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Mauritania

Submission to the UN Universal Periodic Review

**Ninth session of the UPR Working Group of the
Human Rights Council**

November-December 2010



Executive summary

In this submission, Amnesty International provides information under sections B, C and D, as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*.¹

- Under section B, Amnesty International notes rights protected in Mauritania's Constitution and treaties to which Mauritania is a party.
- Section C highlights Amnesty International's concerns in relation to serious human rights violations committed by the security forces, including excessive use of force; torture and ill-treatment; arbitrary arrest, violation of migrants' rights, prison conditions, slavery and the death penalty.
- In section D, Amnesty International makes a number of recommendations for action by the government to address the areas of concern.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

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B. Normative and institutional framework of the State

Since 2005, Mauritania has suffered two military coups, which have disrupted the political landscape. In 2005, a bloodless military coup deposed President Maouyia Ould Taya, who himself had come to power after a coup in 1984. In March 2007, Sidi Ould Cheikh Abdallahi won the presidential election which followed parliamentary polls. This completed a promised hand-over to civilian rule which did not last long. A year later, in 2008, a group of military officers overthrew and arrested President Sidi Ould Cheikh Abdallahi. In 2009, Mohamed Ould Abdel Aziz, former leader of the junta, won a narrow first-round majority in the election. The president of the Independent National Electoral Commission (*Commission électorale nationale indépendante*,) resigned and threw doubts on the reliability of the results.

In June 2006, a new Constitution was approved by referendum, reducing the presidential mandate to five years, with a limit of two terms. It contains some limited rights considered as inviolable and inalienable:

- The equality of all citizens under the law (article 1)
- The right to freedom of expression (article 10)
- The right to association and assembly (Article 10)
- The right to freedom of opinion and thought (Article 10)
- The guarantee against arbitrary arrest and for fair trial, and the prohibition of physical or mental violence (Article 13)

The preamble of the Constitution reaffirms Mauritania's commitment to fundamental human rights and obligations as contained in the Universal Declaration on Human Rights and the African Charter on Human and Peoples' Rights. Mauritania ratified the International Covenant on Civil and Political Rights in 2004, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2004, and the African Charter on Human and Peoples' Rights in 1986. In 2009, Mauritania was reintegrated into the African Union, from which it had been suspended after the August 2008 military coup.

C. Promotion and protection of human rights on the ground

Torture and ill-treatment

Information gathered by Amnesty International during four recent missions to the country since 2008 confirms the regular use of torture by the security forces against individuals detained for political reasons or for ordinary crimes. Torture is generally inflicted while detainees are held in custody, immediately after arrest. Although custody is strictly regulated, testimonies gathered by Amnesty International show that prisoner' rights are not respected. On at least one occasion, the court declared that "confessions" extracted under torture or ill-treatment were admissible as evidence, even if they had subsequently been retracted. The

UN Working Group on Arbitrary Detention has expressed concern about the lack of effective control by the prosecutor over police action and over the situation of individuals in custody.²

The perpetrators of acts of torture and ill-treatment include police officers, military personnel and prison officers. Most abuses take place in detention centres, including the first police brigade, the police school in Nouakchott, gendarmerie barracks, the headquarters of the Army Chief of Staff, and Navy premises and private villas in Nouakchott. Common methods included kicking, beating, electric shocks, cigarette burns, sexual violence, suspension by the arms, shackling in painful positions, and deprivation of sleep and food. In addition to these methods, one prisoner described to Amnesty International how he was tortured in the “jaguar” position – this method consists of tying the detainee’s hands and feet together, suspending him from an iron bar and hitting and torturing the detainee in this position.

Allegations of torture and other ill-treatment have been recorded from scores of people, including detainees at Dar Naïm prison. Some detainees arrested in 2008, especially alleged Islamist activists, reported that they had been tortured with electric shocks. One detainee told Amnesty International that the security forces urinated on him and inserted a truncheon in his anus. The torture sessions are normally conducted at night and sometimes accompanied by a kind of ritual during which the perpetrators sing a refrain while others hit the detainees. During a trial held in 2008, one detainee said that he had been burned with cigarettes by police to extract confessions. A request by the defence to call those believed to be responsible for the acts of torture as witnesses was refused.

Arbitrary arrests and detention

In 2008, following the August coup, President Sidi, Prime Minister Yahya Ould Mohamed El Waghef, the Interior Minister and two other senior officials were arrested. Some of them were released a few days later. President Sidi was detained until 13 November 2008 when he was transferred to his home village of Lemdem and held under house arrest. He was finally released on 22 December 2008. In September, Isselmou Ould Abdelkhader, a former Minister of Health, was arrested for criticizing the August coup. He was provisionally released after more than 5 months in detention.

