

**Human Rights Watch Submission to the Committee on the Elimination of Discrimination
against Women Review of the Islamic Republic of Mauritania's periodic report for the 79th
Pre-Session
February 2021**

We write in advance of the 79th pre-session of the Committee on the Elimination of Discrimination against Women and its review of the Islamic Republic of Mauritania's compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

1. Discrimination Against Women in Personal Status Laws (Articles 1, 2, 15, and 16)

Mauritania's laws on divorce, responsibility for children after divorce, and inheritance discriminate against women and girls. Article 56 of the Personal Status Law (PSL) states that a husband constitutes the head of household while a wife's role is to assist him in managing the family.¹ A divorced woman may see her children ordered to live with their father solely on the grounds that she chooses to remarry.² To date, Mauritania has not lifted some CEDAW reservations related to eliminating discrimination in family benefits and requiring equality in marriage and family matters.³

Though the legal age of marriage is 18, article 6 of the Personal Status Law allows guardians to contract some girls into marriage if their guardian deems the marriage in their "best interest."⁴ Moreover, though article 9 requires a woman's consent in marriage, "the silence of a minor is [considered] her consent."⁵ The General Code of Children's Protection provides sentences from five to 10 years of prison and a fine for a guardian who marries a child "in the exclusive interest of the guardian," without defining what that phrase means.⁶ According to UNICEF, between 2012 and 2018, 18% of girls were married by age 15, and 37% were married by age 18.⁷

We encourage the Committee to call on Mauritania to take the following steps:

- Withdraw its reservations to CEDAW, which may be incompatible with the convention's object and purpose.

¹ Art. 56 of the Personal Status Code, available: <https://www.justice.gov.mr/IMG/pdf/statutpersonnelarabe.pdf>

² Art. 129 and 130 of the Personal Status Code

³ CEDAW, Status at January 29, 2021, Mauritania, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en#EndDec (accessed January 29, 2021).

⁴ Art. 6 of the Personal Status Code

⁵ Art. 9 of the Personal Status Code

⁶ General Code of Children's Protection, art. 17

⁷ UNICEF, "State of the World's Children - 2019," Table 10, page 229, <https://www.unicef.org/media/63016/file/SOWC-2019.pdf>

- Repeal Articles 6, 9, and 56 of the Personal Status Law or amend them to be consistent with Mauritania's obligations under CEDAW.

2. Violence Against Women and Girls (Articles 1, 2, 3, 12, and 16)

Inadequate Protection from Gender-Based Violence

Human Rights Watch has found that the lack of strong laws on gender-based violence and of institutions to provide assistance to victims, along with social pressures and stigma, dissuade Mauritanian women and girls from seeking help and remedies when they are abused.⁸ The criminalization of consensual adult sexual relations outside marriage (called *zina*) further deters girls and women from reporting assaults because they can find themselves charged if the judiciary views the act in question as consensual, Human Rights Watch found.⁹

A draft law on gender-based violence, supported by the Ministry of Justice, has been twice rejected by parliament and remains pending at time of writing. The law would define and punish rape and sexual harassment, create special criminal court chambers to hear sexual violence cases, and allow nongovernmental groups to bring cases on behalf of survivors. While a step in the right direction, the current draft falls short in several respects, including by maintaining criminal charges for consensual sexual relations outside marriage and restrictions on abortion.¹⁰ Moreover, rape and sexual assault are defined too narrowly, and the Penal Code maintains references to forms of punishments degrading treatment, such as death by stoning or flogging.

Inadequate Medical, Mental Health, and Legal Support Services for Survivors of Gender-Based Violence

Authorities provide inadequate medical, mental health, and legal support services to survivors of sexual violence. In May 2019, Human Rights Watch interviewed "Rouhiya," a young woman who was repeatedly sexually abused by her father and was pregnant in 2018 as a result of rape by him.¹¹ The lack of shelters in Nouakchott and lack of government support left Rouhiya with no alternative to living in her abusive home, taking care of her newborn, with a father who continues to be physically violent. The gender-based violence law pending before parliament would oblige the government to create shelters with short and long-term accommodation options for survivors.

