

**MAURITANIA:
SUBMISSION TO
THE UN
COMMITTEE
AGAINST
TORTURE**

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INTRODUCTION

In October 2012, Mauritania ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) as well as the International Convention for the Protection of All Persons from Enforced Disappearance. Amnesty International has welcomed the ratification of these treaties as an important step forward. However, the organization remains deeply concerned that the use of torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment) continues to be widespread and systematic. International instruments, including the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention or the Convention against Torture) remain to be implemented in law, policy and practice.

Torture and other ill-treatment have been systematically used by all the security forces throughout the last decades. The 2008 coup and the so called fight against “terrorism” in Mauritania have given *carte blanche* to the security forces to engage in acts of torture against those suspected of involvement in terrorist acts. Mauritania adopted a new anti-terrorism law in July 2010 (see further section 2(b and e) below)¹. The new law gives additional powers to the security forces to fight “terrorism”, including Al-Qa’ida in the Islamic Maghreb (Al-Qa’ida au Maghreb islamique, AQMI) and provides for a prolonged period of pre-charge custody (*garde à vue*) up to 15 working days, renewable twice. For common offences, suspects can be held in custody for up to 72 hours (this period does not include weekends and holidays).

This briefing is based on Amnesty International’s research, including from several missions conducted from 2008 to 2012 and ongoing monitoring of the human rights situation in Mauritania. In the course of this work, Amnesty International has collected dozens of testimonies of torture and other ill-treatment of detainees and former detainees, men and women, alleged Islamists and people arrested for common criminal offences. This briefing also outlines cases of enforced disappearances and lack of access to lawyers, family members and medical assistance.

Amnesty International highlights the systematic use of torture and other ill-treatment as a method of investigation by security forces during the early stages of detention in official and unofficial places of detention, the deplorable conditions of detention in several prisons amounting to cruel, inhumane and degrading treatment and the recourse to enforced disappearance. This situation is encouraged by the fact that the alleged perpetrators of these acts are almost never brought to justice. Torture as a means of investigation and repression is deeply anchored in the culture of the security forces and is condoned by state authorities at the highest level. Amnesty International is also deeply concerned that the courts have declared that “confessions” extracted under torture and other ill-treatment are admissible as evidence, even if they are subsequently retracted.

The review of the Mauritania’s initial periodic report by the Committee provides an opportunity for the authorities to demonstrate their determination to implement, without delay, the obligations under the Convention. The authorities should also establish a National Preventive Mechanism, in full compliance with the requirement of the OPCAT, before November 2013 and name a National Observer of Places of Deprivation of Liberty.

DEFINITION OF TORTURE AND OTHER ILL-TREATMENT IN MAURITANIAN LEGISLATION (ARTICLES 1, 2 AND 4)

The Mauritanian Constitution “solemnly affirms its attachment to Islam and to the principles of democracy as defined by the Universal Declaration of Human Rights of 10 December 1948 and by the African Charter of Human and People’s Rights of 28 June 1981 and other international conventions that Mauritania has signed.” The Constitution does not mention torture explicitly but does provide in its Article 13: “Any form of psychological or physical violence is prohibited.”

Mauritania’s Penal Code does not establish acts of torture as a discrete and specific offence. In the initial report to the CAT, the Mauritanian authorities state that under the Penal Code, people accused of torture and other ill-treatment can be prosecuted for assault and battery (*coups et blessures volontaires*) and manslaughter (*homicides involontaires*)².

In April 2007, a Code of Criminal Procedure (*Code de procédure pénale, CPP*) was adopted providing, in its article 58, that “confessions obtained by torture, violence or force shall be invalid” (introductory article) and that “[a]ll persons deprived of their liberty through arrest or detention, or any other form of deprivation of liberty, must be treated with respect for human dignity. It is forbidden to subject them to psychological or physical ill-treatment or to hold them in any place other than one provided for by law for that purpose” (article 58 of the Code of Criminal Procedure).

However, according to the information gathered by Amnesty International, these basic guarantees are rarely respected and inquiries are almost never conducted into allegations of torture (See further Failure to Investigate Allegations of Torture and Other Ill-Treatment below).

