



'A SWORD HANGING OVER OUR HEADS'

THE REPRESSION OF ACTIVISTS SPEAKING OUT AGAINST
DISCRIMINATION AND SLAVERY IN MAURITANIA

AMNESTY
INTERNATIONAL



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Cover photo: Collage of Mauritanian activists and human rights defenders (from left to right): Mekfoula Brahim (WHRD, *Pour une Mauritanie verte et démocratique*), Abdallahi Mattalah (anti-slavery activists, IRA), Cheikh Baye (youth activist, *Mouvement du 25 février*), Maimouna Sy (*Collective des veuves du passif humanitaire*) and Mamadou Sarr (Secrétaire Exécutif FONADH).
Quote from: Yacoub Ahmed Lemrabet, President of Kavana, Nouakchott, June 2017 © Amnesty International/Private

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GLOSSARY

WORD	DESCRIPTION
ACHPR	African Commission on Human and Peoples' Rights
AFRICAN CHARTER	African Charter on Human and Peoples' Rights
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
INGO	International Non-Governmental Organization
NGO	Non-Governmental Organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
SPECIAL RAPPORTEUR ON EXTREME POVERTY	Special Rapporteur on extreme poverty and human rights
SPECIAL RAPPORTEUR ON FREEDOM OF PEACEFUL ASSEMBLY AND OF ASSOCIATION	Special Rapporteur on the rights to freedom of peaceful assembly and of association
SPECIAL RAPPORTEUR ON RACISM	Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

WORD	DESCRIPTION
SPECIAL RAPPORTEUR ON SLAVERY	Special Rapporteur on contemporary forms of slavery, including its causes and consequences
UN	United Nations
UNICEF	United Nations Children's Fund
WGAD	Working Group on Arbitrary Detention

EXECUTIVE SUMMARY

When Mohamed Ould Abdel Aziz seized power through a military coup in August 2008, he justified the intervention of the army to prevent “grave tribal and ethnic turmoil” and committed to “take the necessary measures to bridge social divides, particularly regarding the groups disadvantaged by past practices of slavery”. Almost 10 years later, however, slavery in Mauritania continues to make headlines, as do reprisals against those who speak out against it.

Slavery and racial discrimination remain rife in Mauritania, despite the formal abolition of slavery in 1981, its criminalization in 2007 and its elevation to a crime against humanity in 2012. While there is no official data, international anti-slavery groups estimated the number of people living in slavery in 2016 to be up to 43,000, comprising about 1% of the total population. UN human rights experts, academics, international and domestic non-governmental organizations continue to express serious concerns about deeply entrenched discriminatory practices, particularly against members of the Haratine and Afro-Mauritanian communities. This includes severe underrepresentation in leadership positions, obstacles to registration which in turn limit the ability to vote and access essential services.

The Mauritanian authorities continue not only to deny the problem of slavery and render its victims invisible in the criminal justice system and society at large, but also repress human rights defenders who challenge this official discourse. Using laws dating from the 1960s and 1970s which do not conform to international human rights standards, authorities deploy a range of repressive tactics including the prohibition of peaceful protests and excessive use of force against demonstrators; the banning of critical human rights organizations and interference with their activities; the practice of arbitrary arrest, torture and other ill-treatment, and vicious smear campaigns, assaults and death threats carried out with complete impunity. This repression affects human rights defenders from all the communities of Mauritania, including Moors, Haratines and Afro-Mauritanians, as well as women and young human rights defenders.

This report documents these growing trends since the re-election of President Aziz in June 2014, until January 2018. It draws from Amnesty International’s three field missions to Mauritania since 2014, including to Nouakchott, Nouadhibou and Aleg. Amnesty International discussed its findings with high-ranking Mauritanian officials, including the President of the Republic, the Minister of Justice and the Commissioner for Human Rights and Humanitarian Action, and interviewed more than 130 individuals including human rights defenders, victims of human rights violations, their lawyers and family members.

At least 20 human rights groups, including registered associations and trade unions, reported to Amnesty International that they organized peaceful assemblies which were prohibited and dispersed by force since 2014, even when conforming to legal requirements to notify authorities in advance. Protest organizers are informed on short notice, often less than 24 hours before the planned demonstration, that their event has not been authorized, without any written legal justification for the decision. Protests which are not explicitly authorized are regularly dispersed by the security forces. Security forces have used excessive force on scores of peaceful demonstrators, including women human right defenders, causing serious injuries ranging from fractured limbs to head trauma. These repressive practices stem, amongst other factors, from serious flaws in the legal framework on assemblies and use of force in Mauritania, particularly blanket bans on certain assemblies and vague language which can be used to prohibit peaceful protests and allow the use of excessive force against demonstrators. Examples of peaceful assemblies that were prohibited and violently dispersed include the November 2017 march of relatives of victims of the events of 1989-1991 in Kaédi and April 2017 youth march in Nouakchott.

Amnesty International has documented the cases of more than 43 associations working for the promotion and protection of human rights, including more than a dozen international non-governmental organizations,

who have never received authorization to operate from the authorities despite repeated requests, meaning that they can be declared unlawful. These include organizations such as the youth and pro-democracy association Kavana (Enough), the anti-slavery movement Initiative pour la Résurgence du mouvement Abolitionniste (Initiative for the Resurgence of the Abolitionist Movement, IRA) and the association of relatives of victims of extra-judicial killings Collectif des Veuves de Mauritanie (Widows' Collective of Mauritania). While unauthorized associations are often tolerated, their leadership, members and participants to their activities are exposed to substantial risks and administrative difficulties, including accessing donor funding or notifying authorities of planned public activities. Even when they are authorized, associations face impermissible restrictions, including the banning of planned activities, surveillance and arbitrary dissolutions, as illustrated by the cases of SOS-Esclaves (SOS-Slaves) and Population et Développement (Population and Development).

The legal framework on associations in Mauritania does not meet international standards. For instance, it provides that associations and trade unions must obtain authorization to operate legally. It also allows the authorities to impose the presence of a representative during meetings in private settings and to dissolve associations which “engage in anti-national propaganda”, “discredit the State”, or “exercise an unwelcomed influence on the minds of the people.” In July 2015, the Council of Ministers approved a new bill on associations which would further undermine associations’ ability to undertake their work. In December 2015, the National Assembly adopted a new law on cybercriminality which bolsters the surveillance capacity of the Mauritanian security services and could be used to disrupt the communications of human rights groups and activists, including by criminalizing the use of encryption technologies without authorization. The Mauritanian authorities justify these restrictions on the need to maintain control over associations operating in Mauritania in the context of the “war on terrorism”.

Amnesty international has also documented over 168 cases in which human rights defenders have been arbitrarily arrested, including at least 17 cases where they were subjected to torture and other ill-treatment. In the most high-profile cases, such as prominent anti-slavery activists, they have been transferred to remote prisons. While some of the human rights defenders were released without charge within a few hours, the Mauritanian authorities have brought criminal proceedings against at least 60 of them, using vaguely worded charges including “belonging to an unauthorized association”, “participating in an unauthorized gathering” and “disrupting public order”.

For example, there has been 63 arrests of IRA members since 2014, and at the time of writing, two of them, Moussa Biram and Abdallahi Mattalah, remained in arbitrary detention. The authorities have also been cracking down on members of the youth and pro-democracy Mouvement du 25 février (25 February Movement), with 23 arrests times over the same period. Similarly charges of “apostasy” have been used to impose a death sentence – now quashed - against blogger Mohamed Mkhaitir who remains in arbitrary detention, without access to his relatives or his lawyers. Mohamed Mkhaitir was arrested in 2014 after he posted an article on social media criticizing the use of religion to justify discriminatory practices. Mohamed Mkhaitir, Moussa Biram, and Abdallahi Mattalah were subjected to torture and other ill-treatment.

Since 2014, the authorities have introduced legislation containing vague and excessive language which could be used to target human rights defenders who express dissent. For instance, the 2015 law on cybercriminality criminalizes insults or calumnious acts committed through a computer system with penalties of up to five years imprisonment and a fine of up to MRO500,000 (approximately €1,158). The 2018 law on discrimination provides for sentences of up to three years in prison and a fine of up to MRO300,000 (approximately €710) for “anyone who publishes, diffuses, supports or communicates terms which may reveal an intent to hurt or an incitement to hurt morally or physically, to promote or incite hatred. It also punishes anyone who “promotes inflammatory speech that is contrary to the official doctrine of the Islamic Republic of Mauritania” with a sentence of up to five years imprisonment. Although counterintuitive in the Mauritanian context, this law could be used against those fighting discriminatory practices. The 2017 bill amending the Criminal Code provisions on apostasy makes the death penalty for apostasy mandatory. Should the bill be passed by the National Assembly, it would remove the possibility of escaping the death penalty by expressing repentance.

Finally, human rights defenders have been victims of vicious smear campaigns, assaults and death threats carried out with complete impunity. This includes being labelled as traitors or having their Muslim faith questioned in mainstream media or social media, a serious accusation when apostasy is punishable by death. This can come from the highest levels of the state and during international meetings, including at the African Commission on Human and Peoples’ Rights or at the UN Human Rights Council. For instance, woman human rights defender Mekfoula Brahim has been under a sustained and co-ordinated smear campaign in social media by religious groups and has been receiving death threats after she called for

blogger Mohamed Mkhaitir's death sentence to be quashed. The fact that Mekfoula Brahim is a woman exposed her to more abuse. In August 2016, rap artist Yéro Gaynääko was beaten at a checkpoint by police who accused him of being a member of IRA or opposition groups undermining national unity. In both cases, they filed complaints to the police, but no one has yet been held to account for the abuse.

Many stakeholders are concerned that Mauritania is heading towards a period of political uncertainty with the 2019 presidential election approaching and they fear that President Aziz may push for a constitutional amendment to run for a third term, and thereby polarize Mauritanian society. How the authorities respond to the growing concerns around discrimination and dissent in Mauritania will define the country's human rights environment. Mauritania has an international legal obligation to end slavery and discrimination, and to respect, protect, promote and fulfil the rights to freedom of expression, peaceful assembly and association. Rather than seek to stifle civil society organizations and human rights groups, the authorities should respect and engage with dissenting voices to navigate these human rights concerns.

AMNESTY INTERNATIONAL CALLS ON THE MAURITANIAN AUTHORITIES TO:

- Immediately and unconditionally release all human rights defenders held for peacefully exercising their rights, including Moussa Biram, Abdallahi Mattalah and Mohamed Mkhaitir;
- Amend the 1964 law on association, the 1973 law on public assemblies, the Criminal Code and the 2018 law on discrimination to ensure they meet international and regional human rights standards relating to the rights to freedom of expression, association and assembly;
- Refrain from unduly interfering with the activities of associations, including by repealing the circular requiring authorization for meetings in hotels and conference venues; by amending the law on cybercriminality to ensure it does not affect the ability of human rights defenders to communicate and store information safely; and by ending to the practice of not allowing the international partners of human rights defenders into the country;
- Refrain from using language that stigmatizes, abuses or discriminates against human rights defenders, for example by characterizing them as “criminals, foreign agents, threats to national security and national unity, racists, apostates or politicians”;
- Promptly, thoroughly, independently and transparently investigate human rights violations committed against human rights of human rights defenders, including excessive use of force, arbitrary arrests, torture and other-ill-treatment, threats, attacks, harassment and intimidation and bring suspected perpetrators to justice in fair trials without recourse to the death penalty, and provide effective remedies and adequate reparations to victims;
- Take immediate steps to implement the recommendations of the African Commission, UN special procedures and other treaty bodies aiming at combating slavery and discrimination.

METHODOLOGY

Amnesty International has been monitoring, documenting and reporting on the human rights situation in Mauritania for decades.¹ This report builds on this long period of research but focuses on patterns of human rights violations since Mauritania's last presidential election in 2014 and up to January 2018, including violations of the rights to freedom of peaceful assembly, association, liberty and security of person and freedom from torture and other ill-treatment.

Since 2014, Amnesty International has conducted three field missions to Mauritania, including to Nouakchott, Nouadhibou and Aleg. Amnesty International researchers interviewed over 130 individuals, including human rights defenders, representatives of civil society organizations (CSOs), victims and eyewitnesses of human rights violations, relatives of victims, lawyers, journalists, UN officials and international non-governmental organizations representatives, diplomats, opposition members and academics. Several individuals interviewed expressed concern for their security and safety. Given the pattern of reprisals against critics of the government, their names and other identifying details have been omitted from this report. Interviews were conducted in English, French and Arabic. When in Arabic, Amnesty International used trusted translators.

Amnesty International also met with the Mauritanian authorities, including the President of the Republic, the Minister of Justice, the Commissioner for Human Rights and Humanitarian Action, and advisors to the President to share its concerns and seek their feedback on its findings. The Ministry of Interior did not respond to meeting requests by Amnesty International. Amnesty International wrote to the President of Mauritania and the relevant ministers on 10 November 2017 requesting an official response to the concerns raised in this report. A copy of this letter can be found in Annex 1. No response was received at the time of writing.

An Amnesty International delegation also travelled to Mauritania in November 2017 to undertake further research and discuss its findings with the authorities, but the delegation was denied entry to the country on arrival at Nouakchott airport. The three Amnesty International staff were each questioned by the authorities about their activities in the country during previous trips and the purpose of the mission, before being held in the airport overnight and returned to Dakar, Senegal, the following day. Members of the delegation had valid visas and right of entry to the country but the police failed to provide a clear legal basis for their decision to deport the delegates.

Relevant desk research was also undertaken, such as reviews of legal instruments, court documents, media reports, UN and civil society reports, video footage and academic literature.

On the ethnic composition of Mauritania, this report draws largely from the analysis and the terminology used by UN human rights experts, particularly the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (hereafter Special Rapporteur on racism).

¹ Amnesty International, *Mauritania: Actions speak louder than words: Amnesty International submission to the Universal Periodic Review, November 2015* (Index: AFR 38/1813/2015);

Amnesty International, *Mauritania: Submission to the UN Committee against Torture* (Index: AFR 38/001/2013);

Amnesty International, *Mauritania: Submission to the UN Universal Periodic Review: Ninth session of the UPR Working Group of the Human Rights Council, November-December 2010* (Index: AFR 38/001/2010);

Amnesty International, *Mauritania: Torture at the heart of the State* (Index: AFR 38/009/2008);

Amnesty International, *Mauritania: «Nobody wants to have anything to do with us»: Arrests and collective expulsions of migrants denied entry into Europe* (Index: AFR 38/001/2008);

Amnesty International, *Mauritania: Wave of arrests of political opponents and imams* (Index: AFR 38/004/2003);

Amnesty International, *Mauritania: A future free from slavery* (Index: AFR 38/003/2002);

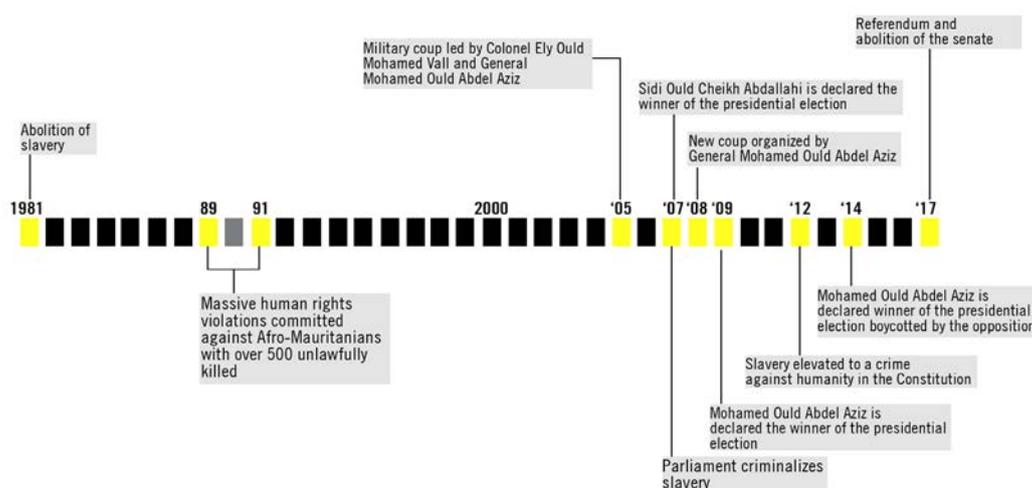
Amnesty International, *Mauritania: Serious attack on freedoms of expression and association* (Index: AFR 38/005/1998);

Amnesty International, *Mauritania: Human rights violations in the Senegal River Valley* (Index: AFR 38/010/1990).

We would especially like to thank all the individuals who shared information with us, as well as the human rights defenders who have been working to advance human rights in Mauritania for many decades.

BACKGROUND

This report seeks to analyse patterns of repression used against human rights defenders in Mauritania, particularly those who expose and combat slavery and discrimination, since the last presidential election in 2014. There has been an increasing number of bans on peaceful protests and associations, arbitrary arrests, torture and other ill-treatment and persecution of human rights defenders, as well as mushrooming of repressive legislation further undermining human rights work. These regressive legal developments have taken place in a tense political context in which the government has sought to consolidate its political power amid growing contestation, and against a backdrop of growing international co-operation against terrorism and irregular migration which has shielded the country from greater scrutiny over its human rights record.



Key events from 1981 to 2017 in Mauritania.

POLITICAL CONTEXT: TWO COUPS, TWO ELECTIONS AND A THIRD TERM?

President Mohamed Ould Abdel Aziz has been at the centre of Mauritania's political life since 2005, having been declared winner of two presidential elections and being the architect of two military coups. He deposed President Maaouya Ould Taya in a military coup in August 2005, together with Ely Ould Mohamed Vall. He also deposed successor President Sidi Mohamed Ould Cheikh Abdallahi – elected in March 2007 – in a military coup in August 2008. Resigning from the army in April 2009, he won the presidential election in August 2009 with 52% of the vote, according to the Independent National Electoral Commission. The results were contested by some of the candidates and the president of the electoral body resigned citing doubts over the reliability of the election process. Amidst boycott by some opposition groups, President Aziz was later re-elected for a second five-year term in June 2014, obtaining more than 80% of the vote, according to the electoral commission. Biram Dah Abeid, the founder of Initiative pour la Résurgence du mouvement Abolitionniste (Initiative for the Resurgence of the Abolitionist Movement, IRA), an anti-slavery group that

has been the subject of significant repression since its creation in 2008 (see section 4), finished second with 8.67% of the vote.² In 2016, Biram Dah Abeid announced he would run for president in 2019.³

Since 2014, the political context has been marked by attempts to further consolidate power amid growing contestation. In August 2017, following a popular referendum, President Aziz abolished the Senate claiming the institution was “useless and too costly”.⁴ Opposition groups and CSOs argued that the process that led to the abolition of the Senate breached constitutional guarantees.⁵

Peaceful protests calling for a boycott of the referendum on the constitutional amendment were repressed by the security forces, with the Office of the United Nations High Commissioner for Human Rights (OHCHR) expressing concerns about the suppression of dissenting voices and the use of excessive force against protest leaders.⁶ In the following weeks, 13 senators who opposed the referendum, four journalists and two trade unionists were placed under court supervision (contrôle judiciaire) and questioned about alleged financial ties to a businessman. One senator, Mohamed Ould Ghadda, was charged with corruption and remains in detention awaiting trial, while the others are under judicial supervision pending possible charges.

The constitutional referendum fuelled opposition and civil society concerns that President Aziz may further amend the constitution to allow him to stand for re-election in 2019. Even though he has repeatedly stated that he would stand down after his second term⁷, the Minister of Justice, the Minister of Economy and Finance and the Spokesperson of the Government have all raised the possibility of President Aziz running for a third term, and several members of the ruling party have already called on him to do so.⁸

INTERNATIONAL SUPPORT TO MAURITANIA: ‘WAR ON TERROR’ AND IRREGULAR MIGRATION

Since President Aziz’s rise to power, Mauritania has emerged as a key player in the so-called international “war on terror” and irregular migration, leading to greater international co-operation and assistance from countries including the United States (US), France and Spain, as well as the European Union (EU) and countries in the Middle East, thereby shielding the country from greater scrutiny over its human rights record.

² For a political history of Mauritania, see:

Anouar Boukhars, *Mauritania’s Precarious Stability and Islamist Undercurrent*, Carnegie Endowment for International Peace, 11 February 2016, pp. 1-24;

Vincent Bisson, ‘Echec et mat chez les Maures ! Coups d’Etat et attentat en République Islamique de Mauritanie’, *Recherches internationales*, No. 97, 2013, pp. 163-178;

Alain Antil, ‘Mohamed Ould Abdel Aziz l’alchimiste’, *L’Année du Maghreb*, No. VI, 2010, pp. 357-372;

Riccardo Ciavolella and Marion Fresia, ‘Entre démocratisation et coups d’état : Hégémonie et subalternité en Mauritanie’, *Politique africaine*, No. 2, 2009, n°114, pp. 5-23;

International Crisis Group, *La transition politique en Mauritanie: Bilan et perspectives*, 24 April 2006.

³ Jeune Afrique, *Mauritanie : Biram Dah Abeid vise la présidentielle de 2019*, 1 June 2016, www.jeuneafrique.com/mag/329282/politique/mauritanie-biram-dah-abeid-vise-presidentielle-de-2019/

⁴ Deutsche Welle, *Mauritania votes to abolish Senate, handing President Aziz a victory*, 7 August 2017, www.dw.com/en/mauritania-votes-to-abolish-senate-handing-president-aziz-a-victory/a-39988303

⁵ Article 99 of the Constitution provides that: “Each Bill of revision must be voted by a majority of two-thirds (2/3) of the Deputies composing the National Assembly and two-thirds (2/3) of the Senators composing the Senate, to be able to be submitted to referendum.” The Senate rejected the bill in March 2017. See:

Radio France Internationale, *Mauritanie: le Sénat rejette le projet de révision constitutionnelle*, 18 March 2017, www.rfi.fr/afrique/20170318-mauritanie-senat-vote-contre-revision-constitutionnelle

⁶ UN News Centre, *Mauritania: UN rights office voices concern about unrest ahead of constitutional referendum*, 3 August 2017, www.un.org/apps/news/story.asp?NewsID=57301#.WkOjIVl-Uk

⁷ Reuters, *Mauritanian president says has no plans to scrap term limits*, 21 October 2016, www.reuters.com/article/us-mauritania-politics/mauritanian-president-says-has-no-plans-to-scrap-term-limits-idUSKCN12L1X1

Radio France Internationale, *Mohamed Ould Abdel Aziz: «C’est mon dernier mandat»*, 24 June 2014, www.rfi.fr/afrique/20140624-mohamed-ould-abdel-aziz-est-dernier-mandat

On the possibility of President Aziz running for a third term, see also:

Alain Antil, ‘L’Etoile pâlie du président Mohamed Ould Abdel Aziz’, *L’Afrique en questions*, No. 23, 3 Mai 2016.

