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WATCH

ETHNICITY, DISCRIMINATION, AND OTHER RED LINES

Repression of Human Rights Defenders in Mauritania



Ethnicity, Discrimination, and Other Red Lines

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Summary

Mauritania's population is quite heterogenous; questions of caste and ethnicity lie at the source of many of the country's most deep-rooted and sensitive human rights problems.

This report examines how Mauritanian authorities treat the organizations that campaign on issues of ethnic and caste discrimination, slavery and its legacy, and grave abuses of the past that targeted particular ethnic groups. It measures the extent to which they are free to express themselves, assemble, and associate with one another, and the repressive and restrictive measures that they face. The latter includes laws and policies used to deny associations legal status, curtail their activities, and in some cases, imprison their members. The report also profiles two prominent cases of Mauritians prosecuted for denouncing discrimination and past atrocities, cases that illustrate how harsh the punishment can be for raising these delicate issues.

Senior members of the government who met a visiting Human Rights Watch delegation in March 2017 pointed to the thousands of nongovernmental organizations (NGOs) registered in the country as evidence of the vibrancy of domestic civil society and of the authorities' respect for human rights. "There are no restrictions on civil society or its activities so long as their conduct and expression are consistent with the objective legal and procedural framework," Justice Minister Brahim Ould Daddah later wrote to Human Rights Watch (see Appendix II).

The cases assembled in this report belie these claims of tolerance and reveal the limits to dissent. One instrument of repression is the Law on Associations, a 1964 law that requires groups to obtain authorization from the Ministry of Interior to exist legally, and that gives the ministry broad grounds to refuse such authorization or to withdraw it from groups it disfavors. According to that law, grounds for refusal include engaging in "anti-national propaganda" or "exercis[ing] an unwelcome influence on the minds of the people."

Unrecognized associations are able to operate within limits but encounter substantial obstacles and risks. For example, hotels and public venues generally refuse to let them rent halls for events, third-party government donors such as the European Union refrain from funding them, and activists have sometimes faced prison time merely for membership.

In 2016, the Council of Ministers approved draft legislation that would replace the 1964 law. If adopted, the draft would prohibit the establishment of any association whose activities “undermine national unity.” Already, Mauritanian officials have used this ground to justify their obstruction of the activities of individuals and associations, citing article 1 of the Constitution, which enshrines the principle of non-discrimination with regard to origin and race and prohibits “propaganda of racial or ethnic character.”

Mauritania’s ethnic diversity reflects the country’s geographical location, bridging the Maghreb and sub-Saharan West Africa. The population consists of three main ethnic groups, though important distinctions and subgroups nuance each. The first two of these groups, which together form about 70 percent of the population, speak the local dialect of Arabic known as Hassaniya. The first group of Hassaniya speakers are known as Beidans, descended from Arab and Berber conquerors of the country. Haratines are the second and larger group of Hassaniya speakers. They are composed mostly of darker-skinned former slaves and their descendants. The third population group is often referred to as Afro-Mauritanians or *négro-mauritaniens* and is comprised of several ethnic groups whose native languages are African rather than Arabic.

Broadly speaking, Haratine activists tend to focus on the issue of slavery and its after-effects, which include forms of extreme servitude, poverty, exclusion, and inadequate state efforts to address these problems. For *négro-mauritaniens*, a primary concern is what has become known as the *Passif Humanitaire*, a euphemistic term for the state-sponsored assault on members of their population between 1989 and 1991 that included summary executions, expulsions to Senegal, land expropriations, and patterns of discrimination and exclusion since then. Many Haratines and *négro-mauritaniens* find common cause for complaint in an ongoing national process, launched in 2011, of formally registering Mauritania’s citizens, which some charge favors the country’s Beidans, who dominate Mauritania’s political and economic life. The government denies that the registration process is discriminatory.

The international human rights treaties that Mauritania has ratified, the domestic laws that it has adopted to protect human rights, its engagement with the mechanisms and special procedures of the United Nations and African human rights system, and the frequent, though not unfettered, access it has granted international rights groups, suggest a commitment by Mauritanian authorities to meet their human rights obligations and

welcome scrutiny. Human Rights Watch encountered no obstacles during its two research visits to Mauritania in 2017 and was granted the government meetings it requested.

The Passif Humanitaire and Victims' Groups

The Mauritanian authorities acknowledge in a vague and general fashion that state agents committed grave abuses during the *Passif Humanitaire*. However, they maintain that they have adequately delivered justice and reparations to the victims, pursuant to a 1993 amnesty law, measures taken since then to compensate victims and survivors, and a gesture of healing performed by the Mauritanian president.

Victims' advocacy groups that continue to denounce the amnesty law, which granted immunity to perpetrators of any grave human rights violations committed during the *Passif Humanitaire*, and that demand more in terms of accountability, compensation, and rehabilitation, face restrictions on their activities. Leaders of the Collective of Victims of the Repression (Le Collectif des victimes de la répression, Covire) and the Collective of Widows of the Military and Civilian Victims of the Events of 1989-1991 (Le Collectif des veuves des victimes militaires et civiles des événements de 1989 – 1991) told Human Rights Watch that the authorities have repeatedly obstructed their efforts to commemorate the massacres, executions, and forced disappearance perpetrated during that period by denying them the permission they must obtain to hold events or by breaking up their demonstrations.

Free Expression Cases

Two recent prosecutions of speech offenses illustrate the heavy repression authorities are willing to use to punish those who speak critically about discrimination within Mauritanian society.

A Mauritanian blogger, Mohamed Cheikh Ould Mkhaitir, has been imprisoned since January 2014. In December of that year, a lower court convicted him of apostasy and sentenced him to death, a punishment upheld on appeal. After the Supreme Court ordered a new trial, an appeals court on November 9, 2017, reduced his sentence to two years in prison, which he had already served, and a fine. The prosecutor has appealed this verdict, and as of November 25, 2017, Mkhaitir remained apparently in custody, his whereabouts unknown. The offense of Mkhaitir, who comes from a lower caste known as the lem'almin

لمعلمين (les forgerons, or blacksmiths), was to have penned an article criticizing fellow Mauritians who, he said, cited examples from the life of the Prophet Muhammad to justify racial and caste discrimination today.

Oumar Ould Beibacar, who retired as a colonel from the Garde Nationale in July 2015, has for two years been under judicial control and facing charges under the Counterterrorism law, solely for giving a speech in November 2015 denouncing the authorities' response to the atrocities committed during the *Passif Humanitaire*. Beibacar said that the harsh repercussions he faced are due as much to the messenger as the message: he is one of the rare Beidans and, even rarer, a retired military officer, who demands that authorities do more to recognize and make amends for the summary executions a quarter century ago of fellow officers who were *négro-mauritanien*.

Parliament on June 9, 2017, adopted a new law to combat discrimination that contains provisions that could be used to imprison persons for nonviolent speech. Article 10 states: "Whoever encourages an incendiary discourse against the official rite of Islamic Republic of Mauritania shall be punished by one to five years in prison." Such a vague standard could be applied to persons who peacefully criticize Islam as it is practiced in Mauritania, something that some activists opposing slavery and discrimination have done.

Anti-slavery Groups

Mauritania outlawed slavery only in 1981, criminalized the practice in 2007, and created specialized courts in 2015 to prosecute slavery cases. Authorities claim success in eradicating slavery and say that today the challenge is to address the lasting socioeconomic effects, or "legacy" of slavery.

Both of Mauritania's main anti-slavery nongovernmental associations, SOS-Esclaves and the Initiative for the Resurgence of the Abolitionist Movement (IRA), challenge this official discourse by affirming that slavery continues to be practiced, though differ in their approaches. The older SOS Esclaves has legal status and employs a more moderate discourse. The more aggressive IRA, founded in 2008, has been denied legal recognition. Its president, Biram Bah Abeid, maintains that slavery, far from being eradicated, affects 20 percent of Mauritania's population; he also denounces the under-representation of Haratines and other blacks in senior government positions.

IRA, while stating that it adheres to a policy of nonviolence, often employs provocative language and tactics. Its communiqués, for example, refer to the present government as “racist and enslaving.” In 2012, Biram publicly burned books of Islamic jurisprudence that he said were being interpreted in Mauritania to justify slavery.

While authorities often do not respond directly to the strident declarations that IRA makes both at home and during Biram’s frequent foreign engagements, they have pursued repressive policies toward Biram and IRA that severely hamper its activities, while allowing it to function at some level. Authorities have refused to process IRA’s application for formal registration, block their efforts to sponsor conferences and workshops, and in 2016 dissolved a development NGO that was allowing IRA members to use its offices. The courts have twice imprisoned IRA leaders since 2015 in unfair trials; two members are serving prison terms as of this writing.

In explaining the refusal to legalize IRA, Mauritania’s interior and justice ministers both told Human Rights Watch that IRA “divides national unity.” The former added that IRA had to choose between being a civil society organization and a political party, but could not be both: in 2014, Biram ran as a presidential candidate and came in second to the incumbent, Mohamed Ould Abdel Aziz.

Obstacles to Obtaining Full Citizenship

In January 2008, the governments of Mauritania and Senegal began the formal process of repatriating some of the estimated 60,000 Mauritians whom authorities expelled or who fled to Senegal in 1989 and 1990 during the *Passif Humanitaire*. In May 2011, Mauritanian authorities launched a nationwide census aimed at registering the country’s population in a biometric database, systematizing national ID cards and finalizing electoral lists.

Touche Pas à Ma Nationalité (TPMN) was founded in response to the 2011 census and subsequent national registration process, which TPMN says is aimed at undermining the citizenship rights of black Mauritians. Government ministers told Human Rights Watch that authorities had refused legal recognition to TPMN because it, like IRA, “divides national unity.” They called “baseless” TPMN’s claim that the registration process is ethnically discriminatory. Human Rights Watch has not examined the merits of this claim.

However, the UN special rapporteurs on racism and extreme poverty have described the ongoing registration process as discriminating against Haratines and *négro-mauritaniens*.

When the TPMN first organized rallies to protest the new registration process in 2011, authorities sometimes dispersed them with force, TPMN leaders said, causing injuries and the death by gunfire of one young protester in the town of Magama on September 27, 2011. Since then, TPMN's leaders say, they have not tried to organize mass rallies, but have been able to conduct smaller-scale protests such as sit-ins.

Recommendations

To the Mauritanian Government

- Void the conviction of Mohamed Cheikh Ould Mkhaitir and immediately release him unconditionally.
- Release from prison IRA activists Abdallahi Saleck and Moussa Bilal Biram, who are serving two-year terms after an unfair trial in which the court failed to investigate their torture allegations; and grant them a new and fair trial, if warranted.
- Close the investigation of any charges against Oumar Ould Beibacar that are based solely on his peaceful criticism of the authorities, lift the judicial order against him and return his passport, cellphone, and computer, and allow him to travel freely.
- Repeal all provisions of the penal code that provide for the death penalty, including article 306, which criminalizes apostasy, an offense that should be decriminalized; it is the article for which Mohamed Cheikh Ould Mkhaitir originally received the death penalty.
- Repeal all provisions of the Counterterrorism law that, in defining “terrorism” broadly and vaguely, such as “inciting ethnic, racial, or religious fanaticism,” can be used to prosecute peaceful speech; it is the basis upon which Oumar Ould Beibacar is under criminal investigation for publicly condemning and demanding accountability for atrocities perpetrated against négro-mauritanien army officers.
- Repeal all provisions of the 1993 amnesty law that prevent the investigation and prosecution of individuals responsible for serious human rights violations during the period known as the Passif Humanitaire.
- Respect the right to peaceful assembly by permitting public gatherings except when there is a demonstrable risk to national security or public order, and restrictions are strictly required by the exigencies of the situation. Ensure that organizers do not have to request permission to hold demonstrations but are simply subject to reasonable requirements to inform the authorities of planned protests.
- Harmonize all legislation, including articles 57-58 of the code of criminal procedure, with the provisions of the 2015 anti-torture law, which provides detainees the right to a lawyer from the beginning of any period of detention.

- Amend articles 5, 6, and 9 of the draft Associations Law to: either abolish the requirement that civil society organizations must register or make the registration process quick, easy, and inexpensive to carry out.
- Limit the power of authorities to refuse to register or to dissolve an existing association. Eliminate as grounds for dissolution activities classed as “political” or deemed to “divide national unity,” and limit the power to withhold or remove legal recognition to grounds that are necessary in a democratic society the interests of national security, public safety, or public order (ordre public). Ensure that dissolution is a measure taken only as a last resort and is subject to court review.
- Allow the Collective of Widows of Military and Civilian Victims of the Events of 1989-1991, the Initiative for the Resurgence of the Abolitionist Movement (IRA), Touche Pas à Ma Nationalité, and any other peaceful civil society organization that has applied, to formally register.

Methodology

Human Rights Watch researchers conducted the interviews that form the basis of this report during visits to Nouakchott March 23-29 and October 17-23, 2017. We encountered no obstacles to our movements or meetings.

We interviewed senior members of several NGOs, some legally recognized, others not, as well as members of the February 25 Movement. We met with defense lawyers and analyzed court documents in cases relating to the prosecution of civil society activists. On both of our visits, we interviewed Interior Minister Ahmedou Ould Abdallah and Minister of Justice Brahim Ould Daddah, as well as the president of Mauritania's National Human Rights Commission, Irabiha Abdel Wedoud.

Human Rights Watch provided no remuneration or other inducement to the interviewees. Almost all the interviews were conducted in Arabic or French; a few were in English. In each case, we explained to the person how the interview might be used and obtained his or her consent. Human Rights Watch thanks all those who met with our delegation or shared their expertise by phone or email.

On August 11, 2017, we submitted a letter to authorities with questions based on our preliminary findings and received a reply from Justice Minister Daddah on October 27, 2017. Both are reprinted in the appendix to this report.

I. Background

The Islamic Republic of Mauritania, a country the size of Germany and France combined, had a population of only 3.81 million in 2016, according to the National Office of Statistics.¹ Though mostly desert, Mauritania has considerable mineral resources; abundant fish stocks off its Atlantic coast, and fertile agricultural land in the Senegal River valley along its southern border. Mauritania's estimated gross national income per capita of US\$4,400 placed it above Senegal (\$2,600) and Mali (\$2,300) to the south and east respectively, but below Morocco (\$8,300) to the north, according to estimates for 2016.²

Mauritania declared independence from France, its colonial ruler, on November 28, 1960. Those who governed the new nation sought to forge an identity based on Islam and Arabic language and culture for the ethnically and linguistically heterogeneous population.

Mauritania's capital, Nouakchott, was barely more than a fishing village at independence. Today, it accounts for more than one quarter of the country's population. A recent report by the United Nations Special Rapporteur on extreme poverty and human rights described how a "rural exodus as a result of successive droughts, lack of access to water, food and decent employment as well as inadequate education and health-care services" has made the Nouakchott one of the fastest-growing cities in Africa.³

Mauritania's ethnic diversity reflects the country's geographical location, bridging the Maghreb and sub-Saharan West Africa. The population consists of three main ethnic groups, though important distinctions and subgroups nuance each. The first two of these groups, which together form about 70 percent of the population, speak the local dialect of Arabic known as Hassaniya. The first group of Hassaniya-speakers are known as "Beidans," descended from Arabs and Berbers who migrated from the north and east.

¹ National Office of Statistics, "Mauritanie en chiffres," <http://www.ons.mr/index.php/publications/statistiques/9-mauritanie-en-chiffres> (accessed October 28, 2017).

² US Central Intelligence Agency, World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2004rank.html> (accessed November 8, 2017).

³ UN Human Rights Council, Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania, A/HRC/35/26/Add.1, March 8, 2017, p.4, <https://reliefweb.int/report/mauritania/report-special-rapporteur-extreme-poverty-and-human-rights-his-mission-mauritania> (accessed November 14, 2017).

Beidans dominate the country's political and economic elite.⁴ Haratines form the second and larger group of Hassaniya-speakers. They are composed mostly of darker-skinned former slaves and their descendants. The third population group is often referred to as "Afro-Mauritians" or "*négro-mauritaniens*" and is comprised of several ethnic groups whose native tongues are African languages rather than Arabic.⁵ The Halpulaar are by far the most numerous, followed by the Soninké, and much smaller populations of Bambara and Wolof speakers.

