



THE ISLAMIC REPUBLIC OF MAURITANIA
23rd Session of the Working Group on the Universal Periodic Review
Human Rights Council
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Written Statement submitted by
The Advocates for Human Rights, a non-governmental organization in special consultative status

I. Executive Summary

1. Founded in 1983, The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

2. This submission informs on Mauritania's international human rights obligations with regard to its use of the death penalty. This submission concludes that Mauritania, in failing to abolish the death penalty and in continuing to impose death sentences, rejects the inviolability of the person¹ and does not guarantee its citizens protection against cruel and unusual punishment, and violates rights to life, liberty, and security of the person. The report suggests recommendations that would alleviate such conditions. These steps include both reducing the maximum possible sentence from death to one that is fair, proportionate, and respects international human rights standards, as well as issuing a complete moratorium on executions.

II. LEGAL FRAMEWORK

Legal Basis for the Death Penalty in Mauritania

3. Mauritanian law allows and in some cases mandates the death penalty. Crimes punishable by death include aggravated murder, murder, other crimes resulting in a death, terrorism, rape, robbery, arson, adultery, apostasy, homosexual acts, treason, and espionage, some repeat offenses not resulting in death, torture, perjury leading to another man's death sentence, and being an accomplice to a perpetrator whose crime is punishable by death.² The death penalty is mandatory for aggravated murder, murder, rape, adultery, apostasy, and homosexual acts.³

Death Penalty in Practice in Mauritania

¹ Mauritania Constitution, Article 13.

² Penal Code of Mauritania, Art. 278.

³ Id., Arts. 59, 437.

4. No executions have been carried out in Mauritania since 1987, but Mauritania still continues to sentence people to death. At least 55 people are currently on death row, up from the 37 under death sentences in Mauritania in 2008.⁴ In 2011, courts imposed eight new death sentences,⁵ in 2012, at least six,⁶ and in 2013 at least two.⁷ In 2014 Mohamed Cheikh Ould Mkhaitir was sentenced to death after being held in prison for more than 1 year for the crime of apostasy.⁸ His conviction was based on a blog post in which he allegedly “spoke lightly” of the Prophet Mohammed.⁹ Although the crime of apostasy under article 306 of the Mauritanian penal code provides for leniency in case of repentance, none was provided in spite of Mr. Mkhaitir’s repentance during his pretrial hearing.¹⁰ This is the first death sentence imposed in Mauritania for apostasy since Mauritania’s independence in 1960. Although no executions have been carried out since 1987, Mauritania law and its Sharia laws provide for executions by firing squad.¹¹

5. *2010 Universal Periodic Review of Mauritania/Responses to Recommendations*¹²

During the first UPR cycle in 2010, Mauritania said it supported and had already implemented or would implement the following recommendations:

- 91.1. Adhere to main international human rights instruments so that it can continue to promote women’s rights and develop programmes for the rights of children, and pursue the efforts to disseminate a human rights culture in the executive branches of the Government (Egypt);
- 91.2. Consider the ratification of and accession to the outstanding major international human rights instruments (Nigeria);
- 91.3. Bring domestic law into full compliance with CRC (Poland);
- 91.4. Continue the process of harmonizing domestic legislation with provisions of international instruments (Azerbaijan);
- 91.10. Strengthen its cooperation with treaty bodies (Senegal);

⁴ Report on Death Penalty; Mauritania Coalition Against Death Penalty.

⁵ Amnesty Intl. Death Sentences and Executions in 2011, ACT 50/001/2011, Mar. 2012.

⁶ Amnesty Intl., Death Sentences and Executions in 2012, ACT 50/001/2012, Apr. 9, 2013.

⁷ Amnesty Intl., Death Sentences and Executions in 2013, ACT 50/001/2014, Mar. 26, 2014.

⁸ Death Sentence in Mauritania for Islam ‘Insult’, New York Times, Dec. 25, 2014, available at http://www.nytimes.com/2014/12/26/world/asia/death-sentence-in-mauritania-for-islam-insult.html?_r=0 (last visited Mar. 22, 2015).

⁹ Joint Public Statement, Mauritania Must Immediately Release Mohamed Mkhaitir, Blogger sentenced to death for apostasy, Mar. 5, 2015, available at [https://www.google.ch/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB4QFjAA&url=https%3A%2F%2Fwww.amnesty.org%2Fdownload%2FDocuments%2FAFR3800022015ENGLISH.PDF&ei=2UIPVcOC O4_naLqa gaAH&usg=AFQjCNG-SaDUoqb72rFtQr4Fsf2efLEsFA&bvm=bv.88528373,d.ZWU&cad=rja](https://www.google.ch/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB4QFjAA&url=https%3A%2F%2Fwww.amnesty.org%2Fdownload%2FDocuments%2FAFR3800022015ENGLISH.PDF&ei=2UIPVcOCO4_naLqa gaAH&usg=AFQjCNG-SaDUoqb72rFtQr4Fsf2efLEsFA&bvm=bv.88528373,d.ZWU&cad=rja) (last visited Mar. 22, 2015).

