



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

Distr.: General  
4 September 2018  
English  
Original: French

## Committee against Torture

### Concluding observations on the second periodic report of Mauritania\*

1. The Committee against Torture considered the second periodic report of Mauritania (CAT/C/MRT/2) at its 1656th and 1659th meetings (see CAT/C/SR.1656 and 1659), held on 24 and 25 July 2018, and adopted the present concluding observations at its 1672nd meeting, held on 6 August 2018.

#### A. Introduction

2. The Committee takes note of the submission of the second periodic report of Mauritania and the replies to the list of issues (CAT/C/MRT/Q/2/Add.1).

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation and welcomes the responses provided to the questions and concerns raised during the consideration of the report.

#### B. Positive aspects

4. The Committee welcomes the legislative measures taken by the State party to give effect to the Convention, including:

(a) Act No. 2015-033 of 2015 on combating torture, which makes torture a separate crime not subject to any statute of limitations and contains a definition of torture that complies with the Convention;

(b) Act No. 2015-034 of 2015 establishing a national mechanism for the prevention of torture;

(c) Act No. 2015-030 of 2015 on legal aid and Order No. 171-2017 of 2017 establishing the composition of legal aid offices;

(d) Act No. 2015-031 of 2015 criminalizing slavery and declaring it a crime against humanity, and Decree No. 2016-077 of 2016 establishing a national day against the practices and legacy of slavery;

(e) Act No. 2017-016 of 2017 governing the composition, organization and functioning of the National Human Rights Commission;

(f) Act No. 2018-024 of 2018 adopting the General Child Protection Code, which prohibits corporal punishment of children and female genital mutilation.

\* Adopted by the Committee at its sixty-fourth session (23 July–10 August 2018).



5. The Committee also welcomes other steps taken by the State party to give effect to the Convention, including:

(a) The adoption, in 2014, of a national action plan on gender-based violence for the period 2014–2018;

(b) The adoption, in 2014, of a road map for the eradication of the legacy of slavery and contemporary forms of slavery;

(c) The construction of the prison in Bir Moghreïn in 2016 and the women’s prison in 2017.

6. The Committee expresses its appreciation to the State party for strengthening its cooperation with the special procedures mandate holders of the Human Rights Council. It is also pleased to note the visits conducted within the State party by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extreme poverty and human rights and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

## **C. Principal subjects of concern and recommendations**

### **Pending issues concerning the follow-up procedure**

7. The Committee regrets that some of the recommendations identified for follow-up in its previous concluding observations (CAT/C/MRT/CO/1) have not yet been implemented, and specifically: repeal of the provision under which persons may be held in police custody for up to 15 days, renewable twice, if held in connection with terrorist acts or threats to national security; strengthening of legal safeguards for detainees (para. 10 (c)); improvement of conditions of detention in all of the State party’s prisons (paras. 22 (a) and (b)); and the obligation to prosecute and punish perpetrators of acts of torture and ill-treatment (para. 18 (a)) (see paras. 9, 15 and 19, below).

### **Fundamental legal safeguards**

8. While the new Act on combating torture (Act No. 2015-033) ensures all fundamental guarantees from the outset of the deprivation of liberty, the Committee notes with concern that its provisions are rarely applied, if at all, as the provisions of the Code of Criminal Procedure relating to the custodial regime and the laws on terrorism, corruption and narcotics are given precedence by Mauritanian judges. Consequently, persons arrested for the crimes covered by such laws can be held in police custody for lengthy periods, up to a total of 45 days in terrorism cases, without being brought before a judge and without having access to legal counsel. The Committee is of the opinion that such regimes leave the accused vulnerable to a high risk of torture or ill-treatment. The Committee also remains concerned that: (i) the 48 hours of police custody for ordinary cases, renewable once, with authorization, is often extended, as non-working days are not counted as part of the maximum period of custody; (ii) there is no way to challenge the legality of police custody; and (iii) access to a lawyer from the moment when deprivation of liberty begins is guaranteed only if the person requests it; otherwise, the person is assigned a court-appointed defence counsel from the time of appearance before a judge, but only in criminal cases. The Committee is concerned that the right to counsel is blocked by the very limited number of lawyers and their concentration in the capital. As for detainees’ access to medical examinations, the Committee is concerned about reports that they are denied access to a doctor upon admission to places of detention and about cases where guards have been present during examinations. The Committee is also concerned about reports it has received that registers have not been properly kept and are sometimes completed retrospectively, while noting plans to computerize the registers kept by the police (art. 2).