According to one observer: "Blacks, who were educated in colonial schools and spoke French, formed the first mid-level civil servants of the new Mauritanian administration, while the narrow Arabo-Berber Beidan elites, after a short period of flux, quickly took hold of the political levers while their Haratine servants remained subjugated."⁶

The vast majority across all of these groups consider themselves to be Sunni Muslim, a factor that authorities see as one that unifies the population. The country's official name has been the Islamic Republic of Mauritania since independence in 1960, making it one of the first countries of the world to call itself an Islamic republic.

Although *négro-mauritaniens* experienced discrimination during the first quarter century since independence, they did not face systematic and violent persecution until the late 1980s under President Maâouiya Ould Sid'Ahmed Taya, an army officer who seized power in 1984 in a bloodless military coup.⁷

A number of factors laid the ground for state violence that amounted to ethnic cleansing and crimes against humanity: a coup attempt by *négro-mauritanien* army officers in October 1987; tensions between Mauritania and Senegal that erupted into communal mob

⁴ UN Human Rights Council, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere, A/HRC/26/49/Add.1, June 3, 2014, <http://www.ohchr.org/Documents/Issues/Racism/A-HRC-26-49.pdf>, p.3 (accessed November 14, 2017).

⁵ "*Négro-mauritanien*" and "Afro-Mauritanian" are misnomers insofar as they generally are understood to exclude Haratines, even though the latter, despite some mixing with Beidans, have the same sub-Saharan origins as the region's non-Hassaniya-speaking groups.

⁶ Francis Serra, "Mauritanie: les nouveaux enjeux de la lutte contre l'esclavage," *GOLIAS Hebdo*, no. 404 (October 22-28, 2015).

⁷ Human Rights Watch, *Mauritania's Campaign of Terror; State-Sponsored Repression of Black Africans* (New York: Human Rights Watch, 1994), <https://www.hrw.org/sites/default/files/reports/MAURITAN944.PDF>, p. 2.

violence on both sides of their common border; and increasingly contentious land disputes in the fertile Senegal River valley, also with ethnic overtones.⁸

The accused plotters of the 1987 coup attempt had no access to lawyers during their month-long pre-trial detention. After a trial that lasted two weeks, a military court convicted 44 officers, including three who were sentenced to death and executed. There was no appeals process.⁹

In 1989, ethnic tensions and disputes over arable land and grazing rights on the Mauritanian and Senegalese sides of the Senegal River flared into armed clashes. The Mauritanian government used the situation as a pretext to begin expelling thousands of Halpulaar, Wolof, and Soninké, accusing them of being Senegalese. The expulsions were accompanied by extrajudicial executions, torture, sexual violence, and the confiscation of land, livestock, and property. As of late 1993, the UN estimated the number of Mauritanian refugees in Senegal at approximately 52,500, and in Mali some 13,000.¹⁰

A coordinated, violent purge of blacks in the military further escalated the situation. Between October 1990 and mid-January 1991, authorities arrested approximately 3,000 *négro-mauritaniens* and accused them of plotting to overthrow the government.¹¹ The arrests were concentrated in the cities of Nouakchott, Nouadhibou, and Aleg. While *négro-mauritaniens* in the military were the prime target, customs officials, police officers, civil servants and ordinary civilians were also detained. Between 500 and 600 of those rounded up were killed: some died as a result of torture in incommunicado detention; others were executed, many of them extra-judicially.¹²

In September 1991, Human Rights Watch interviewed a chief warrant officer in the army who described the atrocities perpetrated in the village of Inal in November 1990:

⁸ Ibid., p. 115.

⁹ Ibid., p.115. Eighteen received life sentences, nine were sentenced to twenty years, five were sentenced to ten years, three were given five years, six were given five-year suspended sentences with heavy fines, and seven were acquitted.

¹⁰ Ibid., p. 39–57.

¹¹ Ibid., p. 62.

¹² Ibid., p. 62-76.

At 9 a.m., the Captain of the base of Inal came with two groups of six people, each with a whip. They began to beat us, and did so from 9 to 11:30 a.m. Afterwards they took us to a warehouse where we found friends of ours who were almost dead, people who couldn't even talk. The place was stinking, as if there were only dead bodies there. They then tied us with chains which were there and beat us every hour and insulted us, dirty words. They said we are savages who shouldn't have existed, that we are people who cannot be in Mauritania. They said that all the blacks should no longer exist in Mauritania; that we were in their hands and that they were going to kill us one by one and afterwards kill all the remaining population, that they were going to kill all the adults and only the children would be left, and these children would be taught Hassaniya or Arabic. French, Pulaar, Soninké, and Wolof would no longer exist in Mauritania. They kept on torturing us until around 7:00 p.m. The first person I saw hanged in front of my eyes was a soldier called Idi Seck. They took the rope, put it around his neck and tied him. They left him till he died. It was the first person I saw hanged. Afterwards, around midnight, they brought ropes, made three rows of ten people each and hanged thirty people. It was on the occasion of the feast of November 28 [Independence Day].¹³

In 1993, Mauritania's parliament passed Act No. 92-93 of June 14, 1993, which provided amnesty to members of the security forces for any offenses they may have committed during the *Passif Humanitaire*, and voided all judiciary records and investigations regarding any party who qualified for the amnesty under the law.¹⁴

The African Commission on Human and Peoples Rights criticized the amnesty in a 2000 ruling on a number of cases filed relating to human rights in Mauritania, saying, “an amnesty law adopted with the aim of nullifying suits or other actions seeking redress that may be filed by the victims or their beneficiaries, while having force within Mauritanian

¹³ Ibid., p. 68. A survivor of the massacre described it in a memoir: Mahamadou Sy, *L'enfer Inal* (Paris: L'Harmattan, 2000).

¹⁴ Journal officiel de la republique islamique de Mauritanie : Loi numero 93-23 du 14 juin 1993 portant Amnistie ; the text of the amnesty law, <http://fliim90.canalblog.com/archives/2012/12/22/25970745.html> (accessed November 27, 2017).

national territory, cannot shield that country from fulfilling its international obligations under the [African] Charter.”¹⁵

In 2013, the UN Committee Against Torture (CAT) criticized the 1993 law for “provid[ing] a blanket amnesty to members of the Armed Forces and security forces.” The CAT recommended that it be amended to “combat impunity with respect to acts of torture by, inter alia, making effective remedies available to victims and their dependents.”¹⁶ In 2015, Argentina repeated this recommendation during Mauritania’s Universal Periodic Review (UPR) session at the UN Human Rights Council, citing the CAT’s criticism from 2013.¹⁷ Mauritania rejected the Argentinian recommendation.¹⁸

On March 25, 2009, President Abdel Aziz, who came to power in a military coup in August 2008, signed a framework agreement to provide for the compensation of approximately 250 widows of murdered military personnel.¹⁹ On the same day, he led a collective prayer in the town of Kaédi called the “prayer of the absent” and dedicated it to the memory of the victims and their families: “Today, I am both sad and fulfilled. Sad because there was human loss without reason, but fulfilled because Allah has given the victims the courage to overcome their pain... without any resentment.”²⁰

¹⁵ 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, May 11, 2000, 54/91-61/91-96/93-98/93-164/97-196/97-210/98, http://www.achpr.org/files/sessions/27th/comunications/54.91-61.91-96.93-98.93-164.97-196.97-210.98/achpr27_54.91_61.91_96.93_98.93_164.97_196.97_210.98_eng.pdf (accessed October 29, 2017).

¹⁶ United Nations Committee against Torture, “Concluding observations on the initial report of Mauritania adopted by the Committee at its fiftieth session (6-31 May 2013),” UN Doc. CAT/C/MRT/CO/1, June 18, 2013, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsugOf%2FHOWoiAqRbON4BdStLs%2Fku9KV1kcZW%2FkdONp6PtMOzsZwe8kdqyXZ3j7oMH9XPB%2FwqjoumkRIJkkdNycpeZmUql32Fvr9sIEai3PT%2F> (accessed October 29, 2017).

¹⁷ The Universal Periodic Review (UPR), “2RP: Responses to Recommendation and Voluntary Pledges: Mauritania,” June 30, 2016, https://www.upr-info.org/sites/default/files/document/mauritania/session_23_-_november_2015/recommendations_and_pledges_mauritania_2016.pdf (accessed October 27, 2017).

¹⁸ *Ibid.*

¹⁹ United States Department of State, “2009 Country Reports on Human Rights Practices – Mauritania,” Bureau of Democracy, Human Rights and Labor, March 11, 2010, <http://www.refworld.org/docid/4b9e52d969.html> (accessed October 27, 2017).

²⁰ Marion Fresia, “Performing Repatriation? The Role of Refugee Aid in Shaping New Beginnings in Mauritania,” in *Transition and Justice: Negotiating the Terms of New Beginnings in Africa*, eds. Gerhard Anders and Olaf Zenker (Wiley Blackwell, 20015) 2014, chapter 3, and Gerhard Anders and Olaf Zenker, *Transition and Justice: Negotiating the Terms of New Beginnings in Africa* (Wiley Blackwell, 2005), p. 59.

As Mutuma Ruteere, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, observed: “Despite prayers for national reconciliation led by the President, the truth about what happened during this period is still treated as a national taboo and no official report about these events has so far been released.”²¹

Slavery

Haratines are black Mauritians descended mostly from persons enslaved by the mostly lighter-skinned Beidans.²² It should be noted that not all Beidans owned slaves, nor were they the only ethnic group in Mauritania that practiced slavery.

Experts who have been able to conduct research on the issue describe an entrenched model of descent-based domestic slavery, more like historical models of domestic slavery than with so-called new or modern forms of slavery. One writes:

Today we think of the slavery of the nineteenth century as exemplifying “old” slavery. But to understand Mauritanian slavery we must go back even further.... It both treats the slaves more humanely and leaves them more helpless, a slavery that is less a political reality than a permanent part of the culture. It is so deeply ingrained in the minds of both slave and master that little violence is needed to keep it going.²³

Today, there is a wide variation in the extent to which Haratines maintain relations of servility and dependence vis-a-vis their historic “masters.” There are no reliable figures as to number of Mauritians who live today in conditions resembling classic slavery and those who endure its modern forms, such as exploitative situations of domestic work and animal herding. Some scholars have argued that there are only “small pockets of slavery in

²¹ UN Human Rights Council, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, June 3, 2014.

²² For a brief summary of the legacy of slavery and the complex relationship between the Haratines and Beidans: E. Ann McDougall, “Life in Nouakchott is not true liberty, not at all: living the legacies of slavery in Nouakchott, Mauritania,” *Open Democracy*, July 19, 2016.

²³ Kevin Bales, *Disposable People: New Slavery in the Global Economy* (University of California Press, 2012), p. 83.

the country,” but there is a consensus that many of those who have escaped formal enslavement still live in conditions of extreme servitude and poverty.²⁴

In June 2016, responding to recommendations made during their UPR session in November 2015, the Mauritanian authorities declined to accept a recommendation from Canada that they “cooperate with the Office of OHCHR [The Office of the United Nations High Commissioner for Human Rights] in Mauritania and with civil society to conduct a study on the nature, incidence and consequences of slavery, and ensure a systematic collection of disaggregated data to measure the progress realised in the application of laws and policies aimed at the eradication of slave-like and discriminatory practices.”²⁵

Authorities remain sensitive about independent scrutiny of slavery in Mauritania. As this report shows, the Mauritanian human rights organization that has suffered the most repression is the one most outspoken on the issue of slavery: The Initiative for the Resurgence of the Abolition Movement, or IRA.

Authorities have also impeded the work of some foreign human rights workers looking into the issue of slavery.

On May 2, 2017, two French citizens who had been in Mauritania for over one month investigating racism and slavery, lawyer Marie Foray and journalist Tiphaine Gosse, were forced to depart the country after the police accused them of working for unrecognized associations, namely IRA and Touche Pas à Ma Nationalité.²⁶

On September 8, 2017, authorities refused to issue entry visas to a delegation of 12 American anti-slavery activists, turning them back at Nouakchott airport. They were from the Abolition Institute and Rainbow/PUSH Coalition, both based in Chicago. According to media reports, government spokesperson Mohamed Lemine Ould Cheikh said the activists

²⁴ Ahmed Meiloud and Mohamed El Mokhtar Sidi Haiba, “Slavery in Mauritania: Differentiating between facts and fiction,” *Middle East Eye*, April 18, 2015, <http://www.middleeasteye.net/essays/slavery-mauritania-differentiating-between-facts-and-fiction-103800371> (accessed July 14, 2017).

²⁵ UPR, “Responses to Recommendation and Voluntary Pledges: Mauritania,” June 30, 2016.

²⁶ Human Rights Watch interview with Marie Foray, phone, October 2, 2017, and Marie Foray and Tiphaine Gosse, “Esclavage en Mauritanie : ‘Les autorités sont dans l’hypocrisie et le déni,’” *le Monde*, May 16, 2017, http://www.lemonde.fr/afrique/article/2017/05/16/esclavage-en-mauritanie-les-autorites-sont-dans-l-hypocrisie-et-le-deni_5128347_3212.html (accessed September 28, 2017).

were denied entry because "their program is in breach of Mauritanian law" and "there were no consultations with the (Mauritanian) authorities over the programme, as is customary, and it consisted only of meetings with targeted parties who are working on a specific agenda."²⁷ Delegation member, Bakary Tendia, contradicted this claim, saying they had contacted Mauritanian authorities before arriving and had sought meetings with them.²⁸

Land Expropriation and Citizenship Rights

The Senegal River valley is home to Mauritania's most important agricultural production system. According to one study of land tenure, the control of the flood lands around the river "was most determinative of the distribution of power in the traditional society and around which traditional legal land constructs were framed."²⁹ In 1983, Mauritania passed land reform legislation that dramatically altered traditional land tenure rights and provided a legal basis for the expropriation of some of the country's most prized land from the *négro-mauritaniens* who had farmed it for centuries. Most of the beneficiaries of these expropriations were Beidans.³⁰

In 1990, a farmer explained the rudimentary mechanics of land expropriation, which led in some cases to what Mauritians refer to as "l'esclavage foncier" (land slavery):

It's always the same pattern. The government takes the land away from the blacks to give to white Moors, who then ask Haratines to work the land. The white Moor gets all the benefits. If you, the former owner, want to work the land, the best of them [white Moor owners] may accept, after long negotiations, that you work a part of the land to help with technical expertise – this is the exchange. But many of them don't even accept that. There are many arrangements possible between the old and the new master

²⁷ "Mauritania says US anti-slavery visit 'illegal'," *Agence France-Presse*, September 10, 2017, <http://www.news24.com/Africa/News/mauritania-says-us-anti-slavery-visit-illegal-20170910> (accessed November 9, 2017).

²⁸ Human Rights Watch interview with Bakary Tandia, New York, October 2, 2017.

²⁹ John Grayzel, "Land Tenure in Mauritania: The Causes and Consequences of Legal Modernization in a National Context," in *Land and Society in Contemporary Africa*, eds. R. E. Downs and S. P. Reyna (Hanover: University Press of New England, Hanover, 1988), and Phillip N. Bradley, Claude Raynaud, and Jorge Torrealba, *The Guidimaka Region of Mauritania: A Critical Analysis Leading to a Development Project* (London: War on Want, 1977), p.3.

³⁰ Ordinance 83.127, Land reform act of June 5, 1983. Anthony G. Pazzanita, *Historical Dictionary of Mauritania* (Scarecrow Press, 2008), p. 289.

of the land, but one thing remains unchanged, the former owner loses his land and nothing can compensate him for that.³¹

Land expropriation reached its height in 1989-1990, when the expulsions of *négro-mauritaniens* to Senegal accelerated land seizures from members of their community.³²

In January 2008, the governments of Mauritania and Senegal, with the assistance of the UN High Commission for Refugees (UNHCR), began the formal process of repatriating some of the estimated 60,000 Mauritians who had fled to Senegal in 1989 and 1990 during the *Passif Humanitaire*.³³

Under the tri-partite agreement that provided for the repatriations, the UNHCR was tasked with providing returnees with a document that entitled them to obtain a national ID card in Mauritania. Someone who lacks this card is effectively stateless; he or she cannot vote, faces obstacles to attending school and taking national exams, does not qualify for government benefits, and cannot own land.³⁴

In May 2011, Mauritanian authorities launched a nationwide census to register the population in a biometric database, systematize national ID cards, and finalize electoral lists. Registration takes place in two stages. First, individuals must submit a range of documents and information, including a national ID card, their parents' national ID numbers, and either a passport or an old birth certificate.³⁵ Two years into the registration process, the authorities announced that in order to register children, parents would have

³¹ Human Rights Watch interview in Dagana, Senegal, June 1990, cited in Human Rights Watch, *Mauritania's Campaign of Terror*, p. 43.