¹⁰ TheDailyMail.com, Mauritania Issues the First Apostasy Death Sentence, Dec. 25, 2014.

¹¹ Report on Death Penalty; Mauritania Coalition Against Death Penalty.

¹² UPR-Info.org.

91.23. Establish an inclusive process to follow up on the universal periodic review recommendations (Norway);

6. Mauritania noted the following recommendations:

92.4. Maintain the de facto moratorium on the death penalty with a view to achieving its abolition, and ratify the Second Optional Protocol to ICCPR (Spain);

92.8. Withdraw its reservations to the International Covenant on Civil and Political Rights (Greece);

92.12. Withdraw reservations to CAT, ICCPR, and CRC (Ecuador);

92.23. Adopt a Moratorium on the death penalty with a view to abolishing it as the final goal (France);

92.24. Reconsider the possibility of imposing a moratorium on the death penalty (Algeria);

92.25. Abolish the death penalty (Brazil);

92.26. Impose an immediate moratorium on the death penalty, and commute all death sentences to imprisonment terms with a view to abolishing it entirely (Slovakia);

92.27. Adopt a de jure moratorium on executions with a view to abolishing the death penalty (Italy);

92.28. Continue suspending capital death penalties by establishing, as a first step, a moratorium on all executions, and by subsequently abolishing the death penalty completely (Switzerland);

92.29. Impose a moratorium on executions and abolish the death penalty (Greece);

92.30. Remove the death penalty and corporal punishment from Mauritanian laws, and establish special procedures for juvenile justice (Ecuador);

7. And Mauritania specifically refused to support the following:

93.3. Remove the provisions of the penal code that allow the punishment of the death penalty for homosexuality, as soon as possible (France);

93.4. Ensure that the death penalty is not applied to consensual same-sex relations between adults, and that the Penal Code does not criminalize such activity (Sweden).

Mauritania's Acceptance of UPR Recommendations

8. In spite of Mauritania's stated acceptance of some of the recommendations above and its comments that it had implemented or would be implementing other recommendations, no such evidence has been found, at least as those recommendations pertain to the death penalty.

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

9. The existence of the death penalty in Mauritania is an example of cruel and unusual punishment, as well as inhumane treatment. Mauritania has laws to provide for the execution of individuals convicted of adultery, rape, homosexuality, and apostasy, in addition to the others cited above. It also mandates imposition of the death penalty for certain offenses, in violation of due process.

Mauritania's Treatment of Death Row Inmates Constitutes Cruel and Inhuman Treatment.

10. Although The Advocates has been unable to find verifiable evidence of mistreatment solely related to death row inmates, as of the writing of this document, there were at least 3 people on hunger strikes¹³ in Mauritanian prisons for the abhorrent conditions there. Three jailed anti-slavery activists began a hunger strike to protest "squalid conditions" and abuse by the prison authorities.

Mauritania continues to sentence people to death for crimes they committed as juveniles.

12. In 2011, Mauritania has imposed the death penalty on three young men for crimes committed when they were under 18 years of age, but their sentence was commuted on appeal. There appears to be no legal bar to sentencing individuals to death for crimes committed as minors.

Mauritania does not limit the death penalty to the most serious crimes.

13. As noted in paragraph 4 above, Mauritanian authorities recently sentenced a young man to death for apostasy based on a blog post he wrote.

IV. RECOMMENDATIONS

The Advocates for Human Rights respectfully suggest that the Committee recommend that Mauritania take the following measures:

13. **Replace the death penalty with a sentence that is fair, proportionate, and respects international human rights standards.** Current death sentences should be commuted.

14. **Impose a moratorium on the death penalty, effective immediately going forward and for persons currently on death row.** Mauritania should impose a country-wide moratorium

¹³ Mauritania: Antislavery Activists Begin Hunger Strike Over Prison Conditions, New York Times, Feb. 23, 2015, available at <http://nyti.ms/1DPjbRk> (last visited Mar. 22, 2015).

on the death penalty that immediately halts all death sentences and executions, with a view toward complete abolition of the death penalty

15. **Reduce the number of crimes punishable by death.** The number of crimes punishable by death increased in 1980 with the adoption of Sharia law. As Mauritania attempts to curb its human rights violations it should start by reducing the number of crimes punishable by death to ensure that the death penalty is reserved for only the most serious crimes.

16. **Ensure that the death sentence is never imposed automatically, and ensure that any individual automatically sentenced to death is resentenced in a proceeding that allows for full consideration of all of the mitigating facts and circumstances of the crime.**

16. **Improve prison conditions to ensure they comply with international human rights standards.**