9. **The State party should take the necessary measures, including at the legislative level, to:**

(a) **Amend the provisions of the Code of Criminal Procedure and the laws on terrorism, corruption and narcotics that are in conflict with the Act on combating**

torture, No. 2015-033, and international standards in respect of fundamental guarantees, and increase training and dissemination activities on the Act on combating torture so that professionals in the justice system and law enforcement staff are aware of and understand the latest legislative developments, in accordance with the recommendations of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (see A/HRC/34/54/Add.1, para. 117 (c));

(b) Ensure that, regardless of the charges, the social situation of the detainees or their nationality, the maximum duration of police custody does not extend beyond 48 hours, including non-working days, and that it is renewable once where there are exceptional circumstances duly justified by tangible evidence. Detainees must be brought before a judge at the end of police custody and must be able to challenge the legality or necessity of detention at any stage of the proceedings;

(c) Guarantee that all detainees, whatever the charges brought against them and whatever their social situation or nationality, benefit from the fundamental legal guarantees provided under the Act on combating torture, No. 2015-033, from the outset of their deprivation of liberty, in particular the right: (i) to be informed without delay of the reasons for their arrest, the charges and their rights, in a language they understand; (ii) to have prompt and confidential access to an independent lawyer, in particular during police questioning and throughout the procedure, or to receive legal aid; (iii) to request and receive a medical examination without conditions and in full confidentiality, carried out promptly, by qualified medical personnel, upon their arrival at a police station or detention centre, and to have access to an independent medical doctor of their choosing, on request; (iv) to inform a family member or any other person of their choosing about their deprivation of liberty; and (v) to immediately register their arrest in a registry at the place of detention, recording the information required by article 4 of the Act on combating torture and made available to any competent authorities, as well as in a computerized, central registry;

(d) Guarantee that medical personnel report any signs of torture or ill-treatment to an independent investigation body, with full confidentiality and without risk of reprisals. The State party should compile statistical data on the number of cases identified through this mechanism and detailed information on the outcome of investigations concerning such cases;

(e) Provide the necessary resources to ensure access by all indigent persons to legal aid, in all regions and at all stages of the criminal procedure, regardless of the sentences that they may face and their nationality (see A/HRC/34/54/Add.1, para. 119 (c));

(f) Systematically verify that State officials respect, in practice, all legal guarantees and scrupulously keep registers, and punish any violations.

#### **Counter-terrorism and incommunicado detention or detention at unofficial places of detention**

10. Recalling its previous recommendation (see CAT/C/MRT/CO/1, para. 10), the Committee remains concerned that Act No. 2010-035 on combating terrorism has not yet been amended to restrict the vague scope of the definition of terrorist acts, as recommended by the assessment of the Executive Directorate of the United Nations Counter-Terrorism Committee (see CAT/C/MRT/2, para. 22). The Committee is also concerned about reliable reports that suspects of terrorism are often arrested and held in incommunicado detention in unofficial places of detention and subjected to torture in order to extract confessions. Notwithstanding the fact that the State party denies the existence of unofficial places of detention, the Committee notes with concern that the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment was denied access to one such facility during his visit to Mauritania. While noting the investigation conducted at the police station of the fourth arrondissement of Nouakchott, the Committee regrets that the State party has not specified whether, apart from in the case in question, investigations have been automatically initiated into allegations of the presumed use of unofficial detention

centres. It also regrets that the State party continues to deny that the detention of Senator Mohamed Ould Ghadde was arbitrary, despite the opinion of the United Nations Working Group on Arbitrary Detention (arts. 2, 11 and 12).

