156. The purpose of all these reforms is to afford lawyers greater protection against interference in the performance of their duties, the ultimate goal being to ensure that everyone is guaranteed the right to a fair trial.

157. In order to liberalize the judicial sector still further, legislation has defined the duties of other law officers such as bailiffs, notaries and legal experts.

(a) According to article 1 of the Bailiffs' Act No. 97-018 of 15 July 1997, "a bailiff is a public, legal official who is subject in the discharge of his duties to the provisions of this Act". Under article 6 of the Act, a bailiff is "responsible for carrying out the duties laid down in the Code of Civil, Commercial and Administrative Procedure and in other laws and inter alia for:

- (i) The drafting and service of protests, summonses, notifications, demands for payment and orders to appear;
- (ii) The drafting of official reports;
- (iii) The enforcement of writs of execution, court orders and administrative orders;
- (iv) The holding of sales by courts."

(b) According to article 1 of the Notaries Act No. 97-019 of 16 July 1997:

"Notaries are public officials entitled to witness documents which the parties must or wish to have authenticated as a legal document, to enter a date in them, to file a copy of them and to issue execution copies, duplicates and short-form certificates."

Their duties are defined in the provisions of Decree No. 130-99 of 6 November 1999 establishing the list of documents which must be notarized. Under the terms of article 2 of the decree, these documents comprise: the deed of sale of immovable property; tax declarations concerning the sale; the deed of sale of businesses; the deed of sale of ships and aircraft; the deed of sale of vehicles; grants of mortgages; pledges; antichreses; assignments of mortgages; the leases of ships and aircraft; formal declarations as to the existence of a loan; leases of livestock; leases on promise of sale; contracts for work and services; agricultural leases which will automatically expire when the lessee turns 65; leases of immovable property; long-term leases of land; leasing; registration forms summarizing the details of a contractual mortgage; legal registration of a mortgage; registration of a charge on a business; certificates of ownership; declaration of compliance; all documents recording the founding of a company and all mergers, divisions and alterations thereof or the acquisition of a shareholding therein; filing of private documents with acknowledgement that the document and signature are genuine; filing of land-registration documents; the winding up of companies; the exchange of immovable property; appointment of a manager to run a business; the cancellation of an entry or a mortgage in the land registry; general or special power of attorney; contract of guarantee; the assignment of a loan and wills.

(c) According to article 1 of Legal Experts Act No. 97-020 of 16 July 1997:

"A legal expert is a specialist on whom the court may call in order to clarify one or more specific facts. He may be appointed in order to make a factual report, for the purposes of consultation, or to head an expert inquiry which always presupposes the conducting of an investigation."

## **Article 15**

### **Principle of the non-retroactivity of law**

158. The principle of the non-retroactivity of law is guaranteed by article 4 of Order No. 89-126 introducing the Code of Obligations and Contracts, as amended by Act No. 2001-31 of 7 February 2001, which lays down that:

“The new provisions governing procedure shall apply immediately. However, with regard to the statute of limitations, the rules concerning the beginning, suspension and interruption [of the limitation period] shall be those determined by the former Act for the whole period prior to the entry into force of the new provisions.”

## **Article 16**

### **Right to recognition as a person before the law**

159. This right is protected by the preamble to the Constitution which states that “the Mauritanian people proclaims” the inalienable guarantee of the following rights and principles:

- (a) The right to equality;
- (b) Fundamental human rights and freedoms;
- (c) The right of ownership;
- (d) Political and trade-union freedoms;
- (f) Economic and social rights; and
- (g) The rights of the family as the basic unit of Islamic society.

160. Article 12 of Order No. 89-126 introducing the Code of Obligations and Contracts, as amended by Act No. 2001-31 of 7 February 2001, says “legal personality commences at the birth of a living child and ends at death. An unborn child has civil rights provided that he or she is born alive.”

## **Article 17**

### **Right to privacy**

161. Article 13 of the Constitution read “a citizen’s honour and privacy, the inviolability of the human person and of his or her domicile and correspondence are guaranteed by the State. All forms of mental and physical violence are prohibited.”

162. Mauritanian law protects privacy. Article 13 of the Constitution lays down that “a citizen’s honour and privacy, the inviolability of human person and of his or her domicile and correspondence are guaranteed by the State”.

## **Article 18**

### **Freedom of thought, conscience and religion**

163. Freedom of conscience, a corollary of freedom of thought, is safeguarded by article 10, supplemented by article 21 of the Constitution which states that “the person and property of any alien who is lawfully present in the national territory is protected by law”.