The alarming lack of medical services for survivors of sexual violence is compounded by a general shortage of doctors across the country. In 2018, Human Rights Watch found that

⁸ Human Rights Watch Report, "They Told Me to Keep Quiet: Obstacles to Justice and Remedy for Sexual Assault Survivors in Mauritania," September 5, 2018, <https://www.hrw.org/report/2018/09/05/they-told-me-keep-quiet/obstacles-justice-and-remedy-sexual-assault-survivors>

⁹ Human Rights Watch Report, "They Told Me to Keep Quiet: Obstacles to Justice and Remedy for Sexual Assault Survivors in Mauritania," September 5, 2018, <https://www.hrw.org/report/2018/09/05/they-told-me-keep-quiet/obstacles-justice-and-remedy-sexual-assault-survivors>

¹⁰ "Mauritania: President Should Lead on Reform Process," Human Rights Watch news release, August 1, 2020, <https://www.hrw.org/news/2020/08/01/mauritania-president-should-lead-reform-process>

¹¹ "Letter to President Mohamed Ould Ghazouani Re: Women's Rights and Gender-Based Violence," Human Rights Watch, October 15, 2019, <https://www.hrw.org/news/2019/10/15/letter-president-mohamed-ould-ghazouani>

conventional obstetrician-gynecologists performed non-standardized forensic examinations of sexual violence survivors, and that there was only one practicing forensic doctor in the country.¹² The state does not permit midwives to perform forensic examinations, despite calls for them to be allowed to do so by nongovernmental organizations because there are more female midwives than female doctors. According to representatives of Médicos del Mundo in Mauritania, in most public hospitals and health centers, the doctor who examines and performs forensic testing on sexual violence survivors is likely to be a man.¹³

Fear of retaliation also dissuades doctors from performing forensic examinations and issuing medical reports that may be used to prosecute alleged perpetrators. Moreover, sometimes doctors in Mauritania refuse to examine rape survivors unless they have a police referral, forcing many women and girls to report their attack to the police just to get medical care.¹⁴

Female Genital Mutilation and “Virginity Testing”

Female genital mutilation (FGM) is practiced despite the fact that the country’s General Code on Children’s Protection, adopted in 2017, unconditionally criminalizes it.¹⁵ 2019 World Bank data suggests that up to 90 percent of Mauritanian women and girls aged 15-49 years have undergone some form of FGM in their lifetime; the majority of mutilations are performed by traditional practitioners.¹⁶ Women and girls from rural communities and those who haven’t completed secondary schooling are more likely to have experienced FGM than those from urban areas and those who have completed their education.¹⁷

Over the last few years, the government has attempted to address the issue more proactively by adopting national strategies, including by establishing national and regional councils on gender-based violence and FGM with the aim to progressively eradicate this harmful practice. The Ministry of Social Affairs and Family and its partners prompted doctors to adopt a national declaration condemning the adverse effects of FGM, and Islamic scholars issued a “fatwa” (a religious edict that provides a non-binding legal interpretation of Sharia) declaring that the practice lacked a religious basis.¹⁸ The UN Fund for Population Activities (UNFPA) has worked

¹² Human Rights Watch Report, “They Told Me to Keep Quiet: Obstacles to Justice and Remedy for Sexual Assault Survivors in Mauritania,” September 5, 2018, <https://www.hrw.org/report/2018/09/05/they-told-me-keep-quiet/obstacles-justice-and-remedy-sexual-assault-survivors>

¹³ Human Rights Watch interview with Amparo Fernández del Río and Dr. Amadou Kane, Nouakchott, February 5, 2018.

