



ngo group for the crc

STATE PARTY EXAMINATION OF MAURITANIA'S SECOND PERIODIC REPORT

51ST SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

25 MAY – 12 JUNE 2009

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Mauritania ratified the Convention on the Rights of the Child (CRC) on 16 May 1991. On 28 May 2009, the Committee on the Rights of the Child (the Committee) examined the second periodic report of Mauritania. It was last examined on 4 October 2001. The State party still has reservations “to articles or provisions which may be contrary to the beliefs and values of Islam, the religion of the Mauritania People and State.”

Opening Comments

The head of delegation, Mr. Mohamed Ould Ely Telmoudy, Secretary-General of the Ministry of Social Affairs, Childhood and Family Affairs, introduced his delegation, which included representatives from his ministry, the Ministry of Justice and the Permanent Mission in Geneva. Mr. Telmoudy noted that a new Ministry of Social Affairs, Children and Family Affairs as well as a Commissioner for Human Rights and Humanitarian Action were mandated to address children's issues. Special attention had been paid to social policies, especially for the protection of persons with disabilities. The legal framework had been improved to establish a juvenile justice system based on the application of the ordinance on the criminal protection of the child and the law of personal status. Legal assistance was provided to children in conflict with the law and their rehabilitation would be strengthened with the creation of a detention centre in Nouakchott. There had also been progress in the health sector with new strategies relating to healthcare structures to reduce child mortality and the government ensured 100% of the immunisation. In addition, there were improvements in hospital services and an increase in grants to the Ministry of Health. In terms of education, total primary enrolment had reached 95.1 percent (2007-2008). Girls also had better access to education, accounting for 50.3 percent of the primary school students and 46.2 percent of secondary school students. Additionally, the implementation of the national policy on early

childhood development (adopted in 2005) had seen significant progress, particularly in the care system and education. The government together with partners had doubled the capacities of training centres and had improved training for teachers. It had also developed a strategy to protect children against sexual exploitation and other forms of abuse. Furthermore, it intended to implement a strategy for the integration and social advancement of street children. However, there were still many challenges, including the size of the country, the population density, the lack of resources, the high poverty level and limited access to basic services, economic and social infrastructure and insufficient data. Nevertheless, the government was committed to bringing the provisions of the CRC in harmony with national legislation, having as objective to improve the quality of primary education, reduce child mortality and protect children against violence and exploitation.

The Country Rapporteur Mr. Zermatten, welcomed the delegation and noted the progress made since the last review, including the law on the criminalisation of slavery (September 2007); the law punishing all forms of exploitation/trafficking of persons (July 2003), the law on compulsory education (2001) and so on. Other achievements included the reform of the educational system through the 10-year Educational Plan and the revision of the Poverty Framework had been completed. The government had also ratified several international human rights instruments, such as the ILO conventions. However, there was considerable international pressure in particular from the African Union, the European Union and the United States, which had decided to suspend humanitarian assistance due to the political instability. He felt that the government had not focused enough attention on the previous recommendations, especially with regard to the National Action Plan, birth registration and sexual exploitation. He also expressed concern about the incorporation of the CRC in national law, and its relation with modern and Islamic Sharia law. He wanted to know if the CRC was evoked in court and requested more information on jurisprudence.

The Co-Rapporteur, Ms. Mauras Perez, commended the government for its efforts in implementing the CRC, especially in terms of legislation. She expressed concern about the dissemination of the CRC in different languages. She asked about the involvement of civil society in the report and if there was an institutional mechanism to facilitate its participation and dialogue with the government. She enquired about the role of the National Movement for Children in establishing and building a national culture for children's rights. She also asked about the measures to ensure their commitment to poverty reduction, in particular regarding resources and budget. More information was needed on steps taken to increase funding for the social sector and the impact of the Poverty Reduction Strategy Paper on the improvement of child rights. As the budget did not have a strong focus on children's needs, she wanted to know if this was due to political will or to the impositions of international cooperation. She also noted the many definitions of the child, and asked about efforts to harmonise the definitions and disseminate the juvenile code. Finally, she noted the low rate of birth registrations (about 55 percent) and stressed the need to develop a national strategy to improve the registration system, including making it compulsory and easily accessible.