164. Pursuant to these provisions, aliens resident in Mauritania, a land of Islam, freely practise their religion and have free access to their places of worship, in particular in the churches open in some of the country's large towns.

## **Article 19**

### **Freedom of opinion and of expression**

165. The right to information is guaranteed by article 10 of the Basic Law through the reference to freedom of expression and of opinion and by Order No. 91-023 of 25 July 1991 on press freedom.

166. The media landscape is made up of the public media (press, radio and television) and several independent newspapers.

167. In practice, the improvement in access to this right can be seen first and foremost in the public media. In addition to rural radio stations in some areas, a medium frequency station for young people was launched in November 2004. It is called "*FM Jeunesse 98 MHz*". Its purpose is to enable this large section of the population to establish fruitful contacts through the broadcasting of programmes concentrating on culture, music, sport and discussions which, in the long term, might help future generations to take charge of their common destiny.

168. Other substantial advances contributing to the right to freedom of opinion and of expression include:

- (a) Public broadcasts (by radio and television) of parliamentary debates;
- (b) Free access to the Internet and the siting of cybercafés in various wilayas throughout the country.

169. The right to freedom of expression is embodied in article 10 of the Constitution which states that "the State shall guarantee public and individual freedoms to all its citizens and, in particular, freedom of expression".

170. Article 2 of Order No. 091-023 of 25 July 1991 on freedom of the press stipulates that "the press, printing works and bookshops throughout the territory of the Republic shall be free".

171. An Ethics Committee composed of representatives of the Ministry of Communication, press associations and the Office of the Resident Representative of the United Nations Development Programme has existed since 2001 to help professionals in this sector do their work more effectively. It operates as a kind of observatory for press activities which seeks to encourage journalists in their role as shapers of opinion on the one hand and to keep them from incurring legal sanctions on the other.

172. The establishment by the Government of a fund to support the independent press also forms part of this effort.

173. The High Authority for the Press and Audiovisual Communication was set up under Order No. 2006-34 of 2 October 2006. Its general mandate is to regulate communication with the public. Pursuant to the relevant laws and regulations it "supervises the application of laws and regulations concerning the press and audiovisual communication in an objective, transparent and non-discriminatory manner; it promotes compliance with professional ethics by private and public radio and television broadcasting companies and by public or private newspapers and periodical publications".

174. With a view to liberalizing the audiovisual sector, two private television channels and five radio stations received broadcasting licences in November 2011.

## **Article 20**

### **Prohibition of propaganda for war and of incitement to racial and religious hatred**

175. Propaganda for war is prohibited through the reference in the preamble to the Constitution to the Mauritanian people's attachment to the values set forth in the Universal Declaration of Human Rights of 10 December 1948 and the 1981 African Charter on Human and Peoples' Rights.

176. Incitement to racial or ethnic hatred is also prohibited under the provisions of article 1 of the Constitution which states that "all ethnic or racist propaganda shall be punished by law".

177. Similarly, religious intolerance is not permitted and non-Muslim aliens resident in the country practise their faith undisturbed.

## **Article 21**

### **Right of peaceful assembly**

178. The right of peaceful assembly is set forth in article 10 of the Constitution and is governed by the provisions of article 2 of Act No. 73-008 of 23 January 1973 which specifies that "public meetings shall be free provided they comply with the conditions established by the law".

## **Article 22**

### **Freedom of association and to join or form a trade union**

179. At present, associations are approved by the Ministry of the Interior and Decentralization in accordance with the Association Act, No. 064-098 of 9 June 1964.

180. 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.

181. The application is forwarded to the administrative authorities in the district where the headquarters of the association is based.

182. After a morality investigation has been conducted, the application is sent to the competent authorities for approval.

Table 3  
**Statistics on associations and other public interest 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).

183. The advent of pluralist democracy has given fresh energy to the voluntary sector. Article 10 of the Constitution guarantees freedom of association which is regulated by Act

No. 64-098 of 9 June 1964, as amended by Acts Nos. 73-007 of 3 January 1973 and 73-157 of 2 July 1973.

184. According to the Association Act No. 64-098 of 9 June 1964, an association is “an agreement between several persons to pool their knowledge or their activities on a permanent, non-profit-making basis”. The establishment of an association and the freedom legally to engage in its activities are subject to prior authorization from the Ministry of the Interior (art. 3, para. 1). Once this condition is met, the members of the recognized association may avail themselves of all their rights provided that they do not “cause public demonstrations, armed or otherwise, compromising public order or security, receive subsidies from abroad, engage in antinational propaganda, undermine the State’s reputation through their activities or exercise an improper influence over the minds of the populace” (ibid., art. 4).