¹⁴ Human Rights Watch Report, “They Told Me to Keep Quiet: Obstacles to Justice and Remedy for Sexual Assault Survivors in Mauritania,” September 5, 2018, <https://www.hrw.org/report/2018/09/05/they-told-me-keep-quiet/obstacles-justice-and-remedy-sexual-assault-survivors>

¹⁵ General Code on Children’s Protection, arts. 79 and 80; Law on Reproductive Health, arts. 11 and 12.

¹⁶ Cetorelli et. al, “Female Genital Mutilation/Cutting in Mali and Mauritania: Understanding Trends and Evaluating Policies,” March 2020, available <https://onlinelibrary.wiley.com/doi/full/10.1111/sifp.12112>

¹⁷ Ibid.

¹⁸ National Human Rights Commission, Annual Report 2016, p. 34. See also NHRC, Report on Women’s Rights 2017, p. 21.

extensively in the country as well, including by organizing parliamentary hearings and meetings with religious leaders and medical professionals.¹⁹

However, gaps in legal enforcement against FGM and a lack of public awareness of its harms remain. There are no records of any prosecutions for cases of FGM performed in recent years.²⁰ Freedom House in 2020 reported the law against FGM is “rarely enforced.”²¹ Moreover, only about half of women and girls aged 15–49 years who have heard of FGM think the practice should stop, according to 2020 surveys conducted by UNICEF.²²

“Virginity testing” sometimes takes place during forensic examinations when treating survivors of sexual violence. According to a lawyer Human Rights Watch spoke to in 2018, “virginity tests are automatic in forensic exams performed in rape cases, and rape is usually only recognized when a girl’s hymen is broken as a result of the assault.”²³ Human Rights Watch also reviewed several medical certificates prepared by doctors who forensically examined survivors of sexual assault and many commented on the state of the survivor’s hymen.²⁴

We encourage the Committee to pose questions and make recommendations as follows:

- What is the status of the draft law on violence against women, stalled in parliament since 2016? Please clarify what consultation is being done with civil society including prominent nongovernmental women’s rights groups on the draft law?
- What steps are being taken to repeal or amend laws that facilitate violence against women, including those related to *zina* (sexual intercourse outside of marriage)?
- Will Mauritania remedy problems that may prevent survivors of sexual violence from seeking medical treatment, such as by prohibiting and penalizing doctors who require police referrals to provide medical treatment, by ensuring that women survivors of sexual violence can be examined by women medical professionals?
- What steps will the government take to enforce the legal prohibition of FGM and eliminate its practice on children and non-consenting adult women?
- What steps will the government take to ban virginity tests in forensic exams in cases of rape, and appropriately penalize doctors who perform them, and ensure that forensic examinations are conducted in accordance with the World Health Organization’s guidance?
- What guidelines, trainings, or procedures are in place to change attitudes among police, prosecutors, judges, health professionals, social workers, and teachers to help address

¹⁹ UNFPA-UNICEF Report, “Joint Programme on Female Genital Cutting: Accelerating Change, 2008–2012,” September 2013, https://www.unfpa.org/sites/default/files/admin-resource/FGM-report%2012_4_2013.pdf

²⁰ 28 Too Many and Thomas Reuters Foundation Report, “Mauritania: The Law and FGM,” September 2018, https://www.orchidproject.org/wp-content/uploads/2019/02/mauritania_law_report_v1_september_2018.pdf

²¹ Freedom House Report, “Mauritania – Freedom in the World 2020,” <https://freedomhouse.org/country/mauritania/freedom-world/2020> (accessed February 8, 2021)

²² UNICEF Factsheet, “The UNICEF Approach to the Elimination of Female Genital Mutilation,” October 2020, <https://www.unicef.org/media/88751/file/FGM-Factsheet-2020.pdf>

²³ Human Rights Watch Report, “They Told Me to Keep Quiet: Obstacles to Justice and Remedy for Sexual Assault Survivors in Mauritania,” September 5, 2018, <https://www.hrw.org/report/2018/09/05/they-told-me-keep-quiet/obstacles-justice-and-remedy-sexual-assault-survivors>

²⁴ Ibid.