General Measures of Implementation

Legislation and Reservations

Having noted progress at national and international level, the Committee asked if there were plans to ratify other instruments, such as the Convention on the Rights of Persons with Disabilities and the status of the CRC in domestic legislation. The delegation explained that there were three sources of law: Muslim, Customary and Modern law. As an Islamic republic,

the Sharia had supra constitutional status. Additionally, the ordinance of 15 December 2005 on the protection of children incorporated the provisions of the CRC into the national legislation and the violations of these rights were subject to certain penalties such as deprivation of liberty and fines. The delegation reassured the Committee that all future legislation would be in line with the provisions of the CRC.

The Committee asked if the government intended to lift the general reservation, as it had no *raison d'être* given the efforts made to adopt legislation to promote and protect children's rights. The delegation responded that all the provisions of the CRC that were not in keeping with the Sharia were not applicable in national legislation. However, the government realised that this deprived the CRC of its function and as such had decided to remove the general reservation and place reservations on specific articles, as had been the practice with other Islamic states. The Committee declared that under the CRC it was not possible to enter new reservations, but it could withdraw its general reservation.

The National Council for Children

The Committee enquired about the membership, the budget and the concrete activities of the National Council for Children. The delegation explained that the Council was a consultative body which provided advice to the ministries responsible for children. Its members were appointed from the Ministry of Social Affairs, Childhood and Family Affairs, academics and civil society. The Council contributed to the definition of the needs of children and was responsible for developing strategies to protect children, raising awareness and drafting an annual report on the situation of children and suggestions for future policy. It was financed through a State subsidy and UNICEF. In 2008, there was a funding problem, because the subsidy should have been budgeted the previous year, so it was not paid. However, the delegation reassured the Committee that this would not be a problem in 2009.

Coordination, Monitoring and Resources

Despite progress in legislation, problems remained in relation with the implementation of laws. As the Human Rights Commission was very active, the Committee asked for more information on its creation, membership, budget and activities in child rights. With respect to coordination, the Committee remarked that almost all the members of the delegation were from the Ministry of Social Affairs, which could lead to a sectorialisation of children's affairs. It wanted to know if the ministry had adequately human and financial resources for children's issues. In response, the delegation stated that the National Human Rights Commission had been created by law. It was an independent body, made up of representatives from civil society who were the only members with voting rights and representatives of ministries who could provide technical expertise but had no voting rights. It was therefore in line with the Paris Principles. It was composed of legal and sectorial subcommittees, which covered women, persons with disabilities and children's rights. It was in a position to support the government and make proposals to settle problems related to children. Its budget was set out as part of the national budget and was around \$ 450,000. Regarding the composition of the delegation, the latter noted that it included representatives from the Ministry of Justice and their ambassador in Geneva. Although the Ministry of Social Affairs was a new one, the budget allocations were sufficient for its work. The Committee enquired how the government intended to use these resources for children. It also asked if there were any restrictions or conditionality related to investments in children and social services in relation to international cooperation.

Data Collection

The Committee commended the State party's efforts to collect reliable data in cooperation with UNICEF and the World Bank, which could provide a good base for establishing policies. However, it seemed that the data was relatively old. It therefore asked about the plans to collect data to ensure the implementation of the CRC. The delegation responded that the report was drafted before the validation of the national data collection system which validated many indicators.

Dissemination and Training

The Committee enquired about the awareness of the CRC among professionals working in child rights/issues and also asked about the types of training available to them. The delegation said that since the ratification of the CRC, the government had raised awareness about the need to respect children's rights. The National Movement for the Promotion of the Rights of Children aimed to promote child rights at community level. Within this context, a Children's Parliament was established. A municipal council would be established to focus on children's affairs. At international level, they celebrated children's international day and participated in the International Children's Parliament. Arrangements had also been made to celebrate the 20th anniversary of the CRC.

Definition of the Child

The Committee noted the lack of a clear definition of the child or any clear age for work or marriage. In 2001, when the initial report was considered, there was a recommendation to harmonise the age for work and education, as the minimum age for work did not coincide with the end of compulsory education. It wanted to know why the State party had lowered the age of employment rather than increasing the age of compulsory education. As for the age of marriage, the Committee had information that early marriage was common in many regions and requested further information on the issue. The delegation explained that marriage was possible before the age of 18, but this was done taking into account the best interest of the child, which was determined by judges. Certain penalties were provided for anyone who entered into such a marriage, and for the officials of the civil registry who allowed such unions.

