



# MAURITANIA

## AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 23<sup>RD</sup> SESSION OF THE UPR WORKING GROUP, 2-13 NOVEMBER 2015

### FOLLOW UP TO THE PREVIOUS REVIEW

Since the first UPR in 2010 and despite an open official discourse on human rights and good governance,<sup>1</sup> the human rights situation has not improved in Mauritania in reality, and progress appears slow.

#### International human rights instruments

Of the recommendations made during the review in 2010, that Mauritania committed to examine, the government ratified the Second Optional Protocol the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,<sup>2</sup> the International Convention for the Protection of All Persons from Enforced Disappearance,<sup>3</sup> and the Convention of the Rights of Persons with Disabilities and its Optional Protocol.<sup>4</sup>

#### Cooperation with the UN treaty bodies and Special Procedures

The Special Rapporteur on contemporary forms of slavery visited Mauritania in February 2014 to follow-up on the mission conducted in 2009.<sup>5</sup> Mauritania has also accepted requests to visit from the Special Rapporteurs on contemporary forms of racism, and on freedom of religion or belief. The UN Working Group of Experts on People of African Descent requested a visit on 15 December 2014, which is still to be agreed.

The government has submitted overdue reports to the Committee on the Elimination of Discrimination against Women, the Human Rights Committee, the Committee against Torture, and the Committee on Economic, Social and Cultural Rights<sup>6</sup>. However, it has failed to submit other overdue reports, including to the Committee on Enforced Disappearances and the Committee on the Rights of the Child.

### THE NATIONAL HUMAN RIGHTS FRAMEWORK

Despite the adoption of laws criminalising slavery and the creation of a special tribunal to judge crimes related to slavery in December 2013, there is a significant gap between the letter of the law and its implementation in practice. Moreover, cases related to alleged slavery brought before domestic courts are not being processed in a timely manner. In 2014, at least 15 cases of alleged slavery have been brought before the courts; however, the cases are still under investigation.

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<sup>1</sup> Official statement made by President Mohamed Ould Abdel Aziz on 26 May 2014 during an African Union celebration, and the Report of the Working Group on the Universal Periodic Review, A/HRC/16/17 paragraph 6.

<sup>2</sup> Report of the Working Group on the Universal Periodic Review, A/HRC/16/17, recommendation 92.1 (France), 92.6 (Switzerland), 92.9 (Turkey), 92.12 (Ecuador).

<sup>3</sup> Ibid, recommendation 92.2 (France).

<sup>4</sup> Ibid, recommendation, 92.3 (Spain), recommendation 92.10 (Argentina).

<sup>5</sup> Report of the Special Rapporteur on contemporary forms of slavery, 26 August 2014, A/HRC/27/53/Add.1.

<sup>6</sup> Report of the Working Group on the Universal Periodic Review, recommendations 90.15 (Norway), 90.16 (Azerbaijan), and 91.10 (Senegal).

Mauritania has failed to address the recommendations made by the Special Rapporteur on contemporary forms of slavery, including to address the causes and consequences of slavery, to use legislative action to ensure enforcement of anti-slavery laws, and to issue orders to the police and the judiciary to ensure that allegations of slavery and slavery-like practices are effectively investigated and prosecuted.<sup>7</sup>

A roadmap to eradicate slavery was adopted by the government in March 2014. This document makes 29 recommendations, notably that the 2007 law against slavery should be amended to include different forms of slavery, such as hereditary slavery, debt bondage or early marriage.<sup>8</sup> It is also recommended that provisions for reintegration programmes be included in the law and that measures be undertaken to raise awareness of the criminalisation of slavery.<sup>9</sup> Since 2010, at least six cases of alleged crimes of slavery have been brought to the Prosecutor; however, decisions are still pending.

The prohibition of torture is enshrined in the Mauritanian Constitution. Article 13 provides that "Any form of moral or physical violence is prohibited".<sup>10</sup> However, this provision is regularly flouted by the police and the gendarmerie. Furthermore, national legislation does not define torture, contrary to what is required by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Mauritania ratified in 2004.<sup>11</sup>

Amnesty International is also concerned that prison facilities, such as Dar Niam and the civil prison in Nouakchott, are not under the effective control of the Ministry of Justice. The National Guard, which reports to the Ministry of Defence, is currently responsible for running detention centres.

## THE HUMAN RIGHTS SITUATION ON THE GROUND

### Torture and ill-treatment at arrest and in detention

Despite Mauritania's acceptance of the recommendation to end torture and ill-treatment and to investigate and prosecute such allegations,<sup>12</sup> no prisoner appears to be safe from torture and other ill-treatment.