Human rights violations in the context of national security and the fight against terrorism

Since 2007, scores of people, mostly suspected Islamist activists, have been arrested and accused of links to al-Qa’ida or other terrorist organizations. Others have been arrested in the context of counter-terror measures. Among them are the men charged with killing four French tourists in Aleg in December 2007, and those charged with attacking the Israeli Embassy in Nouakchott in February 2008. Others were suspected of having participated directly or indirectly in terrorist acts. Some were released within two weeks; however, as of March 2010 many are still held without trial.

Many detainees, including those accused of belonging to al-Qa’ida in Maghreb, have been held in incommunicado detention for prolonged periods, exceeding the 15 days allowed by law. The security forces and prison officers refuse to allow family visits. The mother of an alleged Islamist activist, arrested at his home on 30 April 2009 and detained at the Army Chief of Staff headquarters, was refused access to her son despite obtaining authorization for a visit from a magistrate.

In July 2007, eight people, including Med Lemine Ould Jiddi and Taher Ould Abdel Jelil, were arrested and charged with terrorist acts, training abroad to commit terrorist acts in Mauritania and belonging to an unauthorized association. Four of them were provisionally released while the other four remain in detention.

² Report of the Working Group on Arbitrary Detention, Addendum, Mission to Mauritania, A/HRC/10/21/Add.2, 21 November 2008.

Prison conditions

Hundreds of detainees are held in overcrowded prisons with inadequate sanitation and health care, and poor quality food. The harsh prison conditions in some prisons can also amount to cruel, inhuman or degrading treatment.

Detainees in the prisons of Nouadhibou, Nouakchott civil prison, and Dar Naïm (near Nouakchott, the capital) are held in cramped conditions and in stifling heat and rarely allowed to leave their cells or breathe fresh air. There are some mattresses on the floor, but not all prisoners have one and some sleep on rags on the floor surrounded by vermin. The only opportunity prisoners have to stretch their legs is in the narrow corridors which are littered with refuse. Prison officials have acknowledged to Amnesty International that the prisons in Dar Naïm and in Nouadhibou do not meet national standards. They referred to inadequacies in the water disposal system, dampness and lack of ventilation in cells. In the event of a fire, fire-fighters would find it difficult to access the cells.

Around 30 prisoners with mental health problems have no medical care in Dar Naïm prison. Detainees in Nouadhibou, Dar Naïm and Nouakchott civil prison have complained about brutality and corporal punishment. Prisoners are regularly beaten by guards reportedly if they ask to see the prison administrator or seek medical care. One prisoner alleges that he was beaten and left tied up for two weeks after a group of prisoners complained about the lack of food and medical care. In October 2008, at least eight Islamist detainees held in Nouakchott civil prison were beaten by guards.

During visits to these three prisons Amnesty International noted a complete lack of control of prison life by the judicial authorities. Despite the existence of internal regulations in Mauritanian prisons, in practice, prison administrators have virtually no power. The main reason for this is that all personnel responsible for guarding remand and convicted prisoners are on secondment from the Ministry of Interior and therefore not answerable to the Ministry of Justice.

During a visit to Dar Naïm prison in July 2008, an Amnesty International delegation heard prisoners banging on their cell doors. The delegation saw that the prisoners had been put into tiny cells, where they have to sleep on the floor, with no room to stretch out. The cells were infested with cockroaches and fleas and had no ventilation or windows except one small opening in the door to pass food through. These prisoners, many of whom had been in these cells for over ten days, were under disciplinary measures. In one case, the prison authorities said they had mislaid the key to the cell and, at the request of Amnesty International delegates, agreed to saw through the chain on the door and let the prisoners back into ordinary cells.

Excessive use of force

On a few occasions, excessive and deliberate use of force has been used by the Mauritanian authorities when their authority was challenged in the streets or in public gatherings. In November 2008, the security forces fired live bullets at secondary school students protesting against increased food prices. Eighteen-year-old Cheikhna Ould Taleb Nava was killed when the security forces opened fire on protesters in Kankossa in the south-east of the country.

On 19 April 2009, the police again used force to disperse a group of women who tried to organize a sit-in in front of the United Nations headquarters in Nouakchott. Many of the women, including former ministers, members of parliament and human rights defenders, were kicked or beaten with batons and belts. One of them, Mrs Nebghouha Mint Mohamed Vall, former Education Minister, told Amnesty International that she was hit by police officers. She lost her veil, and when her daughter tried to retrieve it she was also beaten. Another demonstrator, Chicha Mint Benna, daughter of Mohamed El Hafedh Ould Denna, president of the opposition Mauritanian Labour Party, fell unconscious after being beaten and had to be hospitalised.

