



MAURITANIA

SUBMISSION TO THE UNITED NATIONS COMMITTEE ON THE
ELIMINATION OF RACIAL DISCRIMINATION

95TH SESSION, 23 APRIL-11 MAY 2018

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INTRODUCTION

Amnesty International welcomes the opportunity to submit this document to the United Nations (UN) Committee on the Elimination of Racial Discrimination (the Committee) in advance of the consideration of Mauritania's eighth-14 combined periodic reports at the 95th session of the Committee in Geneva in May 2018.

This submission contains up-to-date information, current as at 31 January 2018, and focuses on racial discrimination in Mauritania, particularly regarding the persistent practice of slavery and discrimination against members of the Haratine and Afro-Mauritanian communities, and reprisals against human rights defenders who speak out against these practices.

The submission is not an exhaustive analysis of Mauritania's compliance with its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (the Convention). It is based on a research report published by Amnesty International in March 2018, *'A sword hanging over our heads': The repression of activists speaking out against discrimination and slavery in Mauritania* (Index: AFR38/7812/2018), attached for your consideration.

PERSISTENCE OF SLAVERY

POSITIVE DEVELOPMENTS: CRIMINALISATION AND ELEVATION TO A CRIME AGAINST HUMANITY IN THE CONSTITUTION

Mauritania abolished slavery in 1981¹ but it was only recognized as a crime with the 2007 law on slavery, revised in 2015.² A constitutional amendment adopted in 2012 provides that "no one shall be subjected to slavery or any form of human enslavement."³ It also elevates slavery to a crime against humanity. In 2013, decree No. 2013-048 established the National Agency for the Eradication of the Vestiges of Slavery, Social Integration and Action to Fight Poverty, also called Tadamoun. It is responsible for identifying and proposing programmes to eradicate the consequences of slavery and ensuring their implementation. It also has the mandate to lodge complaints against suspected perpetrators of slavery-like practices on behalf of the victims as a civil party and be associated in a court action with the public prosecutor.⁴

While these legal developments are positive, the 2015 law on slavery falls short of several standards suggested by the Special Rapporteur on contemporary forms of slavery, including its causes and

¹ Decree No. 81-234 of 9 November 1981 on the abolition of slavery.

² Law No. 2007-048 on slavery of 3 September 2007.

Law No. 2015-031 on the criminalization of slavery and slavery-like practices of 10 September 2015.

³ Constitutional law No. 2012-015 revising the Constitution of the 20 July 1991 of 20 March 2012, Article 5.

⁴ Decree No. 2013-048, Article 2.

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consequences (hereafter Special Rapporteur on slavery), particularly the inclusion of a civil cause of action, which would allow victims to bring suits without the involvement of police and prosecutor.⁵

AN ONGOING PRACTICE

There is no official data on the nature and incidence of slavery in Mauritania,⁶ as the authorities continue to refute the existence of the practice in the country.⁷ However, international anti-slavery groups estimated the number of people living in slavery in 2016 to be between a few “thousands”⁸ to 43,000 (comprising about 1% of the total population).⁹ In June 2017, the Committee on the Application of Standards of the International Labor Organization “expressed deep concern over the persistence of slavery on a widespread scale”.¹⁰ In December 2017, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) found that two Haratine children were subjected to contemporary slavery or slave-like practices for 11 years and that Mauritania had failed in its obligations to protect children’s rights under the African Charter on the Rights and Welfare of the Child, including to act in their best interest and protect them from discrimination, child labour, abuse and harmful cultural practices.¹¹

LACK OF ACCESS TO JUSTICE

One of the factors explaining the persistence of slavery in Mauritania is the failure of the authorities to implement and enforce the laws and to give victims access to justice. International and Mauritanian NGOs have noted for many years that “a major contributing factor in the persistence of slavery and slave-like practices in Mauritania is the continued failure of police, prosecutors and the judiciary to respond adequately to reported cases of exploitation, from identifying and investigating victims to prosecuting and punishing perpetrators.”¹² The anti-slavery courts received 47 cases for investigation under the 2015 anti-slavery law involving at least 53 suspects.¹³ At the time of writing, only one case led to the sentencing, in May 2016, of two slave owners under a slavery-related charge to five years imprisonment, with one year to be served and four years suspended.¹⁴ Tadamoun has also interpreted its mandate restrictively. As noted by the Special Rapporteur on extreme poverty and human rights (hereafter Special Rapporteur on extreme poverty), it acts

⁵ Minority Rights Group International, SOS Esclaves, Anti-Slavery International, Society for Threatened People, IRA, Unrepresented Nations and Peoples Organization, *Enforcing Mauritania’s Anti-Slavery Legislation: The Continued Failure of the Justice System to Prevent, Protect and Punish*, October 2015, p. 6.