TORTURE AND OTHER ILL-TREATMENT IN OFFICIAL AND UNOFFICIAL PLACES OF DETENTION (ARTICLES 1, 2, 15 AND 16)

The use of torture and other ill-treatment is condoned at every stage of the Mauritanian security apparatus from the arrest to the conviction. According to most of the statements made by victims interviewed by Amnesty International, most abuse takes place during *garde à vue*. In some cases persons are detained in unofficial places of detention in violation of Mauritanian law.

TORTURE AND OTHER ILL-TREATMENT AT THE TIME OF ARREST

Information gathered by Amnesty International indicates that security forces have used unnecessary and excessive force while arresting students during demonstrations, alleged Islamists and people arrested for common law offences.

A law student was arrested twice in February 2012 at the University of Nouakchott for taking part in a demonstration protesting discriminatory practices against black Mauritians during a census. On the day of his first arrest on the Campus, on 2 February 2012, he was beaten by police with batons. He was arrested again nine days later at 1am. Security forces hit him while he was lying on the ground and had his hands handcuffed and his feet bound together.

People suspected of terrorism were beaten in public when arrested by the security forces.

A seller of mobile phones was arrested on 27 December 2011 in Kiffa (600 km south-east of Nouakchott, the capital) suspected of being an AQMI member. He was handcuffed, blindfolded and beaten in the market place in front of members of the public. He was subsequently detained and sentenced to prison.

TORTURE AND OTHER ILL-TREATMENT IN CUSTODY

Detention procedures allow suspects in pre-charge custody for suspected offences against national security, to be held for a maximum of 45 days. The July 2010 anti-terrorism law provides that people suspected of terrorist offences can be held in custody “for a period of 15 working days. (...) This period may be extended twice, for the same duration, after written authorization by the State Prosecutor”³. Even though this is a considerable period, and wholly unacceptable under international standards, it is regularly exceeded. Mauritanian law allows the authorities to hold common criminal suspects in garde à vue for a maximum of 48 hours renewable once after which the detainee should be either released or charged. All the information gathered by Amnesty International during the last two decades confirms the permanent and recurring use of torture and other ill-treatment during the period in which detainees are held in custody, in order to obtain “confessions”, evidence or information allowing identification of other suspects.

Torture and other ill-treatment are generally inflicted immediately after arrest in detention centres including the first police brigade and the gendarmerie barracks.

A very large number of current and former prisoners interviewed by Amnesty International described in detail the torture which they suffered and their coherent narratives show that these practices are essentially used to extract “confessions” that are often the only means used by the police, the army and prosecutors to establish the alleged guilt of suspects. The perpetrators of these acts of torture and other ill-treatment include police officers, military personnel and prison officers. To Amnesty International’s knowledge, no enquiry has been opened into any such allegations and no official has been prosecuted.

The following methods of torture set out below, which are generally accompanied by blows to different parts of the body, are often used successively on the detainees until a “confession” is obtained. This list is non-exhaustive and is based on testimonies of victims of torture and other ill-treatment collected by Amnesty International:

- “Jaguar” position. This position consists of tying the detainee’s hands and feet together, suspending him or her from an iron bar and hitting the detainee in this position. A detainee accused of terrorism and arrested in 2008 told Amnesty International : “They forced me to bend double, got hold of my hands and legs, and joined them under the knees at the height of the shin. They tied them together with handcuffs, then placed an iron bar under my knees and suspended me from the ceiling. They then hit me with sticks and truncheons. I regularly lost consciousness in this position.” The “jaguar” position, was described in many variants by many detainees and ex-detainees.
- Cigarette burns: Many detainees and ex-detainees interviewed by Amnesty International told how they had been burned with cigarettes.
- Electric shocks: Some detainees, especially alleged Islamists arrested since 2008, said they received electric shocks to different parts of their body, including the arms and the legs.
- Forcing the detainee into contorted positions: Detainees have had their arms and legs tied behind their back, causing extreme pain and open wounds.
- Sleep deprivation: Several detainees were prevented from sleeping at night by knocking at the door.
- Pulling out hair: This method has been used especially with alleged Islamists.
- Threats to harm families: Several detainees said that the security forces had tried to make them “confess” by threatening to harm their families.