³² Human Rights Watch, *Mauritania's Campaign of Terror*, p. 60.

³³ UNHCR, Cécile Pouilly, "First Mauritians return home after 20-year exile," <http://www.unhcr.org/en-us/news/latest/2008/1/479f54b92/first-mauritanian-refugees-return-home-20-year-exile.html>, January 29, 2008 (accessed May 25, 2017).

³⁴ Sebastian Kohn, "Fear and Statelessness in Mauritania," *Open Society Foundation*, October 3, 2011, <https://www.opensocietyfoundations.org/voices/fear-and-statelessness-mauritania> (accessed May 25, 2017); OHCHR, "End-of-mission statement on Mauritania, by Professor Philip Alston, Special Rapporteur on extreme poverty and human rights," May 11, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19948&LangID=E> (accessed November 8, 2017); and UN Human Rights Council, Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania, March 8, 2017.

³⁵ Agence Nationale du Registre des Populations et des Titres Sécurisés – ANRPTS, as cited UN Human Rights Council, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, June 3, 2014, p. 11.

to supply a copy of their own marriage certificate.³⁶ Applicants can only register their biographic and biometric data once officials at registration centers screen and approve the documents they have submitted.

Human Rights Watch did not conduct research for this report to evaluate the claim by authorities that the registration process is neither discriminatory in intent nor in effect. However, many Mauritians find the process cumbersome and overwhelming, and have been unable to complete it despite their best efforts. Mauritanian NGOs such as Kawtal and Touche Pas à Ma Nationalité and UN special rapporteurs have concluded that the process is discriminatory toward Haratines and *négro-mauritaniens*.

The UN special rapporteur on extreme poverty and human rights, Philip Alston, who conducted a country mission in Mauritania in 2016, described how the confiscation or loss of identity documents made it “especially problematic” for *négro-mauritaniens* expelled during the *Passif Humanitaire* to enjoy their full citizenship rights.³⁷

The system also poses special disadvantages for Haratines, according to the UN special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, who visited the country in September 2013 and stated in his report:

These [registration] requirements de facto exclude Haratine whose parents and grandparents were never registered for the most part, and whose births were never registered, being born of parents who had not contracted civil marriages, and therefore could not acquire nationality in their own right.... [The requirements] have also led to the exclusion of a large number of Mauritians from remote rural areas, where access to public services is limited. Moreover, in accordance with Muslim traditions, most marriages in the past were contracted only before the religious authorities and not registered as civil acts, which is still the case in remote areas, thus leading to potential statelessness for a number of children.³⁸

³⁶ Ibid.

³⁷ UN Human Rights Council, Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania, March 8, 2017.

³⁸ UN Human Rights Council, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, June 3, 2014, p. 11.

II. Restrictions on Civil Society

When discussing the state of civil society organizations, officials who met a visiting Human Rights Watch delegation in March 2017 pointed to the thousands of NGOs registered in the country as evidence of the vibrancy of domestic civil society, and of the authorities' respect for human rights.³⁹ Justice Minister Daddah wrote in his letter to Human Rights Watch, "There are no restrictions on civil society or its activities so long as its conduct and expression are consistent with the objective legal and procedural framework."

Human Rights Watch's research shows, contrary to these claims, that authorities employ a vast array of repressive laws and other measures to punish and hamper the activities of those associations and individuals who speak out on some of the country's most sensitive issues pertaining to social justice.

One instrument of repression is the 1964 Law on Associations, which requires groups to obtain authorization from the Ministry of Interior to exist legally and which gives the ministry broad grounds to refuse such authorization or to withdraw it. According to that law, grounds for refusal include engaging in "anti-national propaganda," or "exercis[ing] an unwelcome influence on the minds of the people." Non-recognized associations are sometimes able to operate but encounter substantial obstacles: for example, hotels and public venues generally refuse to let them rent halls for events, third-party government donors such as the European Union refrain from funding them, and activists have sometimes faced prison time merely for membership.

In 2016, the Council of Ministers approved a draft law that would replace the 1964 law and in some respects further impede freedom of association; it would, for example, prohibit the establishment of any association whose activities "undermine national unity."

³⁹ Mauritania stated in 2016 that 6,028 national NGOs and 57 international ones operated in the country. 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 2013, http://www.achpr.org/files/sessions/60th/state-reports/10th-14th-2006-2014/mauritania_10th_14th_periodic_report_fre.pdf (accessed September 28, 2017).

Human Rights Organizations

Kawtal

Kawtal is a nongovernmental organization, formally registered in 2010, that campaigns on contentious issues such as the *Passif Humanitaire*, land expropriation, and the national registration of citizens. In April 2017, it published a report entitled: “Registering in the National Registry: A New Nightmare for Citizens,” which described the difficulties citizens face gathering and filing the documents required to register, and accused the administration of conducting the registration process in a manner that discriminated ethnically, based on profiling, notably against *négro-mauritaniens*.

On January 15, 2015, a First Instance Court in the Wilaya of Trarza convicted Kawtal’s president, Djiby Sow, and two leaders of IRA (Biram Dah Abeih, president, and Brahim Bilal Ramadan, at the time IRA vice-president) of “unarmed rebellion” and “violating the dignity of a public agent,” sentencing them to two years in prison. A court of appeal in Aleg upheld the verdict and sentences on August 20, 2015. The case stemmed from a confrontation that occurred when authorities prevented a caravan of activists from entering the southern border town of Rosso on November 11, 2014.⁴⁰ The court found that Sow, Biram, and Bilal as leaders of the caravan bore criminal responsibility for defying a written order from the governor prohibiting the caravan from proceeding toward Rosso and then disobeying orders from police on the scene to retreat.

Sow told Human Rights Watch that the caravan – a small group of activists on a tour to raise awareness of human rights issues – comprised seven organizations, including the IRA.⁴¹ The caravan, which began in the town of Bogué on November 7, 2014, visited towns along the Senegal River and talked to the residents there about issues such as land expropriation, slavery, and truth and justice for victims of the *Passif Humanitaire*. Sow said

⁴⁰ Article 193(2) of the penal code. Trarza First Instance Criminal Court, file 2014/285, judgment 2015/1. The court of first instance and court of appeal rulings are available in Arabic with translations in English in the annex to a complaint submitted on December 18, 2015 to the United Nations Working Group on Arbitrary Detention by the US-based rights group Freedom Now, <http://www.freedom-now.org/wp-content/uploads/2015/12/IRA-Mauritania-UNWGAD-Petition-Redacted.pdf> (accessed October 5, 2017), and “Mauritania: Anti-Slavery Activists Sentenced to Two-Years’ Imprisonment,” *International Federation for Human Rights or FIDH*, June 30, 2015, <https://www.fidh.org/en/region/Africa/mauritania/mauritania-anti-slavery-activists-sentenced-to-two-years-imprisonment> (accessed June 7, 2017).

⁴¹ Human Rights Watch interview with Djiby Sow, Nouakchott, March 24, 2017.



Djiby Sow, president of the nongovernmental organization Kawtal, Nouakchott, October 2017

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that he had notified authorities of their plans in writing and in advance, pursuant to the laws governing public gatherings, but got no response.

On November 7, the prefect of Bogueé notified the caravan that the governor of Brakna province was ordering them to cease their activity. Sow said that after discussion, the authorities allowed the caravan to resume its course. Then on November 10, the governor of Trarza province notified the caravan leaders that he was forbidding it to proceed.⁴²

The organizers nevertheless hoped that they could finish the journey on November 11 with a large meeting in Rosso, the capital of Trarza province, and the presentation of a letter to the governor concerning the problems they had observed. Security forces, however, prevented them from entering the town.

⁴² Human Rights Watch email correspondence with Djiby Sow, October 29, 2017.

“About 5 kilometers outside Rosso, gendarmes, police and soldiers stopped us. They demanded we turn around. We refused,” Sow recalled.⁴³ “We wanted to negotiate with them to let us enter Rosso.”

Brahim Bilal Ramdhane, then with IRA, said:

We were only 30 or 40 people in our caravan, in seven or eight cars. The police and gendarmes outnumbered us. They ordered us to turn back. We didn’t even have gasoline to get very far, and we wanted to negotiate. The Rosso security chief (the *hakim*, or prefect) arrived and said we had to turn back. We wanted to negotiate and so we stood our ground; there was no violence, no rock-throwing. The security chief then left. The stand-off lasted until [IRA President] Biram, who was not part of the caravan, arrived on the scene. That was when the police started pushing us back and using tear gas. The fact that we stood our ground when the police blocked our way and ordered us to turn back became a charge of “illegal gathering.”⁴⁴

Police dispersed the caravan and arrested Ramdhane, Sow, Biram, and seven others who were later released. Sow told Human Rights Watch that officers at the gendarmerie in Rosso interrogated him over a period of four days, during which time they denied him access to a lawyer and his family. “They asked why we had organized the caravan, why we hadn’t visited any Beidan villages, and accused us of trying to incite the Haratines against the Beidan.”⁴⁵

A prosecutor charged the men with penal code offenses that included illegal unarmed gathering, insurrection, aggression towards the security forces, and unarmed rebellion, according to articles 101-105, 191-194, and 204 of the penal code. They were also charged with membership in an unauthorized organization, a violation of the Law on Associations punishable by prison.⁴⁶

⁴³ Ibid.

⁴⁴ Human Rights Watch interview with Brahim Bilal Ramdhane, Nouakchott, October 21, 2017.

⁴⁵ Ibid.

⁴⁶ UN Office of the High Commissioner for Human Rights, Mauritania Office, “Rapport de la Mission d’établissement des faits du Bureau du Haut-Commissariat des Nations Unies aux Droits de l’Homme en Mauritanie,” November 15-16, 2014, <http://www.ohchr.org/Documents/Countries/MR/FinalReportMission12Dec2014.doc> (accessed October 27, 2017).

The Office of the United Nations High Commissioner for Human Rights (OHCHR), which maintains a country office in Mauritania, visited the accused men four days after their arrest and reported on the circumstances of their arrest, and their treatment thereafter. The OHCHR recommended, among other things, that the Mauritanian authorities conduct “an independent, impartial and timely investigation into the behavior of the police and the gendarmerie as part of its efforts to maintain order and the dispersal of the public meeting on 11 November.”⁴⁷ The authorities conducted no such investigation that was ever made public, to Human Rights Watch’s knowledge.

The appeals court upheld two-year prison sentences for Sow, Biram, and Ramdhane, even though the court received no credible evidence of violent behavior on the part of the caravan members. Sow was released on June 18, 2015, on health grounds.⁴⁸ Biram and Ramadan of IRA were not freed until May 2016, after the Supreme Court downgraded the charges and shortened their sentence from two years to 18 months (see below).

Sow told Human Rights Watch that since his release from prison the authorities have prevented Kawtal from organizing sit-ins and holding meetings. He said they have to hold press conferences in private spaces, since the authorities refuse to allow them to conduct them in hotels.⁴⁹ Sow said:

Sometimes Kawtal is allowed to hold activities, sometimes not. We inform the authorities in advance, but they never respond in writing. The day you arrive for the event, the police might be there, blocking the activity.⁵⁰

For example, authorities in the province of Boghé prevented Kawtal on June 6, 2017, from organizing a conference and a cultural event, focused on the issue of property rights and the citizen registration process, according to Sow. “Kawtal informed them of the activity, but we got no response. But when we arrived the police were blocking it,” he said.⁵¹

⁴⁷ Ibid.

⁴⁸ Human Rights Watch interview with Djiby Sow, Nouakchott, March 24, 2017.

⁴⁹ Human Rights Watch email correspondence with Djiby Sow, June 22, 2017.

⁵⁰ Human Rights Watch interview with Djiby Sow, Nouakchott, October 18, 2017.

⁵¹ Human Rights Watch email correspondence with Djiby Sow, September 14, 2017.

The Initiative for the Resurgence of the Abolitionist Movement (IRA)

Justice Minister Daddah wrote to Human Rights Watch:

The phenomenon of slavery has been confronted resolutely through legislation criminalizing the practice of enslavement, penalizing perpetrators and upholding the rights of victims. The authorities continue to fight the effects of this phenomenon, to limit its consequences and combat its social, economic and cultural impact on Mauritanian society as a whole. The road map to combat modern forms of slavery and the institutions founded under it, such as the Joint Ministerial Committee to Combat Slavery and the Technical Committee and the Solidarity Agency, are all shining examples of a clear strategy and ambitious programs to heal the wounds caused by enslavement practices.

The Initiative for the Resurgence of the Abolitionist Movement (IRA), founded in 2008, directly disputes this official discourse. It campaigns, according to its bylaws, against what it considers to be the government's failure to end slavery and effectively tackle its legacy. Most, but not all, of its leadership is from the Haratine community.

IRA's communications director, Hamady Lehbouss, described IRA as being engaged in "a struggle that is peaceful but firm."⁵² IRA in its news releases refers to the present government as "racist and enslaving."⁵³ IRA's founder and president, Biram Dah Abeid, told Human Rights Watch that 20 percent of the country's population was enslaved, a direct contradiction of the government's assertion that slavery has been eliminated except for the isolated case here and there.⁵⁴ Biram also denounces the under-representation of Haratines and other blacks in senior government positions.⁵⁵

⁵² Human Rights Watch interview with Hamady Lehbouss, Nouakchott, March 23, 2017.

⁵³ "Les autorités mauritaniennes arrêtent des leaders d'IRA," *IRA*, <http://unpo.org/downloads/1896.pdf> (accessed August 10, 2017).

⁵⁴ Human Rights Watch interview with Biram Dah Abeid, Washington, D.C., March 2, 2017.

⁵⁵ Justine Spiegel, "Biram Dah Abeid : 'Ma candidature va totalement transformer la carte politique mauritanienne,'" *Jeune Afrique*, June 17, 2014, <http://www.jeuneafrique.com/52116/politique/biram-dah-abeid-ma-candidature-va-totalement-transformer-la-carte-politique-mauritanienne/> (accessed September 28, 2017).

In April 2012, Biram sparked controversy by burning, during a public demonstration in Nouakchott, a classic text of the Malekite Islamic jurisprudence, which is the dominant school in Mauritania, on the grounds that it justified slavery and thereby distorted the message of the Quran. For this act, Biram spent about four months in prison.⁵⁶

Two years later, Biram ran for president and came in second, with nine percent of the vote compared to 82 percent for the incumbent, President Abdel Aziz.⁵⁷ Some members of the political opposition, which mostly boycotted the election, criticized Biram's participation as giving a veneer of pluralist legitimacy to what they considered an unfair contest.⁵⁸ Biram ran as an independent because authorities had refused to legalize the party he had created in 2013, the Radical Party for Global Action (le Parti Radical pour une Action Globale, RAG), on the grounds that it violated a provision in the law on political parties that prohibits parties based on "a race, ethnic group, region, tribe, gender or a brotherhood (confrérie)."⁵⁹ In 2017, Biram announced his intention to run for president again in 2019.⁶⁰

Mauritanian authorities have refused to respond formally to IRA's application to register as an NGO, not to its first attempt in June 2010, nor to subsequent attempts. While they have refrained from shutting down IRA outright, they have also subjected its members to arrest, unfair trials, and imprisonment, in apparent reprisal for their activities and rhetoric. Some of those arrested alleged that the police tortured them.⁶¹ Authorities have also blocked specific activities of IRA while tolerating others.

⁵⁶ "Mauritanian activist sparks religious storm," *BBC News*, May 31, 2012, <http://www.bbc.com/news/world-africa-18209011> (accessed September 28, 2017) and "Mauritanie: Critiquer la gouvernance, un exercice risqué," *FIDH*, https://www.fidh.org/IMG/pdf/rapport_mauritanie_vf.pdf, November 28, 2012 (accessed September 28, 2017).

⁵⁷ Kissima Diagana, "Mauritania presidential election runner-up rejects results," *Reuters*, <https://af.reuters.com/article/topNews/idAFKBNoFoolD20140625>, June 24, 2014 (accessed September 28, 2017).

⁵⁸ Human Rights Watch interview with Amadou Sy, journalist with *Le Quotidien de Nouakchott*, Nouakchott, October 20, 2017.

⁵⁹ Directive No. 91-024 of July 25, 1991 on political parties, as modified by Law No. 91.014 of July 12, 1994, article 6, "Rejet de la demande de reconnaissance du parti RAG," *Cridem*, http://www.cridem.org/C_Info.php?article=646155 (accessed November 13, 2017).

