



# **MAURITANIA TORTURE AT THE HEART OF THE STATE**

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Cover photo. Interior courtyard at Dar Naïm prison. Access forbidden to detainees © Amnesty International

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# 1. INTRODUCTION

*"I was arrested at my home around five o' clock in the morning of 1 May 2008 by a group of approximately ten police officers and soldiers in uniform. Two of them were in sportswear. They smashed the windows and pointed their guns in the direction of my bedroom. They blindfolded me, handcuffed my hands behind my back and took me to a place I did not know. They shut me in the toilets and left me there for two days, handcuffed and blindfolded. On the third day, at around four o' clock in the morning, they began to question me when I was tired because of not being able to sleep. They tied my hands and feet behind my back and suspended me in the air for ten to fifteen minutes. When they thought I was going to lose consciousness, they put me down and then put me up again. They asked me if I belonged to the Salafist Group. The torture sessions, punctuated by questioning, lasted one week. They took place between three and nine o' clock in the morning. They hit me all over my body. I was forced to bend double because they tied my hands and feet to a chain. I finally confessed to everything they accused me of."*

A man held in custody for 26 days and finally released without charge.<sup>1</sup>

This account, gathered by an Amnesty International research mission to Mauritania in July 2008, is one of many examples of how the security forces have systematically used torture against individuals detained for offences under ordinary law and military personnel accused of recent attempted coups. The victims also include individuals suspected of links with Islamic groups accused of acts of terrorism, especially the *Group salafiste pour la prédication et le combat* (GSPC), Salafist Group for Preaching and Combat, an armed group mainly active in Algeria, which became the *Organization Al-Qaïda pour le Maghreb islamique* (AQMI), Al-Qa'ida in the Islamic Maghreb, in 2007.

Torture is used to extract confessions while detainees are being held in custody<sup>2</sup> but also to humiliate and punish prisoners. All detainees, whether they are prisoners convicted under ordinary law or individuals detained for political offences, risk being subjected to very serious torture that can endanger their health and even their life even though they have been placed under the protection of the justice system. In Mauritania, the security apparatus has adopted torture as a system of investigation and repression. It is deeply anchored in the culture of the security forces, which act with complete impunity. It is a scourge condoned by state authorities at the highest level.

This report is the result of two Amnesty International research missions to Mauritania in February/March 2008 and July 2008. Members of the missions interviewed many prisoners and detainees in the prisons of Dar Naïm in Nouakchott (the capital) and Nouadhibou (in the north-west of the country) and former detainees. They also gathered dozens of accounts of torture and ill-treatment by the security forces, which deliberately use physical violence in

the hours and days following arrest. The systematic use of torture is made possible by detention procedures, which allow suspects in custody (the period of detention immediately following arrest and during which most detainees are kept incommunicado) for crimes and offences against national security, to be held for a maximum of 15 days. Even though this is a considerable period, it is regularly exceeded.

The perpetrators of these acts of torture and ill-treatment include police officers, military personnel and prison officers. Moroccan security officers have sometimes participated in interrogations and torture, especially in investigations into acts of terrorism.

According to most of the statements made by victims, most abuse takes place during the period of custody, in official and non-official police locations and in military barracks. The aim of the security forces is to extract “confessions” that are often the only means used by the police, the army and prosecutors to establish the guilt of suspects. The courts have declared that “confessions” extracted under torture and ill-treatment are admissible as evidence, even if they are subsequently retracted, or if there are reasonable grounds to believe that these declarations have been obtained under duress.

The torture techniques documented by Amnesty International research missions are numerous and include sleep deprivation, cigarette burns, the suspension of detainees from a metal bar (technique known as the “jaguar” position), blows and psychological torture. These techniques are often used together to force detainees to “confess”.

Torture and other forms of ill-treatment are committed by the security forces with total impunity. Although prisoners have complained about these acts to examining magistrates and the courts, no investigation has been conducted into these allegations, as far as Amnesty International is aware.

During official meetings with the Mauritanian authorities, Amnesty International has often expressed its concern about serious allegations of torture in Mauritania without obtaining a satisfactory response regarding the opening of impartial investigations<sup>3</sup>. In July 2008, the organization met the then Minister of Justice, Yahya Ould Sid'el Moustaph, who said that enforcement officers never resorted to torture “gratuitously” but that you cannot “*use kid gloves*” when dealing with murderers.

The systematic use of torture is the terrible heritage of decades of authoritarianism in Mauritania. The first free and transparent elections, held in 2007, the commitments made by the new government formed after these elections and a series of amendments to the Code of Criminal Procedure in April 2007, which banned torture, had raised hopes of an improvement in the way that detainees are treated. However, the recent coup in August 2008 (see Chapter 2: A succession of coups) and the strengthening of the fight against “terrorism” (speech by the President of the High State Council on 17 August 2008), which has led to the increased use of torture against those suspected of such acts, risk disappointing these slim hopes. Amnesty International therefore calls on the new Mauritanian authorities to publicly, and without delay, condemn the use of torture and other ill-treatment, prosecute the alleged perpetrators of such acts and end this practice, which is condoned by state authorities at the highest level.

Torture and other cruel, inhuman and degrading treatment are banned in all circumstances by international human rights law. Mauritania is party to many international and regional human rights treaties that prohibit torture and ill-treatment, notably the African Charter on the Rights of Peoples, the International Covenant on Civil and Political Rights and the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. International and regional human rights laws oblige states to take measures to prevent torture, investigate allegations of torture, prosecute the alleged perpetrators of such acts and grant reparations to victims. This report shows how Mauritania has taken no steps to prevent torture and prosecute the perpetrators of such acts and makes a series of recommendations based on Mauritania's obligations to implement international human rights treaties.

## 2. A SUCCESSION OF COUPS

Since 2005, Mauritania has suffered two military coups, which have profoundly disrupted the country's political landscape. In August 2005, a bloodless military coup deposed President Maaouya Ould Taya, who himself had come to power by overthrowing the government in place. The new authorities adopted a new constitution and organized legislative elections in December 2006. In March 2007, Sidi Mohamed Ould Cheikh Abdallahi was elected President of the Republic after elections considered by international observers to be free and transparent.