Two weeks earlier, on 2 April 2009, the police violently repressed a demonstration organised by the Coordination of Democratic Forces, a coalition formed by the opposition party, (National Front for the Defence

of Democracy, FNDD, composed of trade union federations and human rights and civil society organizations). The demonstrators were protesting against the decision to organize presidential elections on 6 June 2009, which they saw as an attempt to legitimise the previous year's military coup. One human rights defender, Boubacar Messaoud, president of the non-governmental organization, SOS Slaves (*SOS Esclaves*), was beaten by police until he lost consciousness. Several members of parliament, including Kobade Ould Cheick and Mohamed Moustapha Ould Bedredine, identifiable by their official sashes, were also beaten and the police fired teargas at them.

Refugees, asylum-seekers and migrants' rights

Over the past four years, hundreds of migrants have been detained and expelled to neighbouring countries with no opportunity to challenge the legality of their detention or collective expulsion. All were expelled, often in large groups, to either Senegal or Mali, which are not the home countries of a number of these migrants. These measures appear to be a consequence of pressure from the EU, particularly Spain, to control migration to Europe.

Information obtained by Amnesty International during a mission to Mauritania in March 2008 indicates that the rights of migrants and some refugees are violated by the Mauritanian security forces, who sometimes make arbitrary arrests, operate rackets and inflict ill-treatment on individuals accused of wanting to travel to Europe irregularly.

Many migrants are held in a detention centre at Nouadhibou, northern Mauritania, known locally as "Guantanamo", where some are reported to have been ill-treated by members of the security forces. This detention centre, a former school, can receive up to 300 people a month, but is not subject to any judicial control. When the Amnesty International delegation visited the centre at the beginning of March 2008, only three classrooms were in use, which resulted in a serious overcrowding and deplorable hygiene conditions.

Several of the migrants interviewed by Amnesty International said that the security forces had treated them roughly or insulted them at the time of their arrest. Most had been robbed of some of their possessions and many said that they had been arbitrarily arrested in the street or at home, while not attempting to reach Europe irregularly. For example, a 41-year-old Malian said that he had been arrested at home in the middle of the night. He had been working in Nouadhibou for two years and told Amnesty International that he did not have any intention of going to Europe; he had all his papers and had a rickshaw to do his work.

Even though recent figures show that the number of people arrested and detained in Nouadhibou while allegedly trying to reach Europe has slightly decreased, in 2009 more than 1,750 people suspected of trying to migrate to Europe were arbitrarily arrested and detained for a few days before being expelled to Senegal or Mali.

Slavery

Although slavery was officially abolished in Mauritania in 1981 and made a criminal offence in 2007, evidence indicates that the practice continues. Under the new law, slavery is punishable by up to 10 years in prison.

Estimates of the number of people held in slavery vary widely. In 2008, people were believed to be held in forced labour or slavery in the regions of Tiris Zemour and Nema. In September 2008, a former slave wrote to the authorities asking them to look for 14 members of his family still held in slavery in Tiris Zemour.

In June 2006, at least eight people were released from slavery in the Adrar region, 450 km north of Nouakchott, while others reportedly remain in captivity in the region of Tagant, 400 km north-east of Nouakchott.

The case of a couple arrested for slave practices on a 10-year-old girl was dismissed in April 2009 after the prosecutor concluded it was a family matter. *SOS Esclaves*, which filed the case, complained that the 2007 law criminalizing slavery had not been enforced.

The report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, released in March 2009, noted that the government had taken positive steps to combat discrimination, but expressed concern about the ongoing marginalization of black Mauritanian people in the political, economic and social spheres. He stressed that despite the adoption of laws, notably against slavery, there was still a gap between the legal framework and its application, and that no complaints were being brought before the domestic courts. The Special Rapporteur recommended amending the Constitution to reflect the cultural diversity of the country and establishing a Commission to examine the root causes of discrimination.³

In October and November 2009, the Special Rapporteur on contemporary forms of slavery visited Mauritania. She acknowledged the efforts made by the government and civil society to fight slavery, but considered that “a more a holistic, collaborative and sustained approach addressing all forms of discrimination together with poverty at all levels of society [was] required”.⁴

The death penalty

According to official figures, there were 37 prisoners under sentence of death in 2008 held together with other prisoners in six prisons, including Dar Naïm and Nouadhibou prisons. A number claimed that their trials had been unfair, asserting that they were not allowed to defend themselves properly or that they did not have a lawyer. One prisoner alleged he was sentenced solely on the basis of confessions obtained under torture. Another claimed that he was sentenced after being forced to sign a police statement in a language he could not read. Yacoub was arrested in May 2008 for complicity in murder and brought to the police station in Nouakchott where he was tortured for 13 days. He confessed and was sentenced to death in November 2008. He explained to Amnesty International that his hands and feet were tied and that he was suspended from the ceiling and beaten for 13 nights in a row, until he finally “confessed”.