⁸ Jeune Afrique, *Mauritanie : les ambiguïtés d’Aziz*, 27 April 2016, www.jeuneafrique.com/mag/318455/politique/mauritanie-ambiguites-daziz/ and Alakhbar, *Mauritanie: un député de la majorité réclame un 3e mandat pour le Président*, 2 January 2018, www.fr.alakhbar.info/13215-0-Mauritanie-un-depute-de-la-majorite-reclame-un-3e-mandat-pour-le-President.html

In response to the multiplication of attacks by armed groups in the region and in Mauritania⁹, President Aziz made combating terrorism one of his key priorities.¹⁰ Mauritania adopted a new anti-terrorism law in July 2010 giving additional powers to the security forces to fight terrorism and providing for a prolonged period of pre-charge custody (*garde à vue*) of up to 15 working days, renewable twice.¹¹ The Mauritanian authorities also adopted an aggressive stance towards armed groups and Islamist groups expressing dissent, often resorting to enforced disappearances, torture and other ill-treatment as methods of investigation.¹² Mauritania's war on terror has received support from international partners. The US State Department considers Mauritania an "excellent security partner with a strong record of taking direct action against alQa'ida in the Maghreb (AQIM), ISIS, and similar groups" and provided support to the security forces.¹³ France considers Mauritania its "principal ally in combating terrorism in the Sahel" and has been providing technical expertise to the Mauritanian authorities.¹⁴ Mauritania has been hosting the secretariat of the regional G5 Sahel force, involving Niger, Burkina Faso, Chad and Mali, since its creation in 2014. The force, which has received financial pledges from the US, Saudi Arabia and France, aims to deploy 5,000 members of the security forces in the region by March 2018.¹⁵

The Mauritanian authorities also adopted a severe approach to irregular migration. Mauritania was a popular migration route towards Europe, with 30,000 migrants and refugees reaching the Spanish Canary Islands via its coast in 2006. With the support of the European Union and Spain, the Mauritanian authorities managed to reduce the arrivals to 874 in 2015.¹⁶ During this process, Mauritania increased its border controls, detained and forcibly returned thousands of migrants and subjected some of them to torture and other ill-treatment.¹⁷

International partners providing support to Mauritania have repeatedly raised concerns about the persistence of slavery and racial discrimination and about the reprisals against human rights defenders who campaign against these practices, including through the UN Universal Periodic Review Process.¹⁸

⁹ Ibrahim Yahaya Ibrahim, 'Managing the Sahelo-Saharan Islamic Insurgency in Mauritania: The local stakes of the Sahelian crisis', *Sahel Research Group Working Paper*, No. 003, August 2014.

¹⁰ Agence France Presse, *Mauritanie : le président Aziz investi pour un second mandat*, 3 August 2014, www.jeuneafrique.com/48028/politique/mauritanie-le-pr-sident-aziz-investi-pour-un-second-mandat/; IRIN, *Debunking Mauritania's Islamist militancy mythology*, 23 August 2016, www.irinnews.org/analysis/2016/08/23/debunking-mauritania%E2%80%99s-islamist-militancy-mythology

¹¹ In comparison, for common offences, suspects can be held in custody for up to 72 hours (this period does not include weekends and holidays).

¹² On the use of the counter-terrorism discourse to crack down on religious dissent, see:

Ibrahim Yahaya Ibrahim, 'Managing the Sahelo-Saharan Islamic Insurgency in Mauritania: The local stakes of the Sahelian crisis', *Sahel Research Group Working Paper*, No. 003, August 2014;

Zekeria Ould Ahmed Salem, *Prêcher dans le désert: Islam politique et changement social en Mauritanie*, Karthala, 2013 ;

Alain Antil, 'Chronique de l'année de braise : les multiples dimensions de la « guerre » au terrorisme', *L'Année du Maghreb*, No. VII, 2011, pp. 345-356;

Cédric Jourde, 'Politique des récits de l'islamisme en Mauritanie. Entre « marée montante » et « islamisme kalachnikov »', *Politique Africaine*, V. 2, No. 114, 2009, pp. 67-86;

International Crisis Group, *Islamism In North Africa IV: The Islamist Challenge In Mauritania: Threat Or Scapegoat?*, Report No. 41, 11 May 2005. On the use of torture in the context of the war on terror, see:

Amnesty International, *Mauritania: Submission to the UN Committee against Torture* (Index: AFR 38/001/2013);

Amnesty International, *Mauritania: Torture at the heart of the State* (Index: AFR 38/009/2008).

¹³ United States Department of State, *Country Reports on Terrorism 2016 – Mauritania*, www.state.gov/j/ct/rls/crt/2016/272229.htm

¹⁴ *Document cadre de partenariat entre la Mauritanie et la France 2013-2015*, 2013, <https://mr.ambafrance.org/Signature-du-nouveau-Document>

¹⁵ Nicolas Desgrais, *La Force conjointe du G5 Sahel, une initiative africaine d'appropriation de la gestion des conflits au Sahel*, 1 December 2017, www.geostrategie.fr/la-force-conjointe-du-g5-sahel-une-initiative-africaine-dappropriation-de-la-gestion-des-conflits-au-sahel/

¹⁶ European Parliament, *State of play of EU – Mauritania relations*, 2017, p. 17.

¹⁷ Amnesty International, *Annual report 2012 – Mauritania* (Index: POL 10/001/2012);

Amnesty International, *Annual report 2011 – Mauritania* (Index: POL 10/001/2011);

Amnesty International, *Mauritania: 'Nobody wants to have anything to do with us': Arrests and collective expulsions of migrants denied entry into Europe* (Index: AFR 38/001/2008).

¹⁸ The Universal Periodic Review (UPR) is a process which takes place at the UN Human Rights Council, involving a peer review of the human rights records of all UN member states once every four and a half years. Mauritania went through its second UPR cycle in 2015. UN member states, including Canada, Ireland, Qatar, Sierra Leone, South Africa, the United States raised recommendations on slavery, discrimination and human rights defenders. See: *Report of the Working Group on the Universal Periodic Review - Mauritania*, A/HRC/31/6, 18 November 2015.

See also:

United States Department of State, *Country Reports on Human Rights Practices for 2016 – Mauritania*, www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265278

European Parliament, *State of play of EU – Mauritania relations*, 2017;

European Union, *Statement by the Spokesperson on the release of activists of the Initiative for the Resurgence of the Abolitionist Movement (IRA) in the Islamic Republic of Mauritania*, 18 May 2016, https://eeas.europa.eu/headquarters/headquarters-homepage/2797/statement-spokesperson-release-activists-initiative-resurgence-abolitionist-movement-ira_en

However, the Mauritanian authorities have continued to dismiss and ignore these concerns, shielding behind what they consider to be the government's achievements and indispensable role in combatting terrorism and controlling irregular migration.¹⁹ As the political and social situation in Mauritania remains fragile, international partners must provide a sustained level of scrutiny and ensure that aid is not limited to propping up the coercive apparatus of the state but geared towards promoting and protecting human rights.

HUMAN RIGHTS DEFENDERS IN MAURITANIA: WHO ARE THEY?

In line with the 1998 UN Declaration on Human Rights Defenders and other international standards, Amnesty International considers a human rights defender to be someone who, individually or in association with others, acts to defend and/or promote human rights at the local, national, regional or international levels, without resorting to or advocating hatred, discrimination or violence.

Human rights defenders come from every walk of life; they may be journalists, lawyers, health professionals, teachers, trade unionists, whistle-blowers, farmers and victims or relatives of victims of human rights violations and abuses. Their human rights defence work may be conducted as part of their professional role, or be undertaken voluntarily or on an unpaid basis. A politician who takes a stand against corruption and discrimination may also be a human rights defender for his or her action to combat these practices.

The term 'women human rights defenders' refers to both women human rights defenders (who may work on any human rights issue), and to defenders (who may not necessarily be women) who work on women's rights or a range of gender-related issues.

In Mauritania, human rights defenders have been raising a range of human rights concerns from labour rights, freedom of expression, torture, the death penalty, women's rights, right to housing, conditions of detention or children's rights. They may be acting as individuals, or as part of registered or unregistered associations, online or offline.

Mauritanian human rights defenders have been working on the issues of slavery and discrimination for years. Some groups report and speak out on slavery cases using social and traditional media and undertake advocacy at national, regional and international levels, including at the United Nations and the African Commission on Human and Peoples' Rights. Others provide legal assistance and rehabilitation services to victims of slavery. Others mobilize their networks to attend peaceful demonstrations against the persistent discriminatory practices in the country. They come from all the communities of Mauritania.

¹⁹ For instance, Mauritania rejected the following recommendations raised during its UPR in 2015:

"129.34 Co-operate with the Office of OHCHR in Mauritania and with civil society to conduct a study on nature, incidence and consequences of slavery, and ensure a systematic collection of disaggregated data to measure the progress realized in the application of laws and policies aimed at the eradication of slave-like and discriminatory practices (Canada)"

"129.50 Provide space for civil society organizations in line with international standards and best practices, and in this respect, release from prison those human rights defenders who called for the full abolition of slavery (Germany)"

"129.51 Take action to identify and release people in slavery, support victims and end discrimination, in particular discrimination based on caste or ethnicity. As part of this, the Government should formally acknowledge the continued existence of slavery and begin to collect detailed data on the number of people held in slavery to facilitate monitoring of eradication efforts under the 2007 anti-slavery law (United Kingdom of Great Britain and Northern Ireland)"

Report of the Working Group on the Universal Periodic Review - Mauritania, A/HRC/31/6, 18 November 2015

1. MAKING THE VICTIMS INVISIBLE: THE PERSISTENCE OF SLAVERY AND DISCRIMINATION

‘Despite some visible progress, the Haratine are said to be the most disenfranchised community and suffer from discrimination, marginalization and exclusion due to their descent. Approximately 50% of the Haratine community are in conditions of de facto slavery through domestic servitude and bonded or forced labour.’

Special Rapporteur on racism, 2014.²⁰

When Mohamed Ould Abdel Aziz seized power through a bloodless military coup in August 2008, he justified the intervention of the army to prevent “grave tribal and ethnic turmoil” and committed to “take the necessary measures to bridge social divide, particularly regarding the groups disadvantaged due to past slavery practice”.²¹ Almost 10 years later, Mauritania continues to make the headlines regarding its practice of slavery and for its reprisals against those who speak out against slavery and discriminatory practices.²²

²⁰ *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, on his mission to Mauritania*, A/HRC/26/49/Add.1, 3 June 2014, para. 7.

²¹ Mohamed Ould Abdel Aziz, *Message à la nation*, 17 August 2008.

²² Guardian, *US warned Mauritania’s ‘total failure’ on slavery should rule out trade benefits*, 25 August 2017, www.theguardian.com/global-development/2017/aug/25/us-warned-mauritania-total-failure-slavery-trade-benefits
CNN, *The abolitionist fighting to free Mauritania’s slaves*, 21 June 2017, <http://edition.cnn.com/2017/06/21/africa/mauritania-slavery-biram-dah-abeid/index.html>

The right to be free from discrimination is enshrined in Article 26 of the International Covenant on Civil and Political Rights (ICCPR), in Article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and in Article 2 of the African Charter on Human and Peoples' Rights (African Charter).²³ The right to equality before the law is protected under Article 1 of the Constitution of Mauritania, which states: "The Republic assures to all citizens without distinction of origin, of race, of sex, or of social condition, equality before the law."

The country abolished slavery in 1981²⁴ but it was only recognized as a crime with the 2007 law on slavery, revised in 2015.²⁵ A constitutional amendment adopted in 2012 elevated it to a crime against humanity and provides that "no one shall be subjected to slavery or any form of human enslavement."²⁶ In 2013, decree No. 2013-048 established the National Agency for the Eradication of the Vestiges of Slavery, Social Integration and Action to Fight Poverty, also called Tadamoun. It is responsible for identifying and proposing programmes to eradicate the consequences of slavery and to ensure their implementation. It also has the mandate to lodge complaints against alleged perpetrators of slavery-like practices on behalf of the victims as a civil party and be associated in a court action with the public prosecutor.²⁷

Despite these legal and institutional reforms, academics, UN, NGOs and human rights experts continue to express concern about the persistence of slavery in Mauritania. While there is no official data on the nature and incidence of slavery in Mauritania,²⁸ international anti-slavery groups estimated the number of people living in slavery in 2016 to be between a few "thousands"²⁹ to 43,000 (comprising about 1% of the total population).³⁰ In June 2017, the Committee on the Application of Standards of the International Labor Organization "expressed deep concern over the persistence of slavery on a widespread scale".³¹ In December 2017, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) found that two Haratine children were subjected to contemporary slavery or slave-like practices for 11 years and that Mauritania had failed its obligations to protect children's rights under the African Charter on the Rights and Welfare of the Child, including to act in their best interest and protect them from discrimination, child labour, abuse and harmful cultural practices.³² Yet, the authorities continue to refute the existence of slavery in Mauritania.³³

'This slavery, which is being talked about so much these days, is the creation of a few peddlers of ideas, people who made it their business. In reality ... this practice no longer exists in our country.'

President Aziz, TV5Monde Interview, November 2015.³⁴

Different factors explain the persistence of this practice. Firstly, the laws on slavery have not been adequately implemented and enforced. International and Mauritanian NGOs have noted for many years that "a major contributing factor in the persistence of slavery and slave-like practices in Mauritania is the continued failure of police, prosecutors and the judiciary to respond adequately to reported cases of exploitation, from

²³ Mauritania acceded to ICCPR in 2004. It ratified CERD in 1988 and African Charter in 1986.

²⁴ Decree No. 81-234 of 9 November 1981 on the abolition of slavery.

²⁵ Law No. 2007-048 on slavery of 3 September 2007.

²⁶ Law No. 2015-031 on the criminalization of slavery and slavery-like practices of 10 September 2015.

²⁷ Constitutional law No. 2012-015 revising the Constitution of the 20 July 1991 of 20 March 2012, Article 5.

²⁸ Decree No. 2013-048, Article 2.

²⁹ *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Follow-up mission to Mauritania*, A/HRC/27/53/Add.1, 26 August 2014, para. 42

³⁰ *Anti-Slavery International, Country profile - Mauritania*, www.antislavery.org/what-we-do/where-we-work/mauritania/

³¹ *The Global Slavery Index 2016*, www.globalslaveryindex.org/country/mauritania/

³² International Labour Organization, *Report of the Committee on the Application of Standards*, 106th Session, Geneva, May–June 2017, p. 19.

³³ ACERWC, *Said Ould Salem and Yarg Ould Salem against the Government of the Republic of Mauritania*, Decision NO. 003/2017, 15 December 2017.

³⁴ "To this day, there are no proven cases of slavery in Mauritania... People bring forward cases, but when the judiciary starts its investigations, they are most of the time turn out to be fabricated."

El Mouritaniya, *Interview with President Aziz, Nouadhibou*, November 2015, www.youtube.com/watch?v=QCmwiYT1DzI

³⁴ TV5 Monde, *Interview with Mohamed Ould Abdel Aziz*, 27 November 2015; <http://information.tv5monde.com/afrique/mauritanie-entretien-exclusif-avec-mohamed-ould-aziz-70430>

identifying and investigating victims to prosecuting and punishing perpetrators.”³⁵ The anti-slavery courts received 47 cases for investigation under the 2015 anti-slavery law involving at least 53 suspects.³⁶ At the time of writing, only one case led to the sentencing, in May 2016, of two slave owners under a slavery-related charge to five years imprisonment, with one year to be served and four years suspended.³⁷ Tadamoun has also interpreted its mandate restrictively. As noted by the Special Rapporteur on extreme poverty and human rights (hereafter Special Rapporteur on extreme poverty), it acts as a “charitable organization”, constructing health centres and schools, but has failed to develop policies to address the root causes of slavery.³⁸ For instance, despite having the mandate to do so, Tadamoun has not submitted any criminal claims on behalf of victims of slavery.³⁹

Secondly, as noted by the vast majority of analysts and human rights experts, including the World Bank and UN special procedures, deeply entrenched discriminatory practices against Haratines and Afro-Mauritians continue to this day and create an environment where slavery-like practices flourish.⁴⁰

Discrimination against Haratines and Afro-Mauritians bears many forms. One of them is that they are severely underrepresented in leadership positions, and thus less able to influence policies and claim their rights. According to some academic studies, 75% of the ministers in Mauritania since its independence have belonged to the Beydane community, 19% to the Afro-Mauritanian community and 6% to the Haratine community.⁴¹ This compares to the estimates by the US State Department that Haratines make up at least 45% of the population, Afro-Mauritians about 25%, and Beydanes approximately 30%.⁴² While noting that the representation of Afro-Mauritians and Haratines has slightly increased in governments under President Aziz (respectively 21% and 13%), studies also highlight the fact that they rarely occupy key ministerial roles and have limited autonomy when they do.⁴³

For the Special Rapporteur on extreme poverty, this lack of representation constitutes “a systematic absence from almost all positions of real power and a continuing exclusion from many aspects of economic and social life (...) [that] render their needs and rights invisible.”⁴⁴ The UN Human Rights Committee has also highlighted the impact of racial discrimination on access to public affairs,⁴⁵ while the Special Rapporteur on racism stated: “this pervasive discrimination manifests itself in part in the ‘invisibility’ of its victims (...), especially at decision-making levels in Government, the military and the police and security forces, as well as

³⁵ Minority Rights Group International, SOS Esclaves, Anti-Slavery International, Society for Threatened People, IRA, Unrepresented Nations and Peoples Organization, *Enforcing Mauritania’s Anti-Slavery Legislation: The Continued Failure of the Justice System to Prevent, Protect and Punish*, October 2015, p. 9.

³⁶ US Department of State, *2017 Trafficking in Persons Report – Mauritania*, www.state.gov/j/tip/rls/tiprpt/countries/2017/271240.htm

³⁷ Only one case brought under the 2007 law led to a conviction for slavery in 2011. This case was brought to the ACERWC which found, in December 2017, that Mauritania had “not shown due diligence to prosecute all the perpetrators of the violations, furthermore the one that was prosecuted has been released on bail and the police are not able to locate him. Such failure on the part of the Respondent State reflects ignorance that leaves perpetrators with impunity and does not send a deterring message for other slave masters.” See: ACERWC, *Said Ould Salem and Yarg Ould Salem against the Government of the Republic of Mauritania*, Decision NO. 003/2017, 15 December 2017, para. 58.

In at least nine other cases brought under the 2007 law, the charges were requalified to less serious offences, including “labour dispute” and “exploitation of minors.”

³⁸ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*, A/HRC/35/26/Add.1, 8 March 2017, para. 47.

³⁹ US Department of State, *Trafficking in Persons Report 2017*, June 2017, p. 275.

⁴⁰ Social cohesion in Mauritania is precarious and risks derailing economic and social progress. The difficulties involved in cultivating a strong shared national identity are deeply rooted in ethno-racial divisions, sociopolitical tensions, historical grievances over discriminatory state practices, and the slow pace of integration of marginalized groups excluded from social and economic opportunity.”

World Bank, *Islamic Republic of Mauritania: turning challenges into opportunities for ending poverty and promoting shared prosperity – Systemic country diagnostic*, 2017, para. 41.

“While the practice of slavery is illegal, deeply embedded discriminatory attitudes form part of the basis of slavery in Mauritania.”

Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 16 August 2010, A/HRC/15/20/Add.2, para. 51.

See also:

Francis de Chasseys, ‘Vers une histoire anthropologique et sociologique de l’ethnie en Mauritanie’, in Abdel Wedoud Ould Cheikh (ed.), *Etat et société en Mauritanie : Cinquante ans après l’Indépendance*, Karthala, 2014, pp. 157-226 ;

Zekeria Ould Ahmed Salem, *Prêcher dans le désert: Islam politique et changement social en Mauritanie*, Karthala, 2013.

E. Ann McDougall, ‘Life in Nouakchott is not true liberty, not at all’: living the legacies of slavery in Nouakchott, Mauritania, 19 July 2016, www.opendemocracy.net/author/e-ann-mcdougall

⁴¹ Alain Antil and Céline Lesourd, ‘Une hirondelle ne fait pas le printemps. Grammaire des mobilisations sociales et politiques et retour de la question négro-mauritanienne’, *L’Année du Maghreb*, No. VIII, 2012, pp. 407-429.

⁴² US Department of State, *Mauritania 2016 Human Rights Report*, 2017, p. 16.

⁴³ Céline Lesourd and Alain Antil, ‘“Je dois tout contrôler”. Changement d’un mode de gouverner’, *L’Année du Maghreb*, No. 11, 2014, pp. 275-297.

See also: Anouar Boukhars, *Mauritania’s Precarious Stability and Islamist Undercurrent*, Carnegie Endowment for International Peace, 11 February 2016, p. 16.

⁴⁴ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*, A/HRC/35/26/Add.1, 8 March 2017, para. 25.