⁶ Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Follow-up mission to Mauritania, A/HRC/27/53/Add.1, 26 August 2014, para. 42

⁷ “To this day, there are no proven cases of slavery in Mauritania... People bring forward cases, but when the judiciary starts its investigations, they are most of the time turn out to be fabricated.” El Mouritaniya, *Interview with President Aziz*, Nouadhibou, November 2015, www.youtube.com/watch?v=QCmwlYT1DzI “This slavery, which is being talked about so much these days, is the creation of a few peddlers of ideas, people who made it their business. In reality ... this practice no longer exists in our country.” TV5 Monde, *Interview with Mohamed Ould Abdel Aziz*, 27 November 2015;

<http://information.tv5monde.com/afrique/mauritanie-entretien-exclusif-avec-mohamed-ould-aziz-70430>

⁸ Anti-Slavery International, *Country profile - Mauritania*, www.antislavery.org/what-we-do/where-we-work/mauritania/

⁹ *The Global Slavery Index 2016*, www.globalslaveryindex.org/country/mauritania/

¹⁰ International Labour Organization, *Report of the Committee on the Application of Standards*, 106th Session, Geneva, May–June 2017, p. 19.

¹¹ ACERWC, *Said Ould Salem and Yarg Ould Salem against the Government of the Republic of Mauritania*, Decision NO. 003/2017, 15 December 2017.

¹² Minority Rights Group International, SOS Esclaves, Anti-Slavery International, Society for Threatened People, IRA, Unrepresented Nations and Peoples Organization, *Enforcing Mauritania’s Anti-Slavery Legislation: The Continued Failure of the Justice System to Prevent, Protect and Punish*, October 2015, p. 9.

¹³ US Department of State, *2017 Trafficking in Persons Report – Mauritania*, www.state.gov/j/tip/rls/tiprpt/countries/2017/271240.htm

¹⁴ Only one case brought under the 2007 law led to a conviction for slavery in 2011. This case was brought to the ACERWC which found, in December 2017, that Mauritania had “not shown due diligence to prosecute all the perpetrators of the violations, furthermore the one that was prosecuted has been released on bail and the police are not able to locate him. Such failure on the part of the Respondent State reflects ignorance that leaves perpetrators with impunity and does not send a deterring message for other slave masters.” See:

ACERWC, *Said Ould Salem and Yarg Ould Salem against the Government of the Republic of Mauritania*, Decision NO. 003/2017, 15 December 2017, para. 58.

In at least nine other cases brought under the 2007 law, the charges were requalified to less serious offences, including “labour dispute” and “exploitation of minors.”

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as a “charitable organization”, constructing health centres and schools, but has failed to develop policies to address the root causes of slavery.¹⁵ For instance, despite having the mandate to do so, Tadamoun has not submitted any criminal claims on behalf of victims of slavery.¹⁶

DISCRIMINATORY PRACTICES

POSITIVE DEVELOPMENT: RECOGNISING MAURITANIA’S CULTURAL DIVERSITY IN THE CONSTITUTION

In line with the recommendations of the Special Rapporteur on Racism, the Constitution was amended in 2012, to reflect Mauritania’s cultural diversity, stating: “the people of Mauritania, united throughout history by shared moral and spiritual values and aspiring to a common future, recognize and proclaim their cultural diversity, the basis of national unity and social cohesion, and its corollary, the right to be different.”

However, as noted by the World Bank, and the vast majority of analysts and human rights experts, including UN special procedures, deeply entrenched discriminatory practices against Haratines and Afro-Mauritians continue to this day.¹⁷

THE 2018 LAW ON DISCRIMINATION: TOO BROAD AND DANGEROUS

On 18 January 2018, the National Assembly passed a law criminalizing discrimination.¹⁸ While the law was developed in response to a recommendation of the Special Rapporteur on racism¹⁹, it contains imprecise

¹⁵ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*, A/HRC/35/26/Add.1, 8 March 2017, para. 47.

¹⁶ US Department of State, *Trafficking in Persons Report 2017*, June 2017, p. 275.