Following disagreements between President Abdallahi and some army leaders, especially regarding the dismissal of the chief of staff, the government was overthrown by a non-violent coup in August 2008. President Abdallahi, his prime minister and other members of the government were arrested. At the time of writing (end of October 2008), the former president and the former prime minister remained under house arrest.<sup>4</sup> Moreover, in October 2008, a former minister, Isselmou Abdel Kader, was arrested and detained after the Ministry of Defence accused him of slandering the army. The former minister had participated in a television broadcast in September 2008, in which he accused the presidential guard of behaving like "a militia". Isselmou Abdel Kader was charged with having "knowingly participated in an attempt to demoralize the army and prejudice national defence" and was taken to Dar Naïm prison.

Although the new military junta said it would organize free and transparent elections "within the shortest time possible", the international community immediately condemned the coup and called for a return to constitutional order. The African Union (AU) has suspended the country's membership of its organization and a number of countries, including France and the United States, have frozen their non-humanitarian aid to Mauritania.

In Mauritania itself, a number of peaceful demonstrations have been organized to demand the release of the president and a restoration of constitutional order. Several demonstrations were forcibly broken up at the beginning of October 2008. The repression of some demonstrations followed the decision taken by the governor of Nouakchott, on 30 September 2008, to suspend "all demonstrations of a political nature in public places, until further notice."<sup>5</sup>



## ARRESTS OF MILITARY PERSONNEL AND “ALLEGED ISLAMISTS”

During the last five years, the authorities have arrested more than 250 military personnel charged with attempted coups. Detained and tortured incommunicado for several weeks, some have been released without charge but approximately 130 soldiers have been charged with attacks on national security and, in February 2005, some of them were sentenced to between 18 months and life imprisonment.<sup>6</sup> An Amnesty International representative sent to the country was not allowed to observe the trial, which was a travesty of justice and failed to respect the most basic international standards of fairness.

In addition, since 2003, dozens of imams, religious dignitaries and avowed or alleged members of a banned organization, the GSPC (known since 2007 as the *Organization Al-Qaïda pour le Maghreb islamique* (AQMI)) have been arrested and accused of exposing the country to foreign reprisals. These arrests were justified in the name of "combating terrorism", which has served as a pretext to repress opponents of the government, especially under President Ould Taya. In July 2005, a new anti-terrorist law increased the number of offences "which, by their nature or context, may represent a serious threat to national security."<sup>7</sup> This law did not amend the Criminal Code and Code of Criminal Procedure provisions on custody that have been used in a wave of arrests of individuals suspected of being members of the GSPC and then the AQMI.

Since the end of 2007, several attacks, including the murder of four French tourists in Aleg, in the east of the country, and the murder of several soldiers who were decapitated in September 2008, have been attributed to "terrorist" movements linked to the AQMI. These attacks led to several waves of arrests throughout 2008.

## 3. TORTURE AS THE ONLY MEANS OF INVESTIGATION

All the information gathered by Amnesty International during the last two decades confirms the permanent and recurring use of torture as the only means of investigation employed by the security forces. Every individual detained for political reasons or under ordinary law runs the risk of being tortured. Torture is generally inflicted during the period in which detainees are held in custody (see box).

During two recent research missions, in February and July 2008, Amnesty International investigated the systematic use of torture, usually during the first days of detention, to extract confessions. The organization has established that all categories of prisoners, including those accused of links with the AQMI, military personnel accused of involvement in attempted coups and those detained for offences under ordinary law, have been tortured in recent years and that these acts have not been investigated or their perpetrators brought to justice.

### 3.1 TORTURE TECHNIQUES

Testimony gathered by the Amnesty International missions from all categories of detainees, describes similar torture techniques.<sup>8</sup> The victims of torture include prisoners charged with offences under ordinary law, military personnel accused of attempted coups as well as individuals accused of belonging to the GSPC and the AQMI. These acts of torture, which are generally accompanied by blows, are often perpetrated successively on the detainees until they “confess” to the crimes they are accused of. Here is a non-exhaustive list of these techniques and the testimony of victims of these acts:

- **“Jaguar” position.** This position consists of tying the detainee’s hands and feet together, suspending him or her from an iron bar and hitting and torturing the detainee in this position. A prisoner accused of murder under ordinary law and arrested in 2003 told Amnesty International: *“They tied my hands and ankles together with a rope, passed an iron bar under my knees and placed each end of the iron bar on a table, so that they could rotate it. Then they began to hit me.”* The “jaguar” position, which was described by many detainees and ex-detainees, has several variants, including the suspension of detainees from the ceiling. An alleged member of the AQMI, arrested on 15 January 2008 during the investigation into the murder of four French tourists, told the Amnesty International delegation that met him in Dar