⁴⁵ Human Rights Committee, *Concluding observations – Mauritania*, CCPR/C/MRT/CO/1, 21 November 2013, para. 7.

in the private sector.”⁴⁶

UN Special rapporteurs have reported that Mauritania’s language policy has an adverse effect on members of the Afro-Mauritanian communities.⁴⁷ While the constitution recognizes Arabic, Pular, Soninke and Wolof as national languages, it defines Arabic as the sole official language. As highlighted by the Special Rapporteur on racism, the entrenchment of Arabic at universities, the judiciary and the civil service constitutes a major obstacle for non-Arabic speaking Afro-Mauritanian communities accessing essential services, as well as positions of responsibility in the private and public sector.⁴⁸

THE PRACTICE OF SLAVERY IN MAURITANIA

Following its 2010 mission to Mauritania, the UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences, provided the following overview of the history of slavery in Mauritania:

“Mauritania is made up of two major cultural and ethno-linguistic groups: the Arab– Berber peoples, commonly referred to as Moors, largely nomadic and inhabiting mostly the north of the country; and the black African population, made up of Pular, Soninke and Wolof, mostly settled and inhabiting the south and east of the country. In addition to these two large groups, there is a Haratine community, also called the black Moors, who are black African by skin colour, but an integral part of the Moorish ethnic group, whose language and culture they share. (...) Slavery has existed for centuries in all ethnic communities in Mauritania. It is deeply ingrained as part of a hierarchical social structure. Slaves are treated as property and suffer degrading treatment. They work long hours and receive no payment for their work. They are totally dependent on their masters for food, clothing and shelter. In return, the masters feel that they have a paternal relationship with their slaves.”

The Special Rapporteur also noted: “Mauritanian society is highly stratified along ethnic and racial lines. In the black African communities, noble and freemen are at the top, followed by ‘casted’ groups (usually occupational and endogamous groups such as blacksmiths and musicians), with slaves and their descendants coming at the very bottom.”

She made the following observations on slavery in the Moor community: “The elite white Moors (Berber Arabs) control the economy and the vast majority of the administrative State, including the Government, the military and the police. Historically they raided, enslaved and assimilated people from sedentary black ethnic groups along the Senegal River. Today, this assimilated group of people is also called the black Moors. (...) The word ‘Haratine’ is derived from the Arabic word for freedom, as they are perceived by the rest of society as freed slaves. The Haratine continue to suffer discrimination, marginalization and exclusion due to their membership of a ‘slave caste’ and are the ethnic group most associated with slavery in Mauritania today. (...) Whether freed or still enslaved (abid), black Moors are referred to as Haratine. In a vast country, much of which is desert, it is extremely difficult for slaves to run away and leave their ‘families’. The Haratines who flee their masters go and live in Adwabas, slave descendant camps, or shanty towns based outside major cities. The former slaves become the poorest in society with limited access to basic services such as education and economic opportunities. They often end up doing service jobs and other lowly jobs in urban centres. In some instances, former female slaves end up working in urban areas as domestic workers for relatives of their former masters or in sex work. In other cases, former female slaves set up some small businesses selling items such as couscous or mint. Former male slaves end up working as porters or night watchmen. The lack of access to basic services and alternative livelihoods for former black African and Haratine slaves serves to propagate the belief that former slaves are still inferior and will always be slaves.”⁴⁹

⁴⁶ *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania*, A/HRC.11/36/Add.2, 16 March 2009, para. 73.

⁴⁷ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*, A/HRC/35/26/Add.1, 8 March 2017, para. 32.

World Bank, *Islamic Republic of Mauritania: turning challenges into opportunities for ending poverty and promoting shared prosperity – Systemic country diagnostic*, 2017, para. 88.

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania, A/HRC/26/49/Add.1, 3 June 2014, para. 22.

Report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania, A/HRC/11/36/Add.2, 16 March 2009, para. 50.

On the imposition of Arabic in public administration and its consequences on inter-community relations, see:

Francis de Chassey, ‘Vers une histoire anthropologique et sociologique de l’ethnie en Mauritanie’, in Abdel Wedoud Ould Cheikh (ed.), *Etat et société en Mauritanie : Cinquante ans après l’Indépendance*, Karthala, 2014, p. 157-226.

Catherine Taine-Cheikh, ‘Les langues comme enjeux identitaires’, *Politique Africaine*, No. 55, 1995, pp. 57-65.

⁴⁸ *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania*, A/HRC/11/36/Add.2, 16 March 2009, para. 50.

⁴⁹ *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, A/HRC/15/20/Add.2, 20 August 2010, paras 5-14.

Afro-Mauritians and Haratines also face regulatory complexities and practical impediments to civil registration, which is an essential requirement to vote, travel within the country and access education, health services and other social benefits.⁵⁰ There are major disparities in registration rates in Mauritania, with the United Nations Children's Fund (UNICEF) estimating that just 32.6% of children under 5 in the poorest households – disproportionately those from Haratine or Afro-Mauritanian communities - being registered compared to 84.4% of those from the richest households.⁵¹ While the World Bank describes the process of civilian registration as “complicated and expensive”⁵², CSOs including *Touche pas à ma nationalité* (Don't touch my nationality), have also raised concerns about its discriminatory nature. They argue that the Afro-Mauritians are underrepresented in the decision-making bodies involved in the registration process, that it requires administrative documents which many Afro-Mauritians or Haratines cannot produce, that they are questioned in Arabic rather than their own languages, and that the registration centres are often far from some of the Afro-Mauritanian and Haratine communities living in rural areas.⁵³

The Mauritanian authorities have also failed to adequately address mass violations of human rights against members of the Afro-Mauritanian community between 1989 and 1991 and which continue to affect them and their descendants. According to the Special Rapporteur on racism, 300,000 people were made refugees, displaced or repatriated over this period, more than 3,000 were arrested and 500 unlawfully killed, predominantly in the Afro-Mauritanian community, at the height of inter-ethnic tensions.⁵⁴ In 2000, the African Commission on Human and Peoples' Rights (ACHPR) found the Mauritanian authorities responsible for grave or massive violations of human rights, including discrimination on the ground of ethnicity, torture, illegal detention, extrajudicial killings and mass expulsion of Afro-Mauritians and made recommendations including an independent enquiry and prosecutions; the rehabilitation and reintegration of those expelled; compensation of widows and beneficiaries and the eradication of slavery.⁵⁵ The recommendations have still not been fully implemented. No prosecution has been initiated against the perpetrators, as Law No. 92 of 1993 granted amnesty to members of the armed and security forces who had committed offences during that period. The return of those expelled from Mauritania has also been slow and marred with difficulties.⁵⁶ Many do not have the required identification documents for civil registration, as their identification cards were lost or confiscated at the time of their expulsion, or as they were not provided death certificates following the killings of their parents.⁵⁷

⁵⁰ *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Follow-up mission to Mauritania*, A/HRC/27/53/Add.1, 26 August 2014, para. 42.

⁵¹ UNICEF Data, *Mauritania*, <https://data.unicef.org/country/mrt/>

⁵² World Bank, *Islamic Republic of Mauritania: turning challenges into opportunities for ending poverty and promoting shared prosperity – Systemic country diagnostic*, 2017, para. 90.

⁵³ Fédération internationale des ligues des droits de l'Homme and Association Mauritanienne des Droits de l'Homme, *Mauritanie: Critiquer la gouvernance: un exercice risqué*, 28 November 2012, www.fidh.org/fr/regions/afrique/mauritanie/Mauritanie-Critiquer-la-12505
Alain Antil and Céline Lesourd, 'Une hirondelle ne fait pas le printemps. Grammaire des mobilisations sociales et politiques et retour de la question négro-mauritanienne', *L'Année du Maghreb*, No. VIII, 2012, pp. 407-429.

⁵⁴ *Report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania*, A/HRC.11/36/Add.2, 16 March 2009, paras 5-7.

See also: Amnesty International, *Mauritania: Human rights violations in the Senegal River Valley* (Index: AFR 38/010/1990).

⁵⁵ African Commission on Human and Peoples' Rights, *Malawi Africa Association, Amnesty International, Ms Sarr Diop, Union interafricaine des droits de l'Homme and RADDHO, Collectif des veuves et ayants droit, Association mauritanienne des droits de l'Homme / Mauritania*, 2000.

⁵⁶ IHRDA, *Updates on Implementation of African Commission's Recommendations in the case 'Malawi African Association & others v. Mauritania'*, www.ihrda.org/2015/12/updates-on-implementation-of-african-commissions-recommendations-in-the-case-malawi-african-association-others-v-mauritania/

⁵⁷ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*, A/HRC/35/26/Add.1, 8 March 2017, para. 46.

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, on his mission to Mauritania, A/HRC/26/49/Add.1, 3 June 2014, para. 33.

‘The fact that some people keep raising this problem [the events of 1989-1991], I do not think that’s the way to serve the country or the families of the victims ... It is a way to incite hatred, to incite vengeance, a way to divide the Mauritians again.’

President Aziz, El Mouritaniya TV interview, 2015.⁵⁸

Despite the overwhelming evidence of discrimination, the Mauritanian authorities continue to deny the existence of racial discrimination and fail to develop policies aimed at addressing the needs of its victims.⁵⁹ They continue to refuse to disaggregate basic data, including on access to healthcare, education and employment, on the basis of ethnicity or language, effectively cloaking the effect of discrimination from public scrutiny.⁶⁰

As argued by the Special Rapporteur on extreme poverty, this approach makes the victims of discrimination invisible, protects the privileges of the dominant group and maintains the status quo they benefit from.⁶¹ This is also accompanied by a strategy of seeking to silence those who speak out to challenge this status quo, accusing them undermining national unity and resorting to racial and ethnic propaganda⁶², and using the tools at their disposal to ban their protests, outlaw their organizations, subject those who speak out to intimidation, threats, arbitrary arrests and torture.

⁵⁸ El Mouritaniya TV, Interview with President Aziz, Nouadhibou, November 2015, www.youtube.com/watch?v=QCmwlyT1DzI

⁵⁹ Despite such extensive evidence, the Special Rapporteur was consistently told by government officials that there is no discrimination in Mauritania and certainly not on the grounds of ethnicity, race or social origin... In addition to this counterintuitive factual claim, the position of the Government also has a deliberate policy component according to which it would be both discriminatory and divisive to acknowledge ethnic disparities.”

Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania, A/HRC/35/26/Add.1, 8 March 2017, para. 30.

“The Committee regrets that the State party denies the existence of racial discrimination on its territory.”

Human Rights Committee, *Concluding observations – Mauritania*, CCPR/C/MRT/CO/1, 21 November 2013, para. 7.

⁶⁰ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*, A/HRC/35/26/Add.1, 8 March 2017, para. 63.

Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Follow-up mission to Mauritania, A/HRC/27/53, 26 August 2014, para. 42.

⁶¹ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*, A/HRC/35/26/Add.1, 8 March 2017, para. 30.

⁶² Constitution of the Islamic Republic of Mauritania, Article 1: “Mauritania is an Islamic, indivisible, democratic, and social Republic.

The Republic assures to all citizens without distinction of origin, of race, of sex, or of social condition, equality before the law. All particularist propaganda of racial or ethnic character is punished by the law.”

Interview with the President of Mauritania, Nouakchott, 25 May 2016;

Interviews with the Minister of Justice, Nouakchott, 13 June 2017 and 28 July 2015.

Jeune Afrique, *Mauritanie : Aziz accuse les anti-esclavagistes d’instrumentalisation politique*, 4 December 2017,

www.jeuneafrique.com/499043/politique/mauritanie-aziz-accuse-les-anti-esclavagistes-dinstrumentalisation-politique/

2. CRACKING DOWN ON PEACEFUL PROTESTS: PROHIBITIONS AND EXCESSIVE USE OF FORCE

‘The policemen came, fired tear gas and started beating us with batons. My eyes were burning. I couldn’t breathe. I was so angry and frustrated. We did all this work to contribute to improving the future of our country and we got beatings and tear gas in return. I yelled at them: ‘Aren’t you ashamed of what you are doing?’”

Anonymous activist, Nouakchott, June 2017.

The right to peaceful assembly is guaranteed under ICCPR Article 21 and African Charter Article 11. Article 10 of the Constitution of Mauritania guarantees the rights of all its citizens to freedom of expression and freedom of assembly.⁶³ However, the Mauritanian authorities continue to use laws from the 1970s to crack down on peaceful protests organized by human rights groups, including by refusing to authorize peaceful assemblies and using excessive force against peaceful demonstrators.

⁶³ Constitution of Mauritania, Article 10.

2.1 PROHIBITING PEACEFUL PROTESTS

At least 20 human rights groups, including registered associations and trade unions, reported to Amnesty International that they had peaceful assemblies prohibited and dispersed by force since 2014, even when conforming to legal requirements to notify authorities in advance.

Weaknesses in Mauritania's legal framework facilitate the regular violation of the right to peaceful assembly. For example, the 1973 law on public assemblies prohibits assemblies on public roads (Article 7), assemblies taking place after 11pm (Article 4) and vaguely defined "political circles" and "secret societies" (Article 8).⁶⁴ These provisions are imprecise and overbroad in scope, violating the "legality" requirement for criminal offences, and/or unlawfully restricting a range of rights – such as freedom of opinion and expression, freedom of association and peaceful freedom of assembly.⁶⁵

Further, while the law technically requires only prior notification of an assembly, the procedures set out are unduly cumbersome and put too many responsibilities on the organizers of protests.⁶⁶ For instance, the law requires an assembly to have a committee of at least three elected members responsible, amongst other things, for maintaining law and order, ensuring the assembly remains within the character defined in the declaration and forbidding any speech contravening public order or morals or inciting to commit crimes (Article 5). The decree of implementation of the law on assemblies⁶⁷ further details that authorities should be notified at least 72 hours prior to the assembly, with the names of the organizers, their address and a copy of their criminal record, as well as the purpose, location, date and time of the assembly. Failure to notify the authorities of the assembly is considered a crime. Crimes under the law on assemblies carry prison terms of up to six months and fines of up to MRO500,000 (approximately €1,190).

The law on public assembly and its decree of implementation also do not recognize spontaneous assemblies, which should be exempt from prior notification in line with the recommendations of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (hereafter Special Rapporteur on freedom of peaceful assembly and of association). The law also does not set out the conditions and procedure for the authorities to prohibit an assembly; nor state that the decision can be appealed before an impartial and independent court.⁶⁸

The Criminal Code also prohibits peaceful assemblies on imprecise and overbroad grounds which can be easily misused and abused, for instance when the assembly "may undermine public tranquility" or if one person in the assembly is thought to be carrying or concealing a weapon (Article 101). These provisions breach international standards which provide that the violent or unlawful actions of one or a few individuals should not be used by itself as a reason to prohibit or disperse an assembly.⁶⁹

In practice, these weaknesses in the legal framework enable the authorities to turn the notification requirement into a requirement for authorization. Assemblies which are notified to the authorities but are not expressly authorized are often considered unauthorized and therefore unlawful and subject to being dispersed by force. Organizers are called by the Hakem (Prefect)⁷⁰ on very short notice, often the day before the protest, and informed of the decision to ban the assembly. The authorities systematically fail to notify the organizers in writing and explain their decision, even when asked to do so.⁷¹

⁶⁴ Law No. 73.008 of 23 January 1973 on public assemblies.

⁶⁵ The Special Rapporteur on freedom of peaceful assembly and of association indicated that "blanket restrictions shall not be considered lawful".

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, para. 54.

⁶⁶ The Special Rapporteur on freedom of peaceful assembly and of association indicated that "Such a notification should be subject to a proportionality assessment, not unduly bureaucratic and be required a maximum of, for example, 48 hours prior to the day the assembly is planned to take place... Should the organizers fail to notify the authorities, the assembly should not be dissolved automatically ... and the organizers should not be subject to criminal sanctions, or administrative sanctions resulting in fines or imprisonment."

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, paras 28, 29 and 31.

⁶⁷ Decree No. 73.060 of 16 March 1973 on the implementation of Law No. 73.008 of 23 January 1973 on public assemblies.

⁶⁸ "In case an assembly is not allowed or restricted, a detailed and timely written explanation should be provided, which can be appealed before an impartial and independent court... Spontaneous assemblies should be recognized in law, and exempted from prior notification." *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, paras 90 and 91.*

⁶⁹ *Reports of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/23/39, para. 49 and A/HRC/20/27, para. 93.*

Human Rights Council, *Resolution on The Promotion and Protection of human rights in the context of peaceful protests, A/HRC/RES/25/38*, March 2014: "Recalling that isolated acts of violence committed by others in the course of a protest do not deprive peaceful individuals of their rights to freedom of peaceful assembly, of expression and of association."

⁷⁰ The Hakem is a government representative with authority over the moughataa (department).

⁷¹ Interview with CSOs which had their protests banned or dispersed between 2014-2015, Nouakchott, June 2017.

In a growing number of cases, because of the history of banning assemblies or because the authorities fail to recognize them as legitimate actors, associations have decided to organize peaceful protests without notifying the authorities nor seeking prior authorization. This is something they should be able to do, according to international standards, without rendering the assembly unlawful.⁷² However, in such cases, the authorities have resorted to the use of excessive force to disperse demonstrators.



VIOLENT DISPERSAL OF A PEACEFUL MARCH FOR YOUTH AND ARRESTS OF PEACEFUL DEMONSTRATORS, APRIL 2017



Peaceful youth protesters in front of police forces during the repressed March of Mauritanian Youth on 16 April 2017, Nouakchott. ©Private

On 16 April 2017, in Nouakchott, the security forces violently repressed a peaceful march of about 100 young activists calling on the authorities to end the marginalization of young people, including by simplifying the civil registration process and making education policies more inclusive.⁷³

The organizers notified the Hakem of the protest on 10 April. The Hakem on 14 April informed them over the phone that the assembly was not authorized, and a police commissioner asked the organizers to call off their march. Despite the organizer's request, the authorities failed to provide them with a written explanation on the decision.

On 16 April, the police were deployed at the demonstration site, the BMD roundabout in Nouakchott's city centre, early in the day, in full anti-riot gear, as youth groups started gathering. Without any prior warning, they fired tear gas on the demonstration site and, armed with batons, charged the protesters who were beaten, including on their necks and on their backs.⁷⁴

The police arrested 26 activists, 16 of whom were released the same day while 10 others, including two women, were charged and detained. They were asked to sign statements in Arabic which some of them did not understand, and which some refused to sign as the statement said they had committed violent acts, including throwing stones and burning tyres.

Those charged were taken to the West Nouakchott Province Court on 20 April. Nine activists were

⁷² "Failure to notify authorities of an assembly does not render an assembly unlawful, and consequently should not be used as a basis for dispersing the assembly. Where there has been a failure to properly notify, organizers, community or political leaders should not be subject to criminal or administrative sanctions resulting in fines or imprisonment ... This applies equally in the case of spontaneous assemblies, where prior notice is otherwise impracticable or where no identifiable organizer exists. Spontaneous assemblies should be exempt from notification requirements, and law enforcement authorities should, as far as possible, protect and facilitate spontaneous assemblies as they would any other assembly."

Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66, para. 23.

⁷³ Interviews with two organizers of the protest and five participants, Nouakchott, June 2017.

⁷⁴ Amnesty International obtained copies of medical certificates established at the time.

acquitted and released.⁷⁵ One was found guilty of “provoking an unarmed gathering” and received a three-month suspended sentence and a fine of MRO15,400 (approximately €40), although this sentence was quashed by the Appeals Court in July 2017.

However, some of those arrested continued to face attacks and harassment by authorities. For instance, a taxi driver who was transporting banners and speakers for the protest, but did not attend the protest, had his taxi confiscated at the time of his arrest. Despite being acquitted and released on 20 April, the police only returned his taxi in July. Some of the associations who organized the protests also reported having difficulties in getting public funds they previously had accessed to.

2.2 EXCESSIVE USE OF FORCE AGAINST PEACEFUL DEMONSTRATORS

Amnesty International interviewed dozens of peaceful demonstrators, including women, who had been subjected to excessive use of force since 2014. Many incurred serious injuries ranging from fractured limbs to head trauma. This is in part due to the legal framework on the use of force in Mauritania and its application which falls short of international standards.⁷⁶

Article 101 of the Criminal Code allows law enforcement officers to use force to disperse gatherings if they are subjected to violence and assault or if they cannot otherwise defend their position or posts. In other cases, gatherings may be dispersed by force if the participants do not disperse upon the request of the Hakem, the police commissioner or any other police officer. Other legal instruments allow members of the security forces to use firearms to maintain public order. For instance, a 1962 circular allows the gendarmerie to use firearms upon the request of the administrative authority or in legitimate defence.⁷⁷

The Criminal Code and other legal instruments relating to the use of force during assemblies contain no reference to the principles of legality, proportionality, necessity and accountability as legal safeguards against excessive use of force, as set out in international standards. There is no clear stipulation that security forces should use non-violent means wherever possible, nor that they must use force with restraint and in proportion to the seriousness of the law enforcement objective when it is unavoidable.⁷⁸ There is nothing to ensure that assistance and medical aid are rendered at the earliest possible moment to anyone injured or affected.⁷⁹ There is no prohibition on the use of lethal force, including firearms, “unless it is strictly unavoidable in order to protect life, thus making it proportionate, and all other means are insufficient to achieve that objective, thus making it necessary”.⁸⁰

⁷⁵ Criminal Court of West Nouakchott, Decision No. no. 0083/2017 of 20/04/2017.

⁷⁶ United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted at the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, September 1990. African Commission on Human and Peoples’ Rights, *Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa*, March 2017.

⁷⁷ Circular No. 570 PR/EMN/1/GEND of 27 April 1962, 4.D.

⁷⁸ “In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.”

United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 13.

“The use of force is an exceptional measure. In carrying out their duties, law enforcement officials shall, as far as possible, apply non-violent methods before resorting to the use of force and firearms. Force and firearms may only be used if other means of achieving a legitimate law enforcement objective are ineffective or unlikely to be successful. Law enforcement officials must, as far and for as long as possible, differentiate between peaceful assembly participants and those who engage in violent acts. An assembly should be deemed peaceful if its organizers have expressed peaceful intentions, and if the conduct of the assembly participants is generally peaceful. ‘Peaceful’ shall be interpreted to include conduct that annoys or gives offence as well as conduct that temporarily hinders, impedes or obstructs the activities of third parties. Isolated acts of violence do not render an assembly as a whole non-peaceful.”