¹⁷ “Social cohesion in Mauritania is precarious and risks derailing economic and social progress. The difficulties involved in cultivating a strong shared national identity are deeply rooted in ethno-racial divisions, sociopolitical tensions, historical grievances over discriminatory state practices, and the slow pace of integration of marginalized groups excluded from social and economic opportunity.”

World Bank, *Islamic Republic of Mauritania: turning challenges into opportunities for ending poverty and promoting shared prosperity – Systemic country diagnostic*, 2017, para. 41.

“While the practice of slavery is illegal, deeply embedded discriminatory attitudes form part of the basis of slavery in Mauritania.”

Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 16 August 2010, A/HRC/15/20/Add.2, para. 51.

See also:

Francis de Chassey, ‘Vers une histoire anthropologique et sociologique de l’ethnie en Mauritanie’, in Abdel Wedoud Ould Cheikh (ed.), *Etat et société en Mauritanie : Cinquante ans après l’Indépendance*, Karthala, 2014, pp. 157-226 ;

Zekeria Ould Ahmed Salem, *Prêcher dans le désert: Islam politique et changement social en Mauritanie*, Karthala, 2013. E. Ann McDougall, ‘*Life in Nouakchott is not true liberty, not at all: living the legacies of slavery in Nouakchott, Mauritania*’, 19 July 2016, www.opendemocracy.net/author/e-ann-mcdougall

¹⁸ Agence Mauritanienne de l’Information, *L’Assemblée nationale adopte un projet loi portant incrimination de la discrimination*, 18 January 2018, <http://fr.ami.mr/Depeche-43463.html>

According to the information provided to Amnesty International, the draft law 17/124 regarding the criminalization of discrimination was adopted with the amendments suggested by the Justice, Interior and Defence Committee regarding articles 10(1), 17 and 18.

and overbroad provisions and could be used against the activists who speak out about groups which perpetuate the practice of slavery in Mauritania. Article 10 punishes anyone who “promotes inflammatory speech that is contrary to the official doctrine of the Islamic Republic of Mauritania”, with a sentence of up to five years imprisonment. Article 12 provides for sentences of up to three years in prison and a fine of up to MRO300,000 (approximately €710) for “anyone who publishes, diffuses, supports or communicates terms which may reveal an intent to hurt or an incitement to hurt morally or physically, to promote or incite hatred”. The crimes defined under this law are imprescriptible (Article 7) and sentences can also include the loss of civic, civil and family rights for up to five years which could be used to ban people from voting or running for elections.

In the Mauritanian context - where courts and public officials have described anti-slavery and anti-discrimination activists, including members of Initiative pour la Résurgence du mouvement Abolitionniste (Initiative for the Resurgence of the Abolitionist Movement, IRA), as using “racist expressions”²⁰, “inciting hatred”²¹ and where a blogger has been sentenced for apostasy for criticizing the instrumentalization of religion to legitimize discriminatory practices²²— this law could in fact be used against those fighting discriminatory practices.

LACK OF REPRESENTATION IN LEADERSHIP POSITIONS

Haratines and Afro-Mauritanians continue to be severely underrepresented in leadership positions, and thus less able to influence policies and claim their rights. According to some academic studies, 75% of the ministers in Mauritania since its independence have belonged to the Beydane community, 19% to the Afro-Mauritanian community and 6% to the Haratine community.²³ This compares to the estimates by the US State Department that Haratines make up at least 45% of the population, Afro-Mauritanians about 25%, and Beydanes approximately 30%.²⁴ While noting that the representation of Afro-Mauritanians and Haratines has slightly increased in governments under President Aziz (respectively 21% and 13%), studies also highlight the fact that they rarely occupy key ministerial roles and have limited autonomy when they do.²⁵ For the Special Rapporteur on extreme poverty, this lack of representation constitutes “a systematic absence from almost all positions of real power and a continuing exclusion from many aspects of economic and social life (...) [that] render their needs and rights invisible.”²⁶ The UN Human Rights Committee has also highlighted the impact of racial discrimination on access to public affairs,²⁷ while the Special Rapporteur on racism stated: “this pervasive discrimination manifests itself in part in the ‘invisibility’ of its victims (...), especially at decision-making levels in Government, the military and the police and security forces, as well as in the private sector.”²⁸

Amnesty International has copies of the draft law and the suggested amendments.

¹⁹ *Report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania*, A/HRC.11/36/Add.2, 16 March 2009, para. 80.

²⁰ Trarza Court of First Instance, Decision 01/2015 against Biram Ould Dah Ould Abeid, Brahim Ould Bilal et Djibi Sow, 15 January 2015.