In 2012 and 2013, Amnesty International collected testimonies from women, homosexuals, political prisoners, alleged Islamists and common law criminals who all claimed to have been subjected to torture and other ill-treatment. This included three minors, held alongside adults.

Reported torture methods included:

- cigarette burns
- electric shocks
- sleep deprivation
- pulling out hair
- forcing the prisoners into contorted positions, sometimes with the aid of a metal bar
- threatening their families

The security forces use such practices to extract "confessions" from detainees, and torture and ill-treatment are also used as a punishment in prison. The systematic use of torture is facilitated by detention procedures, which allow those suspected of crimes against national security to be held for up to 45 days.<sup>13</sup> This period is regularly exceeded and the

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<sup>7</sup> Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Addendum (A/HRC/27/53)

<sup>8</sup> 1<sup>st</sup> Recommendation, Roadmap for the eradication of the legacy of slavery

<sup>9</sup> Ibid, 23<sup>rd</sup> recommendation

<sup>10</sup> Mauritanian Constitution of 12 July 1991, article 13

<sup>11</sup> Committee against Torture, Consideration of reports submitted by State Parties under article 19 of the Convention: Mauritania, CAT/C/MRT/1.

<sup>12</sup> Report of the Working Group on the Universal Periodic Review, A/HRC/16/17, recommendation 90.33 (Sweden)

<sup>13</sup> Law no. 2010-035 of 21 July 2010 revoking and replacing law no. 2005-047 of July 2005 regarding the War on Terror, Article 23

detainees are often not informed of the charges against them. When a person is not brought before a judge, this is a violation of the article 9(3) of the International Covenant on Civil and Political Rights.

One student, who was arrested and accused of being a member of a terrorist group in January 2013, was taken to the Nouakchott First District police station and held there for 42 days. During questioning, police officers handcuffed his hands and feet and beat his back with a baton. He was forced to sign a statement without having read it. In May 2013, he was sentenced to five years in prison following an unfair trial in which the state-appointed counsel for the accused did not ask any questions nor present any witnesses and where the judge did not respond when the accused said he had been tortured.

A minor was arrested in June 2013 accused of theft. He was tortured for a week at the police station of the Sixth District of Nouakchott. He was made to sit in a squatting position, he was then tied up, attaching one hand to one foot with a pair of handcuffs. An iron bar was placed between his knees and he was suspended from two water barrels. He was beaten with batons and fainted three times. He was then asked to confess to being responsible for several robberies in the Sixth District. A police officer then made him sign a statement without first reading it. No action was taken when he reported the torture he had undergone.

Amnesty International also met with people who had been arrested for their perceived sexual orientation who reported having been tortured and abused. In some cases, they were tortured to force them to confess that they were homosexuals.

Amnesty International also met women, at the women's prison in Nouakchott, who said that they had been tortured and ill-treated. Some were tortured to denounce their suspected accomplices. This was the case with a woman who had stolen tunics (*boubous*) – which she admitted – and who was then beaten at the police station. It appears that male guards in the detention centre were present both during the day and in the evening.

#### **Prisoners of conscience**

There are currently eight prisoners of conscience in Mauritania, most of whom are members of the Resurgence of the Abolitionist Movement (IRA), an anti-slavery organisation. They were sentenced to between five months and two years in prison for raising concerns about slavery. Other IRA members have also been sentenced to prison terms in the past.

On 15 January 2015, the court of Rosso, in southern Mauritania, sentenced three anti-slavery activists to two years in prison for belonging to an unrecognised organisation, participation in an unauthorised assembly and offenses against the forces of law and order. Brahim Bilal Ramdane, Djiby Sow and Biram Dah Abeid, a former presidential candidate and president of the anti-slavery organisation, IRA, were arrested on 11 November 2014 while leading a peaceful campaign against slavery and raising awareness among the local population about the land rights of people of slave descent.

#### **Restrictions on freedom of assembly and expression**

Attacks on freedom of assembly and expression continue. In March 2014, the government closed down several Muslim health and education charity organisations and sealed their offices. No official explanation was provided although the government had previously accused the organisations of working outside the bounds of their mission.