**11. The State party should take the necessary measures, including at the legislative level, to:**

**(a) End the practice of incommunicado detention and ensure that no one is detained in a secret or unofficial place of detention. The State party should ensure that prosecutors promptly review all detention carried out under the Act on combating terrorism by ensuring that detainees are charged and tried as soon as possible and that those who are not to be charged are immediately released. If detention is justified, detainees should be formally accounted for and held at official places of detention, with access to the fundamental legal guarantees recognized in Act No. 2015-033;**

**(b) Automatically carry out investigations into the existence of unofficial places of detention and allegations of incommunicado detention, identify those responsible and bring them to justice, and provide redress to the victims, including Senator Mohamed Ould Ghadde (see A/HRC/WGAD/2018/33, paras. 63 and 64);**

**(c) Ensure that all legislation related to combating terrorism is in full conformity with the Convention and international standards.**

#### **Use of torture and ill-treatment during arrest and detention**

12. Despite the State party's contention in its written replies that reports of torture by the police and the gendarmerie are unfounded, the Committee remains concerned about corroborating information from reliable sources and from the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment that torture remains a widespread practice in these services, particularly during arrest, police custody and transfers, irrespective of the nature of the alleged offence, and is of a systematic nature in the context of terrorist offences. It is also concerned about reports that, despite some improvements, investigators are unable to conduct thorough investigations and often resort to ill-treatment to extract confessions. The Committee also notes information indicating that prosecutors and investigating judges are rarely accessible to victims in practice, owing to the fact that they fail to carry out regular monitoring of places of police custody, as required by law (arts. 2, 12, 13 and 16).

**13. The Committee urges the State party to:**

**(a) Make a public announcement by the highest authorities emphasizing the absolute nature of the ban on torture and that whosoever (i) commits such acts; (ii) orders that they be committed; (iii) is an accomplice to their commission or (iv) tacitly allows them to be committed shall be held personally accountable before the law;**

**(b) Install and ensure the use of video surveillance equipment at all places of police custody, except in cases where detainees' right to privacy or to confidential communication with their lawyer or a doctor may be violated. Such recordings should be kept in secure facilities, monitored by supervisory bodies and made available to investigators, detainees and their lawyers;**

**(c) Improve criminal investigation methods to end the practice whereby confessions are relied on as the primary type of evidence in criminal prosecution;**

**(d) Increase visits to places of deprivation of liberty by prosecutors and investigating judges in order to ensure that every detainee who requests to meet with them can do so.**

#### **Impunity for acts of torture and ill-treatment and independence of investigations**

14. The Committee remains concerned about consistent information from reliable sources condemning the lack of follow-up to allegations of torture, even when acts of torture are documented and/or publicly reported. The State party recognized the lack of a follow-up to the allegations of torture raised by Abdellahi Matalla Saleck and Mousa Bilal

Biram before a criminal court, which merely issued a decision declaring its lack of jurisdiction. Recalling its previous recommendation (CAT/C/MRT/CO/1, para. 15), the Committee remains concerned about the fact that the President of the Republic is the head of the Supreme Council of the Judiciary, and consequently is able to interfere in judicial affairs, particularly in cases concerning violations of the Convention by agents of the State. In the light of this information, the Committee is concerned that the State party has reported just three complaints of torture, without providing more information on the contents of these investigations, and only one conviction, dating from 2012, of eight members of the National Guard. The Committee regrets that the State party has not provided statistics on the number of investigations that prosecutors have initiated ex officio or on the basis of information reported by doctors (arts. 2, 12, 13 and 16).

**15. Reiterating its previous recommendations (see CAT/C/MRT/CO/1, paras. 18 and 26), the Committee requests the State party to clarify the number of investigations into allegations of torture that prosecutors have initiated ex officio or on the basis of information provided by doctors. The State party should take the necessary steps to:**

**(a) Ensure that all reported acts of torture or ill-treatment are investigated promptly and impartially by an independent body; that there is no institutional or hierarchical relationship between the investigators and the suspected perpetrators; and that suspected perpetrators are duly brought before a court and, if found guilty, sentenced to punishment commensurate with the gravity of their acts;**

**(b) Ensure that the authorities launch investigations whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed;**

**(c) Ensure that suspected perpetrators of an act of torture or ill-treatment are relieved of their duties immediately and for the duration of the investigation, especially if there is a risk that they could commit further acts such as those of which they are suspected, seek retaliation against the presumed victim or obstruct the investigation;**