⁶⁰ "Mauritanie, l'anti-esclavagiste en campagne," *Cridem*, September 27, 2017, http://cridem.org/C_Info.php?article=702856 (accessed October 27, 2017).

⁶¹ Human Rights Watch interviews with Hamady Lehbouss, Ahmed Hamdi, Laila Ahmed, Abdou Babou, and Mohamed Brake, Nouakchott, March 23, 2017.

The OHCHR has criticized the limbo in which the state's position has placed IRA: "This situation favors an arbitrary application of the law on associations and can amount to an impediment to freedom of association in terms of the international norms that apply in Mauritania."⁶²

While authorities never responded formally to IRA's application for legal status, Minister of Justice Daddah was unapologetic about the state's refusal to recognize IRA, accusing it of seeking to "divide national unity" in violation of article 1 of the Constitution, which enshrines the principle of non-discrimination with regard to origin and race and prohibits "propaganda of racial or ethnic character."⁶³ Daddah also said that IRA did not conduct itself as an NGO: "We have rules for political parties and rules for associations. You have to choose which one you are, you can't have one foot in each," he said.⁶⁴ Interior Minister Ahmedou Ould Abdallah made similar arguments: "IRA is not a human rights organization. It divides national unity." Abdallah contrasted IRA's approach to that of another anti-slavery NGO, SOS Esclaves, which he said did not seek to divide national unity and was "properly constituted."⁶⁵

The founder and director of SOS Esclaves, Boubacar Messaoud, told Human Rights Watch that IRA is more confrontational in its strategy than his own organization, which obtained legal recognition in 2005, but said that the authorities had contributed to IRA's politicization: "The government is trying to present the Haratine as a threat and they use IRA to argue this."⁶⁶

As noted in the previous section on Kawtal, in January 2015, a court in Rosso sentenced Biram Dah Abeid and Brahim Bilal Ramdhane to two years in prison for rebellion of an unarmed nature, under penal code article 193. On August 17, with their appeals trial under way, Mauritanian authorities denied entry on August 17, 2015, to Michel L. Hoffman, president of the Swiss NGO, Vivere, who had arrived at Nouakchott airport to observe the trial and, if possible, visit Biram and Ramdhane in prison. Hoffman remained at the airport

⁶² UN Office of the High Commissioner for Human Rights in Mauritania, "Rapport de la Mission d'établissement des faits du Bureau du Haut-Commissariat des Nations Unies aux Droits de l'Homme en Mauritanie," November 15-16, 2014.

⁶³ Article 1, Mauritania's constitution of 1991.

⁶⁴ Human Rights Watch interview with Brahim Ould Daddah, Minister of Justice, Nouakchott, March 29, 2017.

⁶⁵ Ibid.

⁶⁶ Human Rights Watch interview with Boubacar Messaoud, Nouakchott, March 23, 2017.

for two days before being expelled. On August 20, the appeals court upheld the defendants' sentences.

The Supreme Court on May 17, 2016 downgraded the charges for which Biram and Ramdhane had been convicted and ordered their immediate release, after they had served 18 months in jail.⁶⁷

Only six weeks later, authorities in Nouakchott arrested 13 IRA leaders and members and brought them to trial in what proved to be the most serious case to date against members of the group.

The charges related to clashes that took place on June 29, 2016, after police attempted to evict the residents of "Gazra Bouamatou," an informal but long-standing settlement of a few hundred mostly Haratine families in the Tefragh Zeina district of the capital, in advance of the city's hosting of an Arab League summit.⁶⁸ Many police officers and protesters sustained injuries, including, reportedly, two police officers who had to be evacuated to Morocco for treatment. Property was damaged, including a police bus that was burned. The police arrested tens of persons that day, none of them IRA activists. The round-up of IRA activists began only the next day and continued over the next several days, reaching a total of 13 men by July 9.

IRA denied that any its members were involved in the violent events. According to defense lawyer, Fatimata M'baye, of the 13, only two were present at the events that day, Moussa Bilal, who stopped as he was driving by and saw the situation, and a second member, Abdallah Diop, who heads a local section of IRA and who came to the scene after Bilal called him. They denied at trial organizing or taking part in the violence, as did their 11 co-defendants from IRA. An additional ten residents of the area were co-defendants with the IRA members.

⁶⁷ Célian Macé, "Mauritanie: un militant anti-esclavagiste libéré," *Libération*, May 17, 2016. http://www.liberation.fr/planete/2016/05/17/mauritanie-un-militant-anti-esclavagiste-libere_1453252 (accessed September 28, 2017) and "Case History: Biram Dah Abeid," *Frontline Defenders*, <https://www.frontlinedefenders.org/en/case/case-history-biram-dah-abeid> (accessed September 28, 2017).

⁶⁸ Mauritania hosted the 27th Arab League Summit, which began on July 25, 2016.

The fairness of the trial, which got under way in early August 2016 in the Nouakchott Court of First Instance, was undermined by allegations of torture and mistreatment that the court did not investigate and by other procedural irregularities. In addition, the conviction of all 13 IRA members seemed based on thin evidence. According to defense lawyer Ahmed Eli Messoud and one observer who attended the trial, the court heard no witnesses who incriminated any of the IRA defendants, and saw no photos or videos that showed them committing offenses.⁶⁹ The observer said that the prosecutor, to prove a conspiracy involving IRA members who were not at the scene, produced cellphone records showing that various IRA members had been in frequent communication with one another that day, but the prosecution did not produce the content of those communications.⁷⁰

Two of the IRA members convicted in the June 2016 unrest, Hamady Lehbouss and Ahmed Hamdi, told Human Rights Watch that the police arrested them in separate locations in Nouakchott on July 3, 2016, and then held them for nine days in solitary confinement, during which time the police denied their requests to consult lawyers and doctors.

Lehbouss, IRA's communications director, said that his interrogators at the Commissariat Spécial de la Police Judiciaire accused IRA of having plotted in advance the resistance to the June 29, 2016, dismantling of the informal settlement. Hamdi, IRA's treasurer, told Human Rights Watch that the police asked him about IRA's finances, its international relations, and about the June 29 clashes. Both men denied being present at the protest and the riot that ensued. Lehbouss said that while he did not endure any physical mistreatment during interrogations, a senior officer there called him and other IRA detainees "dirty slaves," among other insults.⁷¹ The Court of First Instance sentenced Lehbouss and Hamdi to five and three years in prison respectively, reduced later on appeal.

Article 57 of the code of criminal procedure (CCP) provides, with certain exceptions, a maximum period of 48 hours that the police can hold a detainee in custody before bringing

⁶⁹ Human Rights Watch email correspondence with Ahmed Ely Messoud, November 18, 2017.

⁷⁰ Human Rights Watch email correspondence with trial observer, October 25, 2017. The observer asked to remain anonymous.

⁷¹ Human Rights Watch interviews with Hamady Lehbouss and Ahmed Hamdi, Nouakchott, March 23, 2017.

him before a judge. That detention is renewable only with the signed authorization of a prosecutor, who can order a single 48-hour extension.⁷²

The prosecutor determined that all 13 IRA members had been arrested “*en délit flagrant*” (caught in the act), even though none had been arrested on the day of the clashes. Classifying an offense as a *délit flagrant* allows Mauritanian prosecutors to order a suspect’s detention for up to 30 days without having to get a judge’s approval.⁷³ It also means bypassing the phase of the trial where an investigative judge examines the evidence (*l’instruction*) and decides whether to refer the case to trial.

The CCP defines the concept of *flagrant délit* to include when an individual has been apprehended either in the commission of a crime or very shortly thereafter, or there is strong physical evidence implicating them in the commission of a crime.⁷⁴

The court rejected the defense’s challenge to the *délit flagrant* classification, holding that the state of being *en délit flagrant* attaches to the events and not to persons. The presence of evidence consisting of images and videos “showing the accused to be *en délit flagrant*” means that the accused’s absence and flight from the scene, even if it lasted days, does not negate the state of flagrancy.” As noted above, both a defense lawyer and an observer to the trial told Human Rights Watch that the prosecution produced no photos or videos showing the defendants in the act of committing offenses.

Fatimata M’Baye was one of the lawyers present when the IRA detainees saw the prosecutor and their own defense counsel for the first time in the early hours of July 12. She said the prosecutor refused to remove the IRA members’ handcuffs and failed to note what she described as visible injuries on some of them.⁷⁵ “They transferred us in the middle of the night to make sure there were no protests,” said Lehbouss.

⁷² Mauritania Code of Criminal Procedure, https://legislationmauritanienne.files.wordpress.com/2011/06/code-de-procc3a9dure-pc3a9nale-de-1983_ordonnance-nc2bo-83-163.pdf.

⁷³ *Ibid.*, article 62.

⁷⁴ *Ibid.*, article 46.

⁷⁵ Human Rights Watch interview with Fatimata M’Baye, Nouakchott, March 25, 2017.

Another defense lawyer, Brahim Ould Ebetty, along with defendants Hamady Lehbouss and Ahmed Hamdi, all told Human Rights Watch that defendants Abdallahi Saleck and Moussa Bilal Biram had visible injuries attributable to torture in detention.

“Moussa had cuts on his wrists and his ankles from the cuffs. He had problems walking. He told the prosecutor in front of the police that he’d been tortured,” said Hamdi.⁷⁶ According to Lehbouss, “Abdallahi had swollen ankles and wrists, and said he had been beaten on the soles of his feet.”⁷⁷

Saleck and Biram were the only two of the 13 who were still in prison as this report went to press.

The defense asked the court to investigate whether the police had subjected the defendants to torture or ill-treatment. Mauritania’s 2015 anti-torture law requires that the judicial authorities initiate impartial inquiries into credible allegations of torture.⁷⁸ According to defense lawyer Ebetty, the prosecutor ignored this request. The trial judgment confirms this. It states that the prosecutor conducted no investigation because he had received no such request and the complaint was “unfounded.” The prosecutor also noted in this context that “all of the accused denied the charges and there was no need for torture,” seeming to imply that the fact that the defendants did not confess to anything discredits their allegations of torture.⁷⁹ Lawyer Ebetty confirmed that the defendants did not confess; in his view, the violence that the police allegedly used against the defendants

⁷⁶ Human Rights Watch interview with Ahmed Hamdi, Nouakchott, March 23, 2017.

⁷⁷ Human Rights Watch interview with Hamady Lehbouss, Nouakchott, March 23, 2017.

⁷⁸ Law No. 2015-033 (the anti-torture law), adopted in September 2015. In addition, the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa states: “When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect’s human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the judicial body accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice,” <http://www.achpr.org/instruments/principles-guidelines-right-fair-trial/> (accessed October 5, 2017).

⁷⁹ The prosecutor’s arguments are paraphrased in the court’s judgment in the case, Nouakchott West Court of First Instance, case file 558/2016, August 18, 2016 (copy on file at Human Rights Watch). In his 2016 report on Mauritania to the Human Rights Council, the UN special rapporteur on torture noted that “the use of torture against and the ill-treatment of individuals during the first hours after arrest and in detention are particularly serious when it comes to allegations of terrorism or threats to national security or other serious crimes that require complex investigations,” Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Mauritania, A/HRC/34/54/Add.1, December 13, 2016.

in custody was inflicted in order to avenge the police agents injured in the events of June 29 rather than to extract confessions.⁸⁰

Before the trial's conclusion, the defense lawyers withdrew from the case to protest the judge's ruling to allow the prosecution to introduce into evidence a video that had not previously been part of the case file.

After the lawyers' withdrawal, the court appointed lawyers to conclude the defense of the accused, who refused their new counsel. The court then denied a request by the new counsel to allow them more time to prepare.

On August 18, 2016, the court convicted the 13 IRA members of a range of offenses under the penal code, including rebellion, use of violence, attacking public agents while they are on duty and participation in and calling for, armed assembly. The court also convicted them of membership in an unrecognized organization under the law on associations. The court sentenced Moussa Bilal Biram, Abdallahi Maâtallah Saleck, Amadou Tijani Diop, Abdallahi Abou Diop, and Jamal Ould Samba to 15 years each; Hamady Lehbouss and Balla Touré to five years each; and the other IRA members to three years apiece. All were also fined.⁸¹ The court also imposed prison terms and payment of damages on some of the ten defendants who were not IRA activists but from the neighborhood where the disturbance occurred. The defendants filed an appeal and, the following month, were transferred to a prison in the town of Zouerat, more than 700 kilometers from their homes in the capital.

On November 18, 2016, the Nouadhibou Court of Appeal, operating in Zouerat, acquitted and freed three of the IRA members whom the court of first instance had convicted and reduced the sentences for the rest. It acquitted seven others of all charges except administering an unrecognized association and reduced their sentences to the four months they had already served plus eight months suspended, and released them. Another, Abdallahi Abou Diop, was freed two months later, after having served a reduced sentence of six months, for incitement to an unarmed gathering.

⁸⁰ Human Rights Watch interview with Brahim Ould Ebetty, Nouakchott, March 24, 2017.

⁸¹ Nouakchott West Court of First Instance judgment in case 558/2016.



The 11 IRA activists who were freed from prison on November 18, 2016, at a press conference on November 30, 2016, in Nouakchott. © 2016 Marie Foray

Against the remaining two IRA members in this case, Abdallahi Saleck and Moussa Bilal Biram, the appeals court dropped all charges except incitement to an unarmed gathering likely to threaten public order and administering an unrecognized association, and lowered their sentences to three years in prison, one of which was suspended.

Following the appeals court ruling, authorities transferred Saleck and Biram to Bir Moghreïn prison, 1,200 kilometers from their homes in Nouakchott. They are still serving their terms there.

Minister of Justice Daddah wrote to Human Rights Watch about the case:

The individuals who claim to belong to the unlicensed “IRA” movement in 2016 carried out acts of rioting and armed assembly, and incited others to do the same. They violently assaulted public force agents as the latter carried out their duties, destroying public and private property, which are

criminal acts punishable under relevant law. They were tried and convicted in a fair trial in which they were afforded every legal recourse.

Evidence seized was presented before the court, including video clips of the scene of the crime from cameras, some of which belonged to the accused themselves, which showed the involvement of some of them in the acts ascribed to them. The Appeals Court threw out this evidence for all of the accused except the two who appeared clearly in the videos. The case is still before the Supreme Court, and so the video cannot be provided to anyone not a party to the case.

While Human Rights Watch did not view the video in question, defense lawyer Ahmed Eli Messoud denied that it showed any of the IRA defendants committing an infraction.⁸²

In the aftermath of the events of Gazra Bouamatou, authorities shut down a legally recognized NGO that had been informally providing office space to IRA, which could not rent an office in its own name because it had been refused legal status. The president of the NGO, POP-DEV (Population et Développement), is Balla Touré, who also belongs to IRA's national bureau.

On July 1, 2016, the second day of the round-up of IRA activists after the clashes at Gazra Bouamatou, police came to the office of POP-DEV and searched the premises. They arrested Touré the same day. On July 24, the police escorted Touré from jail back to the POP-DEV office, to be present while they conducted an inventory. The police refused Touré's demand to have his lawyer present, and Touré refused to sign the police's inventory report at the end of the search, Touré told Human Rights Watch. A few days later, the police returned and hauled away the contents of the office, he said. The first instance court sentenced Touré to five years in prison. In November, he was among the seven IRA defendants freed when the appeals court acquitted them of all charges except operating a non-recognized association.

On January 19, 2017, the regional director of security for Nouakchott West summoned Touré to inform him that authorities had dissolved POP-DEV on August 18, 2016, while he was still in prison. Touré petitioned the Nouadhibou appeals court to force the police to

⁸² Human Rights Watch email correspondence with Ahmed Ely Messoud, November 18, 2017.

return the materials they confiscated from the organization. The court never responded, he said, and POP-DEV has ceased its activities, Touré said.⁸³

The authorities' refusal to authorize IRA means it cannot host formal events, such as press conferences. Authorities also move against efforts by IRA to circumvent the restrictions that come with its lack of legal status. For example, when IRA tried to hold a press conference in early 2016 at the headquarters of the legally recognized Forum of National Human Rights Organizations (Forum des Organisations Nationales des droits de l'Homme, FONADH), the Interior Ministry summoned FONADH Executive Director Mamadou Sarr to reprimand him, Sarr told Human Rights Watch. "Other unrecognized associations hold their activities here. IRA is the one that bothers them," he said.