FGM, virginity testing, and gender-based violence?

3. Slavery (Article 11)

Mauritania abolished slavery in 1981 and criminalized it in 2007. However, adults and children from traditional slave castes in the Haratine and Afro-Mauritanian communities remain exposed to hereditary slavery practices such as forced labor without pay as domestic servants or farm laborers; the OECD reports women and girls from these communities are vulnerable to sexual violence and rape.²⁵

The government routinely denies or otherwise downplays the existence of slavery in Mauritania.

We encourage the Committee to pose the following questions:

- What mechanisms are there in place to accurately determine the number of Mauritians subjected to slavery, slavery-like conditions, as well as forced and bonded labor conditions?
- What legislative efforts are being made to eliminate slavery, forced labor and other forms of ‘modern-day slavery’ in Mauritania?

4. Attacks on Women Human Rights Defenders, Freedom of Expression and Association (Articles 3 and 7)

Human Rights Watch has documented a wide pattern of repression against anti-slavery activists.²⁶ Activists are arrested, detained for long periods of time, and in some cases tortured, and their gatherings strictly monitored or otherwise banned. Mauritania’s law on association, though modified in 2021, allows for excessive government control over people’s right to form or operate within associations.²⁷ Antislavery organizations, including the Initiative for the Resurgence of the Abolitionist Movement, have been denied the ability to register.

We encourage the Committee to pose the following questions:

- How will the government ensure that its legal framework is not used to curb freedom of expression (most notably using the law on associations)?
- What steps is the government taking to ensure that women and girls, including activists and journalists, can enjoy their constitutional right of freedom of expression and association without fear of reprisal?

²⁵ US State Department, “2020 Trafficking in Persons Report: Mauritania,” <https://www.state.gov/reports/2020-trafficking-in-persons-report/mauritania/> (accessed February 9, 2021); Human Rights Watch World Report, “Mauritania: Events of 2020,” January 2021, <https://www.hrw.org/world-report/2021/country-chapters/mauritania#ba04fe>; OECD Factsheet, “Social Institutions and Gender Index – Mauritania,” 2019, <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/MR.pdf>

²⁶ Human Rights Watch Report, “Ethnicity, Discrimination, and Other Red Lines: Repression of Human Rights Defenders in Mauritania,” February 12, 2018, <https://www.hrw.org/report/2018/02/12/ethnicity-discrimination-and-other-red-lines/repression-human-rights-defenders>

²⁷ “Mauritania: Revise Draft Associations Law,” Human Rights Watch news release, November 23, 2020, <https://www.hrw.org/news/2020/11/23/mauritania-revise-draft-associations-law>

5. Equitable Access to Education (Article 10)

Mauritania's national civil registration process, which began in 2011, is preventing some children from attending public school and taking mandatory national examinations.²⁸ To complete the registration process, citizens and non-citizen residents are required to produce a range of official paperwork, but many people lack the necessary documents and have found the process of obtaining them arduous. Families told Human Rights Watch that some schools have rejected pupils who lack civil registration, even though school attendance is compulsory from ages 6 to 14. Despite attempts to standardize the civil registration procedures, local rules governing registration are often passed on orally, and rules are not applied consistently across civil registration centers.

Some children without the required documentation have been able to enroll – often thanks to the leniency of a school administrator or by enrolling in private or Quranic schools – but still cannot take the national tests they must pass to graduate from elementary, middle, and high school.

All the families interviewed by Human Rights Watch who lacked the required documentation are of modest means and belong either to Mauritania's Haratine (Hassaniya-speaking former slaves or descendants of slaves) or Afro-Mauritanian populations. Some Mauritanian groups contend the civil registration process discriminates against these groups.

