



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

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Summary record of the first part (public)* of the 1138th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 8 May 2013, at 10 a.m.

Chairperson: Mr. Grossman

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1138/Add.1.

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The meeting was called to order at 10.05 a.m.

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

Initial report of Mauritania (CAT/C/MRT/1)

1. *At the invitation of the Chairperson, the delegation of Mauritania took places at the Committee table.*

2. **Mr. Ould Khattra** (Mauritania) said that, for more than three years, Mauritania had been resolutely striving to forge a new society based on the consolidation of democracy and the rule of law, greater social justice and improved basic infrastructure. Those endeavours had led to the setting up of a national agency to eradicate the legacy of slavery, promote social integration and alleviate poverty. As to the actual fight against torture, in recent years Mauritania had recorded substantial progress, embarking upon a constitutional reform that had culminated in the qualification of torture as a crime against humanity in the Constitution. It had entrenched that reform in specific laws which made torture and slavery an offence not subject to the statute of limitation. It had adopted a new legal framework permitting the National Human Rights Commission, accredited with “A” status in accordance with the Paris Principles, to visit all places of detention, including police stations. It had built detention and rehabilitation centres in Nouakchott, Nouadhibou and Aleg in an effort to reduce prison overcrowding and improve detainees’ living conditions. It had alerted prison officers, police officers and members of the judiciary to the need to prevent torture by holding courses and workshops on police custody and human rights and on the protection of the rights of migrants and minors in conflict with the law, which had been organized in partnership with the United Nations. Mauritania was staunchly committed to promoting and protecting human rights in general and preventing and punishing torture in particular.

3. **Mr. Domah** (Country Rapporteur) said that the membership of the State party’s delegation showed that there was still some confusion between Government responsibilities in respect of protection against torture and those of other parties, such as national human rights institutions. While the delegation included several senior officials, it was regrettable that no officials from the law enforcement services, judiciary or prison service was represented on it. While, in its report, the State party did supply some general information on human rights, it would have been advisable for the relevant officials to have attended the meeting to answer questions related to the implementation of specific Convention obligations.

4. Two of the every salient points made in the report were that the country’s Constitution protected all fundamental rights and freedoms and prohibited torture and that, since Mauritania was a monistic State, international instruments were directly applicable there. However, one inconsistency required some explanation as far as the last point was concerned, because the State party also claimed that its legislation did not contain a definition of torture or criminalize torture. In view of the country’s past difficulties — coups d’état, patterns of political repression, and oppression of vulnerable groups — the numerous reforms undertaken were positive aspects which the Committee welcomed. Similarly, many laws had been adopted. While remarkable progress had patently been achieved at the legislative and institutional level, the State party had given no inkling of the practical effects of that action. For each article of the Convention, it listed the laws adopted and the institutions set up, but was silent on their impact on people’s life. The Committee felt that the country was actually moving backwards and had not managed to stamp out the culture of torture which was still used in places of detention and that, in the armed forces, an atmosphere of political vendetta still prevailed, as evidenced by the fact that the opposition politicians arrested in 2003 were still in detention and by myriad political

arrests. The State party had provided no information on a host of issues. What explanation was there for the ongoing marginalization of the Haratine community and for the degrading treatment meted out to women and children under the matrimonial property regime, in the world of work and in detention? What justification was there for the widespread use of lengthy pretrial detention, even for minor offences? How many people were being held in pretrial detention? Had any charges been brought against them? What proportion of criminal judgements were based on confessions? Had any court judgements on unlawful detention not been enforced? Were the heads of institutions trustworthy? How had the State managed to ratify a large number of international and regional instruments? All those questions gave the Committee the feeling that the State party was making the mistake — and it was certainly not alone in that respect — of thinking that the mere adoption of laws would produce results, whereas it was only the first step on a long journey.

5. The Convention imposed some direct obligations. Article 2 required each State to take effective, legislative, administrative, judicial or other measures to prevent acts of torture. The report suggested that the State party had stopped at the legislation stage. There was very little mention of administrative or judicial measures to implement the Convention and to prevent torture. The Committee had learned that a constitutional council had been set up, but no information had been supplied about its work, the contents of its reports, or the implementation of its recommendations. Similarly, the report provided a detailed description of the justice system, but gave no indication of the outcome of judicial actions. For example, it would have been interesting to know whether judges were trained in the prevention of torture and if they were capable of detecting the signs. In that connection, the Committee had duly noted the information supplied by the delegation regarding the training given to various State officials and would like to receive a copy of the training modules covering issues arising from the Convention as such, rather than human rights in general. Lastly, could the delegation provide information about any legal proceedings against torturers and their accomplices?