African Commission on Human and Peoples’ Rights, *Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa*, para. 21.1.2.

⁷⁹ “Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment; (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.”

United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 5.

“Where the use of force is unavoidable, law enforcement officials must minimize damage and injury, respect and preserve human life, and ensure at the earliest possible moment that assistance is rendered to any injured or affected person and that their next of kin is notified.” African Commission on Human and Peoples’ Rights, *Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa*, para. 21.1.3.

⁸⁰ African Commission on Human and Peoples’ Rights, *Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa*, para. 21.1.4.



CLAMPDOWN ON WIDOWS AND ORPHANS CALLING FOR JUSTICE FOR THE UNLAWFUL KILLINGS OF THEIR RELATIVES, NOVEMBER 2017



Maimouna Sy (right) with members of the *Collectif des Veuves de Mauritanie*, rap singer and activist Yéro Gaynääko (back row) holding photos of their loved ones during a 2016 peaceful commemoration in Nouakchott.
© Yéro Gaynääko

On 28 November 2017, 15 human rights defenders, including Maimouna Alpha Sy, the Secretary General of the *Collectif des Veuves de Mauritanie* (Widows' Collective of Mauritania), were arrested in the town of Kaédi, about 340km south-east of Nouakchott, during Independence Day celebrations attended by the authorities, including the President of the Republic.

They were handing out leaflets and deploying banners calling for truth, justice and compensation for the unlawful killings of their relatives, Afro-Mauritanian members of the security forces who were victims of extrajudicial executions between 1989 and 1991.⁸¹ The widows and orphans were arrested by men in civilian clothes who identified themselves as members of the Battalion for Presidential Security (*Bataillon de Sécurité Présidentielle*, BASEP), taken to a military base and questioned individually about their activities in Kaédi. Ten were released without charge the same day while the remaining five were transferred to the Directorate-General of Public Security of Kaédi and accused of "disrupting public order". They were detained for six days, without access to a lawyer, before being released without charge on 3 December.⁸²

Some of the orphans and widows were beaten by members of the BASEP at the time of their arrest and during their transfer to the military base. One of the orphans required hospital treatment after being punched in the head.

The Widows' Collective of Mauritania has more than 270 members. They first filed a request for registration to the *Hakem* in 1993, but never received a response. They filed a second request for registration in 2006. During the investigation of morality performed by the police as part of the association registration process, they were told they had to change the name of their association which they refused to do.

Every year on Independence Day, the widows and orphans organize protests in different towns to mark the executions, and every year they are violently dispersed by the police forces. In 2016, the police took the photos of their loved ones and never returned them.

⁸¹ See: *Report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania*, A/HRC.11/36/Add.2, 16 March 2009, Paras 5-7.

Amnesty International, *Mauritania: Human rights violations in the Senegal River Valley* (Index: AFR 38/010/1990).

⁸² Phone interview with one of the defenders and a relative, December 2017.

In practice, these weaknesses in the legal framework on use of force enable the security forces to use excessive force to disperse peaceful demonstrations, leading to the death and wounding of peaceful protesters. According to various peaceful demonstrators interviewed by Amnesty International over the last four years, the security forces are often posted on demonstration sites and use tear gas and batons to disperse demonstrators, often without any prior warning. Peaceful demonstrators often sustain serious injuries, which Amnesty International observed, including head wounds, bruises to the neck and fractures.⁸³ While the security forces have not been reported to use firearms during peaceful demonstrations in Nouakchott over recent years, they have used them in other cities across the country, causing at least one death in 2011 [see Lamine Mangane's story below]. The suspected perpetrators of these killings have yet to be brought to justice.

In at least two cases known to Amnesty International, the victims of excessive use of force filed formal complaints to the police which have never been followed-up on.⁸⁴



IMPUNITY IN THE KILLING OF LAMINE MANGANE, PEACEFUL PROTESTER AND MEMBER OF TOUCHE PAS À MA NATIONALITÉ, SEPTEMBER 2011



Lamine Mangane, a 17-year-old human rights activist killed during a peaceful demonstration organized by "Touche pas à ma nationalité" in Maghama on 27 September 2011.
©Private

Human rights defenders told Amnesty International on several occasions that they avoid organizing and attending peaceful protests, as they risk being injured or killed with complete impunity. They often referred to the killing of Lamine Mangane, a 17-year-old human rights activist with "Touche pas à ma nationalité", an organization set up to combat discrimination against Afro-Mauritians.

Lamine Mangane was killed on 27 September 2011 after security forces fired live ammunition on a peaceful demonstration organized by "Touche pas à ma nationalité" in Maghama. Other minors, including a nine-year-old boy, were also injured. The demonstration was one of several violently repressed in 2011, amid protests against a new government census to systematize national identity documents, which many feared might lead to arbitrary expulsions and statelessness of Afro-Mauritians.

The authorities promised to investigate Lamine's killing, but his family says this has not happened and so far no one has been brought to justice.

"Touche pas à ma nationalité" was created in response to the registration process launched in 2011 and it continues to work against discrimination and in defence of Afro-Mauritanian communities without formal authorization. Its founders submitted a request for authorization to the Hakem of Sebkhia (West Nouakchott), but they were told by an administrator that they first had to translate the request in Arabic. When they did, they were told by the Hakem to seek an authorization from the Ministry of Interior. When they went to the Ministry of Interior, they were told that they should get an authorization from the Hakem.

⁸³ Amnesty International, Omega Research Foundation, *The Human Rights Impact of Less-Lethal Weapons and Other Law Enforcement Equipment* (Index: ACT 30/1305/2015), p. 16.

⁸⁴ Amnesty International met with the lawyers who submitted and have been following-up on the complaints.

3. RESTRICTIONS ON FREEDOM OF ASSOCIATION: BANS, INTERFERENCE AND DISSOLUTIONS

‘Not being recognized as an ‘authorized association’ is like having a sword hanging over our heads. We carry on with our activities but we know that at any point the authorities can shut us down and put us in jail.’

Yacoub Ahmed Lemrabet, President of Kavana, Nouakchott, June 2017.

The right to freedom of association is guaranteed under ICCPR Article 22, African Charter Article 10 and Article 10 of the Constitution of Mauritania. However, the Mauritanian authorities still use laws from the 1960s to routinely ban civil society organizations and social movements, interfere in their activities and dissolve them, particularly those campaigning to end slavery and discrimination.

3.1 BANNING OF CIVIL SOCIETY ORGANIZATIONS

Since 2014, Amnesty International has documented more than 43 associations working for the promotion and protection of human rights, including more than dozen INGOs, whose requests for authorizations have gone unanswered by the authorities, meaning that they can be considered unlawful, and their activities repressed.⁸⁵ This includes, for instance, the Collectif des Veuves de Mauritanie and Touche pas à ma nationalité, already highlighted in section 2, and IRA, which will be covered in section 4.

⁸⁵ These associations include: Assalamalekoum, Collectif des Veuves de Mauritanie, Initiative de Résurgence du Mouvement Abolitionniste, Kavana, Les Vigiles, Touche Pas à Ma Nationalité, Union des Jeunes Volontaires. Other organizations, including a dozen international non-governmental organizations, requested not to be named for fear it should compromise their ability to get an authorization.

This repressive practice stems from flaws in the 1964 law on associations and its amendments which fail to meet international standards. Most significantly, Article 3 of this law provides for an authorization regime, stating that: “Associations of people cannot be formed or undertake activities without a prior authorization delivered by the Minister of Interior.”⁸⁶ This is contrary to established international standards on the right to freedom of association without formal registration, which are also elaborated in the recommendations of the Special Rapporteur on freedom of peaceful assembly and of association.⁸⁷

The law also provides many other ways for the authorities to deny authorization of associations. Despite the recommendations of the Special Rapporteur, it sets no time limit for a request to be responded to⁸⁸ and provides imprecise and overbroad grounds for refusal, including if the association is founded “on a cause or for a purpose that is illicit, contrary to law, morality, or the aim of subverting territorial integrity or undermining the republican form of the government”.⁸⁹ There is no requirement to provide a decision in writing, nor to ensure it is motivated on legal grounds in conformity with international human rights law, nor that the decision may be challenged in a court of law.⁹⁰ Leaders and members of unauthorized associations, as well as participants in their activities, can be sentenced to up to three years in prison (Article 8).⁹¹

When Amnesty International shared its concerns with the President of the Republic in May 2016 and the Minister of Justice in June 2017, they responded that associations had no problems in Mauritania, that there were thousands of authorized associations and that they were free to operate as long as they did not breach the law.⁹² They stated that the government retains an authorization regime to maintain oversight for the sake of national unity, state security and to avoid money laundering. The Minister of Justice further clarified that an absence of response to a request for authorization for more than four months should be interpreted as a formal refusal.

This authorization regime enables the authorities to target groups who express dissent, including human rights groups campaigning to end slavery and discrimination. The testimonies Amnesty International collected from authorized and unauthorized associations demonstrate that the authorization process is complex, arbitrary and opaque. For instance, the language in which a request for authorization should be written is unclear. Some associations were able to submit their request in French, while others were asked to translate their documentation into Arabic, at their own costs using official and expensive translators. The authorization process also includes a police-led investigation into the morality of the applicants where they are questioned about their political affiliation, the political implications of their planned activities or previous convictions.

While unauthorized associations are often tolerated, their leadership, members and participants to their activities are exposed to substantial risks and administrative difficulties, including accessing donor funding or notifying authorities of planned public activities. Further, several individuals have been detained on the charge of belonging to an unauthorized association, particularly in the case of IRA, highlighted in section

⁸⁶ Law No. 64.098 of 9 June 1964 on associations and Law No. 73.007 of 23 January 1973 and Law No. 73.157 of 2 July 1973.

⁸⁷ “The Special Rapporteur is of the opinion that a “notification procedure”, rather than a “prior authorization procedure” that requests the approval of the authorities to establish an association as a legal entity, complies better with international human rights law and should be implemented by States. Under this notification procedure, associations are automatically granted legal personality as soon as the authorities are notified by the founders that an organization was created.”

Report of the Special Rapporteur on freedom of peaceful assembly and of association, A/HRC/20/27, para. 58.

⁸⁸ “Under both notification and prior authorization regimes, registration bodies must be bound to act immediately and laws should set short time limits to respond to submissions and applications respectively.”

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, para. 60.

⁸⁹ Law No. 64.098 of 9 June 1964 on associations, Article 3.

⁹⁰ “Any decision rejecting the submission or application must be clearly motivated and duly communicated in writing to the applicant. Associations whose submissions or applications have been rejected should have the opportunity to challenge the decision before an independent and impartial court.”

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, para. 61.

⁹¹ “The Special Rapporteur underlines that the right to freedom of association equally protects associations that are not registered ... Individuals involved in unregistered associations should indeed be free to carry out any activities, including the right to hold and participate in peaceful assemblies, and should not be subject to criminal sanctions ...”

Report of the Special Rapporteur on freedom of peaceful assembly and of association, A/HRC/20/27, para. 56.

⁹² According to the Officer of the Commissioner for Human Rights and Humanitarian Action, there were 6028 NGOs and 57 INGOs operating in Mauritania in 2016. See: Commissariat aux Droits de l’Homme et à l’Action Humanitaire, *10ème, 11ème, 12ème, 13ème et 14ème rapports périodiques de la République Islamique de Mauritanie sur la mise en œuvre des dispositions de la Charte Africaine des Droits de l’Homme et des Peuples*, July 2016.

TRADE UNIONS: DIFFERENT LAWS, SIMILAR SHORTFALLS

Trade unions fall under a specific legal regime, set out in the Labour Code⁹³, which raises similar concerns of arbitrary bans on the right to association. Under Articles 274-276 of the Labour Code, the public prosecutor, who reports to the Ministry of Justice, authorizes all trade unions and delivers to them registration certificate. Without a registration certificate, trade unions “have no legal existence” (Article 276).

Under Article 277, an absence of response of the prosecutor within a two-month period after the registration request is filed amounts to a refusal, which can be challenged in court by the administrators or directors of the union, within a two-month period.

Article 432 exposes union directors and administrators who fail to abide by the terms of registration procedures to hefty fines of up to MRO600,000 (approximately €1,420).



KAVANA: AWAITING AUTHORIZATION SINCE 2012, MEMBERS ARRESTED IN 2014, OFFICE CLOSED AND BURGLED IN 2015



Yacoub Ahmed Lemrabet, President of Kavana.

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Kavana, meaning “Enough” in Arabic, is a youth association that empowers young people by exposing their difficulties, including unemployment and discrimination.⁹⁴

Kavana submitted its request for authorization to the Hakem of Arafat in February 2012. After being asked by a civil servant from the office of the Hakem to change the name as it was “too political”, they received no further response from the authorities, despite sending regular reminders and organizing protests in front of the Ministry of Interior.⁹⁵ Despite this, Kavana continued to operate openly, making appearances on TV shows and organizing press conferences. They opened a small office in Arafat, a neighbourhood of Nouakchott.

In August 2014, members of Kavana organized a peaceful protest in Nouadhibou to contest the fairness of the 2014 presidential election. The police arrested seven activists, as well as the President of Kavana, Yacoub Ahmed Lemrabet, as he visited the detainees at the police station. Six of them were released on the same day, but two men, including Lemrabet, were detained for eight days and charged with “disrupting public order”. They refused to sign a statement that Kavana would no longer organize protests.

⁹³ Law No. 2004.017 of 6 July 2004 on the Labour Code, as amended by Law No. 2009.027 of 9 April 2009.

⁹⁴ Interview with Yacoub Ahmed Lemrabet, President of Kavana, Nouakchott, June 2017.

⁹⁵ Representatives of Kavana last went to the Ministry of Interior to enquire about the status of their request in March 2017.

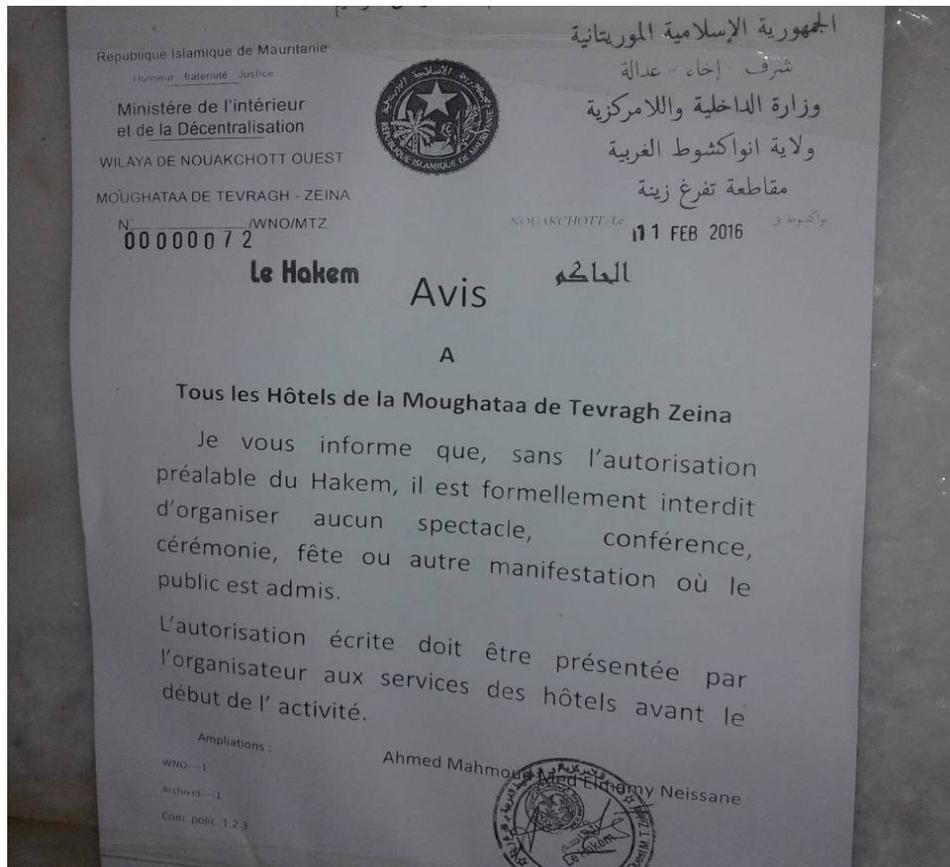
They were released on bail, but the cases are ongoing and Yacoub Ahmed Lemrabet is regularly summoned by the police for questioning.

In April 2015, the Police Commissioner of Arafat told members of Kavana that they had to close their office as they were not an authorized association. They refused to heed to this order as they did not get an official notification that their request for authorization was rejected. They were burgled three weeks later, with all their computers stolen. They reported the burglary to the police, but there was no investigation and no one was held accountable. With the lack of response from the police, leaders of Kavana felt it was unsafe to keep the office and decided to close it a few weeks later.

3.2 SURVEILLANCE AND INTERFERENCE IN THE ACTIVITIES OF ASSOCIATIONS

Associations should be able to operate free from undue interference, including when they are not formally authorized.⁹⁶ Yet, the Mauritanian authorities routinely interfere in the operations of associations, authorized and non-authorized, including by undermining their public activities, subjecting them to surveillance or limiting their interactions with other activists.

A circular dated 11 February 2016 and distributed to the hotels and conference centres of Nouakchott states that it is “prohibited to organize any show, conference, ceremony, party or any other demonstration where the public is admitted without the prior authorization of the Hakem”.⁹⁷ This circular builds on the already excessive provisions of the 1973 law on assemblies which provide that public meetings, including when they are held in private premises, require prior notification to the administrative authorities (Article 3) and that failing to notify a meeting is a crime (Article 9). The authorities have used these different legal instruments to prohibit the activities of otherwise authorized associations or to prevent activities from taking place by sending the police to the venues, including hotels, conference centres and NGO offices hosting events. Human rights defenders told Amnesty International that the activities banned include human rights trainings, conferences on issues such as the death penalty, mediation workshops between communities over land disputes, cultural exchanges and charity galas to raise funds for victims of flooding in poorer neighbourhoods.⁹⁸



Circular distributed to hotels prohibiting the organization of 'any show, conference, ceremony, party or any other demonstration where the public is admitted' without the prior authorization of the Hakem.

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⁹⁶ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, paras 63-66.

⁹⁷ Hakem de Tevragh Zeina, circular No. 00000072/WNO/MTZ of 11 February 2016. See copy above.

⁹⁸ Interviews with Fatimata M'Baye, President of the Association Mauritanienne des Droits de l'Homme, and Mamadou Sarr, President of the Forum of Human Rights Organizations of Mauritania, June 2017. Other organizations, including INGOs, reported these practices to Amnesty International, but requested that their names be withheld for security reasons.



SOS-ESCLAVES: ACTIVITIES BANNED IN NOVEMBER 2017



*Boubacar Ould Messaoud, founding member of SOS-Esclaves (SOS-Slaves), one of the first NGOs fighting against slavery to be legally registered in Mauritania.
©Mamadou Lamine Kane/Mozaikrim*

SOS-Esclaves (SOS-Slaves) is a legally registered Mauritanian human rights NGO that has been leading the fight against slavery in Mauritania for over 20 years by exposing the practice, challenging its acceptance and defending the rights of those seeking to escape slavery. It also works to end discrimination faced by people of slave descent and provides direct assistance to victims of slavery.

Despite having been regularly involved with the government to debate and advance issues relating to slavery, since November 2017, SOS-Esclaves has faced undue restrictions in conducting its work.

On 7 November 2017, SOS-Esclaves was due to host a launch event of an EU-funded project to combat slavery in Mauritania. However, on 3 November, the organization was informed by the Hakem of West Nouakchott that the event had not been authorized. On 11 November, the offices of SOS-Esclaves in Nema and Bassiknou were also informed by the regional authorities that their activities in the regions were not authorized. These activities include neighbourhood awareness-raising meetings, support visits to victims of slavery, economic activities and literacy classes for slavery survivors and other illiterate Haratine children and adults.⁹⁹

SOS-Esclaves had informed the authorities, including the Ministry of Interior, of its planned activities and had sent invitations for state representatives to attend, as it usually does. However, the authorities said that the information was not sufficient, without providing any further details.

The Mauritanian authorities also use repressive provisions of the 1973 law on assemblies for surveillance purposes. Article 6, for example, allows the administrative authorities to delegate a civil servant to attend the assembly, including to “report on criminal offences” and with the power to order the dispersal of the assembly, including in the case of collusion or assault.” This provision has been used to impose the presence of a state representative during human rights training workshops in 2016, during which the state representative made regular phone calls to the administrative authority to report on what was happening.¹⁰⁰

⁹⁹ Emails with Boubacar Messaoud, President of SOS-Esclaves, November 2017.

¹⁰⁰ Names withheld on the request of the NGO and INGO representatives.

In December 2015, the National Assembly adopted a new law on cybercriminality which bolsters the surveillance capacity of the Mauritanian security services and could be used to disrupt the communications of human rights groups and activists.¹⁰¹ Articles 66 – 73 criminalize the use of encryption technologies without authorization, with penalties of up to five years in prison and fines of up to MRO12,000,000 (approximately €27,806). Articles 74-75 legalize hacking at the request of the authorities and law enforcement agencies, including of any IT equipment inside and outside of Mauritania, without judicial oversight. Article 77 provides that the authorities may restrict access to data or information relating to an infraction when it is contrary to public order or morals. And Article 79 provides that the authorities may request anyone who has access to or control over data or information, which includes internet service providers, to store it and protect its integrity for a period of two years. These provisions give unchecked surveillance capacity to the authorities, without adequate judicial oversight. They undermine the ability of human rights groups to communicate, store and access sensitive information safely and create a climate of insecurity, fear and self-censorship.

Finally, since 2016, the Mauritanian authorities have refused to allow entry or renew the visas of at least 21 people, including human rights experts, public figures and journalists, thus impermissibly restricting their interactions with domestic organizations and disrupting planned human rights work. For instance, in May 2017, a foreign researcher and a journalist carrying out research on slavery were asked to leave the country on the grounds that they were working with unauthorized associations;¹⁰² in September 2017, US anti-slavery activists were denied entry [see box below]; in November 2017, the authorities refused an Amnesty International delegation access to the country.