**(d) Set up an independent, effective, confidential and accessible mechanism for the lodging of complaints at all places of police detention and prisons and ensure that, in practice, both complainants and victims are protected against reprisals in any form (see A/HRC/34/54/Add.1, para. 118 (j));**

**(e) Guarantee the full independence of the judiciary, ensuring that its operations are free from any pressure or interference from the executive, as mentioned in the previous concluding observations (see CAT/C/MRT/CO/1, para. 15).**

#### **Inadmissibility of confessions obtained through torture**

16. In light of the allegations of forced confessions mentioned by various sources, the Committee is concerned about the fact that the State party has cited just two cases (cases No. 101/2016 and RP 512/2006) in which evidence was rejected on the grounds that it had been extracted under torture. The Committee remains concerned about reports that prosecutors and judges are reluctant to investigate allegations of torture and ill-treatment. The Committee is also concerned about the lack of forensic expertise to substantiate such allegations, given that there is just one forensic doctor in the country (art. 15).

**17. The State party should take effective steps to ensure that, in practice, evidence obtained under torture or ill-treatment is ruled inadmissible, in accordance with the law. The Committee therefore calls on the State party to ensure that:**

**(a) At all stages of judicial proceedings, when it is alleged that a confession has been extracted by means of torture or ill-treatment, a thorough investigation is promptly launched into the allegations and the presumed victim undergoes a forensic medical examination;**

**(b) Medical and forensic capacities and facilities are developed;**

**(c) State officials who extract confessions are brought to justice;**

**(d) Judges are trained in ways of verifying the admissibility of confessions and in the obligation to open investigations when allegations of torture are brought to their attention, and that penalties are imposed on those who do not take the necessary measures in the course of judicial proceedings.**

#### **Conditions in detention**

18. Recalling its previous recommendation (see CAT/C/MRT/CO/1, para. 22), the Committee notes with concern that 7 of the country's 18 detention centres remain overcrowded. It is also concerned about the high number of people held in pretrial detention (38 per cent), despite the progress made in promoting alternative measures, and at the low proportion of cases — only 8.7 per cent — in which sentences have been adjusted, which aggravates the problem of overcrowding. Although the authorities have transferred convicted prisoners to the prisons of Aleg, Nouadhibou and Bir Moghreïn, which provide more space, the Committee notes with concern that these prisons are inaccessible to the prisoners' families owing to the distances involved and difficulties with transport. It takes note of plans for prison construction and refurbishment but remains concerned about the fact that, according to the national mechanism for the prevention of torture, 11 centres are residential houses converted into prisons and have numerous defects as regards sanitation, safety, cleanliness and hygiene. According to the State party, the unsuitability of the facilities also makes it difficult to separate convicted prisoners from pretrial detainees, prisoners of conscience from ordinary prisoners and children from adults, particularly in the women's prison. Although there have been some improvements over recent years, the Committee remains concerned about reports of unhealthy living and sanitary conditions, poor quality food, restrictions on access to water and family visits, including as a collective punishment, and inadequate access to the open air, to schooling, to vocational training and to work. The Committee is also concerned about the limited access to health care, particularly in the case of seriously ill prisoners, such as Ahmed Ould ElHadrami, the failure to isolate prisoners suffering from contagious diseases and the lack of dental or psychiatric treatment (arts. 2, 11 and 16).

**19. The Committee calls on the State party to intensify its efforts to bring conditions of detention into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), and in particular to:**

**(a) Reduce prison overcrowding by making greater use of measures for the adjustment of sentences, such as parole, and alternative, non-custodial penalties, as recommended by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (see A/HRC/34/54/Add.1, para. 118 (b));**

**(b) Adopt and monitor the impact of the necessary measures, including the provision of training for judges, to promote a more extensive use of alternatives to pretrial detention, with a view to ensuring that such detention is imposed only in exceptional circumstances and for limited periods, on the basis of the criterion of necessity and having regard to individual circumstances;**

**(c) Guarantee that detainees are placed in the facilities that are closest to their home, subject to prison capacity;**

