



**Alternative report to
the Committee on the Rights of the Child
on implementation of the Convention on the Rights
of the Child**

Mauritania

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1. Summary of questions and recommendations

Child Soldiers International submits the following report in advance of the Committee on the Rights of the Child's ('the Committee') consideration of the combined third, fourth and fifth reports of Mauritania. The report focuses on the State party's efforts to improve the birth registration rate, the treatment of refugee children and risk of recruitment of children on the borders of Mauritania and Mali by armed groups, the application of the anti-terrorism law to children associated with armed groups, and the age of recruitment to state armed forces. This report is based on desk research.

Recommendations

The State party should:

- Continue the positive trend on birth registration rates by prioritising efforts to strengthen and further develop measures, in particular in relation to awareness-raising, to ensure that all children born within the national territory are registered; to create institutional structures at all levels that are compulsory, accessible and free, in order to implement effective birth registration, e.g. by introducing mobile units, especially in rural and remote areas and in internally displaced persons and refugee camps; and to seek technical assistance from UNICEF for the implementation of these recommendations.¹
- Take all measures to comply with international human rights and refugee law, specifically to ensure that unaccompanied children receive protection, access to health care and education.²
- Collaborate with UNHCR, UNICEF and other agencies and NGOs to increase opportunities for school-age refugees and asylum seekers in education, training or other productive activities in fulfilment of their rights under the Convention on the Rights of the Child and in other international human rights or humanitarian instruments to which the State is party.
- Collaborate with UNHCR, UNICEF and other agencies NGOs to identify all individuals recruited as children by armed groups and develop effective reintegration programmes for them, ensuring that they receive age and gender-appropriate recovery and reintegration assistance which promotes their physical and psychological recovery, and social reintegration in an environment which fosters the health, self-respect and dignity of the individual.
- Revise its anti-terrorism law (Loi n°2010-035) to ensure that it meets international standards, and in particular, that children who have been associated with armed forces or armed groups are not prosecuted or punished, or threatened with prosecution or punishment, solely for their membership of those forces or groups, and that children who are accused of crimes under international law after being unlawfully recruited by armed forces or armed groups are considered primarily as victims of violations of international law and not only as alleged perpetrators.
- Raise the age of criminal responsibility to a minimum of 12 years old, with a view to raising the age further in accordance with the Committee's general comment No. 10.³
- Ensure that children detained are not subject to torture or other cruel, inhuman or degrading treatment or punishment and that juvenile justice standards are fully implemented.⁴

¹ Committee on the Rights of the Child, Consideration of reports submitted by State parties under Article 44 of the Convention, Concluding Observations: Mauritania, UN Doc. CRC/C/MRT/CO/2, 17 June 2009, paragraph 39: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fMRT%2fCO%2f2&Lang=en

² Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 70

³ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 82

⁴ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 82

- Revise Loi N°62132 of 29 June 1962 to raise the minimum age of military recruitment to 18 years old in all circumstances, in accordance with the African Charter on the Rights and Welfare of the Child.⁵
- Ratify and implement the Optional Protocol on the involvement of children in armed conflict.⁶
- Ratify and implement the Rome Statute of the International Criminal Court.⁷
- Endorse and implement the Safe Schools Declaration.

Questions

- What data has the State party collected in relation to birth registration? Is there any disparity in registration rates between sections of the population based on location (e.g. rural vs. urban, refugee camps), gender and income level?
- How many children are believed to have left refugee camps or communities on the border with Mali to join armed groups based in Mali?
- What steps has the State party taken to prevent the recruitment of children by armed groups amongst the Malian refugee population?
- What are the “protective measures” applicable to a child aged between 7 and 15 years old who is deemed criminally responsible for a criminal offence?
- Have any individuals formerly associated with armed groups who were recruited as children been arrested or detained under the anti-terrorism law (Loi n°2010-035)? If so, what were the outcomes in those cases?
- How many individuals aged 16-18 were recruited to state armed forces over the past year?

⁵ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 72(a)

⁶ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 72(b)

⁷ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 72(b)

2. Civil rights and freedoms

(i) Birth registration name and nationality (Article 7)

In its 2009 Concluding Observations under the Convention on the Rights of the Child⁸, the Committee was concerned by the very low rate of birth registration in Mauritania at 55 per cent, which had not increased since 2001.