General Principles

Non-discrimination

The Committee reiterated its concern about the prevalence of discrimination, particularly against minorities, persons with disabilities and children born out of wedlock. This was especially important for children born out of wedlock, as they were ostracised because of their status. The Committee therefore asked about the measures to eliminate all forms of discrimination, especially on the ground of ethnic origin, as no information was provided in the report. With respect to discrimination against children attending Koranic schools, the Committee asked about the measures to ensure that these children had the same opportunities as other children. The delegation replied that children who attended Koranic schools and went on to complete higher education did better than those who attended other schools.

Civil rights and freedoms

Birth Registration and the Right to Identity

The Committee emphasised the right of every human being to have an identity, but noted that this right was denied to over half the population. It therefore asked about the measures to encourage families to register their children. The delegation replied that the birth registration services were available throughout the country, even in areas where maternity services were not available. In 2006, a future generation fund, managed by a commission of governmental and civil society representatives, had been set up. However, there was no increase in the rate of registration, as the main problem was to change the attitudes and make the local communities aware of the need of birth registration. The government was envisaging enforcing automatic birth registration at the time of birth. However, many births did not take place in healthcare centres or hospitals and there were many nomads, which also made registration harder to achieve.

The Right to Assembly, Privacy and Access to Information

The Committee asked for more information on the right to assembly, privacy and access to information for children and adolescents. It wanted to know how these rights were guaranteed in the legislation and in everyday life. The delegation reiterated the fact that children had their own Parliament which was involved in extensive campaigns.

Child Abuse

According to information, many victims of rape dropped out of school, remained unmarried, were ostracised by the community and became prone to prostitution and exploitation. The Committee expressed concern about the existing measures to tackle sexual violence and, in particular, to change people's perception that rape and adultery were the same. As judges also made the same assumptions, the Committee asked about the training available to judges to ensure that they understood the difference and to avoid victimising the victims. Other key issues of concern were related to: awareness raising on violence against children, the existence of rehabilitation services for the victims, steps to remove the stigma and to empower girls to access education. The delegation responded that these two offences were distinct and separate, as there was the question of consent. If a woman went out alone with a man and was raped, it would depend on the complaint, as there would be the issue of public decency. A judge with modern training would focus on the rape and not the violation of public decency, so the victim would not be imprisoned. Judges were receiving training from NGOs on these issues and associations of mothers were organising workshops for judges and law enforcement officers to deal with juvenile justice issues. The victim's and perpetrator's family were also involved and the issues of compensation and redress were discussed. The Committee stated that they needed to deal with the offence as being against decency if the victim was a child. Finally, the Committee asked if corporal punishment was completely prohibited and if there were programmes to address this issue. The delegation replied that corporal punishment was prohibited since 1966 and was addressed in the Code of the Child.

Family Environment and Alternative Care

Marriage and Polygamy

With regard to the family environment, the report stated that the National Family Strategy and

the Family Persons Code were in compliance with the CRC. However, polygamy continued to pose a threat to children, as the rules under the Sharia were not observed and respected by the husband in relation to fulfilling the needs of the family. Other matters of concern were the laws for divorce, the protection of female-headed households, and abandoned children. The Committee asked about the existence of evaluations of rehabilitation centres and community or family-based arrangements, which helped ensure that children were not separated from their local community or culture. With regard to polygamy, the delegation said that the consent of both wives was needed for such marriages. As it was a Muslim society, marriage under Muslim law took precedence. The spouses had to go to the civil registry to get the marriage recognised. The civil officer had to make sure that the law had been respected regarding the age of consent; if not there could be penalties. The Committee responded that there was a need to separate the declaration of marriage under religious provisions and priority should not be given to religious marriage, as it does not involve the signing of an official document. The delegation noted that the nomadic population needed temporary registration centres, as it was constantly on the move.