Most, if not all, of the 20 or more Malians arrested in Lemzeirib in February 2010 and accused of being drug traffickers were allegedly tortured by the army. Some were stabbed by soldiers at the time of their arrest and some were burned with cigarettes.

A student detained at Ksar police station following the student demonstrations in February 2012 had his hands and feet tight together with a rope, and was beaten and stamped on during interrogation.

The security forces have clearly indicated to many detainees interviewed by Amnesty International that torture would continue to be applied until they gave the required information or “confession”. The victims of torture include women who had been detained on suspicions of both ordinary criminal offences and political ones.

A Guinean woman arrested in August 2010 in Nouakchott on suspicion of selling drugs was held and beaten for 21 days at the police station of Tavrigh Zeina in Nouakchott. She had her hands tied behind her back. She was also ill-treated in front of her sister and mother who were summoned to the police station in order to force her to “confess” and provide information

In November 2011, some of the 14 men arrested and accused of being homosexuals, which is a crime under Mauritanian law were tortured in custody. They were sent to the police station of Tavrigh Zeina, in Nouakchott where they were stripped naked and insulted. Some of them were blindfolded and were beaten with electric cables while their hands and feet were tied on their back.

TORTURE AND OTHER ILL-TREATMENT IN PRISON

Despite statements by the Mauritanian authorities that torture is not practised, scores of people have regularly alleged that they were tortured or otherwise ill-treated, including prisoners at Dar Naïm prison, Nouakchott central prison and Nouadhibou prison. At least two people have reportedly died as a result of torture since 2009. Ousseyni Wellé, a Senegalese national sentenced to death in 2008, died in 2009 in Dar Naïm prison, allegedly as a result of torture. No investigation was known to have been carried out. In October 2012, another detainee reportedly died in Dar Naïm prison as a result of torture.

Women detainees have also been subjected to ill-treatment. In June 2012, an Amnesty International delegation also visited the women’s prison in Nouakchott where prisoners were subjected to harsh punishments. A detainee told an Amnesty International delegation in July 2012: “When women detainees fight, they are handcuffed to the windows and stay in the sun for hours. Putrid water is being thrown to them”.

INCOMMUNICADO DETENTION, AND ENFORCED DISAPPEARANCES (ARTICLES 1, 2 AND 16)

Detainees, including those arrested on suspicion of belonging to AQMI, have been detained incommunicado for prolonged periods, exceeding the 72 hours for common criminal suspects and the 45 working days allowed for AQMI suspects by Mauritanian law.

The Mauritanian police use torture in both official and unofficial places of detention, including apparently private residences. Among the official places of detention where acts of torture have taken place are several police stations and the gendarmerie barracks. Several testimonies gathered by Amnesty International describe instances of torture at the first police brigade, opposite the World Health Organization headquarters in Nouakchott. Detainees, including people sentenced to prison terms, were also victims of enforced disappearances

In May 2011, 14 prisoners who had been convicted of terrorism activities and sentenced to death penalty and to prison terms ranging from 5 to 15 years imprisonment were taken at night from a Nouakchott central prison to an unknown location. In June 2011, some of their belongings were returned to their families without any explanation. The fate and whereabouts of the 14, have remained unknown since⁴. The authorities told Amnesty International’s delegation in November 2011 that they had been transferred for security reasons. In July 2012, the authorities stressed to Amnesty international that the transfer to a secret location of these 14 men sentenced for terrorism related offences, was a temporary measure for security reasons.

ACCESS TO A LAWYER (ARTICLE 2(1))

The opportunity to consult a lawyer only arises if the period of detention is extended, and with the written authorization of the public prosecutor. Anyone accused of an offence under ordinary law and held in custody must wait 48 hours (renewable once) before s/he can meet with a lawyer. Concerning the people suspected of terrorist offences, the July 2010 anti-terrorism law does not provide precisely when the detainee is entitled to have access to a lawyer. In all cases, the CPP limits interviews with counsel to thirty minutes and states that the interview must be “*supervised by a police officer in conditions that guarantee the secrecy of the interview*” (article 58 of the CPP). The information collected by Amnesty International indicates that this is seldom the case.