Birth registration is particularly important in the context of preventing the recruitment and use of children in armed conflict. Effective implementation of legislation on the minimum age for recruitment into state armed forces is predicated on the state being able to establish the age of all potential recruits. Birth registration is the most reliable means of proving an individual's age. Where children do not have birth registration documents and there is no reliable alternative means to prove age, there is a potential risk of underage recruitment and use in hostilities.

In its combined 3rd, 4th and 5th report under the CRC of June 2016⁹, the State party declared that the Committee's recommendation had been implemented through the introduction in 2011 of a biometric identification system administered by the Agence Nationale du Registre des Populations et des Titres Sécurisés. The State party omitted from its report any update or statistics on the impact of its new system on the actual rate of birth registration in Mauritania.

According to UNICEF data, the birth registration rate in Mauritania increased by approximately 10% between 2009 and 2015 to 65.6%.¹⁰

Questions

- What data has the State party collected in relation to birth registration? Is there any disparity in registration rates between sections of the population based on location (e.g. rural vs. urban, refugee camps), gender and income level?

Recommendations

The State party should:

- Continue the positive trend on birth registration rates by prioritising efforts to strengthen and further develop measures, in particular in relation to awareness-raising, to ensure that all children born within the national territory are registered; to create institutional structures at all levels that are compulsory, accessible and free, in order to implement effective birth registration, e.g. by introducing mobile units, especially in rural and remote areas and in internally displaced persons and refugee camps; and to seek technical assistance from UNICEF for the implementation of these recommendations.¹¹

⁸ Op Cit, UN Doc. CRC/C/MRT/CO/2, 17 June 2009, paragraphs 38-39

⁹ 3rd, 4th and 5th reports of Mauritania on the implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/MRT/3-4, 10 January 2017 (report dated June 2016), page 37:
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fMRT%2f3-4&Lang=en

¹⁰ Mauritania 2015 MICS Key Findings Report, 28 September 2016, page 17:

http://mics.unicef.org/news_entries/62/MAURITANIA-2015-MICS-KFR-RELEASED

¹¹ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 39

3. Special protection measures

(i) Refugee children (Article 22 and Article 39)

UNHCR reported in December 2016 that it was assisting 46,877 refugees and asylum seekers in Mauritania, including 44,965 Malian refugees in the Mbera refugee camp.¹² The presence of non-state and state-affiliated armed groups recruiting and using children in armed conflict just over the border in Mali¹³ raises serious concerns in relation to child refugees and asylum seekers in Mauritania, both in terms of their vulnerability to recruitment by armed groups and, after demobilisation, their recovery and reintegration into civilian life.

In its combined 3rd, 4th and 5th report under the CRC of June 2016, the State party claims that there were no child soldiers used in Mauritania as the country is not experiencing war or conflict.¹⁴ However, UN agencies, the US Government, and a number of journalists have reported on the presence of Malian child soldiers in refugee camps within Mauritania and the risk of Malian refugee children in Mauritania joining (or rejoining) armed groups in neighbouring Mali.

For example, UNICEF reported in August 2017 that the risk of recruitment of children by armed groups is very high, principally because the Mbera camp is so close to the border with Mali.¹⁵

In June 2017 the US State Department's "Trafficking in Persons Report" reported that:

"During the reporting period, international authorities identified and removed from a refugee camp in southeastern Mauritania six Malian child soldiers who had been forced to work as cooks, porters, servants, and messengers for rebel groups in Mali. Due to the proximity between the countries and their porous borders, it is possible that Malian armed groups also forcibly recruited some Mauritanian children."¹⁶

Evidence collected by the US Embassy indicates that refugee children are involved in herding activities which take them out of refugee camps for long periods of time and older boys are vulnerable to recruitment by armed groups.¹⁷

Forced abduction is not the only means of recruiting children. Another issue in Mbera camp is the lack of education, and vocational training opportunities for school-age children.¹⁸ They may feel bored

¹² Mauritania: UNHCR Operational Update as of 9 December 2016:

<https://reliefweb.int/sites/reliefweb.int/files/resources/Mauritania-UNHCROperationalUpdate-9December.pdf>

¹³ Report of the UN Secretary-General on children and armed conflict 2016 (A/72/361-S/2017/821), 24 August 2017, paragraph 112:

"The presence of children amongst armed groups [in Mali] remained an issue of concern, with 442 cases of recruitment and use of children, of which 78 were verified and attributed to the Platform coalition of armed groups (54), Coordination des mouvements de l'Azawad (CMA) (18) and Al Mourabitoun (3)."

http://www.un.org/ga/search/view_doc.asp?symbol=S/2017/821

¹⁴ Op Cit, UN Doc. CRC/C/MRT/3-4, page 52:

"...181. La Mauritanie n'est pas en situation de guerre ou de conflit et il n'y a pas d'enfants utilisés dans ce domaine..."

¹⁵ UNICEF Terms of Reference for Child Protection Officer in Bassikounou, August 2017:

<https://www.impactpool.org/jobs/296187>

¹⁶ US State Department, Trafficking in Persons Report June 2017:

<https://www.state.gov/documents/organization/271339.pdf>

¹⁷ US Department of Labour, 2016 Findings on the Worst Forms of Child Labour:

<https://www.dol.gov/sites/default/files/images/ilab/child-labor/Mauritania2016.pdf>

¹⁸ UNHCR Global Focus, "2017 Planning Summary: Mauritania":

"Lack of funding will severely affect UNHCR's capacity to conduct self-reliance and livelihood support interventions. For example, it will limit the number of funded income-generation schemes as well as the number of vocational training programmes." <http://reporting.unhcr.org/node/5928?y=2017#year>

or worry that there is no future for them in the camp. Agencies working in Mbera camp have warned that this increases the risk of boys joining armed groups.¹⁹

Children released from military exploitation are typically very vulnerable. Many children re-join an armed group after being rejected by their communities and families upon return. In the case of Malian children used by armed groups for spying, fighting and even to commit bomb attacks²⁰, many joined those groups after seeing a parent killed and subsequently adopted the radical Islamist ideologies of the groups; they are angry and place little value on their lives, which makes reintegration challenging.²¹ These challenges are multiplied when the context for reintegration of former child soldiers is a refugee camp rather than a more stable home community.

In collaboration with the Mauritanian Government, which has kept its borders open to new influxes of asylum seekers, UNHCR, with other UN organisations and national and international NGOs, continues to lead the humanitarian response to the Malian refugee situation. UNHCR's report of December 2016 highlights some of the achievements and impact of their efforts, such as 5,000 children attending classes in the six primary schools of Mbera camp.²² We understand that UNHCR has also launched an enquiry to identify the dozens of former child soldiers in Mbera camp and offer them activities and training.²³

Questions

- How many children are believed to have left refugee camps or communities on the border with Mali to join armed groups based in Mali?
- What steps has the State party taken to prevent the recruitment of children by armed groups amongst the Malian refugee population?

Recommendations

The State party should:

- Take all measures to comply with international human rights and refugee law, specifically to ensure that unaccompanied children receive protection, access to health care and education.²⁴
- Collaborate with UNHCR, UNICEF and other agencies and NGOs to increase opportunities for school-age refugees and asylum seekers in education, training or other productive activities in fulfilment of their rights under the Convention on the Rights of the Child and in other international human rights or humanitarian instruments to which the State is party.
- Collaborate with UNHCR, UNICEF and other agencies and NGOs to identify all individuals recruited as children by armed groups and develop effective reintegration programmes for them, ensuring that they receive age and gender-appropriate recovery and reintegration

¹⁹ African Child Information Hub, "Mauritania: Threat of marriage hangs over young Malian refugee girls in Mauritania", August 2016:

http://www.africanchildinfo.net/index.php?option=com_k2&view=item&id=7413%3Amauritania-threat-of-marriage-hangs-over-young-malian-refugee-girls-in-mauritania&Itemid=67&lang=en&limitstart=15