DELEGATION OF ANTI-SLAVERY ACTIVISTS FROM THE UNITED STATES, DENIED ACCESS TO MAURITANIA, NOVEMBER 2017

On 8 September 2017, US civil rights leaders were refused entry visas when they arrived at Nouakchott International Airport on a mission organized by Anti-Slavery International, SOS-Esclaves and the US Embassy, officially at the invitation of SOS-Esclaves. The delegation included Professor Jonathan Jackson, son of Reverend Jesse Jackson Sr. and Spokesperson for the Rainbow PUSH civil rights organization, leaders of the Abolition Institute, an Islamic scholar, two Muslim judges and Che ‘Rhymefest’ Smith, a Grammy and Oscar winning recording artist.¹⁰³

The authorities said that entry was refused because the government had not been informed of the visit, despite State representatives having been invited to the event.

3.3 DISSOLUTION OF AUTHORIZED ASSOCIATIONS

Authorized associations in Mauritania not only face impermissible restrictions on their activities, but also face threat of dissolution under imprecise and overbroad provisions and conditions that are inconsistent with international standards.

According to Article 4 of the 1964 law on associations, revised in 1973, the Minister of Interior has the power to dissolve associations, without any judicial oversight, on the grounds that they “provoke armed or unarmed demonstrations which compromise public order and public security”, “receive funding from abroad with the purpose of undermining national interest”, “which engage in anti-national propaganda”, “discredit the State”, or “exercise an unwelcomed influence on the minds of the people”.¹⁰⁴

Article 8 of the law on associations exposes those who administer or participate in the activities of associations which have been dissolved or which operate without authorization to up to three years in

¹⁰¹ Law on cybersecurity of 22 December 2015.

¹⁰² Interview with Fatimata M’Baye, President of the Association Mauritanienne des Droits de l’Homme, June 2017.

¹⁰³ Phone interviews with SOS-Esclaves and Anti-Slavery International.

¹⁰⁴ According to the Special Rapporteur on freedom of peaceful assembly and of association, “The suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient... According to ILO jurisprudence, decisions to dissolve labour organizations ‘should only occur in extremely serious cases; such dissolutions should only happen following a judicial decision so that the rights of defence are fully guaranteed.’” *Report of the Special Rapporteur on freedom of peaceful assembly and of association, A/HRC/20/27, paras 75-76.*

prison. Article 9 provides that the personal and movable property of these associations may be subject to receivership and liquidated to the benefit of the state.

These provisions are imprecise and overbroad and can easily be used against human rights organizations that express dissent or challenge state policies and practices. Amnesty International is aware of at least one organization which has been arbitrarily dissolved and had its assets seized.



POPULATION ET DÉVELOPPEMENT: DISSOLVED AND ASSETS CONFISCATED, 2016



Balla Touré, an anti-slavery activist arrested twice for his work against discrimination. His association POPDEV was dissolved and his equipment confiscated while he was in detention.
© Amnesty International

Population et Développement (Population and Development, POPDEV) is an association of engineers leading development projects in rural areas of Mauritania, legally registered in 2000. It was founded by Balla Touré, an agronomist who is also an IRA member. Balla Touré was arrested with other IRA activists in July 2016 after a protest against an eviction by communities in the slum area of Bouamatou, in the capital Nouakchott, which he did not attend nor organize.¹⁰⁵

On 24 July 2016, the police searched the POPDEV office. They escorted Balla Touré to his office for him to be present during the search, but they denied his request to have his lawyer or a bailiff present. The police came back a few days later without him and seized some of the organization's equipment, including two computers, printers, screens and office furniture.

Balla Touré was released in November 2016 after serving his sentence for operating an unauthorized association.¹⁰⁶ On 19 January 2017, the West Nouakchott regional director of security informed him that POPDEV had been dissolved by ministerial order issued in August 2016. The security official presented the order, which did not provide a legal basis for dissolution, but refused to provide a copy of the order and to reveal who signed it. Despite written requests, the authorities have refused to provide a written explanation or to hand back seized equipment.¹⁰⁷

¹⁰⁵ Interviews with Balla Touré, Nouakchott, June 2017.

The detention of the IRA activists is explored in more details in section 4.

¹⁰⁶ Interviews with Balla Touré, Nouakchott, June 2017.

The detention of the IRA activists is explored in more details below.

¹⁰⁷ Amnesty International holds copies of this correspondence. No response was provided.

2015 BILL ON ASSOCIATIONS: MAKING MATTERS WORSE

In July 2015, the Council of Ministers approved, without any public consultation, a bill on associations which compounds the problems of the 1964 law and subsequent amendments.

The bill maintains a regime of compulsory authorization for associations to operate. It further stipulates that no association can be created on a basis or for an objective that is contrary to Islam, the Constitution or current laws, or for activities that are likely to harm the safety of citizens, national unity, territorial integrity, the republican nature of the State or public decency (Article 6).

Article 11 limits the scope of permitted activities of associations to a specific thematic area, effectively narrowing the scope of an association's work, preventing cross-thematic approaches or adaptation to new trends or needs. For instance, an association registered as a women's rights organization could be prevented from working on children's rights or access to land and security of tenure.

The bill threatens suspension of associations that fail to submit their narrative and financial reports by 31 March each year (Article 24), or dissolution if they have not submitted a financial report for two successive years (Article 26).

The bill gives the power to an administrative authority to dissolve an association, without judicial oversight, if the association acts contrary to its statutes and mission (article 26), if it undertakes any political activity, including attempting to "come to power" or forming a coalition with a political party (Article 5), or if it fails to notify the authorities of any changes in administration or its statutes within 30 days. The bill also allows a delay of six months for the administrative authority to institute judicial proceedings to confirm the dissolution.

Individuals may also face criminal charges for belonging to a dissolved association and failing to report on its funding, risking prison terms of up to a year and hefty fines (Articles 58 and 60). The bill also offers an excessively broad definition of embezzlement of public funds, which includes the use of funds for any other purpose than what they were initially allocated to. While the bill does not set out the penalty for the crime of embezzlement, the Criminal Code provides a penalty of up to 10 years imprisonment and a fine of MRO1,000,000 (approximately €2,365) (Article 379).

In August 2015, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association urged Parliament to repeal the bill on the grounds that it threatened civil society.¹⁰⁸

In June 2017, the Minister of Justice confirmed to the Amnesty International delegation that the bill was still under review at Parliament and could be adopted at any time.

¹⁰⁸ Special Rapporteur on the right to freedoms of peaceful assembly and of association, Mauritania: *UN rights expert urges Parliament to repeal NGO Bill that threatens civil society*, 10 August 2015, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16302&LangID=E

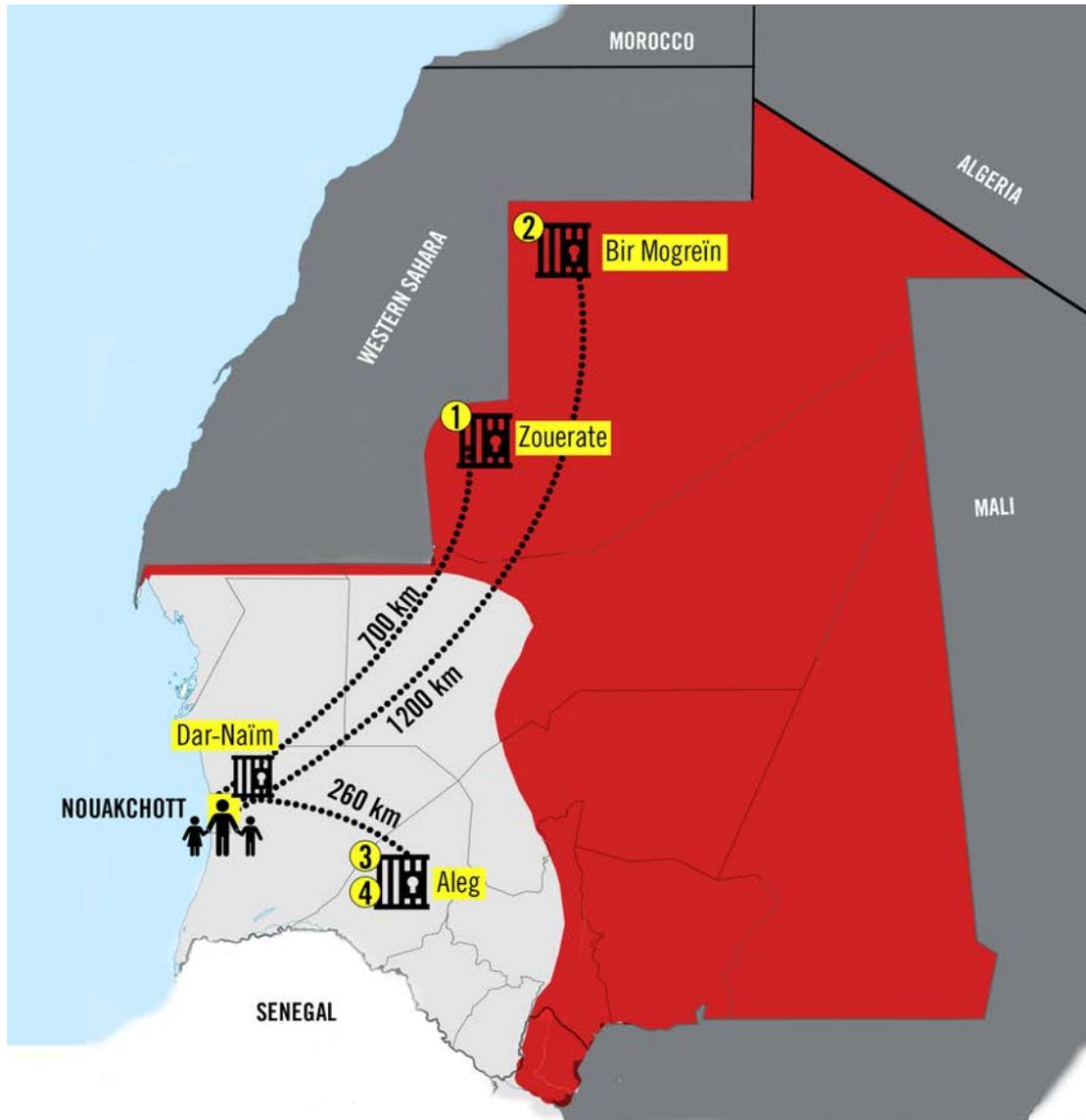
4. JUDICIAL PERSECUTION, ARBITRARY ARRESTS, TORTURE AND OTHER ILL-TREATMENT

‘The police handcuffed and blindfolded me. I had no idea where they were taking me. When we arrived, one officer said: ‘Welcome to Guantanamo.’ ... Before I was brought for interrogation, a guard told me: ‘Just tell them what they want to hear. You know we have what it takes to make you talk.’

Amadou Tijane Diop, anti-slavery activist detained in 2016, Nouakchott, June 2017

The rights to liberty, fair trial and freedom from torture are enshrined in ICCPR Articles 9, 14 and 7 and African Charter Articles 6, 7 and 5. Mauritania also acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2004 and ratified its Optional Protocol in 2012. Similarly, the Constitution of Mauritania upholds the right to liberty; Article 13 provides that “No one may be prosecuted, arrested, held or punished except in the cases specified by law” and Article 91 that “No one can be arbitrarily detained.” Article 13 also prohibits torture and other ill-treatment which is categorized as a crime against humanity. Torture and other ill-treatment are also criminalized under Law No. 2015.033 on torture, with a penalty of up to life imprisonment (Article 11).

However, since 2014, Amnesty international has documented over 168 cases of arbitrary arrests of human rights defenders, at least 20 of which were subjected to torture and other-ill treatment. In the most high-profile cases, they have been transferred to remote prisons.



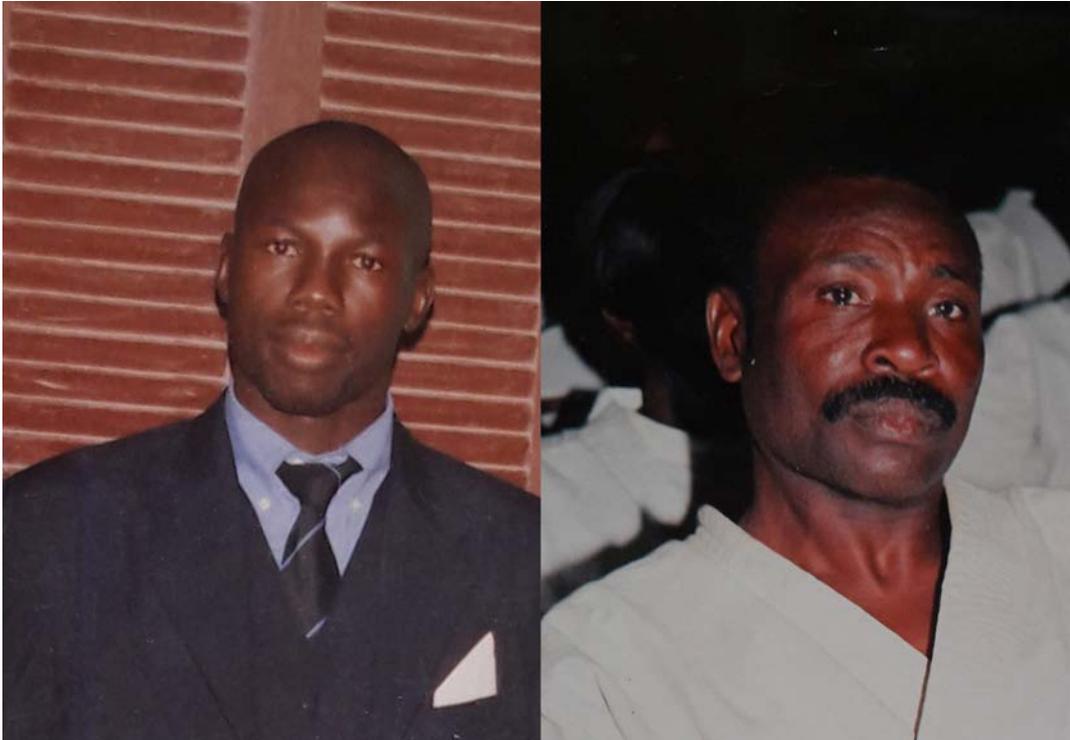
- ① 13 IRA activists were first assigned to Dar-Naïm (13 km from Nouakchott) before being transferred to Zouerate in September 2016. They remained there until November 2016. Ten activists were released and 3 were transferred to Bir Mogreïn.
 - ② 2 IRA activists remain in Bir Mogreïn, 1200 km away from their family and lawyers.
 - ③ Brahim Bilal, Biram Dah Abeid and Djiby Sow were supposed to serve their sentence in Nouakchott but were transferred to Aleg, 260 km away from their loved ones.
 - ④ Cheikh Baye was arrested and sentenced in Nouakchott in July 2016. He was transferred to Aleg in August 2016.
- Foreign embassies “advise against all travels” in this area

Map showing how far human rights defenders are detained from their homes and family.

While some of the human rights defenders were released without charge within a few hours, the Mauritanian authorities have brought criminal proceedings against at least 60 others, using vaguely worded charges presented in later sections of this report, including “belonging to an unauthorized association”, “participating in an unauthorized gathering” or “disrupting public order”. At the time of writing, two IRA members, Moussa Biram and Abdallahi Mattalah whose case is featured below, remain in arbitrary detention since their arrests between June and July 2016.



THE INITIATIVE FOR THE RESURGENCE OF THE ABOLITIONIST MOVEMENT (IRA): PERSECUTION BY PROSECUTION AND TORTURE, 2015-2018



Abdallahi Mattalah (left) and Moussa Biram (right), anti-slavery activists, were sentenced to two years in prison in an unfair trial and are currently in arbitrary detention in the Bir Moghreïn prison, 1,200km from their loved ones. © Amnesty International/Private

IRA is an anti-slavery group founded by Biram Dah Abeid in 2008 with the aim of exposing and combating the continued practice of slavery and discrimination in Mauritania. Dissenting from the government's discourse that slavery no longer exists in Mauritania, its members have faced reprisals. Its founder and president, Biram Dah Abeid, also contested during the 2014 presidential election and finished second, with 8.67% of the vote. In 2016, he announced he would run for the presidency in 2019.

Since 2014, IRA members have been detained in relation to their human rights activities on at least 63 occasions.¹⁰⁹ At least 15 of them were sentenced to prison terms in unfair trials, and some of them were subjected to torture and other ill-treatment at the time of their arrest and during pre-trial detention.

Between June and July 2016, 13 members of the IRA were arrested after a protest against an eviction in the slum area of Bouamatou, in the capital Nouakchott. Some of the IRA's leaders, including Balla Touré, Hamady Lehbouss, Moussa Biram, Abdallahi Mattalah, Khatri Mbareck and Amadou Tijane Diop, were taken blindfolded and handcuffed to the Anti-Terrorism Brigade in Nouakchott where they were detained incommunicado for over 10 days. During that period, they were beaten, chained, subjected to death threats and deprived of food, water and sleep.

As well as being tortured to force confessions, the IRA members were asked to sign statements which they did not understand, and were denied access to a lawyer before their court hearing in August 2016. Although they all denied attending the protest, they were convicted on charges including incitement and participation in an unarmed gathering, membership of an unauthorized association, rebellion, and use of violence.¹¹⁰ The court refused to examine allegations of torture made by the accused.¹¹¹ In September,

¹⁰⁹ Interviews with IRA members, 2014-2018.

¹¹⁰ Court of First Instance of West Nouakchott, Decision No. 094/2016, 18 August 2016.

¹¹¹ Court of First Instance of West Nouakchott, Decision No. 105/2016, 17 August 2016

a neuro-surgeon examined Moussa Biram and Abdallahi Mattalah and wrote a report on the injuries they sustained while they were in detention.¹¹²

In November 2016, the Appeals Court of Nouadhibou acquitted three of the 13 IRA members and reduced the sentences of seven others who were released the same month.¹¹³ The three remaining IRA members were sentenced to 18 months in prison (twelve month suspended) and three years in prison (one year suspended) and transferred to the Bir Moghreïn, 1200km away from Nouakchott. While Abdallahi Abou Diop was released in January 2017, having served his sentence, Moussa Biram and Abdallahi Mattalah remain in detention.

On two occasions, a group of UN experts expressed serious concern that these activists had been targeted by the government for their anti-slavery advocacy, stating that the government was hostile to civil society groups that criticized its policies, especially groups such as the IRA who had been collaborating with UN institutions to combat slavery and discrimination in Mauritania.¹¹⁴

The 2016 arrests were far from the first. In November 2014, 10 IRA activists including Biram Dah Abeid, Brahim Bilal, vice-president of IRA and Djiby Sow, president of partner organization Kawtal, were arrested after taking part in a peaceful protest in Rosso, about 200km south of Nouakchott. They were detained incommunicado at the Rosso police station for three days before being transferred to the civilian prison of Rosso on charges including: administering an unauthorized association, incitement and participation to an unarmed gathering, assault on the forces of law and order and contempt of authority. They did not have access to lawyers.

In January 2015, they were convicted of “unarmed rebellion” and sentenced to two years in prison. They were transferred to a prison in Aleg, 210km from Rosso, away from their relatives and lawyers and outside of the jurisdiction of the Court of Trarza where their appeal was filed. In June 2015, Djiby Sow was released on medical grounds as his health deteriorated while in detention. On 20 August 2015, the Appeals Court of Aleg upheld the judgment of the lower court but changed the legal basis of their detention to participating to an unarmed gathering and assault on the forces of law and order. The defendants and their lawyers boycotted the appeal trial hearing as they refused to recognize the jurisdiction of the Appeals Court of Aleg. The following year, in May 2016, the Supreme Court finally ordered the release of Biram Dah Abeid and Brahim Bilal after reducing their prison sentences.

In August 2016, the UN Working Group on Arbitrary Detention (WGAD) concluded that the detention of the activists was arbitrary on the basis that they were arrested for their work as human rights defenders, that they did not enjoy a fair trial and, and, in the case of Biram Dah Abeid and Brahim Bilal, that they were subjected to discrimination as members of the Haratine community, as they were exposed to longer detentions in different conditions than other detainees.¹¹⁵

The Mauritanian authorities have failed to respond to the request for registration submitted by IRA members in 2008 and have on several occasions refused to authorize some of their planned activities. They have pressured Mauritanian and international organizations to stop hosting events and meetings organized by IRA¹¹⁶ or to provide them with funding.¹¹⁷

In April 2013, the leadership of IRA submitted a request to be authorized as a political party under the name Parti Radical pour une Action Globale (Radical Party for Global Action). In a letter dated 4 August, the General Director of Elections and Civil Liberties at the Ministry of Interior informed the applicants that

¹¹² Interview with the lawyer of IRA, Nouakchott, June 2017. Amnesty International holds a copy of this medical report.

¹¹³ Nouadhibou Appeals Court, Decision No. 117/2016, 18 November 2016

¹¹⁴ Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the Independence of Judges and Lawyers; Special Rapporteur on extreme poverty, MRT 2/2016, 11 October 2016.

Working Group on arbitrary detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the Independence of Judges and Lawyers; Special Rapporteur on extreme poverty and human rights, MRT 1/2016, 2 August 2016.

¹¹⁵ Working Group on Arbitrary Detention, *Opinions adopted by the Working Group on Arbitrary Detention at its seventy-sixth session, 22-26 August 2016*, A/HRC/WGAD/2016/36, 28 December 2016, paras 33-35.

¹¹⁶ Interview with members of Forum des Organisations Nationales des Droits de l'Homme en Mauritanie, June 2017.

Interview with members of Association des Femmes Chefs de Famille, June 2017.