However, the entitlement to the assistance of a lawyer is considerably reduced by another provision of this same article 58, which states that the public prosecutor “*may delay communication between the lawyer and his client at the request of the police officer if the requirements of the investigation so demand*”. There is no time limit to these restrictions.

In addition, article 60 of the CPP states that: “*Once a person in police custody has been brought before the competent judge, s/he is entitled to a medical examination, either at his or her request or at the request of a member of his or her family.*” Despite the existence of this provision, suspects have been held incommunicado, without being allowed to contact or see their family, lawyer or doctor. In many cases, detainees have been forced to sign a written account that did not reflect their interrogation.

PRISON CONDITIONS AMOUNTING TO CRUEL, INHUMAN AND DEGRADING TREATMENT AND CORPORAL PUNISHMENT (ARTICLES 1, 11 AND 16)

On several occasions and most recently in June 2012, Amnesty International visited the Dar Naïm prison near Nouakchott. The organization noted a foul odour, how dozens of prisoners were crammed into dark cells without a suitable ventilation system. There were mattresses on the floor, but not all prisoners have one and some sleep on rags on the floor surrounded by vermin and ridden with fleas. Men pressed up against one another in stifling heat, and are rarely able to leave their cells or breathe fresh air. The only opportunity prisoners have to stretch their legs is in the narrow corridors which are littered with refuse. In addition to these deplorable detention conditions, detainees complained about the absence of medical care and the inadequate food, which foster the proliferation of disease. The very fact of being held in these conditions, where the majority of those being held are unable to see the sun for months or years, itself constitutes cruel, inhuman and degrading treatment.

Detainees also complained to the Amnesty International delegates about brutality and corporal punishment including beatings by prison guards who enjoyed complete impunity.

The serious overcrowding, absence of access to adequate medical care, deficient or inexistent hygiene conditions, rudimentary bedding and the lack of access to areas where exercise may be taken are further evidence that the Mauritanian authorities do not comply with recognized international standards where detention is concerned.

FAILURE TO INVESTIGATE ALLEGATIONS OF TORTURE AND OTHER ILL-TREATMENT (ARTICLE 12, 14 AND 15)

Amnesty International is also deeply concerned, as referred to previously in this briefing, that judges almost invariably regard as admissible statements extracted under torture and have declared “confessions” obtained through torture admissible as evidence, even if they had been subsequently retracted.

Throughout 2011, at least 12 people, including Mohamed Lemine Ould Mballe, were arrested on suspicion of being members of AQMI. Most spent more than 40 days in police custody. At least 18 people were tried and sentenced to prison terms or to death. Although the detainees alleged that they had been tortured, the court did not order any inquiry and condemned them on the basis of their extorted confessions.

Members of the security forces can use torture knowing that they have the implicit support of the judicial authorities, be the prosecutors or even, in some cases, examining magistrates and judges hearing prisoners' cases. All along the police, prison and judiciary chain, torturers are therefore assured complete impunity. Several prisoners complained to the prosecutor about acts of torture. As far as Amnesty International is aware, no public servant has ever been prosecuted for acts of torture or ill-treatment of detainees or prisoners and more generally, no inquiry has been conducted into allegations of torture.

The Criminal Code contains no provision explicitly sanctioning acts of torture by State agents in the exercise of their duties. It simply provides, in article 180, that: "Any official or public servant, administrator, or an agent of, or other person appointed by, the government or the police, or any other person entrusted with the execution of judicial orders or judgments, or any commander in chief or junior officer of the law enforcement authorities who, in the exercise of his duties, or for the purpose of exercising his duties has, without legitimate cause, used or caused to be used violence towards any person, will be punished according to the nature and gravity of such violence (...)."

CONCLUSION AND RECOMMENDATIONS

All of the information gathered by Amnesty International in the last four years demonstrates that torture remains firmly anchored in the culture of the security forces. Over decades, successive governments have sanctioned the systematic use of torture, or been powerless to stamp it out. Torture has proved to be an essential element of the security system; one which is tolerated, encouraged and even sanctioned by the State as a means of extracting confessions and so allowing the courts to convict defendants without further evidence.