**(d) Continue to implement plans to develop prison infrastructure, ensuring that sanitary and hygiene conditions, food and access to drinking water are adequate and that the facilities are equipped to enable detainees to take exercise (see A/HRC/34/54/Add.1, para. 118 (i));**

**(e) Prohibit collective punishment, particularly in the form of restrictions on access to drinking water and family contacts;**

**(f) Guarantee strict separation of pretrial detainees from convicted prisoners and of children from adults and ensure that they receive appropriate treatment;**

**(g) Ensure that there is a sufficient number of qualified health personnel in the prison health service, in cooperation with the public health services, and, in particular, that proper care is provided to prisoners who are seriously ill or**

**contagious and that prisoners have access to psychiatric and dental specialists and to the appropriate equipment and medicines;**

**(h) Improve prisoners' access to schooling, to vocational training and to work, with a view to supporting their reintegration into the community.**

#### **Deaths and allegations of ill-treatment in prison**

20. Although deaths and violence among detainees have decreased over the period under consideration, the Committee remains concerned about allegations that deaths have occurred in suspicious circumstances, as in the case of Mohamed Ould Brahim Maatalla, who died of a heart attack after being arrested by the police. It is also concerned about allegations that autopsies are not carried out in cases of death in detention, owing to a lack of forensic doctors; that there is ill-treatment in prisons, with handcuffing and painful shackling during transfers; and that searches of body cavities are regularly used (arts. 2, 11, 12, 13 and 16).

**21. The State party should take the necessary steps to:**

**(a) Ensure that all alleged acts of violence, death and ill-treatment are promptly made the subject of a thorough and impartial investigation, including, in the event of death, an independent forensic examination conducted in accordance with the Minnesota Protocol on the Investigation of Potentially Unlawful Death, that those responsible are brought to justice and, if found guilty, are duly punished and that the victims or their dependants obtain adequate redress;**

**(b) Ensure, in cases where handcuffs are deemed essential and no other form of control can be used, that such handcuffs are not applied excessively tightly and are not used any longer than necessary;**

**(c) Seek to replace body searches with the use of metal detectors and, in cases where a body search is absolutely necessary, to monitor its use closely and ensure that it is conducted only by trained staff of the same sex as the prisoners and that it is not degrading for them, as provided for under rules 50–53 and 60 of the Nelson Mandela Rules.**

#### **Disciplinary regime**

22. The Committee is concerned about information provided by the State party indicating that decisions on solitary confinement are taken by the prison director, that such confinement may be imposed for 23 hours a day for up to 15 consecutive days and that, if discipline necessitates a harsher punishment, the period may be extended to 60 days. It is also concerned about information that the National Guard, which is a paramilitary body responsible for prison security, reportedly has full discretion to impose disciplinary measures. The Committee also wishes to express its concern about the system of self-management by “yard chiefs”, who act on instructions from National Guard officers, whereby certain prisoners control access to services and the living conditions of the other prisoners. It notes, however, that there are plans to establish a specialized prison guard service within the prison administration (arts. 11 and 16).

**23. The State party should take the necessary legislative and administrative measures to ensure that practices relating to the disciplinary regime are in conformity with international standards, particularly rules 36–46 of the Nelson Mandela Rules. In particular, it should:**

**(a) Ensure that solitary confinement is used as a measure of last resort, imposed for as short a period of time as possible and never for more than 15 consecutive days, and that it is subject to strict conditions of monitoring and judicial review;**

**(b) Guarantee that the right to a regular procedure is always respected in disciplinary procedures undertaken against prisoners and establish a competent independent body to review disciplinary decisions, as mentioned in the previous concluding observations (see CAT/C/MRT/CO/1, para. 15 (d));**

(c) **Establish, as soon as possible, a specialized prison service with civilian status and, meanwhile, investigate situations of self-management in prisons in order to prevent abuse and corruption and to ensure that prisoners are treated on an equal footing;**

(d) **Ensure that any official who does not respect these rules is the subject of appropriate criminal and/or disciplinary penalties.**