Naïm prison: *"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."*

- **Cigarette burns:** Many detainees and ex-detainees interviewed by Amnesty International told how they had been burned with cigarettes. One of them, a soldier arrested in February 2006, said: *"At the end of the third day of torture, inspector X told one of my jailers that he wanted something more refined. They undressed me, put me into the 'jaguar' position and put out cigarettes on my body."* Another detainee accused of offences under ordinary law said that during his interrogation *"lighted cigarettes [had been] stuck into his ears."*
- **Electric shocks:** Some detainees, especially the alleged Islamists arrested in 2008, said they received electric shocks to different parts of their body. One of them said: *"They forced us to lie down on a bed and gave us electric shocks on the soles of our feet"*, while another said *"They tied my hands and feet behind my back, blindfolded me and gave me electric shocks. I had a nosebleed and then I lost consciousness."*
- **Blows in contorted positions:** Detainees have had their arms and legs tied behind their back, causing extreme pain and open wounds. This technique has several variants. One alleged Islamist, arrested in May 2006, said: *"They undressed me, made me lie face down, tied my hands behind my back, lifted my feet and tied them to my hands so that I was face down. They then beat me with sticks and electric cables."* Inmates of Dar Naïm prison are also subjected to this type of torture. A taxi driver, aged 23, imprisoned for an offence under ordinary law, told representatives of Amnesty International: *"They tied my hands and my feet together with a rope. Four guards then pulled on the ends of the rope so that I was held in the air while a fifth beat me on the buttocks. My chest still hurts. They also hit my genitals and they still hurt as well."*
- **Sleep deprivation:** Several detainees were prevented from sleeping at night in order to reduce their resistance and to force them to confess more quickly. One of them, a soldier accused of participating in an attempted coup and arrested in June 2003, said: *"I was locked in a cell in the evening, while a group of people walked around the roof while rolling barrels containing stones."* Another detainee, accused of belonging to an Islamist organization, and arrested in February 2008, said: *"They poured water on the floor of the cell in order to stop me sleeping. When I was drowsy, they tied me to the bars of the cell."*
- **Sexual violence:** Two alleged Islamists affirmed that they had been victims of sexual violence while being held in custody and questioned during the first quarter of 2008. One of them said: *"Sometimes, the torturers touched your private parts too much. On several occasions, they put a truncheon in my anus. They yelled at me and said that they were going to make me into a woman while they pushed the truncheon in my anus. They urinated on me and insulted me. I regularly lost consciousness. They put me back in a cell for a few minutes and then took me back to the torture room. From time to time, they also put sticks and toothpicks in my anus."*
- **Pulling out hair:** This technique seems to be used especially with alleged Islamists. One of them told Amnesty International: *"They hit me with a truncheon, thumped and kicked me,*

*they pulled out hairs from my beard and moustache.*" The torturers also attacked the intimate parts of detainees. One detainee said that, while placed in the 'jaguar' position: *"They pulled out the hair under my armpits and around my genitals. Each of these torture sessions lasted for more than four hours during a period of at least seven nights."*

- **Threats to harm families:** Several detainees said that the security forces had tried to make them confess by threatening to harm their families. One man accused of belonging to the AQMI told Amnesty International that when he refused to confess, the torturers *"insulted members of my family. One of the torturers said he would rape my mother and sister in front of me if I did not confess."*
- **Sharp tools:** Amnesty International heard at least one account stating that a metal saw was used to torture a detainee in custody. An Algerian national, living in Mauritania for years and arrested in May 2005, said: *"After three days, they accused me of receiving orders from Algeria. I replied that this was not true. They started to threaten me and made cuts in my body with a metal saw."*

These torture sessions are normally conducted at night and sometimes accompanied by a kind of ritual. An alleged Islamist, arrested in January 2008 said: *"The torturers hummed a refrain while they hit me: they sang 'it is the night of the murderers, the night of the ghosts....'. While one group sang, another group hit me"*. In addition, members of the security forces used the screams of tortured people to intimidate other detainees. A soldier, arrested in November 2004, said: *"During my interrogation, I heard other people being tortured. The people who were questioning me asked me if I could hear the screams and asked me if I wanted to take the place of the people being tortured."*

### 3.2 TORTURE IN OFFICIAL AND UNOFFICIAL PLACES OF DETENTION

The Mauritanian security forces 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 been described are several police stations, the police school at Nouakchott, the gendarmerie barracks, the headquarters of the Army chief of staff and navy premises. Several testimonies gathered by Amnesty International describe instances of torture at the first police brigade, opposite the World Health Organization.

Several soldiers suspected of an attempted coup and others accused of supporting them were first taken to a residence where they were tortured, before being taken to an official place of detention. This happened to a shopkeeper accused of complicity with the military who attempted a coup. The man was arrested by police officers in Nouakchott on 25 September 2004.

*"They took me to a private house where I was detained for three days. On my arrival at the villa, they undressed me, made me lie face down, handcuffed me and tied my ankles together. They held up my feet and tied my hands to my feet. Then they hit me on the*

*soles of my feet and on my entire body. At the end of the third day, they took me to a police school where I was tortured again. The number of sessions in which I was ill-treated varied between one and three times a day, for a total of 15 days."*

To prevent detainees recognizing the place of detention, the security forces sometimes blindfold them or put balaclavas over their head. A journalist accused of being close to Islamists and arrested on 1 June 2006, was detained and tortured at several official detention centres, including at the Direction de la sûreté du territoire (DST), Directorate for the Surveillance of the Territory and the second police brigade in the Ksar neighbourhood of Nouakchott where he was detained for 33 days. This man told Amnesty International: *"After nine days of detention, towards one o' clock in the morning, they put a balaclava over my head and took me to a private villa where I was questioned by police officers, including a female police inspector. I was beaten with a truncheon."* This transfer between official and unofficial detention centres indicates the existence of a system that allows the security forces to freely transfer detainees between different torture centres.

International human rights law prohibits the detention of people in unofficial detention centres. International law also require the perpetrators of these acts to be prosecuted.<sup>9</sup>

In July 2008, the Amnesty International delegation asked the Minister of Justice and the public prosecutor for permission to interview people detained at the headquarters of the chief of staff. This request was refused.

## CUSTODY: THE PERIOD OF GREATEST RISK

Custody, the period of detention that immediately follows arrest, is regulated by the law, which specifies its duration. Although custody is in theory strictly regulated, the testimony gathered for the present document shows that prisoners' rights are not respected. Mauritanian detention procedure allows the authorities to hold suspects in custody for a maximum of 48 hours. This period can be extended if authorized by the public prosecutor or the president of the regional court. For cases concerning national security, the duration of custody was reduced from 30 to 15 days in April 2007.

At the end of these periods, the detainee must be released or brought before a judicial authority. This abnormally long period is not often respected and may, according to testimony gathered by Amnesty International, be more than one month.

The period of custody is especially dangerous for detainees exposed to the risk of torture because visits by family members and lawyers are not authorized even though the legislation provides for such visits (see part 5).