These practices have been condemned for years by human rights organizations, including Amnesty International. The number of different torture techniques, the total impunity enjoyed by the perpetrators of these acts and the high number of recent cases of torture of persons accused of belonging to the AQMI, demonstrates that nothing has been done to put a stop to this practice.

There is an urgent need for the Mauritanian authorities to adopt an effective programme to combat torture and other ill-treatment and send a strong signal to the security forces to stamp out these practices both in places of detention and in prisons.

RECOMMENDATIONS

- Make any act of torture a criminal offence under Mauritanian law;
- Incorporate the definition of torture as per the Convention against Torture and make provision for penalties that reflect the gravity of the nature of the act;
- Carry out prompt, independent, impartial and effective investigation without delay into all complaints and information concerning torture and other ill-treatment;
- Ensure that law enforcement officers suspected of torture and other ill-treatment, are suspended from active service until the investigation is complete. This measure must not prejudice their right to a fair trial;
- Ensure that all law enforcement officers against whom charges have been laid regarding torture and other ill-treatment are prosecuted in civil courts in accordance with international standards of fairness and

without resorting to the death penalty;

- Call upon judges to declare as inadmissible any statements obtained under torture or other ill-treatment and refuse to accept them as evidence in any judicial proceedings. Judges must immediately suspend proceedings during the course of which acts of torture are alleged, and an investigation must be opened under the authority of a prosecutor other than the prosecutor bringing the case against the alleged victim;
- Apply fully international standards on the treatment of prisoners and conditions of detention, in particular those set out in the UN Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);
- Ensure that detainees are held in places officially intended for that purpose and that their next-of-kin and lawyers receive accurate information, without delay, about their arrest and the place where they are being held. Next-of-kin and lawyers must at all times be able to exercise the available legal remedies which will enable them to determine where a person is being held, to satisfy themselves as to the legality of his or her detention and to verify that his or her safety is guaranteed;
- Ensure that anyone placed in detention is brought before a judge or other independent law officer authorized by law to exercise judicial functions at the earliest opportunity in order to verify the legal basis for the arrest and ascertain whether holding on remand is genuinely necessary; to guarantee the detainee's well-being and prevent the violation of his or her fundamental rights;
- Ensure that all detainees are informed of their rights at the time of their arrest, including the right not to be tortured or ill-treated, as well as the right to lodge a complaint about the treatment they receive and the right to have the legality of their detention decided by a judge as soon as possible;
- Ensure that prison staff receive appropriate training on human rights issues including prevention of torture and other ill-treatment;
- Ensure that all victims of torture and other ill-treatment can benefit from all forms of reparation, including measures of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition;
- Establish an independent, professional, representative and well-resourced National Preventive Mechanism, in accordance with the requirements of the OPCAT, to carry out visits to places of detention and make recommendations to the government on ways to prevent and stop torture and other ill-treatment, including improvement of prison conditions.

¹ Loi n°2010-035 du 21 Juillet 2010 Abrogeant et Remplaçant la loi n°2005-. 047 du 26 Juillet 2005 relative à la Lutte contre le Terrorisme, article 23, available at http://www.vertic.org/media/National%20Legislation/Mauritania/MR_Loi_Terrorisme.pdf

² Mauritania, Rapport présenté conformément aux dispositions de l'article 19 de la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants, October 2011, p. 18, available at <http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.MRT.1.pdf>.

³ Loi n°2010-035 du 21 Juillet 2010 Abrogeant et Remplaçant la loi n°2005-. 047 du 26 Juillet 2005 relative à la Lutte contre le Terrorisme, article 23.

⁴ For more details and list of names please see Mauritania: the families of 14 prisoners subjected to enforced disappearance for over a year have the right to know their relatives' whereabouts, AFR 38/008/2012, 26 September 2012, <http://www.amnesty.org/ar/library/asset/AFR38/008/2012/ar/030fd1fe-f3e0-479e-88cd-4b0bd4de857c/afr380082012en.pdf> and Mauritania: 14 prisoners have been subjected to enforced disappearance for nine months, AFR 38/001/2012, 23 February 2012, <http://www.amnesty.org/en/library/asset/AFR38/001/2012/en/36ccb1-f4e2-4722-bb02-033984060b77/afr380012012en.pdf>.

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