**Amnesty for events that occurred during the period of “unresolved humanitarian issues”**

24. The Committee takes note of the information provided by the State party to the effect that a memorandum of understanding has been signed to provide for the compensation of widows of army officers killed during the period of “unresolved humanitarian issues” and notes that the State party acknowledged its responsibility at a commemorative event. It does, however, consider it a cause for concern that, despite the Committee’s recommendations in its previous concluding observations (see CAT/C/MRT/CO/1, para. 19), the State party is not planning to amend the Amnesty Act, No. 92-93, so that it can investigate allegations of acts of torture and ill-treatment during that period, and allow victims and their dependants access to a remedy. It is also concerned about reports of reprisals against victims, their dependants and human rights defenders when they attempt to commemorate violations committed during that period (arts. 2, 12, 13, 14 and 16).

25. **The Committee recalls its previous recommendation (see CAT/C/MRT/CO/1, para. 19) and calls on the State party to:**

(a) **Amend the Amnesty Act, No. 92-93, and revoke any amnesty for acts of torture or ill-treatment committed during the period of “unresolved humanitarian issues”, or for any other offences, in order to facilitate investigations and prosecutions and allow all victims and their dependants access to civil proceedings for compensation and the fullest possible rehabilitation;**

(b) **Ensure the protection of victims, their families and other persons acting on their behalf against any reprisals carried out against them for exercising their legitimate right to redress.**

**Acts of intimidation, arbitrary detention and obstacles to human rights defenders’ cooperation with the Committee**

26. Although the State party maintains that human rights defenders are “not subjected to any intimidation, harassment or arbitrary detention” (see CAT/C/MRT/Q/2/Add.1, para. 55), the Committee remains concerned about consistent reports of acts of intimidation and threats against human rights defenders and bloggers which have not been investigated, as in the case of Mekfoula Brahim. The Committee is also concerned about reliable reports, including information from the Working Group on Arbitrary Detention, that a large number of human rights defenders, mainly anti-slavery activists, have been arbitrarily arrested and sometimes even subjected to torture, and subsequently prosecuted on vaguely formulated charges, as in the case of 13 members of l’Initiative pour la résurgence du mouvement abolitionniste. The Committee considers it a cause for concern that some of them, despite having served their sentences, are still being held indefinitely in administrative detention for security reasons, without the possibility of informing their families of their place of detention, as in the case of Mohamed Mkhaitir. It also notes with concern reports indicating that, on the pretext of checking their visas, the authorities detained five human rights defenders who intended to cooperate with the Committee during its consideration of the State party’s second periodic report (arts. 2, 12, 13 and 16).

27. **The State party should:**

(a) **Refrain from arresting and prosecuting human rights defenders who engage in legitimate activities, for very vaguely defined offences;**

(b) **Unconditionally release all human rights defenders who are in arbitrary detention, including Mohamed Mkhaitir, as recommended by the Working Group on**

**Arbitrary Detention (A/HRC/WGAD/2017/90, A/HRC/WGAD/2017/35 and A/HRC/WGAD/2016/36), and provide the victims with the appropriate redress;**

**(c) Ensure that all human rights violations committed against human rights defenders, including Mekfoula Brahim, are thoroughly and impartially investigated as quickly as possible, that those responsible are prosecuted and sentenced to penalties commensurate with the seriousness of their acts and that the victims receive redress;**

**(d) Protect from any possible reprisals members of civil society who cooperated with the Committee during the consideration of the second periodic report.**

#### **National Human Rights Commission**

28. The Committee notes with concern that, despite the amendments introduced in July 2017 to the Act establishing the National Human Rights Commission (Act No. 2017-016), the Accreditation Subcommittee of the Global Alliance of National Human Rights Institutions recommended in November 2017 that the Commission should be downgraded to B status, principally owing to the lack of transparency in its selection process and its lack of independence from the executive (art. 2).