¹¹⁷ Interview with a representative of an international non-governmental organization, Nouakchott, June 2017.

their request was denied on the basis that it contravened Article 6 of the Ordinance 91.24 of 25 July 1991 stating that “no party or political group can identify with a race, an ethnic group, a region, a tribe, a gender or a brotherhood.” The letter failed to provide any further explanation on how the statute of the Parti Radical pour une Action Globale contravened these legal provisions.¹¹⁸ On 21 August, Biram Dah Abeid appealed the decision to the Minister of Interior, but he received no response.¹¹⁹ On 26 August, he filed an appeal at the Administrative Chamber of the Supreme Court, where his case was pending at the time of writing.¹²⁰

On several occasions, Amnesty International raised its concerns about reprisals against IRA members during meetings with the Mauritanian authorities, including with the President of the Republic and the Minister of Justice. They justified the non-authorization of IRA and the repeated detention of its members on the basis that IRA was propagating a racist ideology, undermining national unity and committing acts of violence during unlawful protests. They argued that IRA was instrumentalizing the issue of slavery solely for political objectives, even claiming that its members supported slavery-like practices in the past.¹²¹

4.1 USING APOSTASY RELATED CHARGES AGAINST DEFENDERS

In at least one instance since 2014, the case of Mohamed Mkhaitir featured below, the courts used apostasy related charges under the Criminal Code to sentence a blogger who criticized the instrumentalization of Islam to justify discriminatory practices against social and ethnic minorities in the country. While the Appeals Court of Nouadhibou quashed the death sentence of Mohamed Cheikh Ould Mkhaitir in November 2017, he remained in custody, without access to his relatives and lawyers, at the time of writing. Apostasy related charges were also used against the IRA President, Biram Dah Abeid, in 2012.¹²²

Article 306 of the Criminal Code of Mauritania provides that “any person guilty of apostasy (*Zendagha*) will be sentenced to death, unless he/she repents beforehand.” This provision violates the internationally recognized rights to life and to freedom of conscience.

In November 2017, the Council of Ministers adopted a bill to revise Article 306 of the Criminal Code, making the death penalty for apostasy mandatory. Should the bill be adopted at the National Assembly, it would remove the possibility of escaping the death penalty by expressing repentance.

As stated by the UN Human Rights Committee, “the imposition in the State party of the death penalty for offences which cannot be characterized as the most serious, including apostasy (...) is incompatible with Article 6 of the Covenant [right to life].”¹²³

¹¹⁸ Amnesty International holds a copy of the response of the General Director of Elections and Civil Liberties at the Ministry of Interior

¹¹⁹ Amnesty International holds a copy of this letter of appeal to the Minister of Interior.

¹²⁰ Amnesty International holds a copy of the letter of appeal to the Administrative Chamber of the Supreme Court, as well as communications between the Supreme Court and the Ministry of Interior confirming the appeal was received.

¹²¹ Interview with the President of Mauritania, Nouakchott, 25 May 2016;

Interviews with the Minister of Justice, Nouakchott, 13 June 2017 and 28 July 2015;

See also:

Jeune Afrique, *Mauritanie : Aziz accuse les anti-esclavagistes d'instrumentalisation politique l'Homme*, 4 December 2017, www.jeuneafrique.com/499043/politique/mauritanie-aziz-accuse-les-anti-esclavagistes-dinstrumentalisation-politique/

¹²² Biram Dah Abeid was arrested on 28 April with 11 members of IRA after the burning of several books written by Islamic scholars who were legitimizing slavery on religious grounds. Four of the activists were released in May and the rest in September 2012. The charges brought against them included: “offence to national security”, “contempt to good morals”, “management of a non-authorized organization” and “crime of apostasy”.

See: Amnesty International, *Anti-slavery activists released* (Index AFR 38/007/2012); *Four activists released, seven charged* (Index AFR 38/004/2012).

¹²³ Human Rights Committee, *Concluding observations of the Human Rights Committee - Sudan*, CCPR/C/79/Add.85, 19 November 1997



BLOGGER MOHAMED MKHAÏTIR: DETAINED AND SENTENCED TO DEATH, 2014-2017



Mohamed Mkhaitir, a blogger sentenced to death in 2014 for apostasy after publishing a post criticizing the instrumentalization of religion to legitimize slavery and discrimination. When Amnesty met him in 2015, he said "I am writing to speak about social problems because no community has the right to claim its superiority over others."

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Mohamed Mkhaitir was arrested on 5 January 2014 after he published a blog criticizing the instrumentalization of Islam to legitimize slavery and discrimination, including against the blacksmith group with which he identifies, in December 2013.¹²⁴ Mass protests calling for his execution were held across the main cities of the country. On 10 January 2014, the President of the Republic joined the demonstrations in Nouakchott, undermining the independence of the judiciary and Mohamed Mkhaitir's presumption of innocence, and stated:

"I thank you from the bottom of my heart for your presence here today to condemn the crime committed by an individual against Islam ... I assure you that the Government and myself will spare no effort to protect and defend this religion and its sacred symbols ... Religion is above everything and in no way and under no pretext may one violate religion for the simple reason that Islam is the religion of the Mauritanian people and it will always be independently of our levels of democracy and freedoms."¹²⁵

Mohamed Mkhaitir was charged with apostasy and insulting the Prophet, under Article 306 of the Criminal Code.¹²⁶ He did not have access to a lawyer at the time of his interrogation. He repented on several occasions during his interrogation and in a written statement dated 11 January 2014. Almost a year later, the Nouadhibou court convicted Mohamed Mkhaitir and sentenced him to death.¹²⁷ He was detained in solitary confinement for more than two years until his appeal, amounting to torture and other ill-treatment.

¹²⁴ Amnesty International interviews with Mohamed Mkhaitir's lawyers 2014-2017; Interview with Mohamed Mkhaitir at the Nouadhibou prison in July 2015.

¹²⁵ Agence Mauritanienne d'Information, *Le Président de la République: « La Mauritanie n'est pas laïque et l'Islam et le Prophète sont au-dessus de tout »*, 10 January 2014, <http://fr.ami.mr/Depeche-25015.htm>

¹²⁶ Interview with Mohamed Mkhaitir's lawyers, June 2017.

¹²⁷ Criminal Court of Nouadhibou, Decision 71/2014 of 24 December 2014.

On 21 April 2016, the Appeals Court of Nouadhibou upheld his conviction, but noted that the lower court should have tried him for the offence of “disbelief” and referred the case to the Supreme Court to assess the sincerity of his remorse. On 31 January 2017, the Supreme Court sent the case back to a different panel of the Appeals Court¹²⁸ which, on 9 November 2017, commuted his death sentence to two years in prison and ordered him to pay a fine of MRO60,000 (approximately €140), based on his repentance. Having already spent more than three years in prison, he was scheduled to be released. However, at the time of writing, he remained in custody in an unknown location, without access to his family or lawyers.

UN experts have on several occasions criticized the detention and death sentence of Mohamed Mkhaitir.¹²⁹ WGAD, for example, concluded that his detention was arbitrary on the grounds that he only exercised his freedom of expression and that he did not enjoy a fair trial.¹³⁰

Throughout his trial proceedings, thousands of people demonstrated in the main cities of Mauritania to call for his execution. Senior Muslim clerics and political activists also called for his execution on television, while lawyers and human rights defenders who defended him received death threats (see section 5).

4.2 FURTHER LEGISLATIVE THREATS: THE LAW ON DISCRIMINATION AND THE LAW ON CYBERCRIMINALITY

Since 2014, the Mauritanian authorities have introduced successive legislation which could also be used to further clamp down on human rights defenders or expose them to harsher sentences. For instance, on 18 January 2018, the National Assembly passed a law criminalizing discrimination.¹³¹ While the law was developed in response to a recommendation of the Special Rapporteur on racism¹³², it contains imprecise and overbroad provisions and could be used against the activists who speak out about groups who perpetuate the practice of slavery in Mauritania. Article 10 punishes anyone who “promotes inflammatory speech that is contrary to the official doctrine of the Islamic Republic of Mauritania” with a sentence of up to five years imprisonment. Article 12 provides for sentences of up to three years in prison and a fine of up to MRO300,000 (approximately €710) for “anyone who publishes, diffuses, supports or communicates terms which may reveal an intent to hurt or an incitement to hurt morally or physically, to promote or incite hatred”. The crimes defined under this law are imprescriptible (Article 7) and sentences can also include the loss of civic, civil and family rights for up to five years which could be used to ban people from voting or running for elections.

Although counterintuitive in the Mauritanian context - where courts and public officials have described anti-slavery and anti-discrimination activists as using “racist expressions”¹³³, “inciting hatred”¹³⁴ and where a blogger has been sentenced for apostasy for criticizing the instrumentalization of religion to legitimize discriminatory practices¹³⁵ – this law could in fact be used against those fighting discriminatory practices.

¹²⁸ Supreme Court, Decision 01/2017 of 31 January 2017.

¹²⁹ Special Rapporteur in the field of cultural rights; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief, MRT 3/2016, 28 November 2016.

¹³⁰ Working Group on Arbitrary Detention, *Opinion No. 35/2017 concerning Mohammed Shaikh Ould Mohammed Ould Mkhaitir* (Mauritania), A/HRC/WGAD/2017/35.

¹³¹ Agence Mauritanienne de l'Information, *L'Assemblée nationale adopte un projet loi portant incrimination de la discrimination*, 18 January 2018, <http://fr.ami.mr/Depeche-43463.html>

According to the information provided to Amnesty International, the draft law 17/124 regarding the criminalization of discrimination was adopted with the amendments suggested by the Justice, Interior and Defence Committee regarding articles 10(1), 17 and 18. Amnesty International has copies of the draft law and the suggested amendments.

¹³² *Report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania*, A/HRC.11/36/Add.2, 16 March 2009, para. 80.

¹³³ Trarza Court of First Instance, Decision 01/2015 against Biram Ould Dah Ould Abeid, Brahim Ould Bilal et Djibi Sow, 15 January 2015.

¹³⁴ El Mouritaniya TV, Interview with President Aziz, Nouadhibou, November 2015, www.youtube.com/watch?v=QCmwlY11DzI

¹³⁵ Nouadhibou Court of First Instance, Decision 71/2014 of 24 December 2014.

The cybercriminality law adopted in December 2015 also contains imprecise and overbroad provisions which can be used against human rights defenders and journalists. It includes the following crimes when they are committed via a computer or an IT system: creating, downloading or transferring of “writings, messages, photos, sounds, drawings or any other representation of ideas and theories, of racist or xenophobic nature” (Article 19, up to seven years imprisonment and a fine of MRO6,000,000 (approximately €13,903)); threats and insults on the basis of race, colour, ascent, national or ethnic origin, language or religion (Article 20 and 21, up to seven years imprisonment and a fine of MRO6,000,000 (approximately €13,903)); attacking someone’s moral integrity (Article 21, up to five years imprisonment and a fine of up to MRO500,000 (approximately €1,158); and the collection of data which may undermine national defence (Article 29).



MEMBERS OF THE PRO-DEMOCRACY MOUVEMENT DU 25 FÉVRIER (25 FEBRUARY MOVEMENT) DETAINED AND TORTURED, 2016-2017



Members of the Mouvement du 25 février demonstrating in front of the Nouakchott civil prison holding banners calling for the release of its members in August 2016.
©Mouvement du 25 février

"I protested peacefully against the disrespect shown to citizens by the government’s spokesperson ... I am an activist from the 25 February movement, which is a struggle against military rule. It is an idea and an idea doesn’t need permission."

Testimony of Cheikh Baye, a member of the Mouvement du 25 février, to the West Nouakchott Criminal Court, 14 July 2016.

The Mouvement du 25 février was created by Mauritanian youth activists in February 2011, inspired by the Arab spring movements in Tunisia and Egypt. It is a pro-democracy movement calling for the withdrawal of the military from politics, a clear separation of powers, an end to discrimination, and the rights to freedom of expression and assembly.

Concerned about the history of military coups in Mauritania, the Mouvement du 25 Février organizes and participates in peaceful protests, mobilizes Mauritanian youth through social media and joins peaceful protests organized by other groups, including the March for Youth in April 2017 (see section 2), as well as anti-slavery groups including IRA and opposition groups. They have not applied for authorization because of the impermissible restrictions in the law, and because critical groups are usually not responded to. They reported that even though their protests are peaceful, they are always dispersed by the police, often with excessive force including beatings with batons and shots of tear gas.¹³⁶

Since 2014, Amnesty International has documented at least 23 arrests of Mouvement du 25 février members, often targeting the same individuals. At least six were sentenced to prison terms and at least one was detained in prolonged solitary confinement in conditions which amount to torture and other ill-treatment.

¹³⁶ Group interviews with members of the 25 February Movement, including Cheikh Baye, June 2017.

Cheikh Baye, a 21-year-old activist of the Mouvement du 25 février, was arrested on 30 June 2016 after throwing a traditional light leather shoe towards the Minister of Culture during a press conference, in protest against the government's proposal to increase military spending. While Amnesty International does not condone any acts of violence, all available evidence indicates that Cheikh Baye's actions were merely a traditional expression of protest and not aimed at causing injury. He did not aim at or hit the Minister of Culture.¹³⁷

Policemen and men in civilian clothes arrested him and took him to a back room where they beat him, hitting him on his back as he was lying down. He was then transferred to the regional police headquarters of Nouakchott where he was questioned and then to police station in the Ksar 2 district. A police officer stripped him down to his underwear and put him in a 1.5m² cell with four other fully clothed men. He was detained incommunicado for four days, with the police refusing his requests to call a lawyer or his relatives, and denying requests for medical treatment for back pains following his beating. He was interrogated every night, at random hours. He was only able to see his lawyers when he was presented to the prosecutor on 4 July and charged with the misdemeanour of the use of violence, physical assault and insulting of the public authorities.

On 14 July, the West Nouakchott Court convicted Cheikh Baye of physical assault on an officer as he performed his duties, and sentenced him to three years in prison.¹³⁸ The Court failed to take any action when Cheikh Baye testified that he was subjected to ill-treatment. In August, three other members of the Mouvement du 25 février were convicted of insulting a public officer after criticizing the verdict, and were sentenced to two years' imprisonment.¹³⁹ They were eventually released on appeal on 9 November 2016.¹⁴⁰ They were detained at the prison of Dar Naim in Nouakchott.

Cheikh Baye was transferred to the Prison of Aleg, 260km away from Nouakchott, far from his lawyers. He was detained for more than three months in solitary confinement, was not allowed family visits and the prison authorities continued to refuse his request to see a doctor for his back pain. He went on hunger strike for 12 days, before being transferred to the civilian prison in Nouakchott and examined at the National Hospital. The prison authorities refused, however, to hand him the results of the medical examination. He told Amnesty International:

"The hardest was to be in complete isolation. During my hunger strike, I fainted on several occasions. I regained consciousness hours later and no one came to check how I was. I could have died there and the guards wouldn't have care."

Cheikh Baye was finally released on 31 January 2017 after the Appeals Court of Aleg commuted his sentence to seven months in prison.

Almost six months later, on 21 July 2017, Cheikh Baye and six other members of the Mouvement du 25 février were again arrested in Nouakchott as they were distributing fliers to vote against the proposed constitutional changes at the August referendum. They were detained for 24 hours at the Ksar 2 police station. The police commissioner told them that they should not be distributing fliers, that they should find other ways to express their views.

¹³⁷ Amnesty International viewed video footage of the press-conference where the events occurred.

¹³⁸ West Nouakchott Criminal Court, Decision No. 0234/2016, 14 July 2016

¹³⁹ West Nouakchott Criminal Court, Decision No. 0240/2016, 2 August 2016.

¹⁴⁰ West Nouakchott Appeals Court, Decision No. 094/2016, 9 November 2016.

5. SMEAR, ASSAULT AND INTIMIDATION CAMPAIGNS

‘If you express support for Mkhaitir, people start saying that you are an apostate, that you promote Western values. Death threats are next. You feel like anyone could kill you in the street and that no one would care.’

Mekfoula Brahim, woman human rights defender, President of Pour une Mauritanie Verte et Démocratique (For a Green and Democratic Mauritania), Nouakchott, June 2017.

Human rights defenders in Mauritania are exposed to smear campaigns, threats and assaults, particularly when they take public positions against slavery and discrimination. This includes being labelled as traitors or having their Muslim faith questioned in mainstream media or social media, a serious accusation when apostasy is punishable by death. This can happen from the highest levels. For instance, when discussing slavery during a TV interview, President Aziz stated:

“It is easy to say that there is slavery in Mauritania, that there are people in chains, but this is just hearsay ... Out of the 3.5 million inhabitants of Mauritania, there are just two or three men who insult society, who insult religion, who insult everything that is being done in this country, because they are people who want to exist, who want to be known, who want to be well-regarded outside the country.”¹⁴¹

Other activists have been insulted or intimidated during international forums. Several human rights defenders and activists who attended African Commission and Human Rights Council sessions, some as recently as November 2017, reported to Amnesty International that they were approached by state representatives to moderate the language and “not to sully the name of the country”. State representatives and NGOs supported by the government have tried to compromise side events organized by anti-slavery groups. One of them told Amnesty International:

“You get into a room full of NGOs supported by the government. They start calling you a liar, saying that slavery no longer exists and that you are making it up. It goes on and on. They are so insistent and overwhelming that at one point, for a few seconds, you start doubting your own sanity.”¹⁴²

Amnesty International has also documented cases of human rights defenders who were randomly assaulted and threatened by members of the security forces.

In at least three of the cases, they filed complaints after receiving threats, but no one was ever brought to

¹⁴¹ El Mouritaniya, Interview with President Aziz, Nouadhibou, November 2015, www.youtube.com/watch?v=QCmwlYT1DzI

¹⁴² Interview with Lala Aïcha Ouedraogo, Secretary General of the Forum of Human Rights Organizations of Mauritania, June 2017.

justice. Most do not report it to the police as they feel it will have no impact, and because they now consider such risks to be a normal consequence of their activism.



MEKFOULA BRAHIM: WOMAN HUMAN RIGHTS DEFENDER, INTIMIDATION CAMPAIGN AND DEATH THREATS ON SOCIAL MEDIA, 2016-2017



Mekfoula Brahim, a woman human rights defender fighting discrimination despite death threats and smear campaigns against her on social media.
© Amnesty International

'I get a lot of hatred because I am a woman speaking out. People think that the future of Mauritania is not the business of women, that women have to stay home and take care of the children.'

Mekfoula Brahim, President of Pour une Mauritanie Verte et Démocratique, Nouakchott, June 2017.

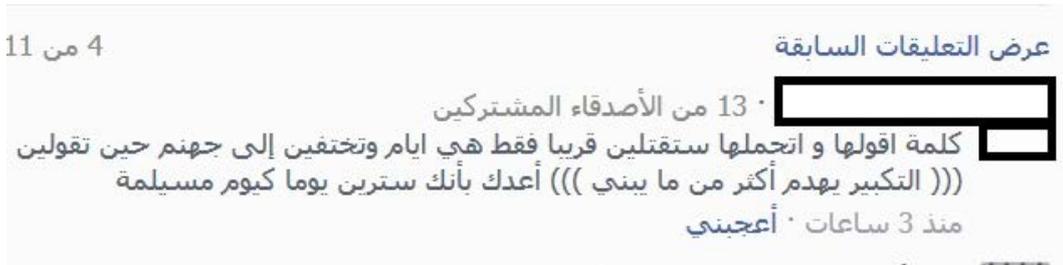
Mekfoula Brahim is an outspoken woman human rights defender and President of Pour une Mauritanie Verte et Démocratique, an association authorized in 2009 which works with young people to protect and promote human rights and leads women empowerment projects in rural areas. She has been using traditional and social media to speak out against discriminatory practices in Mauritania, including against women and members of the Haratine and Afro-Mauritanian communities, and against reprisals against human rights defenders. Over the last few years, she repeatedly and publicly called for the release of IRA activists and blogger Mohamed Mkhaitir.¹⁴³

Her interventions have provoked sustained and co-ordinated troll attacks to intimidate and discredit her and her organization. For example, since December 2016, a lawyer, close to a religious group, El Nosra which mobilized thousands of people to call for the execution of Mkhaitir, published several Facebook posts presenting her as an apostate. A post from 12 January 2017 encouraging people to attend a protest invokes religious appeals to "not only support our Prophet and intercessor from the cursed

¹⁴³ Facebook profile of Mekfoula Brahim : www.facebook.com/mekfoula.brahim.5

Other individuals who publically expressed support for Mohamed Mkhaitir received threats, including his lawyers Mohamed Ould Moine and Fatimata M'Baye and his friend Naji Ould Abdellahi. Websites published photos of Naji Ould Abdellahi posing with Mohamed Mkhaitir, calling him an apostate and leaking confidential information including his age, the University he went to and his address. He received death threats on social media. He had a bailiff record the threats and confidential information published on websites. Fearing for his safety he did not file a complaint and fled the country.

slander of Mkhaitir, but also from the abominable mockery and slander by Mekfoula Brahim”, before saying that they will file a complaint in court against her “so that she receives the just punishment for her disgraceful actions.”



Message posted on Mekfoula Brahim's Facebook wall: 'Here is what I say and take responsibility for: you will be killed very soon. In a few days, you will disappear forever, and you will go to hell because you said that saying 'Allahu Akbar' destroys more than it creates (...)'
©Private

Another Facebook user sent her the following message: “Here is what I say and take responsibility for, you will be killed very soon. In a few days, you will disappear forever and you will go to hell because you said that saying ‘Allahu Akbar’ destroys more than it creates.”

On 6 February 2017, Mekfoula Brahim filed a complaint to the police for insults and exposing her and her family to harm, then went into hiding first in Mauritania and out of the country for several weeks.¹⁴⁴ Upon her return to Mauritania, as the police failed to take any action, she wrote to the Minister of Justice who transferred her complaint to the public prosecutor's office on 3 March 2017. At the time of writing, no one had been brought to justice and she continues to receive death threats and insults on social media.

Previously, in 2014, Mekfoula Brahim was also subject to a fatwa (a religious decree issued by a Muslim cleric), alongside Aminetou Mint El Moctar, the president of the Association of Women Heads of Household in Mauritania, by Yehdhih Ould Dahi, the leader of a radical Islamist group called Ahbab Errassoul (Friends of the Prophet). The fatwas were encouraging people to kill the two women human rights defenders.¹⁴⁵ They filed complaints to the police, but no legal proceedings had been brought against the individual at the time of writing.