Article 9-3 of the International Covenant on Civil and Political Rights states that: "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power." This provision is an essential guarantee against arbitrary detention and the risk of torture and other ill-treatment. It aims to allow independent judicial consideration of the legality and need for detention. Detainees also have "the right to make a statement on the treatment received by him while in custody." 10 Moreover, the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, adopted by the African Commission on Human and Peoples' Rights in 2002, provide that the purpose of review before a judicial authority is to:

- "1. Assess whether sufficient legal reason exists for the arrest;
2. Assess whether detention before trial is necessary;
3. Determine whether the detainee should be released from custody, and the conditions, if any, for such release;
4. Safeguard the well-being of the detainee;
5. Prevent violations of the detainee's fundamental rights;
6. Give the detainee the opportunity to challenge the lawfulness of his or her detention and to secure release if the arrest or detention violates his or her rights."

Although these international laws do not place any time limit on this type of detention, the United Nations Commission on Human Rights stated that "delays must not exceed a few days."<sup>11</sup>

### 3.3 INCOMUNICADO DETENTION

Corroborating information indicates that many detainees, including those arrested during 2008 for avowedly or allegedly belonging to the AQMI, have been detained *incomunicado*, without access to their families, lawyers or a doctor for prolonged periods exceeding the maximum of 15 days allowed by law. This type of prolonged and *incomunicado* detention itself constitutes torture and ill-treatment.

Amnesty International has gathered several accounts indicating that security forces and prison officers have refused any external contact to some detainees even though a judge authorized family visits. The mother of an alleged Islamist arrested at his home on 30 April 2008 and detained at the Army chief of staff headquarters was refused access to her son despite obtaining authorization for a visit from the examining magistrate. This woman told Amnesty International: *"When I went to see my son, I showed my papers but the guard told me to go away. When I insisted, he threatened me with his gun. I spoke with the examining magistrate, who replied that those orders came from above."*

In another case, a student arrested on 2 May 2008 for allegedly belonging to the AQMI was unable to see his parents or lawyers when he was detained at the Army chief of staff headquarters. The examining magistrate authorized the mother's visit to her son, but the military refused, arguing "it is not a prison". The parents went to see the public prosecutor, who told them that it was just "a question of time."

Amnesty International representatives also learned that Dar Naïm prison officers sometimes refuse family access to their next-of-kin in a totally arbitrary manner.

The external access of detainees, that is, to lawyers, family members and doctors, is a fundamental guarantee against torture and other ill-treatment.<sup>12</sup>

International law clearly states that *incomunicado* detention encourages torture and that prolonged detention itself constitutes a form of torture and ill-treatment.<sup>13</sup>

In 1995, the United Nations Special Rapporteur on torture, Sir Nigel Rodney, said, in his conclusions and recommendations, that: *"Torture is most frequently practised during incommunicado detention. Incommunicado detention should be made illegal, and persons held incommunicado should be released without delay."*<sup>14</sup>

### 3.4 THE QUEST FOR 'CONFESSIONS' AT ANY PRICE

The main objective of torture is to obtain "confessions", proof or information allowing identification of other suspects. 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. The victims of torture include individuals detained under ordinary law and detainees accused of political offences. A teacher, accused of links with Islamist organizations and arrested on 2 May 2005, told Amnesty International:

*"On my arrival at the police school, an inspector told me I had information that was of interest to the authorities. He told me to confirm that I had such information and that if I refused to give it, he had means of making me do so. I told him that I would tell the whole truth. He then read a list of names and asked me if I knew them. I replied 'no'. He told me I was going to confess, called in the torturers [names given by the witness] and told them to deal with me until I was ready to accept everything he asked of me. They then began to torture me."*

In another case, a man suspected of being close to the AQMI was tortured for 14 days to try and make him give the names of the leaders of this organization. The man stated: *"They took me to a police station, opposite the WHO, and tortured me throughout the night. The investigating officer told me that I certainly did know Y and that I should show them where he was and that I should admit that Z was our leader. When I told them that I did not know them, they tied my hands and feet behind my back while I was on the floor and beat me with truncheons. They slapped me and told me to confess."*

In no circumstances can either the absence of adequate resources with which to conduct investigations or the need to obtain information about people suspected of planning an offence or a crime justify the use of torture and other ill-treatment. The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment requires state parties, including Mauritania, to *"keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture."*

The law prohibits the use in court of any information obtained using torture as evidence.<sup>15</sup>

### 3.5 THREATS AGAINST THE FAMILIES OF DETAINEES

When detainees refuse to confess, the security forces have threatened to harm their families. A man arrested in Rosso (in the south of the country) for an offence under ordinary law in December 2004, told Amnesty International: *"They used my sister to make me confess. She was taken to the police station by police officers. They showed her the torture room, then they took her to another office where they told her to take off her veil. Then they started to hit her. So I confessed."*

In other cases, when the security forces have not been able to locate the person they are looking for, they have detained members of their families and threatened them and subjected them to conditions of detention equivalent to acts of torture and ill-treatment. Unable to locate an Islamist who escaped from the Nouakchott law courts on 2 April 2008, the security forces went to his home and arrested several members of his family, including his father, a blind man, aged 70 and his maternal grandfather. A member of the family told Amnesty International: *"My sister was detained for 20 days, she was three months pregnant and lost the baby in prison. We were treated very harshly and not given any food for three days. They placed us in solitary confinement and threatened to hit us."*



### 3.6 THE ALLEGED PERPETRATORS OF ACTS OF TORTURE ARE KNOWN

Amnesty International has gathered many statements from detainees and victims containing precise information about the people who tortured and ill-treated them, including their names, rank, function and age. In some cases, detainees said that a female police inspector authorized the torture of detainees. The statements also show a division of labour with particular methods and procedures. A soldier arrested in February 2006 told Amnesty International:

*“At the end of the third day, the inspector told one of my jailers that he wanted something more refined. He replied that I should be left with G. The latter, together with other individuals, undressed me and put me in the ‘jaguar’ position. They also burned my body with cigarettes. These sessions of ill-treatment lasted at least 10 days and occurred regularly between 11:30 p.m. and 4 a.m.”*

Other officers gave orders from a distance by telephone. An Arab teacher, suspected of being a member of the GSPC and arrested on 2 May 2005, told Amnesty International that he was: *“handed over to my torturers, the inspector made some phone calls to ask if everything was going well and whether I was ready to confess.”* This same person said that after suffering torture in the ‘jaguar’ position, she lost consciousness and was treated *“by someone wearing a white blouse. She told me that I should confess everything to the inspector.”*

Several victims of torture committed between 2006 and 2008 mentioned the presence of a police inspector whose name they knew. An alleged member of the GSPC, arrested in Guinea-Bissau in January 2008, told Amnesty International that he complained to this female police inspector about acts of torture at which she had been present and she replied that *“these orders come from above”*. This certainly explains why several members of the security forces make no attempt to hide their identity.

However, although these officers make no attempt to hide their identity and make themselves known to detainees, others prefer to hide their identity. Some accounts mention that the torturers wore balaclavas to avoid being recognized by their victims.

A sergeant, arrested on 10 June 2003 for participating in an attempted coup, said: *“Sometimes, a group composed of several people wore balaclavas. They made me lie face down and tied my hands behind my back. They then tied my feet together and then tied them to my hands.”*

### 3.7 PRESENCE OF MOROCCAN SECURITY FORCES

In some cases, the Mauritanian security forces charged with interrogating detainees benefit from the cooperation of the Moroccan security forces. When asked how they could distinguish whether the people torturing them were Mauritanian or Moroccan, the detainees said that Arabic speakers could easily differentiate between them. In addition, some members of the Moroccan security forces told prisoners that they were from Morocco.

Amnesty International has been unable to ascertain the legal basis for the presence of Moroccan security forces in Mauritania. The two countries are, however, members of the 5+5 dialogue, which brings together countries of the Mediterranean Basin (Algeria, Libya, Morocco, Mauritania, Tunisia, Spain, France, Italy, Malta and Portugal) to discuss internal security concerns, such as the issue of migration and combating terrorism.

The testimony gathered by Amnesty International indicates that Moroccan police officers are directly involved in interrogation and torture and one prisoner said that they were even more violent than their Mauritanian colleagues.

One person, who was sentenced in 2006 to three years in prison for taking part in an attack on the garrison at *Lemghaïty*<sup>16</sup> recounted:

*“After the third night, at about 10 in the evening, some Moroccans came to interrogate me. They wanted me to confess to belonging to the ‘Salafist’ group and that I was in favour of Jihad; they also wanted me to confess to taking part in the Lemghaïty operation. They said that if I didn’t confess, it would cost me my life. They said that what the Mauritanians had done to me so far would be like heaven compared to what they would do to me. The Moroccans began to torture me just as the Mauritanian police had. They used the same methods, including the ‘jaguar’. They were worse than the Mauritanians, who would stop from time to time, and sometimes the Mauritanian guards would smuggle some water to you. With the Moroccans, though, there was no let-up.”*

In another case, involving a suspected member of the GSPC who was arrested in February 2006, the Moroccans responsible for interrogating him *“threatened to take me to Morocco unless I told the truth. I gave them the answers they wanted and signed everything they asked me to. The testimony was written in French. They didn’t read any of it to me and I signed everything.”*

### 3.8 USE OF TORTURE SANCTIONED BY THE JUDICIAL SYSTEM

Members of the security forces can use torture safe in knowledge that they have the explicit support of the judicial authorities, be they 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. One of them told Amnesty International: *"I told the prosecutor that I had been tortured. I showed him the marks left by my wounds but he said that it was not his concern."*

Some prisoners have made complaints about torture to more than one judge, without eliciting any response. A computer engineer, sentenced in 2006 to three years in prison for belonging to the GSPC, told Amnesty International: *"I told the court that I had been tortured. The judge listened, but said nothing. I made a verbal complaint against my torturers to the prosecutor, the examining magistrate and the criminal court, but nothing came of it."*

In another case, of a detainee accused of membership of AQMI who was arrested in January 2008, the prosecutor saw the visible marks of torture, but made no comment and did not call for an investigation into the matter. This detainee, who had been subjected to the "jaguar" technique, told Amnesty International delegates: *"after 35 days in custody, I was taken before the prosecutor; my ankles were bleeding because the chains had cut into my flesh. The prosecutor looked, but did nothing."*

This sanctioning of torture was confirmed in public during the trial before the criminal court of several soldiers accused of an attempted coup d'état at Ouad Naga in December 2004. Although the lawyers had protested at the fact that the accused soldiers appeared in court wearing handcuffs and with chains on their feet, the presiding judge's response was that *"chains are jewellery for men"*. The court refused to investigate the complaints of torture, even though some of the prisoners at the hearing bore physical signs indicating the likelihood that they had been tortured.

Apart from this, judges almost invariably regard as admissible evidence statements extracted under torture and use these "confessions" to convict defendants, often in the absence of any other material proof. Amnesty International is aware of only one exception to this rule, namely the trial of suspected members of the GSPC, which took place in May and June 2007, when a judge refused to take account of some of the evidence obtained under torture. However, Amnesty International regrets that the court did not order any investigation into the allegations of ill-treatment and did not agree to the request put forward by counsel to bring the suspected perpetrators of such acts before the court.

Following its visit to Mauritania in March 2008, the United Nations Working Group on Arbitrary Detention expressed its grave concern, in particular at the lack of effective control by the judicial system, and notably the prosecutor, over action taken by the police<sup>17</sup>.