**29. The State party should take the necessary measures, including at the legislative level, to:**

**(a) Establish a clear, transparent and participatory process for selecting members of the Commission based on merit rather than on organizations that individuals represent, and ensure pluralism;**

**(b) Encourage the Commission to make decisions that ensure respect for all human rights in all circumstances and without exception.**

#### **National mechanism for the prevention of torture**

30. Noting the promulgation of Act No. 034/2015 establishing the national mechanism for the prevention of torture, the Committee shares the concerns raised by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the public report on its visit to Mauritania (see CAT/OP/MRT/2, paras. 29–32 and 36) concerning: (i) the selection committee's lack of independence in the selection process for members, which is overseen by the President of the Republic, and the fact that the Secretary General of the national mechanism for the prevention of torture is appointed by decree of the Council of Ministers; (ii) the fact that members of the national mechanism for the prevention of torture receive only a cash allowance; and (iii) the mechanism's lack of budgetary independence and insufficient financial resources (arts. 2 and 11).

**31. The State party should take the necessary measures, including at the legislative level, to guarantee that (see CAT/OP/MRT/2, paras. 34, 39 and 43):**

**(a) Members are appointed following a transparent, inclusive and participatory process and that the national mechanism for the prevention of torture can recruit its own staff, including its Secretary General;**

**(b) Members of the national mechanism for the prevention of torture receive an adequate salary;**

**(c) The national mechanism for the prevention of torture has genuine budgetary independence and the resources needed to effectively fulfil its mandate, including the resources needed to introduce a programme of regular, unannounced visits to places of detention.**

#### **Excessive use of force by law enforcement officials**

32. While noting the State party's claim that all demonstrations during the period under review occurred without incident, the Committee remains concerned about consistent reports of demonstrators being dispersed through the excessive use of force by law enforcement officers, which led, for example, to the fatal shootings of Lamine Mangane

and Ramdhane Ould Mohamed. It is also concerned about reports of excessive use of force during checks on foreign nationals, particularly against foreign fishermen on Mauritanian vessels. Although the State party has indicated that no complaints have been filed, the Committee regrets that the State party has not responded to requests for information as to whether investigations have been initiated *ex officio* into the allegations of excessive use of force, ill-treatment and torture by law enforcement officials during demonstrations in January 2015, on 29 February 2016, in June 2016, in April 2017 and on 28 November 2017, as well as during checks on foreign nationals (arts. 2, 12, 13 and 16).

**33. The State party should:**

(a) **Ensure that all allegations of excessive use of force, torture and ill-treatment, as well as of extrajudicial killings, by State agents during demonstrations and checks on foreign nationals are investigated promptly, thoroughly and impartially, that those responsible are prosecuted and, if found guilty, are punished, and that the victims obtain redress;**

(b) **Bring legislative and regulatory provisions governing the use of force into compliance with international standards and ensure that law enforcement agents first use non-violent measures before using force when conducting demonstration and immigration control operations and that they respect the principles of legality, necessity, proportionality and accountability;**

(c) **Increase its efforts to systematically provide training to all law enforcement officials on the use of force, especially in the context of demonstrations and immigration, taking due account of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.**

**Death penalty and corporal punishment**

34. The Committee notes with concern that the Criminal Code still contains provisions authorizing corporal punishment for crimes punishable by *hadd* penalties (public stoning to death, whipping and amputation), for some of which there is no statute of limitations, as well as by *qisas* penalties and blood money (*diyya*), where the principle of retaliation is applied in cases of violence against an individual's physical integrity, and the punishment or pardon is left to the discretion of the victim or their family, in exchange for a payment. The Committee is also concerned about the provisions of article 303 of the Criminal Code, which stipulates that "there is neither crime nor offence when the homicide, wounds and blows have been ordered pursuant to the law, by a legitimate authority". The Committee is concerned about the recent amendment to article 306 of the Criminal Code rendering the death penalty mandatory for acts qualified as apostasy, with no possibility for those concerned to repent or appeal. While there is a *de facto* moratorium on the death penalty and corporal punishment, the Committee remains concerned about their persistence in the law and their possible use in future. It is also concerned about reports indicating that several people sentenced to deprivation of liberty along with corporal punishment, and who have already served their prison sentences, are still being detained, as the corporal punishment has not been carried out and they have not received a pardon from the victims (arts. 2 and 16).