¹⁴⁴ Complaint No. 0192, filed on 6 February 2017. Amnesty International holds a copy of the complaint.

¹⁴⁵ On Aminetou Mint El Moctar's case, see: Amnesty International, *Shut down for speaking out. Human rights defenders at risk in West and Central Africa* (Index number: ACT 30/6170/2017), p. 15.



INTERRUPTION AND INSULTS DURING AN EVENT ON SLAVERY AT THE UNITED NATIONS, JUNE 2017

On 8 June 2017, a member of the National Human Rights Commission of Mauritania interrupted a side event organized during the United Nations Human Rights Council in Geneva by anti-slavery groups, including SOS-Esclaves. The side event was a discussion between the Special Rapporteur on extreme poverty and representatives of Mauritanian and international NGOs on how to combat entrenched discriminatory practices against Haratines and Afro-Mauritanian communities to combat extreme poverty.¹⁴⁶

The individual took the floor and started shouting abuse at the panelists, particularly at the Mauritanian human rights defenders. He accused them of benefiting from the discriminatory practices they speak out against and lying about the human rights situation in Mauritania. He refused to let other people talk or respond when repeatedly asked by the event organizers. He left the room when the security service of the United Nations intervened. After an investigation, the United Nations decided to remove his access to the UN headquarters.

Another member of the National Human Rights Commission approached the organizers of the side event asking them not to file a complaint.



YÉRO ABDOULAYE SOW, AKA 'YÉRO GAYNÄÄKO': BEATEN AND THREATENED BY GENDARMES, 2016



*Yéro Gaynääko, a vocal rapper who addresses issues of discrimination, racism, and impunity in Mauritania.
© George Lamine Diop*

Yéro Abdoulaye Sow, aka Yéro Gaynääko, is a young and vocal rap artist who has recorded songs on racial discrimination and the rise of religious extremism and terrorism in Mauritania. With other rap artists, he has organized the music and human rights festival Welooti in Bababé, 359km south-east of Nouakchott.¹⁴⁷

On 16 August 2016, as he was travelling back to Nouakchott from a conference on rap and resistance in Boghé, 315km south of the capital, his car was stopped at a checkpoint by a group of gendarmes. They accused him of being on drugs and took him out of the car. Not being an Arabic speaker, he responded to their questions in French.

The gendarmes yelled at him, asking him to speak Hassaniya and took him to their post. They asked him to take off his clothes and glasses and started beating and spitting on him. They accused him of being a member of IRA and opposition political groups “undermining national unity”. When he was released without explanation hours later, a gendarme told him: “You better continue your journey if you do not want to get any more [beatings].”

The following day, he filed a complaint to the North Nouakchott Court.¹⁴⁸ He was summoned for questioning at the gendarmerie, but no one has yet been brought to justice. Concerned for his safety, he fled the country in September 2016.

¹⁴⁶ Emails with the organizers of the event, September 2017.

¹⁴⁷ Interview with Yéro Abdoulaye Sow, 5 October 2016.

¹⁴⁸ Complaint 839/2016, filed on 17 August 2016. Amnesty International holds a copy of the complaint.

CONCLUSION AND RECOMMENDATIONS

Despite strong evidence of the continued and entrenched practices of slavery and discrimination, Mauritania not only continues to deny the problem and render its victims invisible, but it also represses human rights defenders who challenge this official discourse. The Mauritanian authorities are enforcing repressive laws to prohibit peaceful protests, using excessive force against demonstrators, banning critical human rights organizations and interfering with their activities. Human rights defenders have been subjected to arbitrary arrest, torture and other ill-treatment, and have been victims of vicious smear campaigns, assaults and death threats carried out with complete impunity.

This repression affects human rights defenders from all the communities of Mauritania, from White Moors to Haratines and Afro-Mauritanians, as well as women and youth.

When discussing the findings of this report, the authorities justified the crackdown on human rights defenders and associations by claiming it was necessary to preserve national unity and to combat terrorism. While the Mauritanian authorities have an obligation to protect lives, it is not necessary nor legitimate to sacrifice human rights to do so. On the contrary, arbitrarily repressing the legitimate concerns of marginalized communities and silencing human rights defenders who campaign against discrimination only fuels radicalization and ethnic tensions.¹⁴⁹

Mauritania is heading towards a period of political uncertainty with the 2019 presidential election approaching and with opposition groups claiming that President Aziz may attempt to amend the constitution to run for a third term, and thereby polarize Mauritanian society. In this context, issues such as discriminatory access to civil registration, which is required to vote, will only become more acute.

How the authorities respond to the growing concerns around discrimination and dissent in Mauritania will define the country's human rights environment. Mauritania has an obligation to end slavery and discrimination, and to respect, protect, promote and fulfil the rights to freedom of expression, peaceful assembly and association. Rather than seek to stifle CSOs and human rights groups, the authorities should engage with dissenting voices to navigate emerging concerns and achieve one of the most important provisions of the Constitution's preamble: "United throughout history, by shared moral and spiritual values and aspiring to a common future, the Mauritanian People recognize and proclaim their cultural diversity, the base of national unity and of social cohesion, and its corollary, the right to be different."

¹⁴⁹ "Relative to its population size, no other country in the Sahel and Sahara region produces as many jihadist ideologues and high-ranking terrorist operatives as Mauritania does... Other critical vulnerabilities consist of the government's slow progress in addressing deep-rooted social inequalities and ethnic and racial grievances. All the examples of radicalization show that the suffocating political, social, and ethnic hierarchies play an important role in driving the most disaffected Mauritians to political radicalism and militancy."

Anouar Boukhars, *Mauritania's Precarious Stability and Islamist Undercurrent*, *Carnegie Endowment for International Peace*, 11 February 2016, p.1, 14.

"Cet exemple montre clairement que la radicalisation s'explique aussi par la colère de jeunes frustrés par les injustices sociales, le blocage du système éducatif, le manque d'emploi, les effets de transformations sociales qui les dépassent (urbanisation d'une société naguère majoritairement nomade jusqu'au milieu des années 1970), le contexte politique marqué par l'autoritarisme."

Zekeria Ould Ahmed Salem, 'Les mutations paradoxales de l'islamisme en Mauritanie', *Cahiers d'études africaines*, 206-207 | 2012, p. 654.

See also:

World Bank, *Islamic Republic of Mauritania: turning challenges into opportunities for ending poverty and promoting shared prosperity – Systemic country diagnostic*, 2017, paras 41, 43, 88.

International Crisis Group, *Islamism In North Africa IV: The Islamist Challenge In Mauritania: Threat Or Scapegoat?*, Report No. 41, 11 May 2005.

RECOMMENDATIONS TO THE MAURITANIAN AUTHORITIES

REGARDING THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

- Amend the 1973 law on public assemblies, its decree of implementation and the provisions of the Criminal Code relating to assemblies, and ensure that they meet international and regional human rights standards, including by allowing spontaneous peaceful protests, simplifying the prior-notification process, removing prison terms for peaceful protesters and protest organizers and setting in law permissible restrictions to the right to peaceful assembly;
- Refrain from banning or dispersing peaceful assemblies because they have not complied with prior-notification requirements. Failure to comply with prior-notification requirements should not, on its own, lead to the arrest of organizers or participants;
- Should there be necessary, legitimate and lawful grounds to restrict a peaceful protest, ensure such restriction is done on legal grounds and satisfies the requirements of legality, necessity, proportionality and non-discrimination, that it is communicated in writing without delay and that the protest organizers are able to challenge the decision in a court of law;
- Amend the Criminal Code and any other regulatory instruments relating to the use of force, and ensure they meet international standards, particularly the 2017 African Commission Guidelines for the Policing of Assemblies by Law Enforcement and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, including by revising the legal basis for the use of force and establishing clear rules for the use of force by the security forces in the context of policing demonstrations in accordance with the principles of legality, necessity, proportionality and accountability;
- Immediately send a circular to the security forces reminding them that:
 - The primary responsibility of the security forces policing assemblies is to facilitate assemblies so as to respect, protect and ensure the rights to freedom of expression and peaceful assembly and association, and that any actions taken by law enforcement agents must respect and protect the rights to life, liberty, personal security and physical integrity;
 - Hand-held batons and similar impact equipment should not be used against people who are unthreatening and non-aggressive, including individuals who are dispersing from demonstration sites. Where their use is unavoidable, security forces must avoid causing serious injury; baton blows aimed at the head, neck and throat, spine, lower back, solar plexus, knees and ankles and vital parts of the body should be prohibited;
 - Tear gas canisters should be used only in a responsible way to mitigate the risk of unnecessary or arbitrary injury or other harm. Direct firing of any projectile or grenade against a person is prohibited. Grenades and wide-area use of chemical irritants should only be used when the level of violence has reached such a degree that security forces cannot contain the threat by directly targeting violent persons only.
- Ensure thorough, prompt and independent investigations into all reports of excessive use of force, particularly in the killing of Lamine Mangane and in cases where complaints were submitted to the police, and bring suspected perpetrators to justice in trials that meet international fair trial standards.

REGARDING THE RIGHT TO FREEDOM OF ASSOCIATION

- Amend the 1964 association law and its amendments and ensure they meet international standards, including by removing the mandatory authorization requirement; eliminating grounds used to not authorize or dissolve associations that are excessive, including that they “are contrary to morality” or “exercise an unwelcomed influence on the minds of the people”; removing prison terms for the leaders, members or participants to the association’s activities for lack of registration; and ensuring the decision to dissolve an association is taken by a court of law rather than an administrative authority;
- In the meantime, adopt a decree of implementation of the association law clarifying that unauthorized associations are not illegal and are able to carry out their activities and that their members, leaders or

participants to their activities may not be subjected to criminal sanctions for lack of registration;

- Ensure any decision to prohibit an association is based on legal grounds and clearly communicated in writing in a timely manner to its members. They must be able to challenge the decision in a court of law;
- Refrain from unduly interfering with the activities of associations, including by repealing the circular requiring authorization for meetings in hotels and conference venues; by amending the law on cybercriminality to ensure it does not affect the ability of human rights defenders to communicate and store information safely without fear of prosecution; and by ending the practice of not allowing the international partners of human rights defenders into the country because it undermines the ability to interact with the international human rights movement;
- Refrain from adopting or promulgating more restrictive legislation which may be used to further crack down on human rights defenders for the legitimate exercise of their rights and activities, including the 2015 bill on associations and the 2017 bill on apostasy.

REGARDING ARBITRARY ARRESTS, TORTURE AND OTHER ILL-TREATMENT OF HUMAN RIGHTS DEFENDERS

- Repeal provisions of the Criminal Code which restrict the rights to freedom of expression, including the provisions related to apostasy, defamation and disrupting public order;
- Immediately and unconditionally release all human rights defenders held for exercising their rights, including Moussa Biram, Abdallahi Mattalah and Mohamed Mkhaitir;
- Immediately and publicly instruct the security forces to end unlawful arrests and detentions of human rights defenders, incommunicado detention and, in particular, not to detain people beyond the 48-hour period as provided in Mauritanian Criminal Procedural Code;
- Immediately send and publish a circular to the security forces reminding them that the use of torture and other ill-treatment will not be tolerated and will be treated as a criminal offence;
- Ensure all detainees have access to independent medical practitioners, lawyers and family visits;
- Refrain from arbitrarily transferring detainees to prisons outside of the court's jurisdiction and away from their relatives, lawyers and diplomatic representatives;
- Ensure thorough, prompt and independent investigations into all reports of arbitrary detention, torture and other ill-treatments and bring to justice those suspected of criminal responsibility for such crimes, including superior officers when relevant.

REGARDING INTIMIDATION CAMPAIGNS

- Publicly recognize human rights defenders, including women human rights defenders and those combatting discrimination, and ensure support for them to carry out their work;
- Refrain from using language that stigmatizes, abuses or discriminates against human rights defenders, for example by characterizing them as “criminals, foreign agents, threats to national security and national unity, racists, apostates or politicians”;
- Ensure human rights defenders can engage with the UN and ACHPR free from intimidation, harassment and any forms of reprisals;
- Effectively address threats, attacks, harassment and intimidation against human rights defenders, including, where applicable, by thoroughly, promptly and independently investigating human rights violations and abuses against them and bringing the suspected perpetrators to justice in fair trials without recourse to the death penalty, and providing effective remedies and adequate reparations;

REGARDING THE RIGHT TO FREEDOM FROM DISCRIMINATION

- Take immediate steps to fully and effectively implement the recommendations of UN special procedures and treaty bodies aiming to combat slavery and discrimination, including, but not limited to:
 - Ensure the effective implementation of its legislation criminalizing slavery and guarantee effective remedies for victims of slavery who have lodged complaints;¹⁵⁰
 - Ensure adequate resources are available for Tadamoun, and that more attention is paid to the protection of victims of slavery and slavery-like practices, redress and access to employment and livelihood opportunities;¹⁵¹
 - Assist slaves who have fled their masters with legal advice, legal assistance to file a case, temporary shelter and, wherever possible, microcredit for small businesses;¹⁵²
 - Address the issues which the registration process has highlighted so that individuals, and consequently their children, are not unduly deprived of their right to identity and nationality;¹⁵³
 - Produce and publish more detailed statistics, including on access to employment, education, food, water, housing and healthcare, disaggregated by descent or ethnic origin;¹⁵⁴
- Repeal Law No. 92 of 1993 which granted amnesty to members of the armed and security forces and bring suspected perpetrators of human rights violations committed in the context of the events of 1989-1991 to justice;
- Implement the ACHPR decision on the events of 1989-1991 and the ACERWC decision on Said Ould Salem and Yarg Ould Salem.¹⁵⁵

REGARDING INTERNATIONAL CO-OPERATION

- Continue to invite and fully co-operate with human rights experts from ACHPR, UN - including the OHCHR office in Mauritania - and INGOs;
- Publicly commit to a timeline for the implementation of recommendations from UN special procedures, treaty bodies and the African Commission.

¹⁵⁰ Human Rights Committee, Concluding observations – Mauritania, CCPR/C/MRT/CO/1, 21 November 2013, para. 17.

¹⁵¹ *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Follow-up mission to Mauritania*, A/HRC/27/53/Add.1, 26 August 2014, para. 35.

¹⁵² *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Follow-up mission to Mauritania*, A/HRC/27/53/Add.1, 26 August 2014, para. 40.

¹⁵³ *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania*, A/HRC/26/49/Add.1, 3 June 2014, para. 67.

¹⁵⁴ Committee on the Elimination of all Forms of Racial Discrimination, *Concluding observation - Mauritania*, CERD/C/65/CO/5, 10 December 2004, para. 9.

¹⁵⁵ African Commission on Human and Peoples' Rights, *Malawi Africa Association, Amnesty International, Ms Sarr Diop, Union interafricaine des droits de l'Homme and RADDHO, Collectif des veuves et ayants droit, Association mauritanienne des droits de l'Homme / Mauritania*, 2000.

ACERWC, *Said Ould Salem and Yarg Ould Salem against the Government of the Republic of Mauritania*, Decision NO. 003/2017, 15 December 2017.

TO INTERNATIONAL PARTNERS, INCLUDING THE AFRICAN UNION, THE EUROPEAN UNION, THE ARAB LEAGUE, THEIR MEMBER STATES AND THE UNITED STATES

- Continue to publicly reaffirm the legitimacy of the work of human rights defenders in Mauritania and condemn the restrictions on their activities and the violations of their human rights, in line with the UN Declaration on Human Rights Defenders;
- Urge the Mauritanian authorities to thoroughly, impartially and transparently investigate the human rights violations outlined in this report and bring suspected perpetrators to justice in trials meeting international standards, and offer any assistance required to do so;
- All donors providing financial and technical support to Mauritania's justice and security sectors, particularly the EU and the United States government, should ensure their support has a strong human rights component, including programs aimed at bringing legislation in line with international standards, strengthening accountability mechanisms to hold the security forces to account, and not contributing to the commission of human rights violations;
- Regularly visit human rights defenders in prison to ensure they are not tortured or ill-treated, and monitor their trials. Ensure that violations are communicated to the authorities, investigated and suspects brought to justice in trials that meet international fair trial standards and without recourse to the death penalty;
- Ensure that the OHCHR Office in Mauritania continues to receive the required resources and support to carry out its mandate.

ANNEX: RIGHT TO REPLY LETTER

The letter was edited to remove sensitive information.



Réf: AFR38/2017.005

Excellence Monsieur le Président Mohamed Ould Abdel Aziz
Ministère du Secrétariat Général à la Présidence
B.P.184 Nouakchott, Mauritanie

Le 10 novembre 2017

OBJET : RESULTATS DE LA RECHERCHE MENEES PAR AMNESTY INTERNATIONAL ET DROIT DE REPONSE

Excellence,

Nous avons l'honneur de vous adresser cette lettre pour vous faire part des résultats de la recherche que nous avons menée en Mauritanie entre juillet 2015 et Octobre 2017.

Amnesty International est un mouvement mondial regroupant plus de sept millions de personnes qui défendent les droits humains et luttent contre les atteintes à ces droits dans plus de 150 pays et territoires. La vision d'Amnesty International est celle d'un monde où chacun peut se prévaloir de tous les droits énoncés dans la Déclaration universelle des droits de l'homme et dans d'autres textes internationaux relatifs aux droits humains. Essentiellement financée par ses membres et par les dons de particuliers, Amnesty International est indépendante de tout gouvernement, de toute tendance politique, de toute puissance économique et de toute croyance religieuse.

Depuis des décennies, Amnesty International suit la situation des droits humains en Mauritanie, notamment en matière de droits à la liberté d'expression, d'association et de réunion pacifique. Plus récemment, entre 2015 et 2017, l'organisation a effectué trois missions de recherche dans le pays, au cours desquelles, notre délégation a pu vous rencontrer et apprécier l'ouverture et la coopération d'un grand nombre de représentants du gouvernement dont le Ministre de la Justice et le Commissaire aux Droits de l'Homme et à l'action humanitaire.

Nous saluons les efforts entrepris sous votre présidence afin de mieux protéger et respecter les droits humains, notamment par l'adoption des lois sur la torture et l'esclavage en 2015 et la mise en place du mécanisme national de prévention de la torture.

La Mauritanie a en outre ratifié plusieurs traités internationaux et régionaux importants en matière de droits humains, dont la Charte africaine des droits de l'homme et des peuples, le Pacte international relatif aux droits civils et politiques (PIDCP) et le Pacte international relatif aux droits économiques, sociaux et culturels (PIDESC), qui reconnaissent et garantissent une série de droits fondamentaux, en particulier ceux relatifs aux droits à la non-discrimination, la liberté d'expression, d'association et de réunion pacifique.

Cependant, dans le cadre de nos recherches, nos équipes ont pu documenter de nombreuses violations de ces droits, en particulier des restrictions arbitraires aux droits à la liberté de manifestation pacifique, d'association et d'expression, des arrestations arbitraires, des procès iniques, des cas d'usage excessif de la force par les forces de sécurité lors de manifestation et des cas de torture. Nous sommes particulièrement inquiets du fait que ces violations visent souvent des défenseurs des droits humains luttant contre la persistance de l'esclavage et les discriminations en Mauritanie.

Dans le souhait d'entretenir un dialogue constructif et durable avec les autorités, nous voudrions vous présenter les principales conclusions de nos recherches et souhaiterions vivement recueillir vos éventuels commentaires sur les points soulevés en annexe. Ceux-ci sont le fruit de nombreuses

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Annexe 1 : Synthèse des conclusions d'Amnesty International

Esclavage et discrimination

L'esclavage a été officiellement aboli en 1981 et il est reconnu comme un crime dans le droit national avec les lois de 2007 et de 2015. Depuis 2012, la Constitution prévoit que « nul ne peut être réduit en esclavage ou à toute forme d'asservissement de l'être humain » et élève l'esclavage au rang de crime contre l'humanité.

Toutefois, peu de condamnations semblent avoir été prononcées par les tribunaux mauritaniens pour des affaires d'esclavage et de nombreuses organisations de défense des droits humains continuent de dénoncer la persistance de cette pratique.

Les Procédures spéciales des Nations Unies et la Banque Mondiale ont à plusieurs reprises souligné le lien existant entre l'esclavage et les discriminations dont sont victimes les harratines et les afro-mauritaniens dans la société mauritanienne.¹

Les rapporteurs spéciaux ont observé plusieurs pratiques discriminatoires à l'égard de ces communautés, dont l'exclusion des membres de cette communauté des principales positions de pouvoir et de nombreux aspects de la vie économique et sociale. Selon le Rapport des Etats-Unis sur la situation des droits humains en Mauritanie, les harratines et les afro-mauritaniens occupent moins de 20% des postes à responsabilité dans le pays, alors qu'ils constituent 70% de la population.²

Plusieurs de nos interlocuteurs et le Rapporteur spécial sur l'extrême pauvreté ont constaté des difficultés d'enregistrement au registre national, notamment pour les personnes membres de la communauté harratine ou afro-mauritanienne.³ Selon l'UNICEF, seul 32.6% des enfants de moins de cinq ans issus des 20% de la population la plus pauvre sont enregistrés à la naissance, contre 84.4% des enfants de moins de 5 ans issus des 20% de la population les plus riches.⁴ Or, l'inscription au registre national est une condition au vote, à l'accès à l'école publique, au passage des examens et à la fonction publique. Ces difficultés à l'enregistrement maintiennent donc les personnes les plus vulnérables et discriminées dans la pauvreté et en marge de la société.⁵

Plusieurs organisations de la société civile en Mauritanie travaillent sur ces questions, pour contribuer à

¹ World Bank, Islamic Republic of Mauritania: turning challenges into opportunities for ending poverty and promoting shared prosperity – Systemic country diagnostic, 2017

Rapport du Rapporteur spécial sur les droits de l'homme et l'extrême pauvreté sur sa mission en Mauritanie, A/HRC/35/26/Add.1 Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, A/HRC/34/54/Add.1

Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée, A/HRC/26/49/Add.1

Rapporteuse spéciale sur les formes contemporaines d'esclavage, y compris leurs causes et leurs conséquences, A/HRC/15/20/Add.1

² State Department of the United States of America, Human Rights Report on Mauritania, 2016, p. 16, disponible sur: <https://www.state.gov/documents/organization/265490.pdf>

³ A/HRC/35/26/Add.1, para 45-46.