See also: Spiegel Online: "A Skinny Boy with a Kalashnikov", 8 September 2016, which reports that one boy interviewed by UNHCR last year said that he had left the Mbera camp to go back to Mali with "friends" to join an armed group fighting against the Malian government: <http://www.spiegel.de/international/world/refugees-in-mauritania-and-child-soldiers-in-mali-a-1111404.html>

²⁰ Dune Voices: "Mauritania, M'bera camp: Islamist groups recruit child soldiers among Malian refugees", 17 March 2015: <http://dune-voices.info/public/index.php/en/border-issues-mauritania-eng/item/458-mauritania,-m%E2%80%99bera-camp-islamist-groups-recruit-child-soldiers-among-malian-refugees>

²¹ RFI Reportage Afrique: "Mauritanie: les enfants soldats du camp de Mbera", 22 July 2016 <http://www.rfi.fr/emission/20160722-mauritanie-enfants-soldats-camp-mbera>

²² Mauritania: UNHCR Operational Update as of 9 December 2016: <https://reliefweb.int/sites/reliefweb.int/files/resources/Mauritania-UNHCROperationalUpdate-9December.pdf>

²³ RFI Reportage Afrique: "Mauritanie: les enfants soldats du camp de Mbera", 22 July 2016 <http://www.rfi.fr/emission/20160722-mauritanie-enfants-soldats-camp-mbera>

²⁴ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 70

assistance which promotes their physical and psychological recovery, and social reintegration in an environment which fosters the health, self-respect and dignity of the individual.

(ii) Children in conflict with the law and juvenile justice (Article 37)

The age of criminal responsibility in Mauritania is very low at 7 years old, an age which the Committee considers not to be internationally acceptable²⁵ and an issue raised in the Committee's 2009 Concluding Observations on Mauritania.²⁶ According to the State party's Criminal Code²⁷ and Ordinance No. 2005-015 of 2005, children between 7 and 15 years old can be criminally responsible but can only be subjected to "protective measures". Between the ages of 15 and 18 years, a child can be held criminally responsible and may be placed in police custody or pre-trial detention. Most sanctions, including prison, may be applied but the sentence shall not exceed half of that to which he or she would be sentenced if he or she were an adult. Children should not be imprisoned for more than 12 years and the death penalty is prohibited for children under 18.²⁸

In 2010 the State party introduced a new anti-terrorism law, under which children under the age of 18 may be charged with terrorist offences.²⁹ Minors found guilty under the anti-terrorism law should be given half the sentence that would be applied to an adult, with a maximum prison sentence of 12 years.³⁰

Child Soldiers International is concerned that children recruited by armed groups in Mali but living in Mauritania could be prosecuted under the anti-terrorism law solely for their association with or membership of those groups.

The Committee previously raised concerns about the lack of adequate facilities for the detention of juveniles and the fact that children are detained together with adults.³¹ Amnesty International has highlighted cases of mistreatment of suspects arrested under the anti-terrorism law, and more generally the recurring use of torture and other ill-treatment during the period in which detainees are held in custody.³² This raises serious concerns about the potential treatment of any individuals recruited by armed groups as children.

Questions

- What are the "protective measures" applicable to a child aged between 7 and 15 years old who is deemed criminally responsible for a criminal offence?
- Have any individuals formerly associated with armed groups who were recruited as children been arrested or detained under the anti-terrorism law (Loi n°2010-035)? If so, what were the outcomes in those cases?

²⁵ Committee on the Rights of the Child, General Comment No. 10 (2007), UN Doc. CRC/C/GC/10, 25 April 2007: <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>

²⁶ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraphs 81-82

²⁷ ILO NATLEX Resource: Mauritanie:

http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=fr&p_isn=73641&p_country=MRT&p_count=244

²⁸ LegiGlobe: Mauritanie (published 4 September 2014): <http://legiglobe.rf2d.org/mauritanie/2014/09/04/>

²⁹ Reuters reported that people under the age of 18 can also be charged under the new law, unlike before, when they were protected by Islamic legislation. <http://www.reuters.com/article/us-mauritania-terrorism-law/mauritania-adopts-new-anti-terrorism-law-idUSTRE6674VJ20100708>