35. **The Committee recalls its previous recommendation (see CAT/C/MRT/CO/1, para. 20) and calls on the State party to: (i) amend the Criminal Code to bring it into compliance with the State party's obligations under the Convention and other international standards, in particular by abolishing *hadd* and *qisas* penalties and the use of blood money (*diyya*); (ii) annul or commute corporal punishments already handed down; (iii) release those persons whose corporal punishments have not been carried out; and (iv) ensure that victims or their survivors obtain adequate redress. The Committee also recommends that the State party abolish the death penalty and commute death sentences to prison sentences.**

### Redress

36. Notwithstanding the fact that Act No. 2015-033 on combating torture entitles victims to redress, the Committee remains concerned about the lack of information on the redress provided for victims of torture and on rehabilitation programmes (art. 14).

37. **The Committee draws the State party's attention to general comment No. 3 (2012) on the implementation of article 14 by States parties and urges the State party to:**

(a) **Take the necessary legislative and administrative measures to ensure that victims of acts of torture and ill-treatment have access to effective remedies and redress, including in cases where the perpetrator has not been identified;**

(b) **Fully assess the needs of victims of acts of torture and ensure that specialized rehabilitation services are readily available, either by directly providing services in this area or by granting funding to other services, including those run by non-governmental organizations.**

### Non-refoulement

38. While noting that the bill on the right to asylum will be reviewed by the Government in preparation for its submission during the next parliamentary session, the Committee notes with concern that the bill has been pending approval since December 2016. It regrets that it has not received information as to whether the bill and legislation governing the extradition and deportation of undocumented migrants recognize the principle of non-refoulement on the basis of the risk of being subjected to torture. Although the State party claims that the deportation process complies with all procedural safeguards, the Committee remains concerned about reports that the State party has allegedly carried out collective deportations of undocumented migrants and refugees, suggesting that the principle of non-refoulement is not respected, as indicated by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (see A/HRC/34/54/Add.1, para. 37) (arts. 3 and 11).

39. **The State party should:**

(a) **Speed up the legislative procedure for the adoption of the bill on the right to asylum in Mauritania and ensure that the bill and the laws governing the extradition and deportation of undocumented migrants give full effect to the principle of non-refoulement set out in article 3 of the Convention;**

(b) **Increase its efforts to systematically provide training to all police officers and border agents on asylum procedures and on the need to respect the principle of non-refoulement in order to prevent forced expulsions of migrants and refugees.**

### Training

40. While noting that several awareness-raising seminars have been organized, the Committee is concerned about the absence of appropriate, ongoing training on the Convention and on the legal provisions relating to torture. The Committee is also concerned about reports according to which there are no doctors who have received training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) (art. 10).

41. **The State party should:**

(a) **Continue its efforts to regularly and systematically raise awareness of and provide training on the Convention, on Act No. 2015-033 on combating torture and on non-coercive interviewing methods for all persons involved in the detention, interrogation and handling of persons deprived of their liberty, and particularly the police, gendarmerie and National Guard;**

(b) **Ensure that all relevant staff, including medical personnel, are specifically trained to identify and document cases of torture and ill-treatment, in accordance with the Istanbul Protocol;**

(c) **Develop and apply a methodology for evaluating the effectiveness of educational and training programmes relating to the Convention and the Istanbul Protocol.**

**Follow-up procedure**

42. **The Committee requests the State party to provide, by 10 August 2019, information on the follow-up given to the Committee's recommendations on: the obligation to prosecute and punish perpetrators of acts of torture and ill-treatment; the release of human rights defenders held in arbitrary detention; and the national mechanism for the prevention of torture (see paras. 15, 27 (b) and 31). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.**

**Other issues**

43. **The Committee invites the State party to consider ratifying the other United Nations human rights instruments to which it is not yet party.**

44. **The State party is requested to disseminate widely the reports submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.**

45. **The State party is invited to update its common core document (HRI/CORE/1/Add.112) in accordance with the instructions contained in the harmonized guidelines on reporting under the international human rights treaties (see HRI/GEN/2/Rev.6, chap. I).**

46. **The Committee invites the State party to submit its next report, which will be its third periodic report, by 10 August 2022. For that purpose, the Committee invites the State party to accept, by 10 August 2019, the simplified reporting procedure, consisting in the submission, by the Committee, of a list of issues prior to the submission of the report. The State party's replies to that list of issues will constitute its third periodic report under article 19 of the Convention.**

---