⁴ Unicef Data – Mauritania: <https://data.unicef.org/country/mr/>

⁵ World Bank, Islamic Republic of Mauritania: turning challenges into opportunities for ending poverty and promoting shared prosperity – Systemic country diagnostic, 2017, para. 90.

l'émergence d'une Mauritanie plus juste, plus inclusive et plus respectueuses des droits humains. Ces défenseurs des droits humains sont parfois victimes de répression. Ils sont souvent représentés par les autorités que nous avons rencontrées comme des groupes prônant la haine raciale pour dénoncer les discriminations dont sont victimes les populations harratines et afro-mauritaniennes.

Questions :

- Quel est le nombre de cas pour lesquels des poursuites ont été engagées pour faits d'esclavage en 2015, 2016 et 2017 ?

- Combien de condamnations ont-elles été prononcées et quelles ont été les peines retenues ?

- Quelles sont les données statistiques disponibles sur la composition ethnique de la Mauritanie, y compris pour les communautés *beïdane*, *harratine* et *afro-mauritaniennes* (*wolof*, *soninké*, *peul* et *bambara*) ?

- Quelles sont les statistiques disponibles sur l'accès au registre national, à l'éducation nationale, à l'emploi, à la santé et sur la pauvreté ventilées par appartenance à un groupe ethnique ?

- Quel est le statut de la loi sur les discriminations adoptée en juin 2017 ? A-t-elle été promulguée ?

- Quelles sont les initiatives mises en œuvre afin de lutter contre les discriminations à l'encontre des populations les plus marginalisées, dont les *harratines* et *afro-mauritaniennes* ?

- Quels sont les efforts entrepris par les autorités afin de faciliter l'accès des plus marginalisées, dont les *harratines* et *afro-mauritaniennes*, au registre national ?

- La Mauritanie compte-t-elle accéder au Statut de Rome de la Cour Pénale Internationale, ce dernier élevant le crime de « réduction en esclavage » au rang de crime contre l'humanité ?

Restrictions au droit à la liberté de réunion pacifique et usage excessif de la force

Les lois relatives aux réunions publiques semblent contenir des dispositions restreignant le droit à la liberté de réunion pacifique et contraires aux recommandations formulées par le Rapporteur spécial sur le droit de réunion pacifique et d'association.⁶ La loi n°73.008 relative aux réunions publiques interdit par exemple les réunions des « cercles à caractère politiques » (article 8) ou les réunions se tenant sur la voie publique (article 7). Elle prévoit également que toute réunion doit avoir un bureau de trois personnes au moins qui doivent être élus par les personnes participant à la réunion et tient les membres de ce bureau comme responsables des infractions commises dans ces réunions (article 5). Le décret d'application de la loi (décret n°73.060) précise que les organisateurs de réunion pacifique doivent accompagner toute déclaration préalable d'une partie de leur casier judiciaire (article 3). Des sanctions pénales pouvant aller jusqu'à six mois de prison sont prévues en cas d'infraction aux dispositions définies par la loi (article 9). D'autre part, si la loi prévoit un régime de déclaration préalable (article 3), elle n'indique pas dans quelles conditions les autorités peuvent interdire une réunion pacifique et ne prévoit

⁶ Voir en particulier les rapports du Rapporteur spécial sur le droit de réunion pacifique et d'association suivants : A/HRC/20/27, A/HRC/23/29, A/HRC/23/39

rencontres avec les représentants de l'Etat mauritanien, des défenseurs des droits humains, des représentants d'organisations de la société civile, des journalistes, des syndicalistes, des avocats, des chercheurs, des leaders de l'opposition, des délégués des Nations unies et d'organisations internationales non-gouvernementales ainsi que l'analyse de documents officiels. Ce résumé passe en revue les violations des droits à la liberté d'expression, d'association et de réunion pacifique en Mauritanie, notamment à l'encontre de défenseurs des droits humains luttant contre l'esclavage et les discriminations.

Nous envoyons également par amputation nos observations aux différents Ministères concernés, dont le Ministre de la Justice, le Ministre de l'Intérieur et de la Décentralisation et le Commissaire aux Droits de l'Homme et de l'Action Humanitaire.

Nous vous serions reconnaissants de vous assurer que nous puissions obtenir une réponse écrite de préférence avant le 15 décembre 2017 par email à l'adresse [REDACTED]. Ceci, afin que nous puissions la faire figurer dans un prochain rapport.

Une délégation d'Amnesty International se rendra en Mauritanie du 20 novembre au 6 décembre et espérons que ce sera l'occasion d'échanger sur nos conclusions. Nous vous saurions gré de bien vouloir leur faciliter des rencontres avec les membres de votre administration susceptibles de pouvoir répondre à nos questions, y compris le Ministre de la Justice, le Ministre de l'Intérieur et de la Décentralisation et le Commissaire aux Droits de l'Homme et de l'Action Humanitaire. Nous restons à votre entière disposition afin de convenir de rendez-vous à l'adresse email mentionnée ci-dessus.

Veuillez agréer, Excellence, Monsieur le Président de la République, l'expression de notre très haute considération.

Alioune Tine
Directeur Régional
Bureau Régional Afrique de l'Ouest et du Centre



Ampliations :

- Monsieur le Ministre de la Justice
- Monsieur le Ministre de l'Intérieur et de la Décentralisation
- Monsieur le Commissaire aux Droits de l'Homme et de l'Action Humanitaire
- Mme la Présidente de la Commission Nationale des Droits de l'Homme

aucune voie de recours. Il n'est pas prévu d'exception au régime de déclaration préalable pour les réunions spontanées. Le code pénal semble également contenir des dispositions vagues sur les attroupements (articles 101-105) notamment la notion d' « attroupement non armé qui pourrait troubler la tranquillité publique », qui sont utilisées pour réprimer les organisateurs et participants à des réunions pacifiques.

Dans la pratique, nos équipes ont observé que les réunions pacifiques semblent fréquemment interdites de manière arbitraire par les autorités locales. Les témoignages d'organiseurs de rassemblements pacifiques recueillis par Amnesty International décrivent le même mode opératoire : les autorités locales appellent les organisateurs pour leur signifier oralement l'interdiction de la manifestation, la plupart du temps la veille de la manifestation. Malgré les demandes de plusieurs organisateurs, les interdictions ne sont pas signifiées par écrit et les motifs de l'interdiction ne sont pas clairement exposés.

Des dizaines d'activistes et défenseurs de droits humains comme des membres d'organisations de jeunes ou de l'Initiative de Résurgence du Mouvement Abolitionniste qui ont participé aux manifestations interdites verbalement ont été arrêtés et placés en détention ces trois dernières années.

Depuis 2015, Amnesty International a recensé des dizaines de cas de manifestants pacifiques blessés par des éléments des forces de sécurité, dont des cas de fractures et de contusions. Certains des militants ont déposé plaintes, mais elles sont restées sans suite. Par exemple, Amadou Idrissa Dieng, militant d'IRA Mauritanie, a reçu plusieurs coups de matraque à la tête par les forces de sécurité en février 2017 lors d'une réunion pacifique organisée à Nouakchott. Il a déposé plainte le 2 mars 2017 au niveau tribunal de première instance de Nouakchott Ouest. A ce jour, aucune suite n'a été donnée à sa plainte.

Le 27 septembre 2011, Lamine Mangane, un militant de Touche Pas à Ma Nationalité, a été tué par balle alors que les forces de sécurité faisaient usage d'armes à feu pour disperser une manifestation pacifique à Maghama. Une plainte a été déposée, mais sa famille et Touche Pas à Ma Nationalité n'ont reçu aucune information sur l'évolution de la procédure judiciaire.

Questions

- Sur quels motifs, autres que ceux mentionnés dans la loi n°73.008, les autorités peuvent-elles interdire une manifestation et dans quel instrument réglementaire ces motifs sont-ils énoncés ?

- Quelles sont les statistiques des réunions pacifiques autorisées et interdites pour les années 2015, 2016 et 2017 ?

- Quelles sont les statistiques des arrestations et condamnations pour les infractions suivantes : a) attroupement non armé pouvant troubler la tranquillité publique ; b) incitation à l'attroupement ; c) insurrection ; d) résistance aux forces de l'ordre ; e) agressions contre les forces de l'ordre dans le cadre de l'exercice de leurs fonctions ; f) utilisation de la force contre les forces de l'ordre ; g) action dans un mouvement non autorisé ; h) infraction à la loi sur les réunions publiques ?

- Quelles mesures les autorités prennent-elles, y compris en matière d'enquête, de procédures disciplinaires et de procédures judiciaires, lorsque des cas d'usage excessif de la force sont rapportés ? Où en est la procédure judiciaire dans les cas d'Amadou Idrissa Adinik et Lamine Mangane ?

Restrictions au droit à la liberté d'association

Le cadre juridique mauritanien relatif aux associations semble porter atteinte à la liberté d'association et être contraire aux recommandations du Rapporteur spécial sur le droit de réunion pacifique et d'association. La loi n°64.098 du 9 juin 1964 relative aux associations, modifiée par la loi N°73.007 du 23 janvier 1973 et la loi N°73.157 du 2 juillet 1973, prévoit un régime d'autorisation préalable (article 3) et des peines de prison à l'encontre des membres d'associations non-autorisées, pouvant aller jusqu'à trois ans d'emprisonnement (article 8). La loi ne fixe aucun délai de réponse des autorités aux demandes d'autorisation. Les conditions de retrait de l'autorisation prévues dans la loi (article 4) sont formulées en des termes généraux, comme la notion de porter « atteinte au crédit de l'Etat » ou « exercer une influence fâcheuse sur l'esprit des populations », laissant la porte ouverte à une interprétation arbitraire de ces dispositions.

Le projet de loi relatif aux associations, aux fondations et aux réseaux d'associations, abrogeant et remplaçant la loi n° 64-098 du 9 juin 1964 relative aux associations adoptée en Conseil des Ministres, loin de pallier ces lacunes, posent des problèmes supplémentaires, y compris la restriction du domaine de compétence et des critères d'interdiction vagues qui pourraient être utilisés de manière arbitraires.

Dans la pratique, le processus d'enregistrement des associations paraît complexe et peu transparent et pousse les militants des droits humains à l'illégalité. Amnesty International a documenté plus d'une vingtaine d'organisations qui n'ont pas reçu de réponse à leur demande d'enregistrement, y compris IRA Mauritanie, Touche Pas Ma Nationalité, le Collectif des Veuves de la Mauritanie, ██████████, Les Vigiles, Kavana, et plusieurs organisations non-gouvernementales internationales. Or, selon nos rencontres avec les autorités, une absence de réponse des autorités compétentes pendant plus de quatre mois équivaut à une décision de refus. Toutefois, les fondements juridiques de cette politique ne sont pas clairement exposés, ce qui pousse les associations à l'illégalité sans qu'elles en soient informées.

Amnesty International est également préoccupée par ce qui semble constituer une intrusion de l'Etat dans les activités des associations, y compris lorsque celles-ci sont légalement enregistrées. Par exemple, la loi n°73.008 relative aux réunions publiques, qui s'applique aux réunions dans des lieux privés, autorise les autorités à déléguer un fonctionnaire « pour assister à la réunion », notamment afin de « veiller au maintien de l'ordre matériel, à assurer le respect des droits des citoyens, à constater les infractions aux lois ». Il peut « prononcer la dissolution de la réunion lorsqu'il en est requis par le bureau ou lorsque se produit des collusions ou des voies de fait » (article 6). Ces dispositions ont été utilisées pour faire surveiller des ateliers de formation organisées par des organisations de défense des droits humains.

D'autre part, une note datant du 11 février 2016, dont Amnesty International a eu copie, rappelle aux établissements hôtelier que : « sans l'autorisation préalable du Hakem, il est formellement interdit d'organiser un spectacle, une conférence, une manifestation où le public est admis ». Ces dispositions ont été utilisées pour interdire la tenue de conférences et d'ateliers de formation par des associations pourtant dûment enregistrées.

D'autre part, nous avons documenté plusieurs cas de dissolution d'association. Par exemple, en janvier 2017, Balla Touré, fondateur de l'association Population et Développement, enregistrée en 2000, a été informé par un officier de la police que son association était dissoute. L'officier lui a montré une copie d'un arrêté daté de 2016 faisant état de la dissolution, mais a refusé de lui en laisser une copie. Les biens de l'association, dont plusieurs ordinateurs, ont été saisis par les forces de police et ne lui ont pas été restitués.

Enfin, les autorités ont expulsé et refusé de délivrer des visas à plusieurs défenseurs des droits humains

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et journalistes d'autres pays invités par des associations mauritaniennes dans le cadre de leurs activités, y compris Tariq Ramadan en juillet 2016 invité par l'organisation Marmite du Partage et Main dans la Main ; ██████████, universitaire en droits humains, et ██████████, journaliste, expulsées de la Mauritanie alors qu'elles y conduisaient des recherches sur l'esclavagisme et le racisme avec l'AMDH ; une douzaine d'activistes anti-esclavagistes en Septembre 2017. Aucune notification écrite justifiant la décision des autorités de refuser le visa d'entrée ou d'expulser les individus mentionnés ci-dessus n'a été délivrée.

Questions

- *Quelles sont les statistiques des demandes d'associations autorisées, refusées ou dissoutes pour les années 2015, 2016 et 2017 ?*
- *Quel est le statut du projet de loi relatif aux associations adopté en Conseil des Ministres en 2016 ? Les autorités prévoient-elles de le modifier afin qu'il soit conforme aux standards internationaux ?*
- *Sur quelle base juridique les autorités s'appuient-elles pour établir qu'une absence de réponse à une demande d'enregistrement équivaut à un refus ?*
- *Pour quels motifs l'association Population et Développement a-t-elle été dissoute ? Pourrions-nous avoir une copie de l'arrêt de dissolution ?*
- *Quelles sont les statistiques des arrestations et condamnations pour les infractions liées à l'appartenance ou à l'administration d'une association non-autorisée ?*
- *Quelles étaient les motifs pour rejeter les visas des défenseurs des droits humains souhaitant se rendre en Mauritanie et expulser ceux qui y exerçaient des activités avec des associations mauritaniennes ?*

La persécution par les poursuites pénales

Nos équipes ont pu constater que les défenseurs des droits humains en Mauritanie sont fréquemment poursuivis et emprisonnés dans le cadre de leurs activités. Depuis 2016, nous avons recensé plus de 40 interpellation/arrestations de membres de l'IRA Mauritanie. La plupart ont été interpellés à plusieurs reprises. Abdallahi Maatalla Seck et Moussa Ould Bilal Biram sont toujours en détention dans la prison de Bir Moghreïn, située à 1100 km de Nouakchott, très loin de leurs familles et de leurs avocats.

Ces arrestations et détentions ne visent pas uniquement les membres de l'IRA. Le blogueur Mohamed Ould Cheikh Mkhaitir a été condamné à mort en décembre 2014 pour apostasie suite à la publication d'un blog visant à sensibiliser sur la question de la discrimination à l'encontre des Moulamines (forgerons) et des descendants des esclaves en Mauritanie. Il est toujours en détention. Il est en mauvaise santé, avec de vives douleurs au ventre, et il a été transféré à l'hôpital.

Plus de 20 participants à la marche des jeunes organisée en avril 2017 ont été arrêtés. Sept militants de l'Association Kavana ont également été arrêtés en août 2014 pendant une manifestation pacifique dénonçant des irrégularités lors de l'élection présidentielle. Ils ont été relâchés quelques jours après leur arrestation, mais la procédure judiciaire est encore en cours et le Président de Kavana continue d'être convoqué à la police.

Tortures et mauvais traitements des défenseurs des droits humains

Les militants des droits humains arrêtés en Mauritanie sont aussi victimes de la torture et de mauvais traitements, notamment pendant la période de la garde à vue. Par exemple, plusieurs militants de l'IRA Mauritanie arrêtés suite à la manifestation de Bouamatou ont été victimes de torture et de mauvais

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traitement à la Brigade Anti-Terroriste, dans les locaux de la Première Compagnie, parmi lesquels des coups, le maintien dans des positions inconfortables, le port de chaînes et de menottes pendant plusieurs jours, la privation de sommeil, d'eau et de nourriture, afin de leur arracher des aveux sur le rôle de l'IRA dans l'organisation de la manifestation. Les traces de leur torture étaient visibles au moment de leur présentation devant le procureur et le juge d'instruction, à qui ils ont déclaré avoir été torturés. Ces traces ont également été documentées par un médecin dans un certificat médical dont Amnesty International a pu obtenir une copie. Leurs avocats ont déposé une plainte au niveau de la Cour Criminelle de Nouakchott Ouest le 15 août 2016 (plainte 558/2016). La Cour Criminelle s'est déclarée incompétente le 17 août. En novembre 2016, la cour d'appel a refusé de réviser la décision de la Cour Criminelle et refusé de prendre en considération que certaines des confessions avaient été obtenues sous la torture. Aucune suite n'a été apportée à leur plainte et deux des militants de l'IRA Mauritanie restent en détention.

D'autres militants des droits humains ont été victimes de torture et de mauvais traitement. Yéro Abdoullaye Sow, un rappeur et activiste dénonçant les discriminations à l'égard des populations harratines et afro-mauritaniennes a été arrêté le 16 août 2016 sur la route entre Nouakchott et Boghé où il venait de participer à une conférence. Plusieurs éléments de la gendarmerie l'ont battu, lui ont craché dessus et l'ont insulté. Ils l'accusaient d'être membre de l'IRA Mauritanie. Il a été relâché dans la journée sans qu'aucune charge ne soit retenue contre lui. Il a déposé une plainte le 17 août 2016 au Tribunal Régional de Nouakchott Nord sous le numéro 839/2016, mais aucune suite ne semble avoir été donnée à sa plainte.

Cheikh Baye, membre du réseau pro-démocratie du 25 février a été maintenu au sol et frappé pendant une vingtaine de minutes au moment de son arrestation le 30 juin 2016. Il a été maintenu en isolement pendant plus de trois mois à la prison d'Aleg ce qui constitue une forme de torture. Il a déclaré à plusieurs reprises souffrir de douleurs au dos depuis son arrestation, mais il n'a pas eu accès à un traitement médical approprié.

Questions

- Quelles sont les mesures prises par les autorités afin d'enquêter sur les plaintes pour torture déposées au Tribunal de Nouakchott Nord le 17 août 2016 (plainte n°839/2016) et à la Cour Criminelle de Nouakchott Ouest le 15 août 2016 (plainte 558/2016) et de présenter les personnes responsables devant les tribunaux ?

- Quelles sont les mesures prises par les autorités afin que le parquet ou les juges d'instruction se saisissent des cas de torture qui leurs sont reportés ou qu'ils peuvent constater pendant leur entretien avec les détenus ou durant les audiences ?

Intimidations, menaces et représailles contre des défenseurs des droits humains

Amnesty International a documenté plusieurs cas d'attaques, menaces et représailles contre les défenseurs des droits humains. Malgré les plaintes déposées, les personnes présumées responsables de ces attaques ne sont jamais poursuivies en justice.

Mekfoula Brahim est une femme défenseuse des droits humains. Elle dirige l'Association Pour une Mauritanie Verte et Démocratique. En 2016, elle a demandé la libération du blogueur Mohamed Mkhaitir. Suite à cette prise de position, elle a été la cible de menaces et d'insultes sur les réseaux sociaux et dans les médias. Elle y est présentée comme un apostat contre qui devrait s'abattre la colère divine, ce qui dans le contexte mauritanien, peut constituer une incitation à la haine et à la violence. Elle a déposé une première plainte au Tribunal de Première Instance de Nouakchott Ouest le 6 février 2017 pour diffamation (plainte n°192/2017). Cette plainte étant restée sans suite, elle a déposé une deuxième plainte en avril (plainte n°306). A ce jour, aucune suite n'a été donnée à sa plainte.

Aminetou Mint El Moctar continue d'être menacée de mort suite à une fatwa prononcée en juin 2014

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par Yehdih Ould Dahi, dirigeant du groupe islamiste radical Ahab Errassoul (« Amis du prophète »), après qu'elle ait demandé que le blogueur de 34 ans Mohamed Ould Mkhaitir, inculpé d'apostasie, bénéficie d'un procès équitable. La fatwa affirme que « Celui qui la tue ou lui arrache les yeux sera récompensé par Allah ». Les autorités policières ont refusé de prendre sa plainte pour incitation au meurtre, en lui conseillant plutôt d'en discuter avec le chef religieux qui a édicté la fatwa. Lorsqu'elle l'a rencontré avec ses avocats, le chef religieux a menacé de la frapper. Son fils a également été menacé en 2015 et a dû fuir le pays pour des raisons de sécurité.

Questions :

- Quelles suites les autorités judiciaires ont-elles données aux plaintes déposés par Mefoula Brahim et Aminetou Mint El Moctar ? Quels sont les résultats des enquêtes ? Des procédures judiciaires sont-elles en cours à l'encontre des auteurs de ces menaces et appels à la violence ?

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'A SWORD HANGING OVER OUR HEADS'

THE REPRESSION OF ACTIVISTS SPEAKING OUT AGAINST DISCRIMINATION AND SLAVERY IN MAURITANIA

This report seeks to analyse patterns of repression used against human rights defenders in Mauritania, particularly those who expose and combat slavery and discrimination, since the last presidential elections in 2014. There has been an increasing number of bans on peaceful protests and associations, arbitrary arrests, torture and other ill-treatment and persecution of human rights defenders, as well as mushrooming of repressive legislation which further undermine human rights work. These regressive legal developments have taken place in a tense political context in which the government has sought to consolidate its political power amid growing contestation, and against a backdrop of growing international co-operation against terrorism and irregular migration which has shielded the country from greater scrutiny over its human rights record.