²¹ El Mouritaniya TV, Interview with President Aziz, Nouadhibou, November 2015, www.youtube.com/watch?v=QcmwlyT1DzI

²² Nouadhibou Court of First Instance, Decision 71/2014 of 24 December 2014.

²³ Alain Antil and Céline Lesourd, ‘Une hirondelle ne fait pas le printemps. Grammaire des mobilisations sociales et politiques et retour de la question négro-mauritanienne’, *L’Année du Maghreb*, No. VIII, 2012, pp. 407-429.

²⁴ US Department of State, *Mauritania 2016 Human Rights Report*, 2017, p. 16.

²⁵ Céline Lesourd and Alain Antil, “Je dois tout contrôler ». *Changement d’un mode de gouverner*, *L’Année du Maghreb*, No. 11, 2014, pp. 275-297.

See also: Anouar Boukhars, *Mauritania’s Precarious Stability and Islamist Undercurrent*, Carnegie Endowment for International Peace, 11 February 2016, p. 16.

²⁶ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*, A/HRC/35/26/Add.1, 8 March 2017, para. 25.

²⁷ Human Rights Committee, *Concluding observations – Mauritania*, CCPR/C/MRT/CO/1, 21 November 2013, para. 7.

²⁸ *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania*, A/HRC.11/36/Add.2, 16 March 2009, para. 73.

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ADVERSE EFFECTS OF MAURITANIA'S LANGUAGE POLICY

UN Special rapporteurs have reported that Mauritania's language policy has an adverse effect on members of the Afro-Mauritanian communities.²⁹ While the constitution recognizes Arabic, Pular, Soninke and Wolof as national languages, it defines Arabic as the sole official language. As highlighted by the Special Rapporteur on racism, the entrenchment of Arabic at universities, the judiciary and the civil service constitutes a major obstacle for non-Arabic speaking Afro-Mauritanian communities accessing essential services, as well as positions of responsibility in the private and public sector.³⁰

OBSTACLE TO CIVILIAN REGISTRATION AND CONSEQUENCES TO ACCESS ESSENTIAL SERVICES

Afro-Mauritians and Haratines also face regulatory complexities and practical impediments to civil registration, which is an essential requirement to vote, travel within the country and access education, health services and other social benefits.³¹ There are major disparities in registration rates in Mauritania, with the United Nations Children's Fund (UNICEF) estimating that just 32.6% of children under 5 in the poorest households – disproportionately those from Haratine or Afro-Mauritanian communities - being registered compared to 84.4% of those from the richest households.³² While the World Bank describes the process of civilian registration as “complicated and expensive”³³, civil society organizations (CSOs) including Touche pas à ma nationalité (Don't touch my nationality), have also raised concerns about its discriminatory nature. They argue that the Afro-Mauritians are underrepresented in the decision-making bodies involved in the registration process, that it requires administrative documents which many Afro-Mauritians or Haratines cannot produce, that they are questioned in Arabic rather than their own languages, and that the registration centres are often far from some of the Afro-Mauritanian and Haratine communities living in rural areas.³⁴

²⁹ Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania, A/HRC/35/26/Add.1, 8 March 2017, para. 32.

World Bank, *Islamic Republic of Mauritania: turning challenges into opportunities for ending poverty and promoting shared prosperity – Systemic country diagnostic*, 2017, para. 88.

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania, A/HRC/26/49/Add.1, 3 June 2014, para. 22.

Report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania, A/HRC/11/36/Add.2, 16 March 2009, para. 50.

On the imposition of Arabic in public administration and its consequences on inter-community relations, see: Francis de Chassey, 'Vers une histoire anthropologique et sociologique de l'ethnie en Mauritanie', in Abdel Wedoud Ould Cheikh (ed.), *Etat et société en Mauritanie : Cinquante ans après l'Indépendance*, Karthala, 2014, p. 157-226. Catherine Taine-Cheikh, 'Les langues comme enjeux identitaires', *Politique Africaine*, No. 55, 1995, pp. 57-65.

³⁰ Report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania, A/HRC/11/36/Add.2, 16 March 2009, para. 50.

³¹ Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Follow-up mission to Mauritania, A/HRC/27/53/Add.1, 26 August 2014, para. 42.

³² UNICEF Data, *Mauritania*, <https://data.unicef.org/country/mrt/>

³³ World Bank, *Islamic Republic of Mauritania: turning challenges into opportunities for ending poverty and promoting shared prosperity – Systemic country diagnostic*, 2017, para. 90.