Basic Health and Welfare

Health Services

Despite progress in the healthcare system, the indicators were not improving. The Committee therefore asked about the resources and effectiveness of the government's investment in primary health care. It also enquired about the outcome of the 2007 National Reproductive Health Plan. According to the World Food Programme, thousands of children suffered from malnutrition, so the Committee enquired if there was a programme addressing the issue. It also asked if existing policies focused on maternal health, given the high maternal mortality rate. It also requested clarifications regarding the funding of immunisation, as there was a contradiction between the information presented by the delegation, indicating that the government ensured full coverage and information in the report which stated that they were completely dependent on external aid. The Committee also expressed concern about the policy for adolescents' health as well the availability of special education and training programmes for health professionals working with children. The delegation responded that there was a concern about attaining the Millennium Development Goals, especially numbers 4 and 5 on child mortality and maternal health. It noted that the government had strengthened the health system in order to try and reach these goals. As a result, 72% of the population lived within 5 km of a health centre. Concerning the mortality rates, it noted that figures from the last survey suggested an improvement in the health services. The delegation noted that 30 percent of children suffered from malnutrition, however the figures had not changed dramatically since the last survey. As for the funding of the vaccines, the delegation explained that they had regularly bought vaccines through UNICEF. The government bought the regular vaccines.

HIV/AIDS

After commending the State party for the low prevalence rate, 1 percent nationally and 7 percent among adolescents, the Committee asked about preventive measures and public awareness campaigns, in particular to ensure that the virus would not be transmitted from mother to child. The delegation said that the progression of the disease was disturbing, as less than 10% of women understood how the disease was transmitted. The mother to child transmission rate was 35 to 40 percent. They had developed a strategy under child survival

and development and aimed to keep the prevalence rate under 1 percent.

Female Genital Mutilation

The Committee noted that there was a lot of political will regarding Female Genital Mutilation (FGM). It remarked that it was not an Islamic practice, but a customary one, and noted that the State party should establish a law to criminalise this practice, which would send a message to society and not leave it to the discretion of the judge. It asked about efforts to reduce this practice and requested further data. It also suggested creating a body that would support the persons who circumcised girls, so they would have another source of income.

Children with disabilities

With regard to children with disabilities, the Committee asked for clarifications about the situation of these children. It wanted to know about the services provided to these children when they stayed at home and who was responsible for monitoring them if they were in an institution. The delegation did not respond.

Poverty

The Committee said that children's needs were well covered in the second poverty reduction strategy, but it noted that the funding was not targeted towards children. It therefore asked how they would ensure that the budget would not only cover health and education, but also social protection. It also asked if there were any studies on poverty and children (conducted in cooperation with UNICEF). The delegation said that there were indicators on basic services such as health, education and water resources. Although children were not taken into account, this issue was raised in 2009 and they hoped that the Ministry of Economic Affairs and Development would include children's requirements in future. The delegation noted that children also benefited from the government's investment in health and education.

Education, Leisure and Cultural Activities

The Committee commended the State party for the progress in education, including an enrolment rate of 95.1 per cent. Regarding public and private investment in education, the Committee asked for figures on the state's investments and on family contributions. It noted that the quality of education was important to attract children and that programmes were necessary to encourage families to send and keep their children in school. It therefore asked if there were programmes to provide subsidies to poor families, school materials and school lunch programmes. Regarding access to education, it asked about the policies to ensure access without discrimination and to combat school dropouts. Other matters of concern included: perspectives of children attending Koranic schools, the problem of access to education for migrant children and pregnant girls, measures to prevent corporal punishment, the quality of education and the integration of human rights education into the curricula. The delegation acknowledged that the report did not contain information on preschool education. As for students attending Koranic schools, significant steps were taken to improve these schools to ensure children were educated in adequate conditions, given that there were cases of teachers using corporal punishment. Teachers were being trained in child psychology and child development to understand the negative impact of corporal punishment on the development of a child. In terms of quality of education and girls' enrolment, the delegation noted that quality was important and progress had been made with regard to girls' participation in line with the 10-year Education Plan. The Ministry of Education was carrying out an awareness campaign for girls to continue their education in order to be independent in future. The

Ministry had a project to encourage girls to attend secondary school (50.3 per cent of students were females) which was also one of the MDG concerning gender equality. There were projects providing buses for girls to go to secondary school for free. The state paid for tuition, enrolment, teachers' salaries, but there were indirect costs. In addition, over 1000 schools had canteens and measures had been taken to provide textbooks at a symbolic rate.