On 24 December 2014, Mohamed Mkhaitir, a 29 year old blogger who was held in pre-trial detention for almost one year, was sentenced to death for apostasy,<sup>14</sup> at the Nouadhibou Court in northwest Mauritania. One year earlier, he had posted an online article on the Aqlame newspaper's website, which was later taken down because it was deemed blasphemous towards the prophet Mohamed. The article was addressed to the members of his Moulamine (blacksmith) social category and criticised the use of religion to marginalise certain groups in Mauritanian society. Although Article 306<sup>15</sup> of

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<sup>14</sup> The abandonment and criticism of one's religious faith, belief or cause

<sup>15</sup> Article 306 of the Mauritanian penal code provides that, "any Muslim guilty of the crime of apostasy ... will be asked to repent within a period of three days...if he does not repent within this time; he shall be sentenced to death as an apostate." This article also states that "Any person guilty of the crime of apostasy (Zendagha), shall be sentenced to death, unless he repents beforehand," and also that, "...if he repents before the execution of this sentence, the prosecutor will seize the Supreme Court, to the effect of his/her full

the Penal Code provides for leniency in case of repentance, none was shown to Mohamed Mkhaitir despite the fact that he repented during his pre-trial hearing at the gendarmerie station. This is the first death sentence imposed for apostasy in Mauritania since its independence in 1960.

### **Slavery**

In May 2014, a complaint was filed against a slave-owner in the Echemim region, for the enslavement of 15 year-old MBeirika Mint M'Bareck. The slave-owner was charged with "exploitation of a minor"; however, human rights organizations wrote to the Public Prosecutor to request that the charges be changed to "slavery". When MBeirika Mint M'Bareck was released in June 2014, the Public Prosecutor convicted her of *Zina* (adultery or unlawful sexual intercourse in Sharia law) because she was pregnant.

### **Human rights defenders**

Human rights defenders and other activists face harassment and intimidation in Mauritania, including death threats. Police and judicial authorities have failed to bring the perpetrators of such acts to justice.

In June 2014, Aminetou Mint El Moctar, President of the Women's Association of Heads of Household (*Association des femmes chefs de familles*, AFCF), faced a fatwa with death threats. This came after she had demanded a fair trial for the blogger Mohamed Mkhaitir. No action is known to have been taken by authorities to investigate these threats.

### **Enforced disappearances**

Of the 14 men sentenced for terrorism-related offences in 2009 and 2010 (who in May 2011 were the victims of enforced disappearance for over three years, at the hands of the Mauritanian authorities) four were transferred to Nouakchott central prison in May 2014, one died in detention in May 2014 and the remaining nine detainees were transferred to the central prison in July 2014.

In May 2014, Maarouf Ould Haiba, who had been sentenced to death in 2010 for the murder of French tourists in December 2007 and then subjected to enforced disappearance, died while in the unofficial detention centre Salah Eddin. He had reportedly been sick and had been transferred to a military hospital several times. The circumstances of his death remain unclear and no investigation has been initiated. An Amnesty International delegation met him several times, beginning in 2008, before he disappeared. He said that he had been regularly tortured while in police custody, including being blindfolded and taken to an unknown place where he was beaten for a period of ten days. He was subjected to various forms of torture, including having his hands and feet tied behind his back, and being subjected to electric shocks on his eyes and body with an electric baton, which was then forced into his anus.

### **The death penalty**

Despite its acceptance of a recommendation to consider "remov[ing] the death penalty and corporal punishment from Mauritanian laws",<sup>16</sup> the courts are still imposing the death sentence for murder, terrorism and apostasy.

On 18 November 2014, the Nouakchott Appeal Court sentenced Sidina Ould Sidi Mohamed Ould Chebarnou to death for the murder of French tourists in 2007. Their co-accused Maarouf Ould Haiba died in custody on 12 May 2014. The circumstances of his death remain unclear and to date no investigation has been initiated.

In March 2015, the Appeal Court in Nouakchott confirmed the death sentence, handed down initially in December 2013, of Sidi Ould Dendenni who was found guilty of murder.

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rehabilitation, without prejudice to any sentence provided in the first paragraph this article [3 months to 3 years in prison and a fine of 5000 to 60000 UM]."

<sup>16</sup> Report of the Working Group on the Universal Periodic Review, A/HRC/16/17, recommendation 92.30 (Ecuador)

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Mauritania to:

### *Cooperation with the UN treaty bodies and the Special Procedures*

- Extend a standing invitation to the UN Special Procedures and accept their current requests for access, in particular by the Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions;
- Submit all overdue reports to the Human Rights Committee and other treaty bodies;
- Fully and effectively implement the recommendations of the Human Rights Committee,<sup>17</sup> the Committee on the Elimination of Discrimination against Women,<sup>18</sup> the Committee against Torture,<sup>19</sup> the Committee on Economic, Social and Cultural Rights,<sup>20</sup> and the Special Rapporteur on contemporary forms of slavery.<sup>21</sup>

