



# MAURITANIA

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

99<sup>TH</sup> SESSION, 5 -29 AUGUST 2019, FOLLOW-UP PROCEDURE

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## **MAURITANIA**

Submission to the UN Committee on the Elimination of Racial Discrimination

AMNESTY INTERNATIONAL

# INTRODUCTION

The United Nations Committee on the Elimination of Racial Discrimination (the Committee) reviewed Mauritania's 8-14th combined reports in May 2018.<sup>1</sup> In its Concluding Observations<sup>2</sup>, the Committee requested follow-up information from Mauritania within one year on its implementation of recommendations relating to the 2018 Law criminalising discrimination, the situation of Mauritanian refugees repatriated from Senegal and non-governmental organizations and human rights associations.<sup>3</sup> Mauritania submitted its follow-up report on 8 July 2019.<sup>4</sup>

This submission aims at providing the Committee with complementary information to the state party report and focusses on implementation of the recommendations relating to the 2018 Law on discrimination and non-governmental organizations and human rights associations.

A year after the CERD review, the Mauritanian authorities have failed to implement the recommendations the committee had prioritised for implementation. They continue to engage in discriminatory practices, particularly against members of the Haratine and Afro-Mauritanian communities, but also against migrants and refugees. In the context of the 2019 presidential elections, the Minister of Interior, the Minister of Foreign Affairs, and high-ranking officials in the police force used divisive and hateful tropes blaming foreign nationals from neighbouring countries for the election-related protests.<sup>5</sup> At least 99 individuals presented as foreign nationals were arrested.<sup>6</sup>

## 2018 LAW CRIMINALISING DISCRIMINATION (PARA. 8)

*The Committee recommends that the State party revise its new legislation relating to the criminalization of discrimination in order to bring it into full compliance with the Convention, taking due account of the concerns raised by the Special Rapporteurs of the Human Rights Council. The State party should ensure that the law contains a definition of racial discrimination that encompasses all the elements set out in article 1 of the Convention and that it provides sufficient legal protections against racial discrimination.*

On 15 August 2018, the Mauritanian authorities published the Law in the Gazette without amending the definition of discrimination or without removing provisions which could be used to arbitrarily curtail freedom of expression under the pretence of combatting discrimination, disregarding the Committee's recommendation.<sup>7</sup>

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.<sup>8</sup>

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<sup>1</sup> Committee on the Elimination of Racial Discrimination, Consideration of reports submitted by States parties under article 9 of the Convention: Mauritania, 20 February 2017, UN Doc CERD/C/MRT/8-14, online: <https://undocs.org/CERD/C/MRT/8-14>

<sup>2</sup> Committee on the Elimination of Racial Discrimination, Concluding Observations on the combined eighth to fourteenth periodic reports of Mauritania Committee on the Elimination of Racial Discrimination, 30 May 2018, UN Doc CERD/C/MRT/CO/8-14, available at <https://undocs.org/CERD/C/MRT/CO/8-14>

<sup>3</sup> *Ibid.*, para. 38 identifies paras. 8, 24 and 30.

<sup>4</sup> State Party report on Follow-up to Concluding Observations, CERD/C/MRT/CO/8-14/Add.1

<sup>5</sup> Agence Mauritanienne d'Information, Les incidents post-électorales procèdent d'un complot extérieur visant la stabilité du pays (ministre de l'intérieur), 25 June 2019, available at : <http://fr.ami.mr/Depeche-49423.html>

Agence Mauritanienne d'Information, Le ministère public rappelle à tous l'obligation du respect de la loi, de l'autorité de l'Etat et de toucher aux biens publics et privés, 26 June 2019, available at : <http://fr.ami.mr/Depeche-49427.html>

Agence Mauritanienne d'Information, Le ministre des affaires étrangères tient une rencontre de concertation avec les ambassadeurs du Sénégal, du Mali, et de la Gambie, 26 June 2019, available at : <http://fr.ami.mr/Depeche-49428.html>

Interview of the Director of the Judicial Police on national television channel ELMouritania2, 26 June 2019.

<sup>6</sup> *Ibid.*

<sup>7</sup> Loi N°2018-023 portant incrimination de la discrimination.

<sup>8</sup> Mauritania: Submission to the United Nations Committee on the Elimination of Racial Discrimination, 95th session, 23 April-11 May 2018 (Index: AFR 38/8125/2018), pp. 6-7.

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In its follow-up response, the Mauritanian government “takes note” of the recommendation of the Committee and states that it will “undertake the necessary consultations with the relevant structures and persons.”<sup>9</sup>

## RECOMMENDATIONS

In light of the above concerns, Amnesty International respectfully urges the Committee on elimination of the racial discrimination to consider calling on the Mauritanian authorities to:

- Ensure the law on discrimination, and particularly its articles 10 and 12, are not enforced pending its revision to bring it into full compliance with international standards.