³⁰ Loi n°2010-035 du 21 Juillet 2010 Abrogeant et Remplaçant la loi n°2005- 047 du 26 Juillet 2005 relative à la Lutte contre le Terrorisme:

Article 18: Sont punis de la moitié de la peine prévue pour les majeurs, les mineurs qui commettent l'une des infractions terroristes prévues par la présente loi. Le maximum de la peine d'emprisonnement d'un mineur ne peut excéder 12 ans.

http://www.vertic.org/media/National%20Legislation/Mauritania/MR_Loi_Terrorisme.pdf

³¹ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraphs 81-82

³² Submission to the UN Committee against Torture, April 2013:

http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MRT/INT_CAT_NGO_MRT_12880_E.pdf

Recommendations

The State party should:

- Revise its anti-terrorism law (Loi n°2010-035) to ensure that it meets international standards, and in particular, that children who have been associated with armed forces or armed groups are not prosecuted or punished, or threatened with prosecution or punishment, solely for their membership of those forces or groups, and that children who are accused of crimes under international law after being unlawfully recruited by armed forces or armed groups are considered primarily as victims of violations of international law and not only as alleged perpetrators.
- Raise the age of criminal responsibility to a minimum of 12 years old, with a view to raising the age further in accordance with the Committee's general comment No. 10.³³
- Ensure that children detained are not subject to torture or other cruel, inhuman or degrading treatment or punishment and that juvenile justice standards are fully implemented.³⁴

(iii) Children in armed conflicts (Articles 38-39)

In its 2009 Concluding Observations on Mauritania under the Convention on the Rights of the Child³⁵, the Committee noted positively that the minimum age for recruitment to state armed forces is 18 by law, but regretted the exceptions to this standard, which allow 16 year olds to enlist with the consent of their parent or guardian or, failing which, the authorisation of the Minister of Defence. The Committee recommended that the State party:

- a. Raise the minimum age of military recruitment to 18 years old in all circumstances, in accordance with the African Charter on the Rights and Welfare of the Child;
- b. Ratify the Optional Protocol on the involvement of children in armed conflict and the Rome Statute of the International Criminal Court.³⁶

The State party has not implemented these recommendations. In relation to the first recommendation, Loi N°62132 of 29 June 1962 provides that children from the age of 16 may be recruited with the consent of their parents, guardians or, failing that, having obtained the authorisation of the Minister of Defence³⁷. In relation to the second recommendation, the State party has taken no action to ratify the Optional Protocol on the involvement of children in armed conflict or the Rome Statute of the International Criminal Court. The State party has not yet endorsed the Safe Schools Declaration.

Questions

³³ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 82

³⁴ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 82

³⁵ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 71

³⁶ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 72

³⁷ Loi N°62132 du 29 Juin 1962

Chapitre II

Article 7 : Engagements

Tous mauritaniens aux termes des articles N° 13, 14, 15, 17, 18 de la loi n° 61 112 en date du 12 juin 1961 portant code de la nationalité mauritanienne, peuvent être admis à contracter un engagement aux conditions suivantes :

- Avoir 16 ans accomplis
- N'être pas marié
- Être apte physiquement,
- N'avoir encouru aucune condamnation,
- être pourvu du consentement des parents, tuteurs ou à défaut de ceux-ci, avoir au préalable obtenu l'autorisation du Ministre de Défense, pour les jeunes moins de 18 ans.

<http://www.armee.mr/fr/index.php/2012-06-05-11-02-06>

- How many individuals aged 16-18 were recruited to state armed forces over the past year?

Recommendations

The State party should:

- Revise Loi N°62132 of 29 June 1962 to raise the minimum age of military recruitment to 18 years old in all circumstances, in accordance with the African Charter on the Rights and Welfare of the Child.³⁸
- Ratify and implement the Optional Protocol on the involvement of children in armed conflict.³⁹
- Ratify and implement the Rome Statute of the International Criminal Court.⁴⁰
- Endorse and implement the Safe Schools Declaration.

³⁸ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 72(a)

³⁹ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 72(b)

⁴⁰ Op Cit, UN Doc. CRC/C/MRT/CO/2, paragraph 72(b)