³⁴ Fédération internationale des ligues des droits de l'Homme and Association Mauritanienne des Droits de l'Homme, *Mauritanie: Critiquer la gouvernance: un exercice risqué*, 28 November 2012, www.fidh.org/fr/regions/afrique/mauritanie/Mauritanie-Critiquer-la-12505

Alain Antil and Céline Lesourd, 'Une hirondelle ne fait pas le printemps. Grammaire des mobilisations sociales et politiques et retour de la question négro-mauritanienne', *L'Année du Maghreb*, No. VIII, 2012, pp. 407-429.

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IMPUNITY FOR GROSS HUMAN RIGHTS VIOLATIONS COMMITTED AGAINST AFRO-MAURITANIANS BETWEEN 1989-1991

The Mauritanian authorities have also failed to adequately address gross violations of human rights against members of the Afro-Mauritanian community between 1989 and 1991 and which continue to affect them and their descendants. According to the Special Rapporteur on racism, 300,000 people were made refugees, displaced or repatriated over this period, more than 3,000 were arrested and 500 unlawfully killed, predominantly in the Afro-Mauritanian community, at the height of inter-ethnic tensions.³⁵ In 2000, the African Commission on Human and Peoples' Rights (ACHPR) found the Mauritanian authorities responsible for grave or massive violations of human rights, including discrimination on the ground of ethnicity, torture, illegal detention, extrajudicial killings and mass expulsion of Afro-Mauritanians and made recommendations including an independent enquiry and prosecutions; the rehabilitation and reintegration of those expelled; compensation of widows and beneficiaries and the eradication of slavery.³⁶ The recommendations have still not been fully implemented. No prosecution has been initiated against suspected perpetrators, as Law No. 92 of 1993 granted amnesty to members of the armed and security forces who had committed offences during that period. The return of those expelled from Mauritania has also been slow and marred with difficulties.³⁷ Many do not have the required identification documents for civil registration, as their identification cards were lost or confiscated at the time of their expulsion, or as they were not provided death certificates following the killings of their parents.³⁸

DENIAL OF THE AUTHORITIES AND REFUSAL TO DEVELOP STATISTICS

Despite the overwhelming evidence of discrimination, the Mauritanian authorities continue to deny the existence of racial discrimination and fail to develop policies aimed at addressing the needs of its victims.³⁹ They continue to refuse to disaggregate basic data, including on access to healthcare, education and employment, on the basis of ethnicity or language, effectively cloaking the effect of discrimination from public scrutiny.⁴⁰

³⁵ *Report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Mauritania*, A/HRC.11/36/Add.2, 16 March 2009, paras 5-7.

See also: Amnesty International, *Mauritania: Human rights violations in the Senegal River Valley* (Index: AFR 38/010/1990).

³⁶ 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*, 2000.

³⁷ IHRDA, *Updates on Implementation of African Commission's Recommendations in the case 'Malawi African Association & others v. Mauritania'*, www.ihrda.org/2015/12/updates-on-implementation-of-african-commissions-recommendations-in-the-case-malawi-african-association-others-v-mauritania/

³⁸ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*, A/HRC/35/26/Add.1, 8 March 2017, para. 46.

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, on his mission to Mauritania, A/HRC/26/49/Add.1, 3 June 2014, para. 33.

³⁹ "Despite such extensive evidence, the Special Rapporteur was consistently told by government officials that there is no discrimination in Mauritania and certainly not on the grounds of ethnicity, race or social origin... In addition to this counterintuitive factual claim, the position of the Government also has a deliberate policy component according to which it would be both discriminatory and divisive to acknowledge ethnic disparities."

Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania, A/HRC/35/26/Add.1, 8 March 2017, para. 30.

"The Committee regrets that the State party denies the existence of racial discrimination on its territory."

Human Rights Committee, *Concluding observations – Mauritania*, CCPR/C/MRT/CO/1, 21 November 2013, para. 7.

⁴⁰ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*, A/HRC/35/26/Add.1, 8 March 2017, para. 63.

Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Follow-up mission to Mauritania, A/HRC/27/53, 26 August 2014, para. 42.

As argued by the Special Rapporteur on extreme poverty, this approach makes the victims of discrimination invisible, protects the privileges of the dominant group and maintains the status quo they benefit from.⁴¹ This is also accompanied by a strategy of seeking to silence those who speak out to challenge this status quo, accusing them of undermining national unity and resorting to racial and ethnic propaganda⁴², and using the tools at their disposal to ban their protests, outlaw their organizations, subject those who speak out to intimidation, threats, arbitrary arrests and torture.