185. Act No. 2000-043 of 26 July 2000 supplemented the legislation governing associations by instituting a special legal regime for development associations. It was followed by an implementing decree (No. 2002-030 of 25 April 2002) which sets out the procedure for obtaining approval for such associations. Development associations, which are active in all fields, have become indispensable partners in the country’s economic and social development.

186. Article 3 of Order No. 091-024 of 25 July 1991 concerning political parties stipulates that anyone “may freely join any political party”. Article 16 of the same order provides that the activities of political parties “involving political meetings, information or electoral operations shall be governed by the provisions of the laws and regulations in force”.

187. Since 2001 political parties have benefited from two further advantages:

(a) The grant of financial assistance in line with election results (Act No. 2001-030 of 7 February 2001 amending and supplementing Order No. 91-024 of 25 July 1991);

(b) Access to government media.

188. Article 11 of the Constitution stipulates that:

“Political parties and groups shall help to shape and express political will. They shall be free to establish themselves and to engage in their activities provided that they respect democratic principles and do not by their purpose or their actions undermine national sovereignty, territorial integrity or the unity of the nation and the Republic.”

## **Article 23**

### **Protection of the family**

189. Protection of the family is grounded in the Constitution. The preamble to the Constitution proclaims that “the Mauritanian people guarantees the rights of the family, the basic unit of Islamic society”. Article 16 of the Constitution specifies that “the State and society shall protect the family”.

190. Act No. 2001-052 of 17 July 2001 on the Personal Status Code recognizes several women’s rights, namely:

(a) The priority right of inheritance of a widow and her children;

(b) The right of a girl child not to marry without her consent and to attain majority at the age of 18;

(c) Rights of adoption and access to the court system.

191. Article 17 of the Criminal Code grants pregnant women who have been sentenced to death a reprieve until they have given birth, while article 309 penalizes rape. Act No. 2003-025 of 17 July 2003 suppressing the trafficking in persons strengthens the legal framework for protecting women and children.

192. Mauritania has ratified the United Nations Convention against Transnational Organized Crime signed on 15 November 2000 in New York and the Protocols thereto, one of which concerns the prevention and suppression of trafficking in persons, especially women and children. The ratification of this first, multilateral, global instrument on combating organized crime was prompted by the public authorities' concern and resolve to protect women and children against certain forms of aggression, in particular physical violence.

193. Combating such violence is a priority for several NGOs working actively in the field in partnership with the public authorities to eradicate violence against women and girls. They thus fully support the initiatives taken by the Government in this area. These initiatives are mainly centred on the strategy to combat practices harmful to women and girls.

194. Several NGOs have made an outstanding contribution by organizing awareness-raising workshops for various actors (judges, imams, doctors and police officers) who are in a position to influence public opinion and, by their conduct, help to reverse untoward trends.

195. However, efforts in this area must be pursued in order to curb all practices (force-feeding, early marriage and female genital mutilation) that are harmful to the health of women and that are still rife in large segments of the population.

## **Article 24**

### **Protection of children**

196. As far as legal texts are concerned:

(a) Act No. 2001-052 of 19 July 2001 on the Personal Status Code contains a large section dealing with the rights of the child and offers adequate guarantees in various areas, such as child support (food, care, housing, clothing), custody, filiation, etc.;

(b) Act No. 099-012 of 26 April 1999 on compulsory basic education, is part of the process of incorporating the provisions of the Convention on the Rights of the Child into domestic law. Parents are now obliged, under pain of criminal sanctions, to send their children to school between the ages of 6 and 14 years;

(c) Act No. 2004-017 of 6 July 2004 on the Labour Code sets the minimum age for admission to employment at 14 years and brings all the provisions of the former Code into line with the Convention and with the conventions of the International Labour Organization (ILO) which are more favourable to children. The General Collective Labour Agreement provides further protection for children against any work prejudicial to their life, health, education or development;

(d) The ratification in 2001 of the ILO Minimum Age Convention (No. 138, 1973) and the Worst Forms of Child Labour Convention (No. 182, 1999) and of the two optional protocols to the Convention on the Rights of the Child, testifies to the determination of the authorities to accede to all the relevant legal instruments and to make all necessary efforts to ensure children's full development;

(e) Act No. 2003-025 of 17 July 2003 suppressing the trafficking in persons, through which the Government combats and suppresses all practices involving the exploitation of human beings, classifies certain trafficking offences as crimes although they are subject only to correctional penalties. This law therefore constitutes one of the means of combating child labour;