### *Torture and other ill-treatment*

- End torture and inhuman and degrading treatment, including by promptly carrying out investigations into such allegations, ensuring that confessions obtained through torture are not admitted in court, holding those suspected of being responsible to account in fair trial procedures, and providing all victims with reparations;
- Incorporate a definition of torture in domestic law in line with Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Ensure that the bill adopted in February 2015 by the Council of Ministers establishing a national preventive mechanism, as required by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, fully complies with international standards, and that the mechanism is provided with the necessary resources and means to carry out its work;
- Ensure that all detainees are given a fair trial before a civilian judge and allowed access to a lawyer of their own choice;
- Place the management of Dar Naïm and Nouadhibou prisons and other penal institutions under the control of the Ministry of Justice.

### *Slavery*

- Implement the 2007 anti-slavery law and open prompt, thorough, impartial and effective investigations into all allegations of crimes of slavery and ensure that those found guilty of the practice of slavery are held to account in fair trial procedures, as recommended by the Special Rapporteur on contemporary forms of slavery;
- Ensure that all victims of crimes of slavery receive justice, truth and reparation;
- Continue to implement the national programme to eradicate the legacy of slavery, adopted in March 2014, including by amending the 2007 anti-slavery law to include further forms of slavery, such as hereditary slavery, debt bondage and forced marriage;
- Expand public awareness campaigns against all forms of slavery and adopt the necessary measures to abolish the caste system;
- Implement the recommendations by the Special Rapporteur on contemporary forms of racism,<sup>22</sup> including tackling the issues in Mauritanian society which give rise to discrimination, including slavery and caste.<sup>23</sup>

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<sup>17</sup> Human Rights Committee, Concluding observations (2013) CCPR/C/MRT/CO/1

<sup>18</sup> Committee on the Elimination of Discrimination against Women, Concluding observations (2014) CEDAW/C/MRT/CO/2-3

<sup>19</sup> Committee against Torture, Concluding observations (2013) CAT/C/MRT/CO/1

<sup>20</sup> Committee on Economic, Social and Cultural Rights, Concluding observations (2012) E/C.12/MRT/CO/1

<sup>21</sup> Report of the Special Rapporteur on contemporary forms of slavery - Mission to Mauritania (A/HRC/27/53/Add.1)

<sup>22</sup> Annex 1, selected recommendations by UN human rights mechanism which previously examined human rights in Mauritania, A/HRC/26/49/Add.1

### *Freedom of expression*

- Immediately and unconditionally release all prisoners of conscience, including blogger Mohamed Mkhaitir, sentenced to death for apostasy, and anti-slavery activists and human rights defenders, Brahim Bilal, Djiby Sow and Biram Ould Dah Ould Abeid, sentenced to two years in prison for membership of an unrecognized organization and for taking part in an unauthorized assembly;
- Ensure that journalists, human rights defenders and other civil society activists are able to seek, receive and impart information, and to carry out their legitimate activities without intimidation, hindrance, harassment or pressure;
- Remove the crime of apostasy from national legislation and enable Mauritians to fully enjoy their freedom of religion, including by changing religion.

### *Enforced disappearances*

- Open prompt, thorough, independent and impartial inquiries into all allegations of enforced disappearances and extrajudicial executions and bring to trial those responsible for these crimes;
- Ensure that state officials suspected of involvement in extrajudicial executions and enforced disappearances are immediately relieved of their functions for the duration of the inquiry;
- Open an investigation into the enforced disappearance and death of Maarouf Ould Haiba, who was sentenced to death for terrorism offences in 2011, and who died in the unofficial detention centre of Salah Eddin in May 2014.

### *The death penalty*

- Abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, and pending abolition, to maintain a de facto moratorium on executions;
- Commute without delay all death sentences to terms of imprisonment, including for blogger Mohamed Mkhaitir, who was sentenced to death for apostasy;
- Ensure full compliance in all death penalty cases with international standards for fair trials;
- Ensure that the death penalty is not under any circumstances imposed in violation of the guarantees provided for in Article 6 International Covenant of Civil and Political Rights.<sup>24</sup>

### *Detention of women and minors*

- Ensure that all children are held separately from adults in detention;
- Ensure that women are not detained in facilities with male guards.

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<sup>23</sup> Racism, Racial Discrimination, Xenophobia and related intolerance, Follow-up to and implantation of the Durban declaration and program of action, A/HRC/11/36/Add.2

<sup>24</sup> "Every human being has right to life. This right shall be protected by law. No one shall be arbitrarily deprived of life." Article 6 of the ICCPR.