REPRISALS AGAINST THOSE SPEAKING OUT AGAINST SLAVERY AND DISCRIMINATION

CRACKDOWN ON PEACEFUL PROTESTS

At least 20 human rights groups, including registered associations working on discrimination and slavery issues and trade unions, reported to Amnesty International that they organized peaceful assemblies which were prohibited and dispersed by security forces using excessive force since 2014, even in cases when the groups had conformed to legal requirements to notify authorities in advance. Protest organizers are informed on short notice, often less than 24 hours before the planned demonstration, that their event has not been authorized, without any written legal justification for the decision. Protests which are not explicitly authorized are regularly dispersed by the security forces. Security forces have used excessive force on scores of peaceful demonstrators, including women human right defenders, causing serious injuries ranging from fractured limbs to head trauma. These repressive practices stem, amongst other factors, from serious flaws in the legal framework on assemblies and use of force in Mauritania, particularly blanket bans on certain assemblies and vague language which can be used to prohibit peaceful protests and allow the use of excessive force against demonstrators. Examples of peaceful assemblies that were prohibited and violently dispersed are the November 2017 march of relatives of victims of the events of 1989-1991 in Kaédi and April 2017 youth march in Nouakchott. 41 activists were arrested in the context of these protests.⁴³

⁴¹ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*, A/HRC/35/26/Add.1, 8 March 2017, para. 30.

⁴² Constitution of the Islamic Republic of Mauritania, Article 1: "Mauritania is an Islamic, indivisible, democratic, and social Republic.

The Republic assures to all citizens without distinction of origin, of race, of sex, or of social condition, equality before the law. All particularist propaganda of racial or ethnic character is punished by the law."

Interview with the President of Mauritania, Nouakchott, 25 May 2016;

Interviews with the Minister of Justice, Nouakchott, 13 June 2017 and 28 July 2015.

Jeune Afrique, *Mauritanie : Aziz accuse les anti-esclavagistes d'instrumentalisation politique l'Homme*, 4 December 2017, www.jeuneafrique.com/499043/politique/mauritanie-aziz-accuse-les-anti-esclavagistes-dinstrumentalisation-politique/

⁴³ For more information on the legal framework on peaceful assembly, the banning of peaceful protests and excessive use of force against demonstrators, see: *A sword hanging over our heads': The repression of activists speaking out against discrimination and slavery in Mauritania* (Index: AFR38/7812/2018), pp. 22-27.

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RESTRICTIONS TO THE RIGHT TO FREEDOM OF ASSOCIATION

Amnesty International has documented the cases of more than 43 associations working for the promotion and protection of human rights, including more than a dozen international non-governmental organizations, who have never received authorization to operate despite repeated requests, meaning that they can be declared unlawful. These include organizations such as the youth and pro-democracy association Kavana (Enough), the anti-slavery movement Initiative pour la Résurgence du mouvement Abolitionniste (Initiative for the Resurgence of the Abolitionist Movement, IRA) and the association of relatives of victims of extra-judicial killings Collectif des Veuves de Mauritanie (Widows' Collective of Mauritania). While unauthorized associations are often tolerated, their leadership, members and participants to their activities are exposed to substantial risks and administrative difficulties, including accessing donor funding or notifying authorities of planned public activities. Even when they are authorized, associations face impermissible restrictions, including the banning of planned activities, surveillance and arbitrary dissolutions, as illustrated by the cases of SOS-Esclaves (SOS-Slaves) and Population et Développement (Population and Development).

The legal framework on associations in Mauritania does not meet international standards. For instance, it provides that associations and trade unions must obtain authorization to operate legally. It also allows the authorities to impose the presence of a representative during meetings in private settings and to dissolve associations which “engage in anti-national propaganda”, “discredit the State”, or “exercise an unwelcomed influence on the minds of the people.” In July 2015, the Council of Ministers approved a new bill on associations which would further undermine associations’ ability to undertake their work. In December 2015, the National Assembly adopted a new law on cybercriminality which bolsters the surveillance capacity of the Mauritanian security services and could be used to disrupt the communications of human rights groups and activists, including by criminalizing the use of encryption technologies without authorization. The Mauritanian authorities justify these restrictions on the need to maintain control over associations operating in Mauritania in the context of the “war on terrorism”.⁴⁴