Sarr said that the FONADH reserved a hall in the Hotel Wissal in Nouakchott for a workshop scheduled for July 30, 2016, entitled: "For the Right to Life and against the Death Penalty." But when the day approached, the police informed him that they could not hold it at the hotel, so they moved it to FONADH's office.⁸⁴

Minister of Interior Ahmedou Ould Abdallah told Human Rights Watch:

The reason FONADH was not allowed to hold their event at the Hotel Wissal was because IRA was involved. If an association is recognized and they notify authorities, it's no problem, they can rent a hall in a hotel. But if the association is unrecognized, it needs to get permission, not just notify. Unrecognized associations sometimes try to do it under the flag of a recognized association. We told the recognized associations that they mustn't do that; let the unrecognized association apply themselves. When the FONADH was summoned and told this was an IRA activity, the FONADH didn't deny it. IRA never requests permissions from the state. Thus, all their activities are illegal. Do they even recognize the state?⁸⁵

⁸³ Human Rights Watch email correspondence with Balla Touré, October 10, 2017.

⁸⁴ Human Rights Watch interview with Mamadou Sarr, Nouakchott, March 28, 2017.

⁸⁵ Human Rights Watch interview with Ahmedou Ould Abdallah, Nouakchott, March 29, 2017.

IRA is not the only organization whose press conferences authorities have sought to curtail. The president of the Mauritanian Observatory of Human Rights (OMDH), Abdallahi Beyane, told Human Rights Watch that in March 2016 the authorities instructed the Chinguitti Palace hotel in Nouakchott not to let OMDH host a press conference to publicize the findings of the OMDH's annual report. They had informed the authorities in advance. This was despite OMDH having submitted the requisite documentation in advance and the authorities having offered oral assurances that they would authorize the event.⁸⁶ They moved the event to the headquarters of the FONADH, where it proceeded without incident. Since then no other OMDH activities have been blocked, its secretary-general, Mohamed Salem Abedine, told Human Rights Watch.⁸⁷

Touche Pas à Ma Nationalité

Touche Pas à Ma Nationalité (TPMN, Hands Off My Nationality) was founded in response to the 2011 census, and subsequent process of enrolling people in a biometric national identity card system, which the association says is aimed at denying black Mauritians citizenship rights. The organization's president, Alassane Dia Ja, and its secretary general, Abbas Diagana, described the registration as intentionally discriminatory against Haratines and black Mauritians and part of "a clear policy of Arabization" that has been in place since Mauritania's independence.⁸⁸

"Haratines don't have papers to begin with. *Négro-mauritaniens* do have papers, but they make problems for us," Ja told Human Rights Watch.⁸⁹ He also described the possible consequences for those whom the authorities find not to be in possession of the correct identification, which explains the choice of the organization's name, Hands off my Nationality. Those without the biometric card, he said, can be taken to a police station and can eventually be classified as being Malian or Senegalese. After that, he said, you have an uphill battle trying to register as a Mauritanian.

⁸⁶ Human Rights Watch email correspondence with Abdallahi Beyane, president of the Mauritanian Observatory of Human Rights to Human Rights Watch, April 7, 2017.

⁸⁷ Human Rights Watch interview with Mohamed Salem Abedine, Nouakchott, October 18, 2017.

⁸⁸ Human Rights Watch interview with Alassane Dia and Abbas Diagana, Nouakchott, March 25, 2017.

⁸⁹ Human Rights Watch interview with Alassane Dia, Nouakchott, March 25, 2017.



Local residents line up at local administration office hoping to complete civil registration process, Nouakchott, October 2017 © Eric Goldstein/Human Rights Watch

Mamadou Sarr, the executive director of FONDADH, also described the registration process as discriminatory in practice and intent: “They ask the Haratines to bring all sorts of documents which they don’t have. The purpose is to make Mauritania an Arab country.”⁹⁰

Minister of Interior Ahmedou Ould Abdallah told Human Rights Watch on October 19, 2017, that as of that day, 3,366,718 Mauritians had been formally registered, compared to a figure of 3.5 million Mauritians as per the 2014 census.⁹¹ This showed that the process was going smoothly overall, he said. While he acknowledged some problems, he denied that these disproportionately affected black Mauritians. Human Rights Watch has no basis to verify the figure that the minister provided, the 2017 population of the country, or the demographic breakdown of those who have yet to be registered. In his letter to Human Rights Watch, Justice Minister Daddah wrote:

⁹⁰ Human Rights Watch interview with Mamadou Sarr, Nouakchott, March 28, 2017.

⁹¹ Human Rights Watch interview with Ahmedou Ould Abdallah, Minister of Interior, Nouakchott, October 19, 2017.

Human Rights Watch has, without verification, fallen for fraudulent claims and baseless exaggerations, which are no more than biased slander. The census or citizen registration process to obtain identity documents has never been selective; if it had been so, it would not have produced the expected results in the set time period, which, as everyone knows, have involved every segment of Mauritanian society.

However, this process is being carried out in a normal and routine fashion, as evidenced by the fact that this ambitious program has thus far been able to register the vast majority of citizens and resident foreigners, with more than 95% registered as compared with the general census of residents and housing carried out at the beginning of 2013, and the work continues.

What is frustrating for some are the necessary identification-confirmation procedures that make it possible for all Mauritians, and Mauritians alone, to obtain certified civil documents, taking into account the rights of all resident foreigners and those transiting through Mauritania to establish and settle their legal situations on Mauritanian soil.

As an organization that challenges this official claim of a non-discriminatory registration process, TPMN has met with a refusal to legalize it. Ja told Human Rights Watch that when TPMN attempted to register “they sent us from one office to another, but no one would take our dossier.”⁹²

Officials were adamant about refusing to recognize TPMN. Minister of Justice Daddah explained: “We don’t accept their very name. There’s no basis for this slogan. No one is persecuted because of his ethnic background, or his religion, or his views.”⁹³ Interior Minister Abdallah said that the authorities had refused to recognize TPMN for the same reason they refused to recognize IRA: “They harm national unity,” he said.⁹⁴ Ja said that the authorities’ repression of TPMN’s public campaigning activities began on September 10, 2011, when they held their first march. “We held sit-ins every Thursday

⁹² Human Rights Watch interview with Alassane Dia, Nouakchott, March 25, 2017.

⁹³ Human Rights Watch interview with Brahim Ould Daddah, Minister of Justice, Nouakchott, March 29, 2017.

⁹⁴ Human Rights Watch interview with Ahmedou Ould Abdallah, Minister of Interior, Nouakchott, March 29, 2017.

between June [2011] and September [2011]. The police usually didn't bother the sit-ins, but they disrupted the marches," said Ja.

On September 10, 2011, TPMN Secretary-General Abbas Diagana was photographing a sit-in at a civil registration center when a guard grabbed his phone, saying that he was not authorized to take pictures. They deleted the photos and returned his phone to him. Diagana said he then left the grounds, unaware that plainclothes guards were following him as he approached a march that security forces were dispersing with tear gas. Diagana said that when he went to help the people felled by the gas, the police detained him and then took him to one police station after another. They told him he was not authorized to take photos and that he belonged to an unrecognized association, Diagana said. They held him for four days, releasing him after he signed an engagement to stop his activities within TPMN and his participation in demonstrations.

Authorities arrested Diagana and six others, including another TPMN member, Cheikh Diabira, on December 16, 2017, the day that they participated in a march in Nouakchott organized by the political opposition and nongovernmental associations. The marchers brandished the former Mauritanian flag as a symbol of protest against the August 5 referendum, which had abolished the senate and changed the pattern on the national flag. Plainclothes police intervened in the march to grab the old flags that the marchers were distributing amongst themselves, Diagana told Human Rights Watch. They arrested Diagana and Diabira after the march and brought them, along with the five others to the police station, where they held them for two days before presenting them to the prosecutor on December 18. The prosecutor initially refused to press charges for brandishing the old flag, but on December 19 referred five of the seven to trial on charges of anti-police violence. The court tried them on December 21, under the expedited procedures allowed in "flagrant délit" cases, and sentenced the five to three months in prison, suspended, and freed them. According to Diagana, the prosecution presented no evidence implicating the five in any acts of violence.⁹⁵

In 2011, TPMN organized marches in cities, including Nouakchott and Kaédi in the Senegal River valley in the south, sometimes rallying more than 1,000 demonstrators, Ja told Human Rights Watch. He said that the authorities used force to repress the marches,

⁹⁵ Human Rights Watch interview with Abbas Diagana, phone, January 9, 2018.

including one in the southern town of Magama on September 27, 2011, where gunfire killed one young protester.⁹⁶ He gave the example of a march to the presidential palace in Nouakchott in September 2011 when police used tear gas and batons to disperse demonstrators on Avenue Gamal Abdel Nasser. Some protestors were arrested, and some were hospitalized as a result of injuries they sustained at the hands of the police, Ja said. TPMN no longer organizes marches and sit-ins, he noted.⁹⁷

The February 25 Movement

On January 17, 2011, one month after the Tunisian street vendor, Mohamed Bouazizi, set himself on fire and sparked a wave of protest that led to popular revolts in a number of Arab countries, a 43-year old Mauritanian, Yacoub Ould Dahoud, set fire to himself in front of the Presidential Palace, apparently to protest the political situation in the country.⁹⁸

The February 25 movement, loosely modeled on Egypt's April 6 movement, first appeared on the streets of the capital on February 25, 2011, demanding, among other things, the dissolution of the government, lower prices for basic goods, and recognition by the government of the right to assemble and protest.⁹⁹

One Mauritanian scholar, Hassan Ould Moctar, described the scene at a February 2011 demonstration, which attracted an estimated 3,000 protestors:

Slogans of equality and national unity were common among those in attendance and in follow-up demonstrations, as well as the now famous mantra of the Arab uprisings: "The people want the downfall of the regime." As protests continued throughout March and April, the government responded through a combination of concessions to

⁹⁶ "Manifestations contre le recensement en Mauritanie : la tension persiste à Maghama," *RFI*, September 29, 2011, <http://www.rfi.fr/afrique/20110929-manifestations-contre-le-recensement-tension-persiste-maghama-apres-mort-jeune-19-a> (accessed October 27, 2017).

⁹⁷ Human Rights Watch interview with Alassane Dia, Nouakchott, March 25, 2017.

⁹⁸ Hassan Ould Moctar, "Social movements and unrest in Mauritania since the Arab Uprisings," *Open Democracy*, June 17, 2013, <https://www.opendemocracy.net/hassan-ould-moctar/social-movements-and-unrest-in-mauritania-since-arab-uprisings> (accessed November 13, 2017).

⁹⁹ Abdoulaye Diagana, "Political change in Mauritania," in *North African Politics: Change and Continuity*, eds. Yahia Zoubir and Gregory White (Routledge, 2016), p. 198.

protestors' demands and heavy-handed tear gas dispersals of any persistent demonstrations.¹⁰⁰

Journalist Ahmed Jedou, one of the founders of the movement which has no formal structure and has never sought formal recognition, told Human Rights Watch that the organization is largely comprised of Moors and Haratines.¹⁰¹ He said that the group organized about 20 big demonstrations in 2011, which they announced on Facebook and other social media, and almost as many in 2012. According to Mauritanian scholar Abdoulaye Diagana, the movement “never managed to galvanize or lead the Mauritanian masses,” which one of the organization’s key members partly attributes to the authorities’ harassment of its members, more than 100 of whom were arrested, most only briefly, in the months after its inception.¹⁰² Jedou said that the authorities pursued a carrot-and-stick approach designed to fragment the organization.¹⁰³

Although the organization is no longer able to mobilize large numbers of people to participate in demonstrations, it has continued to publicly criticize the government. In late 2014, for example, the organization started a campaign on Facebook called “the country is bleeding,” calling for an investigation into an outbreak of dengue fever in the country.¹⁰⁴

More recently, authorities used force to break up mostly peaceful street protests against a controversial August 5, 2017 national referendum, protests supported by many civil society organizations, including the February 25 movement. The police dispersed at least four such protests in the two weeks prior to the referendum, using batons and tear gas to disperse protesters shouting anti-government and anti-referendum slogans, injuring several of them, according to witnesses interviewed by Human Rights Watch. The OHCHR spokesperson stated: “The authorities reportedly did not respond to the majority of

¹⁰⁰ Hassan Ould Moctar, “Social movements and unrest in Mauritania since the Arab Uprisings,” *Open Democracy*.

¹⁰¹ Human Rights Watch interview with Ahmed Jedou, Nouakchott, March 25, 2017.

¹⁰² Abdoulaye Diagana, “Political change in Mauritania,” p. 198.

¹⁰³ Human Rights Watch interview with Ahmed Jedou, Nouakchott, March 25, 2017.

¹⁰⁴ Ibid. and Ahmed Weld Sidi, “Dengue fever devastates Mauritania’s capital,” *The New Arab*, December 2, 2014, <https://www.alaraby.co.uk/english/features/2014/12/4/dengue-fever-devastates-mauritanias-capital> (accessed July 12, 2017).

requests for authorization for the protests and actively dispersed gatherings. In several cases, protest leaders were reportedly beaten up and a number of them were arrested.”¹⁰⁵

On June 30, 2016, Cheikh Baye Ould Cheikh Mohamed, a journalist and a member of the February 25 Movement, attended a government press conference in Nouakchott. After a government minister seemed to play down the impact of high food and gas prices on the poor, Cheikh Baye called him “a liar,” removed his shoe and threw it toward the minister, without hitting him.”¹⁰⁶

“Everyone jumped on me, they grabbed me by my hair and then three security officials stomped on my back for about 10 minutes,” Cheikh Baye told Human Rights Watch.

Cheikh Baye told Human Rights Watch that the police held him in a cell for five days without access to his family or a lawyer, and that guards refused to provide him with sufficient drinking water, despite the high summer temperatures. The police interrogated him three times, asking about the reasons behind his protest, and about the activities and objectives of the February 25 Movement.

On July 14, a court of first instance in Nouakchott convicted Cheikh Baye of “offending public authorities, violence and physical assault” and sentenced him to three years in jail. Cheikh Baye told Human Rights Watch that on the day of his conviction, he was driven 250 kilometers overnight to a prison in Aleg, with hands cuffed behind his back and his legs shackled. He said that authorities placed him for ten days in solitary confinement in a windowless cell in Aleg prison, with his hands cuffed behind his back. An appeals court in Aleg reduced his prison sentence to time already served plus five months suspended, and freed him on January 31, 2017.

Minister of Justice Daddah wrote to Human Rights Watch about Cheikh Baye:

[H]e was prosecuted on the charge of physical assault and insulting a public authority, which are acts stipulated in articles 204, 210 and 212 of

¹⁰⁵ “Mauritania: UN rights office voices concern about unrest ahead of constitutional referendum,” *UN News Centre*, August 3, 2017, <http://www.un.org/apps/news/story.asp?NewsID=57301#.WiCBIEqnGUK> (accessed November 30, 2017).

¹⁰⁶ Human Rights Watch interview with Cheikh Baye Ould Cheikh Mohamed, Nouakchott, March 27, 2017.

the criminal code. He was convicted and sentenced to one year in prison, with seven months served. As to his confessions, the individual himself stated to the court during his trial that the police did not torture him, as evidenced by the full record of his statements, which he previously signed voluntarily. As to his solitary confinement in prison, this happened because of his repeated violation of internal prison rules, such as bringing in and using banned communication devices and bad behavior, etc.

Victims' Groups Seeking Redress for Abuses Committed During the Passif Humanitaire

Mauritanian authorities acknowledge in a general and vague fashion that state agents committed serious human rights violations during the *Passif Humanitaire* but insist that the state has dealt adequately with it and the page is now turned. Justice Minister Daddah's letter to Human Rights Watch shows hostility toward critics of the state's handling of the legacy of the *Passif Humanitaire*, including its amnesty law that shields those guilty of grave abuses from any form of prosecution:

The issue of the *Passif Humanitaire* has been dealt with and settled completely to the satisfaction of patriotic Mauritians in accordance with those traditions of tolerance and wisdom that have shaped the Mauritanian people over the ages and helped them avoid the severe consequences that some agitators, who would sell their conscience for a few coins, still aspire to and work towards at the expense of the diversity, unity and solidarity of the Mauritanian people. It is notable, unfortunately, that you are hung up on and opposed to the General Amnesty Law of 1993, which is no longer a topic of discussion since we have moved past it. The case of the *Passif Humanitaire* has been closed, ensuring the rights of victims and aggrieved in a wise and responsible way.

Given the minister's implication that those who challenge the state's handling of past abuses are unpatriotic "agitators," it is unsurprising to see authorities moving against associations and individuals who challenge them in this regard.