International standards on human rights prohibit the use of any statement, confession or other evidence in the context of court proceedings.<sup>18</sup>

If there are grounds for suspecting that evidence obtained under torture or other ill-treatment is being used, it behoves the authorities to investigate such allegations thoroughly.<sup>19</sup>

## 4. TORTURE AND ILL-TREATMENT IN PRISON

A foul odour, dozens of detainees crammed into dark, unventilated cells, infested with vermin and ridden with fleas. Men pressed up against one another in stifling heat, who are rarely able to leave their cells or breathe fresh air. Punishment (violence, isolation) meted out arbitrarily by guards who enjoy complete impunity. This was the unbelievable spectacle observed by Amnesty International when they visited the Dar Naïm prison in March and July 2008 and the Nouadhibou prison in March 2008. 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, inflicted on a daily and permanent basis.

During their visits to these two prisons, the Amnesty International delegates 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 by the Ministry of the Interior and are not answerable to the Ministry of Justice. Indeed, under the terms of a decree determining the rules for penal institutions, “The National Guard shall be responsible for guarding prisoners and for security in penal institutions”; the National Guard is answerable to the Ministry of the Interior.<sup>20</sup> Consequently, guards are able to impose the most arbitrary rules and, in particular, prevent detainees going out into the yard on the pretext that this might enable them to escape.

### 4.1 DAR NAÏM PRISON

Dar Naïm prison is a brand new detention centre, which houses both remand and convicted prisoners<sup>21</sup>. Work on Dar Naïm prison was completed in 2007 and it was inaugurated in June of that year. Located some thirty kilometres from the capital, in an area of desert, officially this prison was constructed to replace the old civilian prison – situated in the centre of town – which notoriously failed to comply with international standards. However, every piece of information gathered by Amnesty International indicates that it was designed to inflict maximum suffering and humiliation on its prisoners.

When the delegates visited Dar Naïm prison roughly six months after it opened, it was already in a deplorable state, marked by overcrowding and unsanitary conditions. Built to house 300, it had 736 inmates when the first Amnesty International visit took place in February 2008. Detention conditions such as these can clearly be regarded as cruel, inhuman and degrading treatment, which contravenes international standards such as the United Nations 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.

At Dar Naïm, dozens of detainees were packed into cells which have no suitable ventilation system. There are 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. Even the prison officials with whom Amnesty International spoke said that the prison did not meet national standards on detention. In particular, they stressed inadequacies in the water disposal system, damp and the lack of ventilation in cells. In the event of a fire, firefighters would find it difficult to access the cells.

Moreover, during their visit in February 2008, delegates could not get into some cells because of the excessive number of inmates.

The prison has two yards, although prisoners are denied access to them on the pretext that they might try to escape. The yards were, however, intended as sports pitches and are surrounded by very high walls, with barbed wire at each end.

In addition to these deplorable detention conditions, detainees complained about the absence of medical care and the inadequate diet, which foster the proliferation of disease. One detainee told the delegation: *“I regularly have an epileptic attack but I can’t see the doctor regularly.”* In this regard, the Amnesty International delegates observed that the medicine cabinets were empty. Some prisoners also told Amnesty International that around thirty prisoners suffering from dementia and mental disorders, at least two of whom had been sentenced to death, were left to wander around the cells with no medical care and the only doctor present during the various visits made to the place by Amnesty International in February, March and July 2008 was an Ivorian prisoner.

Detainees also complained to the Amnesty International delegates about brutality and corporal punishment. Prisoners are regularly beaten by the guards when they ask to see the prison administrator or ask for medical care. One prisoner serving a two-year prison sentence told Amnesty International: *“After the prisoners made complaints, I was taken with two other prisoners under the steps of sentry post, where I was beaten by the captain. They kept us tied up for two weeks, untying us to eat.”*

Another prisoner told how he had been beaten by guards following an argument with another prisoner: *“During the month of Ramadan [2007], I got into a fight with a prisoner and, to punish me, the guards laid me face down and tied me up. They tied my hands to my feet behind my back and then they beat me. They left me tied up in the corridor for four days.”*

During a visit to Dar Naïm prison in July 2008, the Amnesty International delegates heard prisoners banging on their cell doors. They asked to see these prisoners and learned that

they had been put into tiny cells, where they had to sleep on the floor, with no room to stretch out. These cells, infested with cockroaches and fleas, had no ventilation or windows except one small opening in the door which had been created 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 the Amnesty International delegates, agreed to saw through the chain on the door and put them [the prisoners] back into ordinary cells.

## 4.2 THREATS AND REPRISALS AGAINST PRISONERS DURING INTERNATIONAL OBSERVERS' VISIT

Threats were made to prisoners before Amnesty International's first visit in February 2008. One prisoner told the delegation: *"When they told us about Amnesty International's visit, the guards threatened us. They said that we could say whatever we liked, but that we would regret it, because the Amnesty people would be leaving, but we prisoners would be staying there with them."*

During the visit of the United Nations Working Group on Arbitrary Detention in February 2008, one detainee publicly accused one guard of ill-treatment. That evening, after the UN delegation had left, he was reportedly punished by two senior members of the guard. That prisoner told Amnesty International:

*"When the delegates had left, X tied up my forearms until the elbows touched, then pulled on the rope to tie my feet up to my forearms. Then he hit me with a wet rope. When X had finished hitting me, Y said now it was his turn. He took me out of the prison gate, threw water over me and then threw sand at my wet body. He put me in a small wheelbarrow, facing forwards like a goat, and he pushed me along a bumpy path. Every time we hit a bump, I could feel the grains of sand on my body. When he heard a vehicle coming, he became alarmed and quickly took me back into the prison, where he threw me into a cell that had excrement in it."*

## 4.3 NOUADHIBOU PRISON

Nouadhibou Prison was formerly a private house, which has been converted into a place of detention. It takes mainly male prisoners, but during Amnesty International's visit in March 2008 one woman was being held there in a separate wing. The prison can accommodate 63 prisoners but, when Amnesty International visited in March 2008, there were 122 inmates. The building has nine cells and prisoners are rarely allowed out. A septic tank overflowing with excrement separates the two wings of the building and gives off a sickening stench. Prisoners are rarely allowed out into the main prison yard. Amnesty International asked prison staff and the prosecutor at Nouadhibou why prisoners were not allowed out into the fresh air and were told that it was to avoid their escaping.