D. Achievements, best practice, challenges and constraints

Amnesty International calls on the government:

Torture and ill-treatment

- To give clear instructions to the security forces to always act in compliance with international human rights law, in particular, the right to life and the prohibition of torture and other ill-treatment;
- To ensure that anyone placed in detention must be promptly brought before a judicial authority and have the option of disputing the legality of the decision to imprison;
- To draw a plan of action against torture and ill-treatment with a view to their eradication and bring to justice all suspected perpetrators of these acts. To make any act of torture or ill-

³ Report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Addendum, Mission to Mauritania, A/HRC/11/36/Add.2, 16 March 2009.

⁴ Press release, Office of the High Commissioner on Human Rights, “Unaddressed, slavery in all its forms may be an obstacle to the future of Mauritania”, 4 November 2009.

treatment a criminal offence and make provision for penalties that reflects the gravity of the nature of the act;

- To inform members of the police and law enforcement officers, in unambiguous language, that violation of human rights, and torture and ill-treatment, will not be tolerated under any circumstances and that anyone committing such offences will be punished as provided for by law;
- To carry out impartial and effective investigation without delay into all complaints and information concerning torture and other ill-treatment. To ensure that all judges, prosecutors and lawyers are informed that confessions and statements obtained other than in the presence of a member of the public prosecutor's office and the suspect's counsel may not be used in support of the accusation before the court;
- To extend an invitation to the United Nations Special Rapporteur on torture and cooperate fully with him, allowing him complete freedom to visit and all official unofficial places of detention;
- To ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Arbitrary arrests and detention / Conditions of detention

- To ensure that all detainees can contact their family, a lawyer and doctor without delay after their arrest and regularly throughout the period of their detention or imprisonment;
- To place the management of prison on penal institutions under the effective and appropriate control of the Ministry of Justice;
- To apply international standards on the treatment of prisoners and conditions of detention, in particular those set in the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;
- To create a mechanism which has the necessary means of organizing periodic visits and inspections or places of detention by a committee of independent experts consisting of judges, prosecutors, doctors and lawyers, together with members of civil society and in particular human rights defenders.

Refugees, asylum-seekers and migrants' rights

- To protect the rights of migrants and asylum-seekers, including their rights to liberty and freedom from arbitrary detention; to protection against torture or other ill-treatment; to access to a fair and satisfactory asylum procedure and to protection from return to a country or territory where he or she would be at risk of serious human rights violations, according to the article 6 of the African Charter on Human and Peoples' Rights;
- To ensure that detention of migrants is used only if, in each individual case, it is demonstrated that it is a necessary and proportionate measure that conforms with international law; if criteria for detention are clearly set out in law and if alternative non-custodial measures, such as reporting requirements, are always considered before resorting to detention.

Slavery

- To establish an independent and impartial enquiry into progress over the past 20 years and to consider steps to take towards complete eradication of slavery, slavery-like practices and related abuses and discrimination in Mauritania. The inquiry should involve religious leaders, traditional leaders, law enforcement officials and judicial officials as well as members of civil society including NGOs working against slavery;
- To ensure that the 2007 law which makes slavery a criminal offence is enforced and that all people suspected of practicing slavery are properly prosecuted;

- To develop mechanisms for full and fair reparations for victims of slavery, including compensation and rehabilitation.

Excessive use of force

- To respect the freedom of expression and freedom of assembly, without the use of violence.

The death penalty

- To impose an immediate moratorium on executions, commute all death sentences and progressively reduce the number of crimes punishable by death with a view to the abolition of the death penalty.

Appendix: Amnesty International documents for further reference⁵

Migrants' rights

- Report - Mauritania: "Nobody wants to have anything to do with us" – arrests and collective expulsions of migrants denied entry into Europe (Index: AFR 38/001/2008), 1 July 2008.
- Report - Mauritania: Migration-related detention: A global concern (Index: POL 33/004/2008), 1 December 2008.

Excessive use of force

- News - Mauritania: Repression of peaceful protests in Mauritania, 23 April 2009.
- Press Release - Mauritania: Amnesty International calls for the release of the President of the Republic and respect for fundamental freedoms (Index: AFR 38/007/2008), 12 August 2008.
- Public statement - Mauritania: Peaceful demonstrations demanding restoration of the rule of law violently repressed (Index: AFR 38/008/2008), 8 October 2008.

Torture and ill treatment

- Report - Mauritania: Torture at the heart of the state (Index: AFR 38/009/2008), 3 December 2008.
- Public statement - Mauritania: Torture of alleged Islamists widespread (Index: AFR 38/004/2008), 12 June 2008.

⁵ All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/mauritania>