# NON-GOVERNMENTAL ORGANIZATIONS AND HUMAN RIGHTS ASSOCIATIONS (PARA. 30)

*The Committee encourages the State party to adopt a declaratory system for non-governmental organizations and associations for the defence of human rights, including those working to combat racial discrimination, slavery or slavery-like practices. It also recommends that the State party prevent any arbitrary interference in their activities and protect them from such interference and from any intimidation or harassment, and that it investigate any such cases that are brought to its attention. The Committee also recommends that the State party ensure that its laws do not prevent criticism of human rights violations.*

Despite the recommendations of this Committee, the Mauritanian authorities have failed to adopt a declaratory system for the registration of non-governmental organizations and associations. Since Mauritania’s appearance before the Committee in 2018, Amnesty International has documented continued arbitrary interference by the authorities in the activities of non-governmental organizations and associations. Among others:

- On 3 April 2019, four policemen informed the leadership of the association *Main dans la Main* (Hand in Hand) that they had to close their premises in Nouakchott. The policemen made an inventory of the association’s property, took the office keys, failed to provide the legal grounds for the closure of the association and told the association’s leadership that they did not have a written order. The association was created in 2006 and received a formal authorization to operate in Mauritania. It aims at promoting the values of fraternity, justice and diversity and to foster inter-communal dialogue. The association subsequently had to cancel its 6<sup>th</sup> Conference for Fraternity which was due to take place on 4 April 2019 with activities planned in Nouakchott and five other regions.
- On 17 March 2019, a delegation of Amnesty International was barred access to the country upon arrival at the Nouakchott–Oumtounsy International Airport. The members of the airport police who notified the delegation that it did not have authorization to enter the country refused to identify themselves, to provide a motive or to clarify which authority was responsible for the decision. It is the second time Amnesty International is barred entry to Mauritania since 2017.
- On 22 July 2018, the Mauritanian authorities blocked the departure for Geneva of five human rights defenders who represent organizations of widows and orphans that demand accountability for the state-sponsored repression that targeted Afro-Mauritanians between 1989 and 1991 and oppose the amnesty that the government decreed for those events in 1993. They were due to participate in the UN Committee Against Torture’s review of Mauritania and had valid visas.

Human rights defenders, including those who combat slavery and racial discrimination, continue to face reprisals.

- On 3 July 2019, Ahmedou Ould Wediaa, a prominent anti-slavery activist, journalist and member of the opposition party (Tawassoul) in Mauritania, was arbitrarily arrested during a police raid at his home

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<sup>9</sup> State Party report on Follow-up to Concluding Observations, CERD/C/MRT/CO/8-14/Add.1, para. 5.

following statements he made criticizing the authorities' response to the election related protests, and in particular the mass arrests of foreign nationals. Ahmedou Ould Wediaa was released on 15 July 2019 without charge.<sup>10</sup>

- Bloggers Cheikh Jiddou and Abderrahmane Weddady were arbitrarily arrested on 22 March 2019 in Nouakchott after posting Facebook comments on a corruption case involving several Mauritanian officials on Facebook condemning corruption. Their comments came after media articles were published, accusing several Mauritanian officials of corruption. The two bloggers have been charged with 'malicious accusation'.<sup>11</sup> Bloggers Cheikh Ould Jiddou and Abderrahmane Weddady were released on bail on 3 June 2019. However, they are still facing the charge of 'malicious accusation' and their travel documents and national identification cards are being held by the economic crimes police.
- Mohamed Mkhaitir, the 36-year-old blogger who was arrested and charged with apostasy in 2014 after he published a blog criticizing those who use religion to discriminate against minorities, remains in arbitrary detention in an undisclosed location. The Appeal Court quashed his death sentence on 9 November 2017 and sentenced him to two years in prison. Having already spent more than three years in detention, he should have been released immediately. Mohamed Mkhaitir is a prisoner of conscience solely detained because he peacefully exercised his right to freedom of expression. His health continues to deteriorate.<sup>12</sup>
- Poet and activist Abdallahi Salem Ould Yali was arrested on 24 January 2018 after he spoke out against discrimination against members of the Haratine community on social media. He was charged with incitement to violence and racial hatred. The Nouakchott tribunal sentenced him one-year prison on 27 December 2018.

The Mauritanian authorities also failed to ensure that its laws do not prevent criticism of human rights violations. The 2018 law on apostasy which provides for the mandatory death penalty for apostasy related offenses was promulgated and published in the *Journal Officiel* (Gazette) on 30 May 2018. Mauritania did not repeal or amend other laws which arbitrarily curtail freedom of expression, such as the 1964 law on association, the 1973 law on public assemblies, the Criminal Code and the 2018 law on discrimination.