(f) Order No. 2005-015 of 5 December 2005 on the criminal-law protection of children offers minors a variety of remedies and sets out the conditions for dealing with children in conflict with the law;

(g) Act No. 2007-042 of 3 September 2007 on the criminalization of slavery and the suppression of practices similar to slavery completes the body of human rights legislation by introducing stiff penalties and authorizing NGOs to assist victims of human rights violations. It criminalizes child abduction, the denial of education or of inheritance rights, and child labour;

(h) Order No. 2006-05 of 26 January 2006 on legal assistance establishes a system of access to justice which provides favourable treatment for the poorest people, especially children, by means of legal aid and the securing of rights. It is mandatory for local legal assistance offices to have a children's section;

(i) The African Charter on the Rights and Welfare of the African Child, ratified by Mauritania in 2005, has helped to improve the protection of children against all forms of exploitation, torture and inhuman or degrading treatment;

(j) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), adopted in 2005, reinforces the legal arsenal for protecting children, especially with regard to the elimination of practices harmful to their health, such as female genital mutilation.

197. At the institutional level, some substantial steps have been taken to assist children:

(a) A centre for the protection and integration of children in difficulty was set up in 2007;

(b) The revision of the Poverty Reduction Strategy Paper (2006–2010), its harmonization with the Millennium Development Goals, the incorporation of children's issues in this process and the drawing up of a medium-term expenditure framework are facilitating the allocation of additional budgetary resources to core social sectors;

(c) The reform of the education system and the formulation of a 10-year education plan (2000–2010) have produced significant progress in terms of children's access to and retention in the school system;

(d) The implementation of an accelerated strategy for children's survival and development underpins substantial advances in this area;

(e) The expansion of the national movement for the promotion and protection of the rights of the child with the participation of all sectors of civil society (the parliamentary group on children, the Assembly of Imams and Ulemas for the Rights of the Child, the Association of Journalists for the Rights of the Child, the network of religious and traditional leaders, doctors and journalists for the development and survival of children, the Children's Parliament, etc.).

## **Article 25**

### **Right to participate in public affairs**

198. All Mauritians have this right pursuant to article 12 of the Constitution. The importance of this right was highlighted in the various presidential, legislative or district elections held between 1991 and 2009.

199. Ten candidates representing the whole of the country's political spectrum took part in the presidential elections on 18 July 2009.

200. Order No. 2006-029 of 22 August 2006 concerning the organic law on the promotion of women's access to elected office and elective positions establishes a 20 per cent quota for women. In municipal elections in 2006, 30.33 per cent, i.e. 1,120 of the 3,688 municipal councillors who were elected were women. Out of a total 95 deputies, 18 are women (17.9 per cent) as are 8 out of 56 senators. The number of women in parliament has risen markedly compared with the previous legislatures where only 3 out of 81 deputies were women.

201. Act No. 2001-028 of 7 February 2001, which introduced proportional voting in three constituencies (Nouakchott, Nouadhibou and Seibabi), is a big step forward in placing the representative system on a firm basis. Thought is being given to extending this method of voting.

202. Several political parties are represented in the National Assembly and Senate (Republican Party for Democracy and Renewal (PRDR), Rally of Democratic Forces (RFD), Union of the Forces of Progress (UFP), People's Progressive Alliance (APP), Party for Union and Change (HATEM), Union for the Republic (UPR), etc.).

## **Article 26**

### **Prohibition of discrimination**

203. Mauritania ratified the International Convention on the Elimination of all Forms of Racial Discrimination on 13 December 1988.

204. Mauritanian law does not contain a precise definition of discrimination, although Act No. 2007-042 of 3 September 2007 on combating AIDS offers some initial elements in that it confirms the scope of the Civil Status Act which grants men and women equal rights. The body of legislation resolutely penalizes discrimination in general and discrimination against women in particular.

205. For example, the preamble to the Constitution states:

“Whereas freedom, equality and human dignity may be assured only in a society which honours the rule of law, the Mauritanian people, being minded to create lasting conditions making for harmonious social development respecting the precepts of Islam, the only source of law and open to the requirements of the modern world, proclaims in particular the inalienable guarantee of the following rights and principles: the right to equality; fundamental human rights and freedoms; the right of ownership; political and trade-union freedoms; economic and social rights, and the rights of the family as the basic unit of Islamic society.”

206. Article 1 of the Constitution reads, “the Republic ensures all its citizens equality before the law, without distinction as to origin, race, sex or social condition”.