Meeting organized by the Collective of Widows and by the Collective of Orphans of Civilian and Military Victims 86-91, on the Day of Commemoration of the Events of 1989-1990. November 2016, Nouakchott.

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Mamadou Kane, one of the officers convicted and imprisoned in connection with a 1987 failed coup, is now the president of Coordination des victimes de la répression (COVIRE), an organization founded in 2006 to campaign for victims of the *Passif Humanitaire* and their families. Kane told Human Rights Watch that the remedies provided by President Abdel Aziz's government were inadequate: "He [the president] can only deliver reparations and memory – not justice or truth."¹⁰⁷ Kane said the process by which the state compensated victims and their survivors was neither independent nor transparent.

Maïmouna Alpha Sy, the secretary-general of a widows' organization, the Collective of Widows of Military and Civilian Victims of the Events of 1989-1991 (Collectif des veuves

¹⁰⁷ Human Rights Watch interview with Mamadou Kane, Nouakchott, March 25, 2017.



Maïmouna Alpha Sy, secretary-general of the Collective of Widows of Military and Civilian Victims of the Events of 1989-1991 (Collectif des veuves des victimes militaires et civiles des événements de 1989 – 1991)

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des victimes militaires et civiles des événements de 1989 – 1991), told Human Rights Watch that she spent three months searching for her husband, Ba Idy Hassan, after his arrest on November 26, 1990.¹⁰⁸ People arrested at the same time as her husband, who was a customs officer, subsequently told her that he was killed the morning after his arrest: “All the authorities have ever told me is that he died of a heart attack. They didn’t tell me why he was arrested, they didn’t show me his body, I don’t know where he is buried.”¹⁰⁹ Fatimata Yéro Sall told Human Rights Watch that she never saw her brother again after his arrest in December 1990 and Aïssata Mamadou Anne said she never saw her husband again after his arrest the same month.¹¹⁰

¹⁰⁸ Human Rights Watch interview with Maïmouna Alpha Sy, Fatimata Yéro Sall, and Aïssata Mamadou Anne, Nouakchott, March 27, 2017.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

Sy told Human Rights Watch that the group's demands extended beyond financial compensation and included accountability for the senior officials responsible: "We want truth, and justice, including for the generals, reparations, and to know where the dead are." Sy also said the compensation provided to victims' families had been inadequate.¹¹¹

Kane, whom a military court sentenced to a life term of forced labor but who ended up serving only three and-a-half years, told Human Rights Watch that he had received a single, lump-sum compensation payment, but that the authorities had refused to provide for his rehabilitation.¹¹² He also said that the authorities' failure to expunge his criminal record meant the time he spent in prison did not count toward his years of service when calculating the size of his pension.¹¹³

Mauritanian authorities have obstructed the efforts of both groups to challenge the state's handling of the *Passif Humanitaire*. Mamadou Kane told Human Rights Watch that, after his election as president of COVIRE, authorities refused to provide him with a *récépissé* (a receipt proving the association had performed the required registration procedures), which he must show when seeking to hire venues to hold events, and they have obstructed attempts to commemorate the executions that took place in 1990 on November 28, the day that Mauritania celebrates its independence.¹¹⁴ Kane said:

On Independence Day [in 1990], they took 28 military men out of prison and hanged them. Every year on that date, we try to commemorate the event, usually in a public place. If the police get wind of our plans, they come and block it. ... On November 28, 2015, we wanted to do an event in Sebkhah [a suburb of Nouakchott], but the police stopped us."¹¹⁵

¹¹¹ Ibid.

¹¹² Human Rights Watch interview with Mamadou Kane, Nouakchott, March 25, 2017. For a detailed profile of Kane: Mariella Villasante Cervello and Raymond Taylor, *Histoire et politique dans la vallée du fleuve Sénégal, Mauritanie, hierarchies, échanges, colonisation et violences politiques, VIII-XXI siècles* (Paris: L'Harmattan, 2017).

¹¹³ Human Rights Watch interview with Mamadou Kane, Nouakchott, March 25, 2017.

¹¹⁴ Ibid.

¹¹⁵ Ibid. Sebkhah is a suburb of Nouakchott.

Sy said that the authorities usually allow the group to campaign unobstructed, but that on November 28, 2016, police prevented them from marching in Nouakchott while holding pictures of their deceased family members.¹¹⁶

Then on the same date in 2017, police arrested Sy, two other members of her association, and two others. She told Human Rights Watch:

The president decided to go to Kaédi for Independence Day this year. So, we decided to go there too, to say, “We are still here.” We unfurled our banners – the usual ones about memory, truth, compensation, no pardon without justice – as the president’s motorcade drove by. That’s when plainclothesmen came and grabbed us.

The police held the five at the Security Directorate of the city, accusing them of disturbing the public order. They were held for six days and then freed. According to Sy, authorities neither charged nor brought the five before a judge or prosecutor; nor have they pressed charges against them since.¹¹⁷

Free Expression Cases

The cases of a retired army officer and a young blogger illustrate what can happen to individuals who, while not part of any formal organizations, touch on ethnic and caste issues in a provocative way.

Mohamed Cheikh Ould Mkhaitir

Authorities arrested Mohamed Cheikh Ould Mkhaitir on January 2, 2014, and charged him with apostasy on the basis of an article he published three days earlier on the Mauritanian Arabic-language news site *aqlame.com*.¹¹⁸ Mkhaitir belongs to a lower social caste known as lem’almin لمعلمين (forgerons, or blacksmiths) within the Beidan population. In his article,

¹¹⁶ Human Rights Watch interview with Maïmouna Alpha Sy, Fatimata Yéro Sall, and Aïssata Mamadou Anne, Nouakchott, March 27, 2017.

¹¹⁷ Human Rights Watch interview with Maïmouna Alpha Sy, phone, January 9, 2018.

¹¹⁸ Mohamed esh-Sheikh Bin Mohamed [Mkhaitir], “Religion, Religiosity, and the Forgerons,” (Arabic) reprinted on the website of the Secular Studies & Researches Centre in Arabic World, December 30, 2014, <http://www.ssrcaw.org/ar/show.art.asp?aid=394812> (accessed November 8, 2017).

he criticized fellow Mauritians who cite examples from the life of the Prophet Muhammad to justify racial or caste discrimination.¹¹⁹

Mkhaitir's essay article prompted large demonstrations in front of the presidential palace, with many protesters from various Islamist currents calling for Mkhaitir's execution.¹²⁰ President Abdel Aziz addressed one such gathering on January 10, 2014, saying, according to media reports, that the article constituted a "hideous crime" and the media "should respect our religion and not harm it under any circumstances."¹²¹

On December 24, 2014, the Nouadhibou Court of First Instance convicted Mkhaitir of apostasy (*zendaqa*), under article 306 of the penal code, and of "showing scorn for" the prophet, and sentenced him to death.¹²²

Mauritania is one of the few countries of that provides the death penalty for apostasy.

The UN Human Rights Committee, the body of independent experts that monitors state compliance with the International Covenant on Civil and Political Rights (ICCPR), has said in a general comment on article 19, which outlines the right to freedom of expression, that "prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant," unless they constitute incitement to discrimination, hostility, or violence. Moreover, Article 6 of the ICCPR, which Mauritania has ratified, provides that countries that have not abolished the death penalty should reserve it "only for the most serious crimes."

¹¹⁹ For a summary in English and analysis of Mkhaitir's essay: Alice Bullard, "Religion, Race, and Repression in Mauritania: The Ould Mkhaitir Apostasy Affair," *Jadaliyya*, May 29, 2014, http://www.jadaliyya.com/pages/index/17914/religion-race-and-repression-in-mauritania_the-oul (accessed October 29, 2017).

¹²⁰ For example: Conor Gaffey, "Death Penalty Looms for Mauritanian Blogger Accused of Insulting Islam," *Newsweek*, December 19, 2016, <http://www.newsweek.com/mauritania-raif-badawi-slips-under-radar-death-penalty-looms-531564> (accessed September 25, 2017).

¹²¹ "'Offensive' article stirs up protests in Mauritania," Sky News Arabic, January 11, 2014, <https://www.skynewsarabia.com/web/article/526374/%D9%85%D9%88%D8%B1%D9%8A%D8%AA%D8%A7%D9%86%D9%8A%D8%A7-%D8%A7%D9%84%D8%AF%D9%8A%D9%85%D9%82%D8%B1%D8%A7%D8%B7%D9%8A%D8%A9-%D8%AA%D8%B9%D9%86%D9%8A-%D8%A7%D9%84%D8%A7%D9%95%D8%B3%D8%A7%D8%A1%D8%A9-%D9%84%D9%84%D8%B1%D8%B3%D9%88%D9%84> (accessed October 27, 2017).

¹²² Nouadhibou Court of First Instance, Criminal Chamber, decision 71/2014.

On April 21, 2016, the appeals court upheld Mkhaitir's death sentence while requalifying his offense as nonbelief (*kuff*) instead of apostasy.¹²³

Under penal code article 306, the Supreme Court has the power to cancel or reduce the sentence of up to two years in prison and a fine if the person convicted of an act of disbelief repented within three days of committing the offense.

Mkhaitir is understood to have repented at a pretrial hearing at a military police station, during his trial in December 2014, and again at the Nouadhibou Court of Appeals.

On January 31, 2017, Mauritania's Supreme Court ruled that there had been irregularities in the Court of Appeals trial and returned the case to the Court of Appeals for re-consideration. A differently constituted Court of Appeals re-tried the case in early November 2017 and on November 9 ruled that Mkhaitir's repentance had been valid in terms of the penal code, and reduced his sentence to two years in prison and a fine of 60,000 Ouguiyas (\$170).

The prosecutor immediately filed an appeal (cassation) before the Supreme Court. Court against the reduced sentence. On November 16, the council of ministers, with President Abdel Aziz presiding, approved a draft law that toughened article 306 of the penal code by eliminating repentance as a means of escaping the death penalty for apostasy. As of the end of 2017, Mauritania's legislature had not acted on the draft law.

As of mid-January 2018, Mkhaitir's whereabouts were unknown but he was believed still be in custody. Authorities had not spoken publicly about his whereabouts or the legal basis for his apparently continuing detention.

Mkhaitir's lawyer, Fatimata M'Baye, told Human Rights Watch that she received death threats because she represented him in court. She attributes his prosecution to the political influence wielded by Islamist political groups in Mauritania.¹²⁴

¹²³ Nouadhibou Court of Appeal, Criminal Chamber, decision 34/2016.

¹²⁴ Human Rights Watch interview with Fatimata M'Baye, Nouakchott, March 25, 2017.



Lawyer Fatimata M'Baye, president of the Mauritanian Human Rights Association, Nouakchott, March 2017
© Eric Goldstein/Human Rights Watch

Another vocal critic of the Mkhaitir prosecution, Aminetou Ely, who is president of the Association des Femmes Chefs de Famille, accused the authorities of being complicit in a campaign to intimidate and silence her. She attributed this to her stance, as a Beidan, on the Mkhaitir case and the *Passif Humanitaire*.

In 2014, Ely filed a complaint with the police in Nouakchott, after a cleric, Yehdhih Ould Dahi, publicly accused her of apostasy and seemingly called for her death.¹²⁵

Ely told Human Rights Watch that the authorities did not respond to her complaint until December 2015, when the chief prosecutor in Nouakchott summoned her. When she arrived for the appointment, she found there the cleric whom she had accused of threatening her.

¹²⁵ Ibid

“I said nothing. He tried to hit me, he said all sorts of things and threatened to kill me again, in front of the chief prosecutor. The prosecutor did nothing.”¹²⁶

Ely told Human Rights Watch that the cleric continued to issue threats after the meeting, but said that prosecutors have not contacted her since and have not pressed any charges.

In response to a question as to why the authorities have not prosecuted the cleric, Minister of Justice Daddah denied that Ely had ever been threatened and told Human Rights Watch that the prosecutor did not press charges because of insufficient evidence.¹²⁷ A member of the minister’s staff told Human Rights Watch that Ely and Dahi had reconciled.¹²⁸ Ely denied this, saying the only time she had met the cleric was in the prosecutor’s office.¹²⁹

Ely told Human Rights Watch that she now travels everywhere with a bodyguard for security, and that her 20-year-old son moved to the United States after he received death threats.¹³⁰

¹²⁶ Ibid.

¹²⁷ Human Rights Watch interview with Minister of Justice Brahim Ould Daddah, Nouakchott, March 29, 2017.

¹²⁸ Ibid.

¹²⁹ Human Rights Watch email correspondence with Aminetou Ely, August 10, 2017.

¹³⁰ Human Rights Watch interview with Aminetou Ely, Nouakchott, March 28, 2017.



Aminetou Ely and staff of the center of the Association of Women Heads of Family in Dar Naim, with a banner for “The Reception Center for Women Victims of Violence and Slavery.” © 2016 Marie Foray

Oumar Ould Beibacar

Oumar Ould Beibacar, who retired as a colonel from the Garde Nationale in July 2015, told Human Rights Watch that he has been subjected to government retribution for his outspoken stance on the *Passif Humanitaire*.¹³¹ “They’re scared of me because I denounce them,” he said. He said they were particularly scared because it was rare for a Beidan like him, let alone, a retired army officer, to criticize the authorities’ failure to address past atrocities against *négro-mauritanien* officers.

Beibacar told Human Rights Watch that police officers in civilian clothes arrested him after a press conference in Nouakchott on November 28, 2015, at which he accused the authorities in power in 1989-1991 of having committed “genocide,” for which they should be brought to trial.¹³² Lawyer Brahim Ould Ebetty, who witnessed Beibacar’s press

¹³¹ Human Rights Watch interview with Oumar Ould Beibacar, Nouakchott, March 28, 2017.

¹³² Ibid. and “28 novembre – Ould Beibacar rappelle les exécutions d’Inal,” Lecalame.info, November 28, 2015, <http://lecalame.info/?q=node/3130>, (accessed October 27, 2017).



Oumar Ould Beibacar. © private

conference and his subsequent arrest, told Human Rights Watch, “It was the first time a colonel dared to talk like this [in public].”¹³³

Beibacar told Human Rights Watch that he was held for one week in a military detention facility, before being brought before a public prosecutor. The prosecutor referred Beibacar to an investigating judge responsible for handling terrorism-related cases.

On December 3, 2015, a judge in the Nouakchott West court placed Beibacar under judicial control while the court investigated charging him for terrorism and national security offenses.¹³⁴ The control order required him to remain in Nouakchott and sign in with

the police every two weeks. The potential charges listed in the order included “incitement of intolerance based on ethnicity and race” and “incitement to harm the internal and external security of the nation,” pursuant to article 6(7) of Mauritania’s 2010 Counterterrorism Law, which classifies “an appeal to incite ethnic, racial or religious fanaticism” as a form of terrorism.¹³⁵ The law defines terrorism as “an offense that causes grave damage to the state and is committed with the intent to intimidate the population, or to induce public authorities to deviate from their duties, or to pervert the fundamental values of society, or destabilize its constitutional structures and/or institutions.”¹³⁶

Beibacar is also under investigation for alleged violations of articles 33 of the 2006 law on press freedom, which prohibits speech that incites crimes against the security of the state,

¹³³ Human Rights Watch interview with Brahim Ould Ebetty, Nouakchott, March 29, 2017.

¹³⁴ Nouakchott Court, Division for Investigating Terrorism Cases, State Security Crimes, and Military Crimes, order 36/2015, December 3, 2015.

¹³⁵ Law no. 2010-035 of July 21, 2010 abrogating and replacing Law no. 2005-047 of July 26, 2005 Relative to Counterterrorism. Article 6(7) considers it a terrorist offense “to call, by any means, for the perpetration of terrorist offenses, to incite ethnic, racial, or religious fanaticism, or to utilize a name, a term, a symbol or any other sign for the purpose of supporting an organisation that Mauritanian law considers to be terrorist, or of one of its leaders or activities.” http://www.vertic.org/media/National%20Legislation/Mauritania/MR_Loi_Terrorisme.pdf (accessed October 27, 2017).

¹³⁶ *Ibid.*, article 3.

and article 34, which prohibits speech aimed at military officials with the aim of diverting them from their duties.¹³⁷

In November 2016 lawyer Fatimata M'Baye petitioned the same court in Nouakchott to lift the judicial control order, which was now 11 months old. The court refused, in a decision dated November 30, 2016. The Appeals Court of Nouakchott upheld that decision on January 17, 2017, stating that the defendant's case involved "potential dangers" and that the investigation into his alleged offenses was ongoing.¹³⁸ Beibacar petitioned the Supreme Court to require authorities to return his passport, which authorities confiscated in the days after his arrest, along with his computer and his cellphone.