One prisoner said that in the past it had been permitted to take exercise, but that this had been stopped: *“Before, prisoners were entitled to walk in the yard, but they were handcuffed together in groups of four; now there is only walking in the yard for those who can pay.”*

Amnesty International gathered several testimonies reporting ill-treatment of prisoners. One of them said that he had been beaten on three occasions: *“During my detention I was beaten on three occasions. The last episode of ill-treatment was about two months ago. They put my hands behind my back and the guards tied my feet up to my hands. Then they poured water on me and beat me. After the beating, they changed the position of my hands, but they were still tied up.”*

Several prisoners said that they had been beaten in the yard *“out of view, to avoid an uprising. Usually, this takes place to the left of the cells, behind the satellite dish”*. The guards also beat prisoners who are minors. Two of these, being held in a cell apart from the adults, told Amnesty International that they had been beaten. One said: *“At about 4 o'clock in the morning, the guards chained me up in the corridor leading to the cells and beat me.”*

In protest at these detention conditions, some prisoners set fire to the prison on 8 July 2008, causing considerable damage. There were no deaths or injuries.

Not only can conditions of detention in Mauritania be regarded as cruel, inhuman and degrading treatment, but they also undeniably violate the right of all persons deprived of their liberty to be treated *“with humanity and with respect for the inherent dignity of the human person.”*<sup>22</sup> 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.

The deplorable situation that prevails in places of detention of Mauritania, in particular at Dar Naïm and Nouadhibou, appears to be less the consequence of a lack of human and material resources and more the result of deliberate action designed to humiliate detainees, or of serious negligence on the part of the authorities.



## 5. CONSTITUTIONAL AND LEGAL PROVISIONS PROHIBITING TORTURE

The Islamic Republic of Mauritania is a country with a French legal tradition, in common with other countries that were once French colonies. This relationship is reflected in both its legislation and judicial organization, following the example of its Criminal Code (Code Pénal) (CP) and its Code of Criminal Procedure (Code de procédure pénale) (CPP). However, some provisions of Islamic law also apply<sup>23</sup>.

Mauritania has ratified several regional and international instruments prohibiting the use of torture, including the African Charter on Human and Peoples' Rights in June 1986, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in December 1992 and, more recently, the International Covenant on Civil and Political Rights in November 2004.

In addition, 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.*" With regard to torture specifically, article 13 of the Constitution states: "*Any form of psychological or physical violence is prohibited.*"

### 5.1 A NEW CODE OF CRIMINAL PROCEDURE WHICH EXPLICITLY PROHIBITS TORTURE

In April 2007, a code of criminal procedure was introduced. This new law introduced fresh guarantees against the use of torture and, in its introductory article, states: "*confessions obtained by torture, violence or force shall be invalid*". Moreover, article 58 of the CPP states: "*All 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*".

This legislation does not change the statutory detention period for offences under the ordinary law, which remains at 48 hours, renewable once, but does reduce the maximum period for offences against the security of the State from 30 to 15 days. Article 57 of the

CPP states: *“For offences against internal or external security of the State, the detention period is five days from arrest, which may be extended by written authorisation of the public prosecutor for an identical period, provided it does not exceed a total of 15 days from the day on which the person concerned was arrested. At the end of these periods, the detained person must, without fail, be released or brought before the public prosecutor, unless an arrest warrant has been issued in the meantime. At the end of these periods, the detained person must, without fail, be released or brought before the public prosecutor.” [sic]*

The new code of criminal procedure also affords the family the opportunity to communicate with the detained person as soon as s/he is arrested. Article 58 of the CPP states: *“Police officers who take a person into police custody are obliged to so inform the spouse, or immediate ascendant or descendant as soon as possible and also to inform that person of the opportunity to communicate with his or her spouse, or one of his or her immediate relatives. This communication, which takes place in the presence of a police officer, may not exceed thirty minutes”.*

The opportunity to consult a lawyer, however, only arises if the period of detention is extended, and with the written authorisation of the public prosecutor. So anyone accused of an offence under ordinary law and held in custody must wait 48 hours before s/he can meet with a lawyer. Persons accused of offences against the security of the State have to wait five days before they can have contact with their 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).

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”.*

International standards demand that defendants have access to a lawyer at all stages of the criminal procedure<sup>24</sup>. Moreover, Principle 7 of the Basic Principles on the Role of Lawyers states that *“Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.”*

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. Lawyers have also told Amnesty International that requests for medical examinations while a person is in custody have never been met.

All of the information gathered by Amnesty International and contained in this report demonstrates that, regardless of the fact that this legislation came into force in July 2007, these guarantees are rarely respected. This is particularly true of people accused of membership of AQMI, who were arrested early in 2008, many of whom spent three or more weeks in custody with no access to their family or lawyer.

## 5.2 SANCTIONS UNDER THE CRIMINAL CODE

The criminal code contains no provision specifically sanctioning acts of torture by State agents in the exercise of their duties. It simply states, 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 (...).”*

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.

Article 4 of the Convention against Torture, to which Mauritania is a party, requires every State Party to ensure “that all acts of torture are offences under its criminal law”. In its General Comment No 2, the Committee against torture considers that defining the offence of torture *“as distinct from common assault or other crimes, will directly advance the Convention’s overarching aim of preventing torture and ill-treatment. Naming and defining this crime will promote the Convention’s aim, inter alia, by alerting everyone, including perpetrators, victims and the public, to the special gravity of the crime of torture.”*<sup>25</sup>

## 6. REACTION OF THE MAURITANIAN AUTHORITIES

**“You can’t use kid gloves when arresting bandits and murderers. There is no gratuitous torture, but when you are dealing with killers, someone is bound to get hurt.”**

Yahya Ould Sid’el Moustaph, Minister of Justice in July 2008

During its two missions in February and July 2008, Amnesty International raised its concerns about the systematic use of torture with the highest authorities of the State, as well as with those responsible for judicial and prison personnel.