Special Protection Measures

Juvenile Justice

The Committee noted the adoption of the Law on Penal Protection. It enquired about the concrete results of these reforms as well as the existence of programmes to train judges in juvenile justice. The delegation responded that juvenile justice had evolved, starting with the creation of a legal framework, relevant institutions, and a judicial system with centres and judges that dealt exclusively with children. With the financial support from UNICEF and technical support from NGOs, they had provided training in juvenile justice to the judiciary. In addition, Spain was helping them set up an institute for judicial training with a section focusing on juvenile justice. The magistrates who received training had to serve at least 5-years in this specialised area. The training could be extended to other actors such as teachers, social workers, the police, journalists, religious leaders and so on.

The Committee also requested further information on the age of criminal responsibility. The delegation noted that there was an ordinance dealing with child protection which used the definition set out in the CRC. However, there was a sub-division based on Muslim law. Children aged between 0-7 years only had rights and no obligations, while children aged between 7-15 years could be subject to measures of protection, which excluded detention. Children over 15 years old could be detained. The Committee asked if children between 7 and 15 still had to appear before a judge. It also asked how they addressed cases where a child was in danger but was not criminally responsible. In response to questions about the decentralisation of juvenile courts, the delegation noted that there was a court in the three regions with a magistrate that focused exclusively on the cases of children.

Slavery and Street Children

The Committee asked about the effects of the new law on the criminalisation of slavery. It specifically wanted to know if NGOs could act on behalf of child victims of slavery under this law. The delegation noted that, in collaboration with the Government, NGOs were raising awareness and providing support to victims. The Committee was concerned about the increasing number of child beggars and asked about potential actions to analyse the impact of the phenomenon. The delegation responded that a national centre had been established in 2008 to take care of these children and they received Koranic education. As a result, children no longer begged in the streets. Given that they could not stay for a long time at this centre, foster families took care of them.

Exploitation

The Committee requested more information about child labour, child domestic workers, child exploitation and trafficking. There was a cultural of silent about sexual violence, so it wanted to know about the existing measures to sensitise children and their families. Domestic work for girls was a big problem, as eighty thousands children were involved in child labour according to the report. The Committee asked whether steps were taken to safeguard children from such practices and if they had a mechanism to monitor the working conditions of

children. It also asked if employers had to register the employment of children. As for trafficking, the Committee noted that the government had done well in this area by abolishing it by law, but girls were still being sent to Gulf States as brides. The Committee asked if there were any studies on sexual exploitation and trafficking that would help the government develop appropriate strategies.

Refugee Children

The Committee said that despite Mauritania not being involved in an armed conflict, it was home to refugee children from other countries. It therefore asked how these cases were addressed. As it was a transit country and many minors entered the country to get to the Atlantic coast, the Committee enquired about the existing protection measures for these migrant children. The delegation said that Mauritania was an open door to Europe and as such had encountered problems with migrants. If unaccompanied children crossed the border they were placed in the care of non-governmental organizations and were in a favourable situation to be granted refugee status. It also noted that it had an agreement with Senegal and UNHCR to repatriate Mauritians. There was an institution to support and reintegrate refugees. Amongst the 18'000 individuals who expressed a desire to return, 11'000 had returned voluntarily. This repatriation was supervised with UNHCR and Senegal.

Concluding Remarks

While congratulating the delegation for the progress made in many fields, Ms. Mauras Perez noted that there were remaining issues related to the compatibility between the legal system associated with the Sharia and the modern one. Progress was visible in education, especially in relation to access of girls; however issues of quality and costs still remained. Other matters related to universal guarantees, such as health, needed more discussion, in particular the health of children and adolescents.

Mr. Mohamed Ould Ely Telmoudy thanked the Committee for the quality of the discussion and noted that the questions reflected the concerns of the report. He assured the Committee that its message was heard and that the government would continue its efforts to implement the CRC. The recommendations would receive careful consideration before the submission of the next report in order to highlight the progress made and ensure that this process is beneficial to both sides.