Beibacar attributes the authorities' failure to bring the case to trial to their concerns that a court case would provide him with a public platform to talk about the massacre of black military officers in the town of Inal in November 1990.¹³⁹

As of November 2017, Beibacar remained under judicial control, with no further developments toward filing or abandoning the charges against him. He had stopped signing in with the police but had not recovered his computer, cellphone, or passport and was thus unable to travel abroad.¹⁴⁰

Minister of Justice Daddah wrote to Human Rights Watch about Beibacar:

[H]e is being prosecuted for charges of instigating ethnic and racial strife and inciting harm to the state's internal and external security, which are acts punishable under the Mauritanian criminal code, in accordance with the provisions of the Counter-Terrorism Law and the Law on Press Freedom. As to his being placed under judicial control, this status is an alternative to preventive detention. Anyone charged may be placed under this control at

¹³⁷ Directive no. 017 – 2006 on press freedom. Article 34 penalizes "any provocation addressed toward soldiers or police agents with the objective of getting them to deviate from their duties and their obedience that they owe their superiors." <http://www.anac.mr/ANAC/JOf/2006/1123%20fr%20osc.pdf> (accessed October 5, 2017).

¹³⁸ Nouakchott Court of Appeals, Accusation Chamber, appeal number 16/2017, January 17, 2017.

¹³⁹ Human Rights Watch interview with Oumar Ould Beibacar, Nouakchott, March 28, 2017 and Human Rights Watch, *Mauritania's Campaign of Terror*, p. 65.

¹⁴⁰ Human Rights Watch interview with Oumar Ould Boubeicar, Nouakchott, October 23, 2017.

any time during the investigation. He has appealed to overturn the last ruling passed against him, and the decision is still before the Supreme Court.

III. Legal Framework

International Legal Obligations

Mauritania has ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (and its Optional Protocol), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD), and the International Convention for the Protection of All Persons from Enforced Disappearance.

The CERD places obligations on states parties to “take effective measures to review governmental, national, and local policies, and to amend, rescind, or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.”¹⁴¹

CERD enumerates in article 5 many basic rights, outlined in other core human rights instruments, that are necessary to ensure states fulfill their obligation to eliminate racial discrimination and promote understanding.¹⁴² These rights include the right to nationality, and the right to freedom of peaceful assembly and association.

Mauritania is a party to the African Charter on Human and Peoples’ Rights and has joined the African Court on Human and Peoples’ Rights. In July 2016, it presented a periodic report on its implementation of the charter to the African Committee on Human and Peoples’ Rights.¹⁴³ It has ratified the African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa.

¹⁴¹ UN Office of the High Commissioner for Human Rights, International Convention on the Elimination of All Forms of Racial Discrimination, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>, article 2.1(c).

¹⁴² Ibid., article 5.

¹⁴³ 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 2013 (accessed September 28, 2017).

Domestic Laws

Constitution

Mauritania's constitution outlines a range of broadly worded human rights protections to its citizens. The first article of the constitution guarantees all citizens equality before the law and prohibits "propaganda of racial or ethnic character." Article 10 guarantees citizens the right of free movement, freedom of expression, association, and assembly. Article 11 gives citizens the right to form and join political parties, provided that they do not infringe "by their object or by their action, the national sovereignty, the territorial integrity, and the unity of the Nation and of the Republic." It also guarantees "the honor and the private life of the citizen, the inviolability of the human person, of his domicile and of his correspondence."

The constitution prohibits the arbitrary deprivation of liberty, as well as slavery and all forms of servitude.¹⁴⁴

Penal Code

The 1983 penal code provides for the death penalty offenses that include treason, espionage, armed insurrection, cannibalism, rape, brigandry, arson, fornication when the perpetrator is either married or divorced, homosexuality, and apostasy.¹⁴⁵ The law empowers the Supreme Court to cancel or reduce the sentence or provide for a custodial sentence for convicted "apostates" who repent within three days of committing their offense."¹⁴⁶ However, a draft law that the Council of Ministers approved on November 16, 2017 would eliminate repentance as a basis for escaping the death penalty for apostasy.

Freedom of Assembly

The 1973 law on public gatherings states that "any public gathering must be the object of a declaration made to the appropriate administrative authorities at least three full days in advance of the gathering."¹⁴⁷ The legal regime is thus one of notification rather than seeking permission.

¹⁴⁴ The 1991 Constitution of the Islamic Republic of Mauritania, Article 13.

¹⁴⁵ Penal code, articles 67–69, 83, 85–87, 278, 309, 354, 410, 307, and 308.

¹⁴⁶ Penal code, article 306.

¹⁴⁷ Law no. 73.008 of January 23, 1973 on public gatherings, and decree n°73.060 of March 16, 1973, implementing law 73.008.

1964 Associations Law

Under the 1964 law on associations, the Interior Ministry approves or rejects authorization requests from civil society associations. It can revoke, without first seeking court approval, the legal status of organizations that: “incite demonstrations that compromise public security”; engage in “anti-national propaganda”; or “exercise an unwelcome influence on the minds of the people.”¹⁴⁸ It also provides for between one and three years in prison for anyone who continues to run an unauthorized organization and prison sentence of between six months and one year for anyone who “participates in the functioning” of an unauthorized organization.¹⁴⁹ One of the criminal offenses for which 13 members of the Initiative for the Resurgence of the Abolitionist Movement (IRA) were convicted in August 2016 (see above) was membership in an unauthorized organization.¹⁵⁰

A draft law to replace the 1964 law remains under consideration, following approval by the Council of Ministers in 2016. Justice Minister Daddah, in his letter to Human Rights Watch states, the draft law “guarantee[s] the exercise of freedoms and rights and consecrate[s] related international obligations as per the Mauritanian legal code.” (See Appendix II)

However, the draft law is a step backward in many respects from the 1964 law. Whereas the latter makes no reference to political activity, the draft law expressly forbids associations from conducting any kind of activity deemed “political” and provides for the dissolution of those that do.¹⁵¹ Article 6 of the draft law prohibits the establishment of any association that has objectives “contrary to Islam,” or whose activities “undermine national unity.”¹⁵²

The draft law would divide civil society associations into three categories, depending on the scale on which they operate: national, regional (wilaya), and district (mouqata’a).¹⁵³ The Interior Ministry would still approve or deny authorization requests from associations

¹⁴⁸ Law no. 64.098 on associations, article 4.

¹⁴⁹ *Ibid.*, article 8.

¹⁵⁰ Nouakchott Court of First Instance, judgment 588/2016.

¹⁵¹ Draft law on Associations, Foundations, and Networks of Associations, canceling and replacing Law No. 64-098 of June 9, 1964, on Associations. Article 5 states, “The association has the right to participate ... in the process of dialogue on public policies.... It is forbidden...for any association...to have as an objective to accede to power; designate candidates to political posts; require as a criterion for joining, membership or non-membership in a political party...”

¹⁵² *Ibid.*, article 6.

¹⁵³ *Ibid.*, article 4.

working at the national level; and the relevant regional and district authorities would decide on requests from organizations working on issues within their jurisdiction.¹⁵⁴

If implemented, the draft law would also require that associations to submit significantly more information in their applications for formal recognition than under the existing law. The latter requires that founders submit the name and objectives of their association, its place of operation, and the name, profession, domicile and nationality of its administrators and directors. The draft law requires, among other things, that an organization also submit the minutes of its constitutive meeting and a copy of its statutes and rules of procedure. It also requires that an organization provide telephone numbers and national identification numbers for its directors. Applications must be submitted in triplicate and signed and attested to by a lawyer.¹⁵⁵

Amnesty International and 20 other international and Mauritanian organizations released a statement on June 2, 2016 opposing the draft law on the grounds that it would violate the right to freedom of association.¹⁵⁶

The UN Human Rights Committee has never issued a general comment interpreting the right to freedom of association as protected by article 22 of the ICCPR, but it has affirmed that state parties “should take all appropriate measures to avoid unnecessary obstacles and restrictions, legally or in practice, against the activities of civil society organizations.”¹⁵⁷

The UN special rapporteur on the rights to peaceful assembly and association stated in a 2014 report:

Where a registration regime exists, requirements should be framed such that no one is disadvantaged in the formation of her or his association, either by burdensome procedural requirements or unjustifiable limitations

¹⁵⁴ Ibid., article 8.

¹⁵⁵ Article 6 in the 1964 law, and article 9 in the draft law.

¹⁵⁶ “Mauritania: New law compromises right to freedom of association,” *Amnesty International*, June 2, 2016, <https://www.amnesty.org/en/latest/news/2016/06/mauritanie-une-nouvelle-loi-compromet-lexercice-du-droit-a-la-liberte-dassociation/> (accessed November 10, 2017).

¹⁵⁷ For example: UN Human Rights Committee, “Concluding observations on the sixth periodic report of Canada,” CCPR/C/CAN/CO/6, August 23, 2015.

to substantive activities of associations. The State has an obligation to take positive measures to overcome specific challenges that confront marginalized groups, such as indigenous peoples, minorities, persons with disabilities, women and youth, in their efforts to form associations.¹⁵⁸

According to a report prepared by the International Center for Not-for-Profit Law (ICNL) for the Open Society Institute, granting the power to ministries and state agencies to dissolve NGOs will have a “chilling effect on the independence and activities of civic organizations” and recommends that the law provide other penalties – for example, fines specific to different types of violations.¹⁵⁹ The INCL recommends that terminating or dissolving an NGO should be “the last resort” and ordered “only for the most serious and blatant violations, and then, except in cases involving the most urgent threat of irreparable harm, only after the civic organization has been given an opportunity to correct its behavior and challenge the allegations.”¹⁶⁰

Anti-Slavery and Anti-Torture Legislation

Mauritania first passed a law abolishing slavery in 1981, but did not criminalize it until 2007.¹⁶¹ The 2007 law provided for the institution of the Programme for the Eradication of the Vestiges of Slavery (le Programme pour l'éradication des séquelles de l'esclavage, PESE) to address the legacy of slavery. In March 2013, authorities replaced the PESE with the National Agency to Combat the Legacy of Slavery, to Promote Inclusion and Combat Poverty (Agence nationale de lutte contre les séquelles de l'esclavage, de l'insertion et de lutte contre la pauvreté), also known as Tadamoun (the Arabic word for solidarity).

The adoption by Mauritania of a 2014 road map to tackle slavery, based on the recommendations of the UN special rapporteur on slavery, Gulnara Shahinian, led the government to adopt stronger anti-slavery legislation in September 2015. Among other things, Law 2015-031 Criminalizing Slavery and Combatting Slavery-Like Practices doubled

¹⁵⁸ UN Human Rights Council, Report of the United Nations Special Rapporteur on the rights to peaceful assembly and association, Maina Kiai, A/HRC/26/29, April 14, 2014.

¹⁵⁹ Leon E. Irish, Robert Kushen, Karla W. Simon, with the assistance of the staff of the International Center for Not-for-Profit Law, for the Open Society Institute, “Guidelines for Laws Affecting Civic Organizations,” 2nd ed., p. 37, http://www.icnl.org/research/resources/assessment/guidelines_en.pdf (accessed October 29, 2017).

¹⁶⁰ *Ibid.*, p. 37.

¹⁶¹ Order No. 081-234, November 9, 1981 on the abolition of slavery; law No. 2007-048 of September 3, 2007 incriminating slavery and slavery-like practices.

the maximum prison sentence for the crime of slavery from 10 to 20 years in prison and created special tribunals for prosecuting slavery and slavery-like practices.¹⁶²

A joint NGO report welcomed the new anti-slavery legislation but warned that it would only be effective if police, prosecutors, and the judiciary committed to its implementation.¹⁶³ To date, authorities have obtained convictions in only two slavery cases, one under the 2007 law and one under the 2015 law.¹⁶⁴ In the former case, Ahmed Ould Hassine was sentenced to two years' imprisonment and a fine of approximately \$4,700 in November 2011 after a court found him guilty of enslaving Said and Yarig Maâtallah, brothers who were aged 16 and 14 respectively when Human Rights Watch interviewed them in March 2017.¹⁶⁵ Law No. 2013-011 of January 23, 2013 to combat the crimes of slavery and torture as crimes against humanity established torture as a specific crime but did not define it.¹⁶⁶

The government in 2015 also adopted an anti-torture law that defined torture in the same manner as article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It also abrogated and replaced the above-mentioned 2013 law on combatting slavery and torture.¹⁶⁷ The same year, the government adopted another law establishing a National Preventive Mechanism against Torture, in accordance with its obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁶⁸

¹⁶² Law no. 2015-031 of September 10, 2015, criminalizing slavery and combatting slavery-like practices and Law no. 2015-033 of September 10, 2015, to combat torture, annulling and replacing Law no. 2013-011 of January 23, 2013, to combat crimes of slavery and torture as crimes against humanity. See also UN Office of the High Commissioner for Human Rights, "A turning point in the fight against slavery in Mauritania" - UN expert greets adoption of road map," March 10, 2014. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14335> (accessed November 14, 2017).

¹⁶³ Sarah Mathewson and Rebecca Marlin, "Enforcing Mauritania's Anti-Slavery Legislation: The Continued Failure of the Justice System to Prevent, Protect and Punish," p. 4.

¹⁶⁴ Anti-Slavery International, "Compliance with ILO Convention No.29 on Forced Labour (ratified in 1961), Slavery in Mauritania," July 2017 (accessed November 22, 2017).

¹⁶⁵ Human Rights Watch interview with Said and Yarig Maatalah, Nouakchott, March 23, 2017, and Sarah Mathewson and Rebecca Marlin, "Enforcing Mauritania's Anti-Slavery Legislation: The Continued Failure of the Justice System to Prevent, Protect and Punish," Gesellschaft für Bedrohte Völker, Minority Rights Group International, Anti-Slavery International, Unrepresented Nations and Peoples Organization, SOS-Esclaves, Initiative for the Resurgence of the Abolitionist Movement, October 2015, p. 13, http://minorityrights.org/wp-content/uploads/2015/10/MRG_Rep_Maur2_Nov15_ENG_2.pdf (accessed November 15, 2017).

¹⁶⁶ Law no. 2013-011 to combat crimes of slavery and torture as crimes against humanity.

¹⁶⁷ Law no. 2015-033 to combat torture, annulling and replacing Law no. 2013-011 of January 23, 2013 to combat crimes of slavery and torture as crimes against humanity.

¹⁶⁸ Law no. 2015-034, on the National Preventive Mechanism against Torture, adopted in September 2015 and published in the Journal Officiel de la République Islamique de Mauritanie, September 30, 2015.

Article 4 of the 2015 anti-torture law provides guarantees to all individuals deprived of liberty, including the right to have access to a lawyer from the beginning of the deprivation of liberty and the right to be brought without delay to a judge and to have a court examine the lawfulness of his or her detention.¹⁶⁹ The law also requires the judicial authorities to initiate impartial inquiries into credible allegations of torture, and provides for reparation, including financial compensation, for victims of torture.¹⁷⁰

These provisions of article 4 significantly enhance the rights of persons in detention to a lawyer, compared to the code of criminal procedure (CCP), which allows individuals to first access a lawyer when their first period of garde à vue ends. While the standard first period of garde à vue under the CCP is 48 hours, it can last up to 30 days for suspects arrested on suspicion of internal or external state security or terrorism offenses.¹⁷¹ Moreover, the CCP provides in article 58 that the state prosecutor can delay communication between the detainee and his lawyer “if the needs of the investigation so require,” a standard that is very permissive.

Human Rights Watch asked authorities in writing (see Appendix I) whether they planned to introduce amendments to the code of criminal procedure to ensure consistency with the provision of the 2015 anti-torture law that grants all detainees the right to a lawyer from the beginning of any period of detention and whether they have informed police, prosecutors, and judges of the primacy of the newer law over the code of criminal procedure with regard to the right of access to a lawyer. Authorities did not respond to these questions.

In December 2016, the UN special rapporteur on torture and other forms of cruel, inhuman or degrading treatment, Juan Mendez, published a report based on research he conducted in Mauritania in January 2016.¹⁷² Mendez commended the 2015 anti-torture

¹⁶⁹ Article 4 provides: “From the moment a person is deprived of liberty, fundamental guarantees must be applied, notably, the right that a member of the family or a person of his choice is immediately informed of his detention and place of detention; the right, if he so demands, to be examined by a doctor as soon as he is admitted, arrested, or interned ; the right to have access to a lawyer from the beginning of the time that he is deprived of liberty....the right to be presented without delay to a judge and to have the legality of his detention examined, in conformity with the laws in effect...The failure to observe these guarantees will result in disciplinary sanctions or criminal prosecution if warranted.”