207. Article 2 of Act No. 2004-017 of 6 July 2004 specifies that “the Labour Code applies to any employment contract to be performed in Mauritania irrespective of the place where it is signed and the parties' place of residence”. Similarly, article 1 of the



Constitution lays down that “the Republic ensures all its citizens equality before the law, without distinction as to origin, race, sex or social condition”.

208. Article 21 of Act No. 2007-042 of 3 September 2007 “prohibits all discrimination in any form whatsoever against a person who is known to be or suspected of being infected with HIV”. Article 22 of the Act “punishes by a term of imprisonment of 1 to 6 months, and a fine of 100 to 300,000 ouguiyas, or either of these penalties, any natural person who is guilty of acts of discrimination against a person who is known to be or suspected of being infected with HIV”.

209. Non-discrimination is a constitutional principle which is given substance by Mauritania’s ratification of the relevant international conventions and the provisions of its domestic laws.

## **Article 27**

### **Rights of minorities**

210. The term “minority” does not appear in the body of Mauritanian legislation. The preamble to the Constitution does, however, refer to this notion indirectly when it states:

*“Aware of the need for closer ties with brother peoples, the Mauritanian people, a Muslim, Arab and African people, proclaims that it will strive to achieve the unity of the Greater Maghreb, the Arab nation and Africa, and to consolidate peace in the world.”*

This implies that the Mauritanian people is made up of an Arab and an African component. This view is borne out by article 6 which reads “the national languages are Arabic, Fulani, Soninké and Wolof; the official language is Arabic”.

211. 2009 saw the beginning of moves to deal with the unresolved humanitarian issues stemming from the acts of brutality committed by the armed and security forces in the period 1987–1991.

212. This major aspect of the country’s poor humanitarian record has been addressed by acknowledging government responsibility for the distressing events which occurred, as well as the duty to provide justice and redress and the duty of remembrance and pardon.

213. In practice this has been achieved through a process of consultation between the authorities and the eligible parties which has led both sides to agree to an arrangement that is consistent with Mauritanian law, the values of the Mauritanian people, a Muslim Arab and African people, and with the country’s international commitments.

214. The issue was settled by saying a prayer in the memory of the victims on 25 March 2009 at Kaédi, by compensating eligible parties and by a grant of land to them.

215. Mauritania decided to hold a national reconciliation ceremony on 25 March 2009 at Kaédi in order to close this chapter of its history.

216. This national reconciliation constituted a crucial stage in addressing a national issue which has delayed the country’s political, economic and social development for decades.

217. The voluntary, dignified return of Mauritanians who had fled to Senegal in the wake of the distressing events of 1989 continued in 2009 under the tripartite agreement signed in 2007 between Mauritania, Senegal and the Office of the United Nations High Commissioner for Refugees.

218. To date, more than 20,000 people have returned to the country and have settled in more than 60 locations in the regions of Trarza, Brakna, Gorgol, Guidimaka and Assaba.

219. As soon as they arrive in the country, the repatriates are assisted by all the relevant government services (registry office, health, national identity card, National Agency to Assist and Integrate Refugees (ANAIR)) and are settled at the location of their choice, usually in the place they originally came from, which makes it easier to identify them and integrate them in the economic and social fabric.

220. ANAIR is responsible for facilitating repatriates' integration by supplying them with essentials (cattle, ploughs and food) and a plot of land for a home.

221. Income-generating activities are being launched for their benefit. To this end, the Government has established the following:

- (a) An interdepartmental commission;
- (b) A national guidance and consultation commission;
- (c) A national refugee identification commission.

222. These bodies are responsible for overseeing the implementation of the tripartite agreement's provisions and for identifying, taking charge of and securing the integration of all Mauritanian repatriates from Senegal.

223. The purpose of all these measures is to enhance national unity and to secure the country's political, economic, social and cultural development.

#### **IV. Conclusion**

224. In presenting its initial report on the implementation of the International Covenant on Civil and Political Rights, the Islamic Republic of Mauritania wishes to express its firm resolve to honour its commitments under the Covenant to promote and protect human rights and fundamental freedoms.

225. This resolve is currently reflected in various institutional, legislative, regulatory, administrative, judicial and other measures to permit the exercise of freedoms and the full enjoyment of all of the rights referred to in the Covenant.

226. Lastly, the Islamic Republic of Mauritania again affirms its attachment to the ideals embodied in the Covenant and stands ready to pursue a fruitful continuous dialogue with the Human Rights Committee in order to ensure the genuine enjoyment of the rights set forth in this important international legal instrument.

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