



The Global Initiative
for Economic, Social and Cultural Rights

**PARALLEL REPORT TO THE UNITED NATIONS COMMITTEE
ON THE ELIMINATION OF DISCRIMINATION AGAINST
WOMEN**

Mauritania, 58th Session (30 Jun 2014 - 18 Jul 2014)

Submitted by:

The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)

About the Submitting Organization

The Global Initiative for Economic, Social and Cultural Rights seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. We believe this crisis — wherein close to 2 billion people worldwide daily lack access to adequate nutrition, health care, education, housing, water and sanitation — will only be overcome through the concerted efforts of human rights, women's rights, environmental and development organizations and agencies. The Global Initiative seeks to play a catalyzing role in fostering these cross-sector partnerships on key issues. We can change the world as we know it into a world where all economic, social and cultural rights are respected, protected and fulfilled, so that all people everywhere are able to live in dignity.

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I. Women's Land and Property Rights in Mauritania

1. This parallel report addresses the current situation of women in the Mauritania with respect to the status of their land and property rights. The Social Institutions and Gender Index (SIGI) of the OECD Development Centre highlights that in Mauritania, in matters concerning personal status, women are considered to be minors before the law.¹ The husband is considered to be the head of the household and holds parental authority. This has serious implications for the enjoyment of women's rights, including (but not limited to) their enjoyment of land and property rights.

2. The State party report itself acknowledges that: "Although legal equality exists in theory, women's access to land ownership remains limited, especially in rural areas where land is one of the main sources of income."² The report goes on to highlight the problem of insecure women's land rights under customary law. However, in reality, both statutory and customary law discriminate against women in Mauritania in relation to land.

3. In relation to statutory law, in its 2012 Concluding Observations on Mauritania, the Committee on Economic, Social and Cultural Rights stated that it was "deeply concerned" that "under the Personal Status Code of 2001, adult women are placed under guardianship, 'hadhana,' if unmarried."³ The Committee further expressed its deep concern over other provisions of the Personal Status Code of 2001, which assign different roles, duties and rights to the husband and the wife in family matters, and different treatment to girls and to boys, resulting in "inferior social status to women and girls and the deprivation of their equal rights provided in the Covenant."⁴

4. At that time, the Committee on Economic, Social and Cultural Rights called on the State party "to ... prohibit all forms of discrimination against women in its legislation."⁵

5. In its recent (2013) review of Mauritania, the Human Rights Committee echoed these concerns, noting that "The Committee is concerned by the continued ... discrimination against women in the 2001 Personal Status Code (arts. 9–13), which places unmarried women under guardianship; and discrimination in respect of inheritance rights and the rights of spouses during marriage and at the dissolution of marriage (arts. 2, 3, 23 and 26)." It urged the State party to remove provisions that discriminate against women in the 2001 Personal Status Code.⁶

¹ SIGI, 'Mauritania: Discriminatory Family Code,' <http://genderindex.org/country/mauritania> [last accessed 2 September 2013].

² UN Doc. CEDAW/C/MRT/2-3, at paras 59 & 60.

³ Committee on Economic, Social and Cultural Rights, Concluding observations on the initial report of Mauritania, adopted by the Committee at its forty-ninth session (12-30 November 2012), UN Doc. E/C.12/MRT/CO/1, 10 December 2012, at para. 10.

⁴ Ibid.

⁵ Ibid.

⁶ Human Rights Committee Concluding observations on the initial report of Mauritania, UN Doc. CCPR/C/MRT/CO/1, at para. 9.

6. Unfortunately, these issues have yet to be addressed, and the State party report to the CEDAW Committee does not seem to acknowledge the serious problems in the 2001 Personal Status Code, nor does it discuss the relevant discriminatory provisions.

7. In addition to those Articles noted by the Human Rights Committee, Article 56 of the Personal Status Code merits special attention. It stipulates that “the husband is the head of the family,” thereby entrenching the notion of marital power. Marital power assumes that husbands are the ‘heads of the households,’ or legal representatives of households, with the authority to make decisions on behalf of the couple or family without the consent of their spouse/s, including exclusive rights to administration of property. International human rights law is clear on the prohibition of marital power. The CEDAW Committee has in the past urged States to abolish the concept of “head of household.”⁷ Likewise, the UN Human Rights Committee has itself underscored that: “During marriage, the spouses should have equal rights and responsibilities in the family. This equality extends to all matters arising from their relationship, such as choice of residence, running of the household, education of the children and administration of assets.”

8. These provisions of the Personal Status Code clearly discriminate against women, in contravention of Articles 2, 3, 5, 13, 14, 15 and 16. The CEDAW Committee has recognized that “the right to own, manage, enjoy and dispose of property is central to a woman’s right to enjoy financial independence, and in many countries will be critical to her ability to earn a livelihood and to provide adequate housing and nutrition for herself and for her family.”⁸

9. It has also stated that in countries undergoing programs of agrarian reform or redistribution of land “the right of women, regardless of marital status, to share such redistributed land on equal terms with men should be carefully observed.”⁹ On inheritance, the Committee observes that, “there are many countries where the law and practice concerning inheritance and property result in serious discrimination against women. ... Often inheritance rights for widows do not reflect the principles of equal ownership of property acquired during marriage. Such provisions contravene the Convention and should be abolished.”¹⁰

10. In relation to the issue of customary law, the State party report itself acknowledges that “...discrimination against women with regard to land ownership is related to the persistence of certain customs, still entrenched in communities, which recommend against allocating land to women because it could end up being owned by people who do not belong to the tribal or ethnic group.”¹¹ To combat the application of discriminatory customs and practices, the State ought to be encouraged to take a proactive role in ensuring that local

⁷ See, for example, UN Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on Sri Lanka,’ Forty-eighth session, 17 January – 4 February 2011, UN Doc. CEDAW/C/LKA/CO/7, at paras. 38-39 (4 February 2011).

⁸ United Nations Committee on the Elimination of Discrimination against Women, General Recommendation 21, Equality in marriage and family relations (Thirteenth session, 1992), U.N. Doc. A/49/38 at 1, 1994, para. 26.

⁹ Ibid, para. 27.

¹⁰ Ibid, para. 35; See also: paras. 7-8, 26-29, 30-34.

¹¹ UN Doc. CEDAW/C/MRT/2-3, at para 61.

customary leaders and traditional authorities are trained on women's land rights and prohibited from discriminating against women in the allocation and management of customary land.

11. Furthermore, the State party report also acknowledges that "Women remain the poor relations when it comes to legislation in this area [i.e on matters related to land], such as the 1983 Land Act and its implementing regulations."¹² The State should also be encouraged to fill gaps in its existing land policy by making gender-sensitive alternations and amendments, including the use of temporary special measures, which explicitly protect secure land rights for women.

II. Recommendations

12. In light of the above information, the Global Initiative for Economic, Social and Cultural Rights and respectfully suggests that the CEDAW Committee urge the State party to:

- a. Revise as a matter of priority discriminatory provisions under the Personal Status Code so as to eliminate discrimination against women and girls, particularly in all matters related to land, property and inheritance.
- b. Take immediate steps to address and remedy negative customs and traditional practices, especially in rural areas, which affect full enjoyment of women's land and inheritance rights. Such steps should include ensuring that local customary leaders and traditional authorities are adequately trained to protect women's land rights at the community level.
- c. Amend existing land policy to explicitly protect women's secure land rights, as well as introduce direct intervention programmes to support women's access to land tenure, including by enacting temporary special measures to ensure that women have access to productive land, agricultural credits, seeds, tools and other necessary resources to make their farming practices sustainable and productive.

¹² Ibid., at para. 60.