¹⁷⁰ Articles 9, 21, and 22.

¹⁷¹ Code of Criminal Procedure, article 57-58, https://legislationmauritanienne.files.wordpress.com/2011/06/code-de-procc3a9ndure-pc3a9nale-de-1983_ordonnance-nc2bo-83-163.pdf (accessed November 11, 2017), and the Counter-Terrorism law of 2010.

¹⁷² Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Mauritania, A/HRC/34/54/Add.1, December 13, 2016.

law but pointed to serious ongoing problems, saying that torture and ill-treatment “still occurs frequently, in particular in the early stages of arrest and interrogation, often for the purpose of eliciting confessions.”¹⁷³

The special rapporteur said he was “deeply concerned” that there was a “systemic pattern” whereby torture and ill-treatment were used throughout the time in police custody in cases relating to state security and terrorism charges:

Interviewees reported being subjected to severe sleep deprivation, having their wrists and ankles handcuffed, having to hold stress positions for several days and being suspended in the air by their arms and legs. The allegations were largely corroborated by forensic examinations. Reports of prolonged solitary confinement of convicted terrorists were also received.¹⁷⁴

Anti-Discrimination Law

Parliament on June 9, 2017 adopted a new law to combat discrimination that contains provisions that could be used to imprison persons for nonviolent speech. Article 10 states, “Whoever encourages an incendiary discourse against the official rite of Islamic Republic of Mauritania shall be punished by one to five years in prison.”¹⁷⁵ Such a vague standard could be applied to persons who peacefully criticize Islam as it is practiced in Mauritania, something that some activists opposing slavery and discrimination, such as Biram Bah Abeid and Mohamed Cheikh Ould Mkhaitir, have done.

¹⁷³ Ibid., p. 19.

¹⁷⁴ Ibid., p. 6.

¹⁷⁵ “L’Assemblée nationale adopte le projet de loi sur la pénalisation de la discrimination,” *Agence Mauritanienne d’Information*, June 10, 2017, <http://fr.ami.mr/Depeche-41055.html> (accessed September 28, 2017).

IV. Acknowledgments

This report was researched and written by Nicholas McGeehan, at the time a senior researcher in the Middle East and North Africa Division at Human Rights Watch. Eric Goldstein, deputy director in the Middle East and North Africa Division, wrote parts of the report and edited it. Clive Baldwin, senior legal advisor, and Tom Porteous, deputy program director, provided legal and program review, respectively.

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V. Appendix I: Letter to Minister of Justice Brahim Daddah and Minister of Interior Ahmedou Ould Abdallah

August 11, 2017

His Excellency Brahim Daddah
Minister of Justice

His Excellency Ahmedou Ould Abdallah
Minister of Interior

Dear Mr. Ministers,

I would like to thank you again for the welcome our delegation received when they traveled to Mauritania in March of this year. I am writing to provide you a summary of our interim findings and a series of questions, and invite you to respond to them. We will reflect all pertinent information that we receive from you by September 11, 2017 in our public findings. We would welcome the opportunity to continue this process of engagement and to meet again when we return to Mauritania.

We salute Mauritania's ratification of the major human rights treaties, its engagement with human rights mechanisms and special procedures, and the freedom that our delegation experienced to conduct our mission without obstacles.

However, we are concerned by restrictions imposed on civil society groups and individuals that campaign on issues that are politically sensitive, such as the *passif humanitaire*, slavery, and the national ID card registration process. In many cases, these restrictions appear to violate Mauritania's obligations under international human rights treaties that it has ratified.

The Mauritanian authorities do not dispute that state officials carried out deportations, arbitrary detention, torture, and extrajudicial killings of Afro-Mauritians (the period known as *le passif humanitaire*) between 1989 and 1991. According to our information, authorities have never made public the 1993 amnesty law covering this period, and no senior officials have been held criminally accountable for the abuses perpetrated during it.

Victims' advocacy groups dissatisfied with both the amnesty law and the compensation scheme implemented by the government told Human Rights Watch that the government has obstructed their efforts to campaign for justice and accountability, including by breaking up demonstrations and refusing authorization for events.

Retired Colonel Oumar Ould Beibacar told Human Rights Watch that because of his criticism of the authorities' response to the *passif humanitaire*, he is under investigation for terrorism offenses, and has been under a judicial control order that prohibits him from leaving the capital, Nouakchott, since December 2015.

SOS-Esclaves and the Initiative for the Resurgence of the Abolitionist Movement (IRAM) are the country's two most prominent anti-slavery organizations. Whereas SOS-Esclaves is a registered civil society organization, the authorities have rejected IRAM's application for formal registration. In explaining this decision, both of you stated to us that that the organization "divides national unity," and conducts itself both as a nongovernmental association and as a political party, and must choose between the two. "Dividing national unity" was the reason that they provided us for the government's refusal to recognize Touche Pas à Ma Nationalité (TPMN), an association that was founded in response to a 2011 census and a subsequent national registration process, which TPMN portrays as denying black Mauritians citizenship rights.

Under the 1964 law on associations, the Interior Ministry has the power to approve authorization requests from civil society organizations and to revoke the authorization of organizations that engage in "anti-national propaganda," or whose work "exercises an unwelcome influence on the minds of the people." A draft law intended to repeal and replace the 1964 law remains under consideration, having been approved by the Council of Ministers in 2016. If passed, the draft law will require that organizations submit

significantly more information to the Interior Ministry and to other authorizing authorities at regional and district level.

Senior members of IRAM appear to have been subjected to unfair trials that resulted in lengthy prison sentences, and there are credible allegations that some have endured torture. Abdallahi Saleck and Moussa Bilal Biram, two of the thirteen IRAM members jailed in August 2016, having been charged with involvement in the violent unrest in Nouakchott in June 2016, remain in prison. The men's lawyers and some of those convicted alongside them but subsequently released on appeal told Human Rights Watch that torture marks were visible on Saleh and Biram when they were brought before a prosecutor in the early hours of July 12. At no stage, according to our information, did the judiciary initiate any investigation into these torture allegations. Mauritania passed anti-torture legislation in 2015, which guarantees detainees the right to have access to a lawyer from the moment of their detention. The case highlighted tensions between this new law and Mauritania's code of criminal procedure, which prosecutors can invoke to deny detainees' access to lawyers in cases pertaining to national security and terrorism, and which they can use to deny defendants' their right to have a judge examine the lawfulness of their detention without delay by classifying their alleged offenses as *délits flagrants*.

Members of the 25 February Movement, a protest movement that emerged in February 2011, told Human Rights Watch that they have been the subject of government repression and harassment in retribution for their criticism of the authorities. Cheikh Baye Ould Cheikh Mohamed, a journalist and a member of the 25th February Movement received a three-year sentence for "offending public authorities, violence and material aggression" for throwing his shoe, in an act of protest, at a government minister who was speaking at a press conference about the price of food and gasoline. Cheikh Mohamed told Human Rights Watch that immediately after his conviction he was driven 250 kilometers overnight to a prison in Aleg, with hands cuffed behind his back and his legs shackled. He said that authorities subjected him to 10 days in solitary confinement in a windowless cell in Aleg prison, with his hands cuffed behind his back. His sentence was reduced on appeal.

We would welcome your comments on any of the preceding. We would also appreciate your responses to the following questions, so we can reflect them in our final report:

- The draft law on associations will, if passed and implemented, divide civil society associations into three categories: national, regional (wilaya), and district (mouqata'a). Will an organization be able to work at all three levels and, if so, would they require three separate authorizations? Would the Interior Ministry still approve or deny requests for legal status from associations working at the national level? Would the relevant regional and district authorities decide on such requests from organizations working on issues within their jurisdiction?
- The Initiative for the Resurgence of the Abolitionist Movement (IRAM), Touche pas à ma Nationalité, and Le collectif des veuves des victimes militaires et civiles des événements de 1989 – 1991 all state that they have applied for legal recognition and been refused. Is this accurate? If so, how can the refusal to allow these organizations to formally register as associations be reconciled with Mauritania's obligation to respect the right of freedom of association, as outlined in article 22 of the International Covenant on Civil and Political Rights (ICCPR)?
- Authorities informed us that there is widely available video evidence that shows members of IRAM involved in violence against the security forces during the unrest that broke out in Nouakchott on June 29, 2016. We would welcome copies of this material in order that we can assess the veracity of these claims and IRAM's counterclaims that there is no evidence of their members being involved in such violence.
- How can the authorities reconcile the prosecution of Oumar Ould Beibacar with its obligation to respect the right to freedom of expression, as outlined in article 21 of the ICCPR? Is Beibacar still under a judicial control order, and, if so, what is the legal basis for the length of the order exceeding the maximum period of 10 months for which the law provides.
- Do the authorities plan to introduce amendments to articles 57 and 58 of the code of criminal procedure to ensure consistency with Mauritania's 2015 anti-torture law, and ensure that all detainees have the right to a lawyer from the beginning of any period of detention? In view of the fact that the torture law is the newer and

more specific law, what steps, if any, have the authorities taken to inform police, prosecutors, and judges of its supremacy over the code of criminal procedure with regard to the right of access to a lawyer?

- How does Mauritania reconcile laws that provide for the death penalty for blasphemy with its ratification of the ICCPR, article 6 of which states that countries that have not abolished the death penalty should reserve it “only for the most serious crimes”?

We look forward to receiving responses to any of these findings or recommendations and will reflect all pertinent information that we receive by September 11, 2017 in our public reporting.

We would also welcome the opportunity to engage again with the government of Mauritania to discuss our findings and recommendations and we will be available for meetings prior to the release of our report.

I look forward to receiving a response at your earliest convenience.

Yours sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch

VI. Appendix II: Mauritania Ministry of Justice Response to Human Rights Watch (English Translation)

The Islamic Republic of Mauritania

Honor Brotherhood Justice

Ministry of Justice

Nouakchott, 27 OCT 2017

The Minister

To Mrs. Sarah Leah Whitson
Middle East and North African Division
Human Rights Watch

Reference: Your Letter Dated 11 August 2017

In response to your letter referenced above, which is controversial due to its touching on several issues related to baseless claims about human rights violations and the disrespect for freedoms in Mauritania, in the interests of addressing all of the observations and questions posed by this letter I would inform you of the following:

We do not understand your claimed feelings of concern towards the restriction of freedoms in Mauritania, at a time when the country is experiencing increasing growth and prosperity in the expression and practice of freedoms, a fact attested to by all, with Mauritania playing a pioneering role in the regional gatherings to which it is affiliated, lauded by international rights organizations. The claims that you have tirelessly repeated are non-existent, as there are no restrictions on civil society or its activities so long as their conduct and expression are consistent with the objective legal and procedural framework. The facts have been misconstrued in all of the cases that you have referred to.

The issue of *passif humanitaire* has been dealt with and settled completely to the satisfaction of patriotic Mauritians in accordance with those traditions of tolerance and

wisdom which have shaped the Mauritanian people over the ages and helped them avoid the severe consequences that some agitators, who would sell their conscience for a few dirhams, still aspire to and work towards at the expense of the diversity, unity and solidarity of the Mauritanian people. It is notable, unfortunately, that you are hung up on and opposed to the General Amnesty Law of 1993 which is no longer a topic of discussion since it has been surpassed, and the case of *passif humanitaire* has been closed, ensuring the rights of victims and aggrieved in a wise and responsible way, as we have said previously.

As for the authorization of associations, it should be noted that the government has already approved a draft law that would abrogate and replace the 1964 Law, and it will soon present this draft law to Parliament for a vote before it can be applied, in accordance with the procedures of its issuance, in appropriate circumstances, guaranteeing the exercise of freedoms and rights and consecrating related international obligations as per the Mauritanian legal code.

The necessary care has been taken with the issue of slavery. The phenomenon of slavery has been confronted resolutely through legislation criminalizing the practice of enslavement, penalizing perpetrators and upholding the rights of victims. The authorities continue to fight the effects of this phenomenon, to limit its consequences and combat its social, economic and cultural impact on Mauritanian society as a whole. The road map to combat modern forms of slavery and the institutions founded under it, such as the Joint Ministerial Committee to Combat Slavery and the Technical Committee and the Solidarity Agency, are all shining examples of a clear strategy and ambitious programs to heal the wounds caused by enslavement practices.

Your letter also touched on the registration process of Mauritanian citizens and the difficulty of obtaining civil documents, however this process is carried out normally and in a customary fashion, as evidenced by the fact that this ambitious program has thus far been able to register the vast majority of citizens and resident foreigners, with more than 95% registered as measured against the general census of residents and housing carried out at the beginning of 2013, and the work is ongoing. What is frustrating for some are the necessary identification-confirmation procedures which make it possible for all Mauritanians and Mauritanians alone to obtain certified civil documents, taking into account the rights of all resident foreigners and those transiting through Mauritania to

establish and settle their legal positions on Mauritanian soil. And I would be remiss if I did not express to you my surprise that Human Rights Watch has, without verification, fallen for fraudulent claims and baseless exaggerations, which are no more than biased slander. The census or citizen registration process to obtain identity documents has never been selective; if it had been so it would not have produced the expected results in the set time period, which near and far attest have involved every segment of Mauritanian society.

As regards the retired Colonel Oumar Ould Beibacar, he is being prosecuted for charges of instigating ethnic and racial strife and inciting harm to the state's internal and external security, which are acts punishable under the Mauritanian criminal code, in accordance with the provisions of the Counter-Terrorism Law and the Law of Freedom of the Press. As to his being placed under judicial control, this criminal status is a substitute for precautionary incarceration, and anyone charged may be placed under this control at any time during the investigation. He has appealed to overturn the last ruling passed against him, and the decision is still before the Supreme Court.

As regards the so-called Gazra Bouamatou events, the individuals who claim to be affiliated with the unlicensed "IRA" movement in 2016 carried out acts of rioting and armed congregation and incited others to do the same, and they violently assaulted public force agents carrying out their duties, destroying public and private property, which are criminal acts punishable under relevant law. They were tried and convicted in a fair trial in which they were afforded every legal recourse.

Evidence seized was presented before the court, including video clips of the scene of the crime from cameras, some of which belonged to the accused themselves, which showed the involvement of some of them in the acts ascribed to them, and the Appeals Court threw out this evidence for all of the accused except the two who appeared clearly in the videos. The case is still before the Supreme Court, and so the video cannot be provided to anyone not a party to the case.

As for the so-called Cheikh Baye, he was prosecuted on the charge of material assault and insulting a public authority, which are acts stipulated in Articles 204, 210 and 212 of the criminal code, and he was convicted and sentenced to one year, with seven months served. As to his confessions, the individual himself stated to the Court during his trial that the police did not torture him, as evidenced by the full record of his statements which he

previously signed voluntarily. As to his solitary confinement in prison, this happened because of his repeated violation of internal prison rules, such as bringing in and using banned communication devices and bad behavior, etc.

Mr. Brahim Ould Daddah

ETHNICITY, DISCRIMINATION, AND OTHER RED LINES

Repression of Human Rights Defenders in Mauritania

Questions of caste and ethnicity lie at the source of Mauritania's most deep-rooted and sensitive human rights problems. *Ethnicity, Discrimination and Other Red Lines* examines how authorities treat activists and organizations that campaign on issues that include discrimination, marginalization, and slavery. The repressive measures that these associations face include laws and policies used to deny them legal status, curtail their activities, and in some cases, imprison their members. Two anti-slavery activists are currently serving two-year prison sentences after an unfair trial. A blogger sentenced initially to death on dubious blasphemy charges remained in prison four years after his arrest. Three elderly women activists were detained for six days without charge for unfurling banners calling for accountability for past crimes before a presidential motorcade. Authorities have refused to legalize an association that has criticized the arduous biometric process of population registration as discriminatory against black Mauritians. They have accused the group of "dividing national unity." Based on extensive interviews conducted during two trips to Mauritania in 2017 and meetings and correspondence with high-level officials, the report calls on the government to overhaul the law on association and other laws and policies, so as to allow all peaceful organizations to operate legally and freely and allow activists to speak out on pressing and delicate human rights issues without fear of prosecution.



March organized by the Collective of Widows and by the Collective of Orphans of Civilian and Military Victims 86-91, on the Day of Commemoration of the Events of 1989-1990, November 2016, Nouakchott.

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