ARBITRARY ARRESTS, DEATH PENALTY, TORTURE AND OTHER ILL-TREATMENT OF HUMAN RIGHTS DEFENDERS

Amnesty international has also documented over 168 cases in which human rights defenders have been arbitrarily arrested, including at least 17 cases where they were subjected to torture and other ill-treatment. In the most high-profile cases, such as of prominent anti-slavery activists, they have been transferred to remote prisons. While some of the human rights defenders were released without charge within a few hours, the Mauritanian authorities have brought criminal proceedings against at least 60 of them, using vaguely worded charges including “belonging to an unauthorized association”, “participating in an unauthorized gathering” and “disrupting public order”.

For example, there has been 63 arrests of IRA members since 2014, and at the time of writing, two of them, Moussa Biram and Abdallahi Mattalah, remained in arbitrary detention. The authorities have also been cracking down on members of the youth and pro-democracy Mouvement du 25 février (25 February Movement), with 23 arrests times over the same period. Similarly charges of “apostasy” have been used to impose a death sentence – now quashed - against blogger Mohamed Mkhaitir who remains in arbitrary detention, without access to his relatives or lawyers. Mohamed Mkhaitir was arrested in 2014 after he posted an article on social media criticizing the use of religion to justify discriminatory practices. Mohamed Mkhaitir, Moussa Biram, and Abdallahi Mattalah were subjected to torture and other ill-treatment.

Since 2014, the authorities have introduced legislation containing vague and excessive language which could be used to target human rights defenders who express dissent. For instance, the 2015 law on cybercriminality criminalizes insults or calumnious acts committed through a computer system with penalties of up to five years imprisonment and a fine of up to MRO500,000

⁴⁴ For more information on the legal framework on freedom of association and violations to the right to freedom of association, see: *A sword hanging over our heads: The repression of activists speaking out against discrimination and slavery in Mauritania* (Index: AFR38/7812/2018), pp. 28-36.

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(approximately €1,158). The 2017 bill amending the Criminal Code provisions on apostasy makes the death penalty for apostasy mandatory. Should the bill be passed by the National Assembly, it would remove the possibility of escaping the death penalty by expressing repentance.⁴⁵

SMEAR CAMPAIGNS, INTIMIDATION

Human rights defenders have been victims of vicious smear campaigns, assaults and death threats carried out with complete impunity. This includes being labelled as traitors or having their Muslim faith questioned in mainstream media or social media, a serious accusation when apostasy is punishable by death. This can come from the highest levels of the state and during international meetings, including at the African Commission on Human and Peoples' Rights or at the UN Human Rights Council. For instance, woman human rights defender Mekfoula Brahim has been under a sustained and co-ordinated smear campaign in social media by religious groups and has been receiving death threats after she called for blogger Mohamed Mkhaitir's death sentence to be quashed. The fact that Mekfoula Brahim is a woman exposed her to more abuse. In August 2016, rap artist Yéro Gaynääko was beaten at a checkpoint by police who accused him of being a member of IRA or opposition groups undermining national unity. In both cases, they filed complaints to the police, but no one has yet been held to account for the abuse.⁴⁶

CONCLUSIONS AND RECOMMENDATIONS

Mauritania is heading towards a period of political uncertainty with the 2019 presidential election approaching and with opposition groups claiming that President Aziz may attempt to amend the constitution to run for a third term, and thereby polarize Mauritanian society. According to the opposition groups, issues such as discriminatory access to civil registration, which is required to vote, will only become more acute.

How the authorities respond to the growing concerns around discrimination and dissent in Mauritania will define the country's human rights environment. Mauritania has an obligation to end slavery and discrimination in law and in practice, and to respect, protect, promote and fulfil the rights to freedom of expression, peaceful assembly and association. Rather than seek to stifle CSOs and human rights groups, the authorities should engage with dissenting voices to navigate emerging concerns and achieve one of the most important provisions of the Constitution's preamble: "United throughout history, by shared moral and spiritual values and aspiring to a common future, the Mauritanian People recognize and proclaim their cultural diversity, the base of national unity and of social cohesion, and its corollary, the right to be different."

Amnesty International recommends that the Mauritanian authorities:

⁴⁵ For more information on the arbitrary arrest, detention, torture and other ill-treatment of human rights defenders, see: *A sword hanging over our heads: The repression of activists speaking out against discrimination and slavery in Mauritania* (Index: AFR38/7812/2018), pp. 37-45.