School completion rates at the primary and lower secondary levels evince inequities between boys and girls.²⁹ According to UNICEF, between 2012 and 2018, only 56 percent of girls completed primary school, compared to 64 percent of boys.³⁰ Within the same timeframe, only 34 percent of girls completed lower secondary school, compared to 42 percent of boys.³¹ At the upper secondary level, boys and girls completed school at similar rates.³²

The transition from primary to lower secondary school has been reported by rights groups as particularly challenging for girls in rural areas.³³ If families can only afford to send some children to school further away, there is a higher chance that boys will be prioritized over girls for safety or cultural reasons.³⁴

We encourage the Committee to pose the following questions:

- What steps is the government taking to ensure that all children can enroll in schools and participate in national examinations, and to remove barriers such as documentation requirements?
- What steps is the government taking to remedy inequitable access to education for girls?

²⁸ "Mauritania: Administrative Obstacles Keep Kids from School," Human Rights Watch news release, March 29, 2018, <https://www.hrw.org/news/2018/03/29/mauritania-administrative-obstacles-keep-kids-school>

²⁹ UNICEF, "State of the World's Children - 2019," Table 10, page 229, <https://www.unicef.org/media/63016/file/SOWC-2019.pdf>

³⁰ Ibid

³¹ Ibid

³² Ibid. The male completion rate was 14 percent, and 15 percent for females.

³³ "Mauritania: Distance Shouldn't Stand between Girls and Their Education" Global Partnership for Education, October 2020, <https://www.globalpartnership.org/results/stories-of-change/mauritania-distance-shouldnt-stand-between-girls-and-their-education> (accessed January 29, 2021).

³⁴ Ibid.

6. Protection of Education from Attack (Article 10)

Mauritania is a member of the G5 Sahel, an alliance of five countries that cooperate on security, including in countries where attacks on education have been documented.³⁵ As of January 2021, Mauritania has 750 troops, experts, police, and staff deployed to UN peacekeeping missions in the Central African Republic and Mali.

Peacekeeping troops are required to comply with the UN Department of Peace Operations “UN Infantry Battalion Manual” (2012), which includes the provision that “schools shall not be used by the military in their operations.”³⁶ Moreover, the 2017 Child Protection Policy of the UN Department of Peace Operations, Department of Field Support, and Department of Political Affairs notes: “United Nations peace operations should refrain from all actions that impede children's access to education, including the use of school premises ... United Nations peace operations personnel shall at no time and for no amount of time use schools for military purposes.”³⁷

As recognized by this Committee in its General Recommendation No. 30, attacks on students and schools, and the use of schools for military purposes, disproportionately affect girls.³⁸ The Safe Schools Declaration is an inter-governmental political commitment that provides countries the opportunity to express political support for the protection of students, teachers, and schools during times of armed conflict;³⁹ the importance of the continuation of education during armed conflict; and the implementation of the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict.⁴⁰ As of January 2021, 106 countries have endorsed the Safe Schools Declaration—including all fellow G5 Sahel countries. However, Mauritania has yet to do so.

We encourage the Committee to pose the following questions:

- Do any laws, policies, or trainings provide explicit protection for schools and universities from military use during armed conflict?
- Why has the government not endorsed and implemented the Safe Schools Declaration to deter the military use of schools?

³⁵ Education Under Attack: 2020, The Global Coalition to Protect Education from Attack, 2020, <https://eua2020.protectingeducation.org/>

³⁶ United Nations Infantry Battalion Manual, 2012, section 2.13, “Schools shall not be used by the military in their operations.”

³⁷ UN Department of Peacekeeping Operations, Department of Field Support and Department of Political Affairs, “Child Protection in UN Peace Operations (Policy),” June 2017.

³⁸ UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 30, Access to Education, U.N. Doc. CEDAW/C/GC/30 (2013), para. 48.

³⁹ Safe Schools Declaration, May 28, 2015, https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf (accessed January 23, 2020).

⁴⁰ Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, March 18, 2014, http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf (accessed January 23, 2020)