In its follow-up report, the government of Mauritania refers to a bill on association currently in the process of adoption.<sup>13</sup> Civil society organizations and the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association have been expressing concerns about the bill on association approved by the Council of Ministers in July 2015 which compounds the problems of the 1964 law and its subsequent amendments.<sup>14</sup>

The bill maintains a regime of compulsory authorization for associations to operate. It further stipulates that no association can be created on a basis or for an objective that is contrary to Islam, the Constitution or current laws, or for activities that are likely to harm the safety of citizens, national unity, territorial integrity, the republican nature of the State or public decency (Article 6). Article 11 limits the scope of permitted activities of associations to a specific thematic area, effectively narrowing the scope of an association's work, preventing cross-thematic approaches or adaptation to new trends or needs. For instance, an association registered as a women's rights organization could be prevented from working on children's rights or access to land and security of tenure. The bill threatens suspension of associations that fail to submit their narrative and financial reports by 31 March each year (Article 24), or dissolution if they have not submitted a financial report for two successive years (Article 26). The bill gives the power to an administrative authority to dissolve an association, without judicial oversight, if the association acts contrary to its statutes and mission (article 26), if it undertakes any political activity, including attempting to "come to power" or forming a coalition with a political party (Article 5), or if it fails to notify the authorities of any changes in administration or its statutes within 30 days. The bill also allows a delay of six months for the administrative authority to institute judicial proceedings to confirm the dissolution. Individuals may also face criminal charges for belonging to a dissolved association and failing to report on its funding, risking prison terms of up to a year and hefty fines (Articles 58 and 60). The bill also offers an excessively broad definition of embezzlement of public funds, which includes the use of funds for any other purpose than what they were initially allocated to. While the bill does not set out the penalty for the crime of

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<sup>10</sup> Mauritania: Authorities must stop using arbitrary arrests to crackdown on anti-slavery and anti-discrimination activists ([Public statement](#), 12 July 2019).

<sup>11</sup> Mauritania: bloggers languish in detention two months after their arrest for condemning corruption ([Press-release](#), 21 May 2019).

<sup>12</sup> The Prisoners of Conscience you won't hear about at the 2019 Arab League Summit ([Press-release](#), 29 March 2019).

<sup>13</sup> State Party report on Follow-up to Concluding Observations, CERD/C/MRT/CO/8-14/Add.1, para. 27.

<sup>14</sup> Special Rapporteur on the right to freedoms of peaceful assembly and of association, Mauritania: UN rights expert urges Parliament to repeal NGO Bill that threatens civil society, 10 August 2015, [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16302&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16302&LangID=E)  
See also: A sword hanging over our heads: The repression of activists speaking out against discrimination and slavery in Mauritania (AI Index: AFR 38/7812/2018), p. 36.

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embezzlement, the Criminal Code provides a penalty of up to 10 years imprisonment and a fine of MRO1,000,000 (approximately €2,365) (Article 379).

## RECOMMENDATIONS

In light of the above concerns, Amnesty International respectfully urges the Committee on elimination of the racial discrimination to consider calling on the Mauritanian authorities to:

- Drop all charges against Cheikh Ould Jiddou and Abderrahmane Weddady and return their travel and identification documents;
- Immediately and unconditionally release all prisoners of conscience, including blogger Mohamed Mkhaitir, sentenced to death for apostasy and the poet Abdallahi Salem Ould Yali;
- Immediately and publicly instruct the security forces to end unlawful arrests and detentions of human rights defenders;
- Remove the crime of apostasy from its national legislation and enable Mauritanians to fully enjoy their right to freedom of religion, including to change religion;
- Amend the 1964 law on associations and its amendments and ensure they meet international standards, including by removing the mandatory authorization requirement; eliminating grounds used to not authorize or dissolve associations that are excessive, including that they “are contrary to morality” or “exercise an unwelcomed influence on the minds of the people”; removing prison terms for the leaders, members or participants to the association’s activities for lack of registration; and ensuring the decision to dissolve an association is taken by a court of law rather than an administrative authority;
- Pending the revision of the 1964 law on associations, adopt a decree of implementation of the association law clarifying that unauthorized associations are not illegal and are able to carry out their activities and that their members, leaders or participants to their activities may not be subjected to criminal sanctions for lack of registration;
- 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 without fear of prosecution; and by ending the practice of not allowing human rights organizations to travel to and from the country.

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[info@amnesty.org](mailto:info@amnesty.org)



+44 (0)20 7413 5500

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**65<sup>TH</sup> SESSION, 5-29 AUGUST 2019**

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