⁴⁶ For more information on harassment, smear campaign and death threats against human rights defenders, see: *A sword hanging over our heads: The repression of activists speaking out against discrimination and slavery in Mauritania* (Index: AFR38/7812/2018), pp. 46-49.

ON THE PERSISTENCE OF SLAVERY AND RACIAL DISCRIMINATION

- Take immediate steps to fully and effectively implement the recommendations of UN special procedures and treaty bodies aiming to combat slavery and discrimination, including, but not limited to:
 - Ensure the effective implementation of its legislation criminalizing slavery and guarantee effective remedies for victims of slavery who have lodged complaints;¹⁵⁰
 - Ensure adequate resources are available for Tadamoun, and that more attention is paid to the protection of victims of slavery and slavery-like practices, redress and access to employment and livelihood opportunities;¹⁵¹
 - Assist slaves who have fled their masters with legal advice, legal assistance to file a case, temporary shelter and, wherever possible, microcredit for small businesses;¹⁵²
 - Eliminate barriers in the registration process faced by Afro-Mauritanians and Haratines so that individuals, and consequently their children, are not unduly deprived of their right to identity and nationality;¹⁵³
 - Produce and publish detailed statistics, including on access to employment, education, food, water, housing and healthcare, disaggregated by descent or ethnic origin;¹⁵⁴
- Repeal Law No. 92 of 1993 which granted amnesty to members of the armed and security forces and bring suspected perpetrators of human rights violations committed in the context of the events of 1989-1991 to justice;
- Implement the ACHPR decision and recommendations on the events of 1989-1991 and the ACERWC decision and recommendations on Said Ould Salem and Yarg Ould Salem.¹⁵⁵

ON REPRISALS AGAINST HUMAN RIGHTS DEFENDERS AND ACTIVISTS

- Immediately and unconditionally release all human rights defenders held solely for peacefully exercising their human rights, including Moussa Biram, Abdallahi Mattalah and Mohamed Mkhaitir;
- Amend the 1964 law on association, the 1973 law on public assemblies, the Criminal Code and the 2018 law on discrimination to ensure they meet international and regional human rights standards relating to the rights to freedom of expression, association and assembly;
- Refrain from unduly interfering with the activities of associations, including by repealing the circular requiring authorization for meetings in hotels and conference venues; by amending the law on cybercriminality to ensure it does not affect the ability of human rights defenders to communicate and store information safely; and by ending to the practice of not allowing the international partners of human rights defenders into the country;
- Refrain from using language that stigmatizes, abuses or discriminates against human rights defenders, for example by characterizing them as “criminals, foreign agents, threats to national security and national unity, racists, apostates or politicians”;

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- Promptly, thoroughly, independently and transparently investigate human rights violations committed against human rights defenders, including excessive use of force, arbitrary arrests, torture and other-ill-treatment, threats, attacks, harassment and intimidation and bring suspected perpetrators to justice in fair trials without recourse to the death penalty, and provide effective remedies and adequate reparations to victims.⁴⁷

INTERNATIONAL COOPERATION

- Continue to invite and fully co-operate with human rights experts from ACHPR, UN - including the OHCHR office in Mauritania - and INGOs;
- Publicly commit to a timeline for the implementation of recommendations from UN special procedures and treaty bodies like the African Commission.

⁴⁷ For a more detailed list of recommendations on reprisals, see: *A sword hanging over our heads': The repression of activists speaking out against discrimination and slavery in Mauritania* (Index: AFR38/7812/2018), pp. 51-52.

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SUBMISSION TO THE UNITED NATIONS COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

95TH SESSION, 23 APRIL-11 MAY 2018

Amnesty International welcomes the opportunity to submit this document to the United Nations (UN) Committee on the Elimination of Racial Discrimination (the Committee) in advance of the consideration of Mauritania's eighth-14 combined periodic reports at the 95th session of the Committee in Geneva in May 2018.

This submission contains up-to-date information, current as at 31 January 2018, and focuses on racial discrimination in Mauritania, particularly regarding the persistent practice of slavery and discrimination against members of the Haratine and Afro-Mauritanian communities, and reprisals against human rights defenders who speak out against these practices.

The submission is not an exhaustive analysis of Mauritania's compliance with its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (the Convention). It is based on a research report published by Amnesty International in March 2018, *'A sword hanging over our heads': The repression of activists speaking out against discrimination and slavery in Mauritania* (Index: AFR38/7812/2018), attached for your consideration.