



The Global Initiative
for Economic, Social and Cultural Rights

**SHADOW REPORT TO THE UNITED NATIONS HUMAN
RIGHTS COMMITTEE**

Mauritania, 109th Session (14 Oct 2013 - 01 Nov 2013)

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.

Address:

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

8 North 2nd Ave. East, #208

Duluth, MN 55802, USA

Phone/Fax: +1 218 733 1370

Email: Mayra@globalinitiative-escr.org, *Website:* www.globalinitiative-escr.org

I. Women's Land and Property Rights in Mauritania

Minors before the Law

1. 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.”¹ 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.”²

2. At that time, the Committee on Economic, Social and Cultural Rights called on the State party “to raise awareness among the population, including religious leaders, of the discriminatory nature of the guardianship as well as of the differentiated roles and responsibilities of the spouses in family matters, as far as they contravene the Covenant. It also calls on the State party to define and prohibit all forms of discrimination against women in its legislation.”³

3. The Social Institutions and Gender Index (SIGI) of the OECD Development Centre confirms that in Mauritania, in matters concerning personal status, women are considered to be minors before the law.⁴ The husband is considered to be the head of the household and holds parental authority.

Women's Land and Property Rights

4. Under the Personal Status Code, women and men also have different rights to inheritance. While women have the legal right to inherit property, under Sharia law their share is generally less than that to which men are entitled. Daughters inherit half of the shares provided to sons. Widows also do not have the same inheritance rights as widowers under the Personal Status Code, a clear violation of the Covenant.⁵ Furthermore, under the Personal Status Code (Art. 58), for property acquired during the course of a marriage, there is no legal presumption of joint ownership between the husband and the wife.

5. These provisions of the Personal Status Code clearly discriminate against women, in contravention of Article 2 (1) of the Covenant. In its General Comment No. 19 on protection of the family, the right to marriage and equality of the spouses, the Human Rights Committee has underscored that “During marriage, the spouses should have equal rights and responsibilities in the family. This equality extends to all matters arising from their

¹ 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.

² Ibid.

³ Ibid.

⁴ SIGI, ‘Mauritania: Discriminatory Family Code,’ <http://genderindex.org/country/mauritania> [last accessed 2 September 2013].

⁵ Ibid.

relationship, such as choice of residence, running of the household, education of the children and administration of assets.”⁶

6. It has also stated (in its General Comment No. 28 (2000) on equality of rights between men and women) that “the capacity of women to own property [...] may not be restricted on the basis of marital status or any other discriminatory ground” and that States parties must ensure that the “matrimonial regime contains equal rights and obligations for both spouses with regard to [...] the ownership or administration of property, whether common property or property in the sole ownership of either spouse.”⁷

V. Recommendations

7. In light of the above information, the Global Initiative for Economic, Social and Cultural Rights and respectfully suggests that the Human Rights Committee reiterate the recommendation of the Committee on Economic, Social and Cultural Rights and urge the State party “to raise awareness among the population, including religious leaders, of the discriminatory nature of the guardianship as well as of the differentiated roles and responsibilities of the spouses in family matters, as far as they contravene the Covenant. It also calls on the State party to define and prohibit all forms of discrimination against women in its legislation.”⁸

8. We additionally suggest that Committee urge the State party to revise the Personal Status Code so as to eliminate discrimination against women and girls, particularly in all matters related to land, property and inheritance.

⁶ UN Human Rights Committee, “General Comment No. 19: Protection of the Family, the Right to Marriage and Equality of the Spouses (Article 23),” at para. 8.

⁷ Human Rights Committee, General Comment No. 28 (2000) on equality of rights between men and women, paras. 19, 25.

⁸ Ibid.