6. **Mr. Gaye** (Alternate Rapporteur) asked whether any assessment had been made of the practical effects of the training course on torture prevention organized for State officials and, if so, whether that training had given the officials a better understanding of the Convention and the ability to implement it more faithfully. He would be interested to know whether medical personnel and the officials who processed asylum applications used the Istanbul Protocol to determine whether torture had been used.

7. He understood that the counsel of a person held in police custody could see his or her client only after 48 hours had elapsed and with the authorization of the public prosecutor and that in cases related to terrorism, where a suspect could be held in police custody for 25 days, access to a lawyer was permitted only after charges had been preferred, provided that the investigating judge did not impose a communication ban. That situation was highly problematic, because the right to the presence of a lawyer was a fundamental right which could not be made subject to authorization. Similarly, examination by a doctor apparently required authorization by the officer of the criminal investigation department who was in charge of the investigation and of inadequate enforcement of the right of persons who had been deprived of their liberty to inform a third person of their detention. He would like the delegation to provide some information on those points.

8. The fact that torture did not constitute a separate offence posed a substantial barrier to the implementation of articles 12 and 13 of the Convention. Although, according to the information supplied by the State party, perpetrators of acts of torture could be prosecuted for other crimes, such as assault or homicide, the Committee considered that, in practice, the prevention and punishment of torture was hampered by the fact that it had not been expressly criminalized

9. The Committee wished to know whether the State party had adopted amnesty laws encompassing torture since it had ratified the Convention. The 1993 Amnesty Act covered members of the security forces who had committed offences between 1 January 1989 and 18 April 1992 although the Government had acknowledged that, during that period, the administrative authorities and the armed forces had been guilty of human rights violations, mainly against black Mauritians. According to victims' associations, some 1,760 soldiers had been executed or tortured by comrades-in-arms. The Ministry of Defence was implementing a programme to compensate victims, or their beneficiaries, which had been sharply criticized by associations that were also calling for the repeal of the Amnesty Act. He would like the delegation to explain the arrangements for compensating victims and to say whether those who rejected compensation could turn to the courts in order to obtain civil compensation.

10. There were reports of frequent use of torture to obtain evidence, especially in cases concerning terrorism or breaches of State security. What was the exact position? There were also reports that the executive had interfered in the exercise of judicial power, two examples being the dismissal of Seyid Ould Ghaylani, President of the Supreme Court, and Judge Mohamed Lemine Ould Moctar. He would be interested to hear the delegation's comments on those points.

11. Statistics showing the total number of prisons in the country, their respective capacity and the current number of persons detained in each of them would be a helpful indicator of the level of prison overcrowding. He also wished to know whether, in addition to new prison construction, any other measures were being contemplated to improve detention conditions. He would also like the delegation to comment on the disappearance from Nouakchott prison of 14 detainees who had been kidnapped by soldiers on 23 May 2011.

12. Had the State party adopted laws on asylum and refugee status that reflected the provisions of the 1951 Convention relating to the Status of Refugees and the Convention Governing Specific Aspects of Refugee Problems of the Organisation of African Unity, to which it was a party? Mauritians who had sought refuge in Senegal and were repatriated under an agreement between the two countries and the Office of the United Nations High Commissioner for Refugees seemed to be experiencing difficulty in obtaining identity documents and fitting back into Mauritanian society. Information on that subject would be helpful. According to some reports, the State party had entered into agreements under which it undertook to arrest and return to their country of origin migrants passing through its territory on their way to Europe. Could the delegation comment on that information in the light of its obligations under article 3 of the Convention?

13. He wished to know the State party's position on female genital mutilation, on the corporal punishment for which the Criminal Code made provision, on the age of criminal responsibility, set at 7, and on the compatibility of those practices with Mauritania's obligations under the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. Lastly, he wished to know if there was a law which criminalized human trafficking and whether there were any plans to fill the gaps in the 2007 Slavery Act in order to make it more effective.

14. **Mr. Bruni** said that the prison riots in Aleg were just one example of the urgent need to improve the increasingly untenable conditions in the State party's prisons. What progress had been made with the building of new prisons? He wished to know whether the National Human Rights Commission's reports on its prison visits had been made public, what problems the Commission had noted, what recommendations it had made and what action had been taken on them. With reference to the case of Hacen Ould Brahim, who had died as a result of torture inflicted by prison staff, he wondered if those who had been responsible had received sentences commensurate with the seriousness of the crime they

had committed, and which took due account of article 2, paragraph 3, of the Convention, to the effect that an order from a superior officer could not be invoked to justify torture.

15. **Ms. Belmir** said that a comprehensive strategy to protect children's rights needed to be introduced, with the participation of all the actors concerned, in order to put an end to practices inimical to those rights, such as the sale of children and forced child labour. She was concerned that the prosecution services' apparent lack of authority over the criminal investigation department would open the door to no end of breaches of basic legal guarantees.

16. **Mr. Tugushi** said that the State party could not effectively prevent and punish torture, owing to gaps in its legislation. The Code of Criminal Procedure made no provision for some fundamental guarantees, such as the right to be assisted by a lawyer from the start of detention and the right to be examined by a doctor. Moreover, little respect was shown for them in practice. That situation considerably increased the risk of acts of torture. The deplorable living conditions of detainees were a form of cruel, inhuman or degrading treatment, and the lack of an effective mechanism to supervise places of detention could not but worsen the situation. The State party's efforts to eradicate torture and ill-treatment should include training measures for the police, the armed forces, prison staff and the judiciary.

17. **Ms. Sveaass** asked whether there were sections within the National Human Rights Commission which were concerned with the prevention of torture and violence against women, including sexual and domestic violence. Had any sentences been passed in cases concerning violence against women and, if so, what type of sentences had been handed down? Were there any shelters for women victims of violence? She called on the State party to adopt a law prohibiting corporal punishment of children and to embark on a campaign to inform and educate parents in order to bring about a change in attitude. Since the detention of asylum seekers should always be a measure of last resort, she wished to know how many asylum seekers were currently held in detention in the State party and whether the risk of torture was assessed when their applications were processed. Lastly, she requested clarification regarding the practices of "*diyah*" and "*qisas*" mentioned in paragraph 113 (a) of the report.

18. **Mr. Mariño Menéndez** asked whether forced disappearance constituted an offence under Mauritanian criminal law and he encouraged the State party to ratify the International Convention for the Protection of All Persons from Enforced Disappearance. The fact that slavery remained endemic in the country despite the existence of legislative and constitutional provisions punishing that practice was a sign that those provisions were not enforced. It might, perhaps, be wise to set up a special unit in the prosecution service which would automatically prosecute any act constituting slavery, or similar to slavery. Was the State party planning to adopt a law enabling children born abroad of a Mauritanian mother to acquire Mauritanian nationality? He encouraged the State party to ratify the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons. He wished to know how many lawyers were practising in the country and whether they were organized in a bar association. Was there a court which had exclusive jurisdiction over crimes committed by the armed forces?

19. **Ms. Gaer** asked for statistics for the previous three years showing the number of cases of slavery, trafficking, rape and domestic violence which had been reported to the authorities. How many of them had led to legal proceedings and sentences? Early marriage was still rife in the State party. She wished to know if any steps had been taken to stop forced marriage. In paragraphs 169 and 170 of its report, the State party said that its law banned the use of evidence obtained under torture. It would be interesting to know if, in pursuance of that principle, any evidence had already been declared inadmissible.

20. **The Chairperson** said that, according to information received by the Committee, many detainees had reported acts of torture to the authorities. In the light of the State party's duty to investigate any allegation of torture, it would be interesting to know how many of those complaints had given rise to an investigation and prosecution and how many cases had ended in conviction. According to non-governmental sources, there were secret places of detention in the State party's territory. An inquiry was vital, since the risk of torture and ill-treatment was particularly high in such places. The public prosecutor's power to defer a suspect's access to his or her lawyer during investigations related to acts of terrorism was incompatible with international standards relating to basic legal guarantees. He wished to know how often that restriction had been applied.

21. **Mr. Domah** (Country Rapporteur) stressed that the fact that the members of the Mauritanian delegation were mainly drawn from national human rights institutions gave the impression that the State had offloaded its obligations on to those institutions. In his opinion, that situation was a matter of grave concern.

22. **Mr. Ould Khattra** (Mauritania) explained that the Commission on Human Rights, Humanitarian Action and Relations with Civil Society, which he represented, ranked as a ministerial department and coordinated national public policy on the promotion and protection of human rights at the national level. The highest State authorities were represented in the delegation in the persons of the technical adviser to the Office of the President, the technical adviser to the Ministry of Justice, and the Director of Regulation from the Ministry of the Interior. He assured the Committee that his Government was doing more than ever before to promote and defend human rights.

The first part (public) of the meeting rose at noon.