At a meeting between Amnesty International and the then Minister of Justice, Limam Ould Teguedi, in February 2008, the Minister acknowledged that torture had been practised in the past. He said: *“That is something that did occur in this country, not only in the case of prisoners convicted under ordinary law, but also for politicians and opponents. I cannot deny that torture took place in the past.”* However he added that, since the election of the government following an impartial and independent ballot, clear instructions had been given to law enforcement officials and the police to stop this practice.

The President of the Republic at the time, Sidi Mohamed Ould Cheikh Abdallahi, also assured the Amnesty International delegation that, to his knowledge, *“there has been no torture in this country since the new government was installed”*. He said that he himself had asked the security forces to put a stop to the practice of torture and invited the organization to inform him of any cases that might be brought to its attention.

Furthermore, at a meeting with the director of the prison service in February 2008, the Amnesty International delegation asked that any member of staff at the Dar Naïm prison responsible for the supervision of prisoners, and against whom allegations of torture and ill-treatment had been made, should be suspended. It also recommended the opening of an independent investigation into the serious allegations of torture and ill-treatment that it had gathered during its mission. The Mauritanian authorities did not respond to this request and, as far as Amnesty International is aware, these individuals were still in post several weeks after this interview.

During its mission in July 2008, the Amnesty International delegation met the new Minister of Justice, Yahya Ould Sid'el Moustaph, appointed after a cabinet reshuffle. The Minister said that he had visited Dar Naïm prison and said that the prisoners he met had not reported any ill-treatment. He added: *“You can't use kid gloves when arresting bandits and murderers. There is no gratuitous torture, but when you are dealing with killers, someone is bound to get hurt.”*

Amnesty International has no knowledge of any measures to put a stop to torture taken by the military junta which seized power following the August 2008 coup.

## 7. CONCLUSION

All of the information gathered by Amnesty International during its two missions in February and July 2008 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.

No Mauritanian official could, or can, fail to be aware of the extent of these practices which have been condemned for years by human rights organizations, including Amnesty International. The number of different torture techniques, the presence of Moroccan security forces, 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 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

Amnesty International calls on the Mauritanian government to:

- Draw up 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;
- Make any act of torture or ill-treatment a criminal offence and make provision for penalties that reflect the gravity of the nature of the act;
- Inform members of the police force and law enforcement officers, in unambiguous language, that violations of human rights, and torture and ill-treatment in particular, will not be tolerated under any circumstances and that anyone committing such offences will be punished as provided for by law;
- Carry out an impartial and effective investigation without delay into all complaints and

information concerning torture and other ill-treatment. This investigation should be conducted by a body which is independent of the suspected perpetrators of these acts. The scope, methods and conclusions of this investigation must be made public;

- Ensure that law enforcement officers suspected of grave violations of fundamental rights, such as 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. Suspension excludes transfer to another post;
  
- Ensure that all law enforcement officers against whom serious charges have been laid regarding torture, ill-treatment and other grave violations of human rights are prosecuted in civil courts in accordance with international standards of fairness and without resorting to the death penalty;
  
- 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 can contact their family, a lawyer and doctor without delay after their arrest and regularly throughout the period of their detention or imprisonment;
  
- 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 all detainees, plaintiffs, witnesses and other persons in danger are protected from intimidation and reprisals;
  
- Ensure that the interrogation of all suspects in criminal matters takes place in the presence of a lawyer. All statements and questions must be recorded in writing. The length

of the interrogation and the identity of the persons in charge of conducting the investigation as well as all other persons present must also be recorded in writing. Tape or video recordings must be made. The purpose of these measures is to protect both detainees from coming under pressure and police officers from unfounded allegations of abusive behaviour;

- Ensure that there is a clear and total separation between the officers responsible for guarding detainees and those who carry out the investigations. This means that those who are not involved in the interrogation can guard the physical safety of the detainees;
- Ensure that no detainee is either tortured or ill-treated by members of the security forces;
- Call upon judges to declare as inadmissible any confessions, statements or any other evidence 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;
- Ensure that, if a judicial investigation convincingly establishes that statements have been obtained by force, torture or ill-treatment, the prosecutor institutes proceedings against the suspected perpetrators of the abuse;
- 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;
- Place the management of Dar Naïm and Nouadhibou prisons and other penal institutions under the effective and appropriate control of the Ministry of Justice;
- Apply international standards on the treatment of prisoners and conditions of detention, in particular those set out 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;
- Create a mechanism which has the necessary means of organizing periodic visits and inspections of 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. The committee must have access to all places of detention, including police cells, preventive detention centres, the premises of the security services and prisons. During inspections, the committee must be able to interview detainees



in private. Inspection reports must be published;

- Extend an invitation to the United Nations Special Rapporteur on Torture and cooperate fully with him, allowing him complete freedom to visit all official and unofficial places of detention;
  
- Extend an invitation to the Special Rapporteur of the African Commission on Prisons and Conditions of Detention in Africa and cooperate fully with him, allowing him complete freedom to visit all official and unofficial places of detention;
  
- Make an immediate start on writing the preliminary reports it ought, for several years, to have submitted to the Human Rights Committee and the Committee against Torture, in order to be in a position to present these reports without delay;
  
- Ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
  
- Ratify the first Optional Protocol to the International Covenant on Civil and Political Rights and make a declaration under the terms of article 22 of the United Nations Convention against Torture and other cruel, inhuman or degrading treatment or punishment recognizing the competence of the Human Rights Committee and the Committee against Torture to receive and consider communications from or on behalf of individuals;
  
- Ratify the Rome Statute of the International Criminal Court and the Agreement on the Privileges and Immunities of the International Criminal Court.

## ENDNOTES

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<sup>1</sup> In this document, Amnesty International has decided not to reveal the names of detainees because they have been openly threatened with reprisals if they complained to the mission of the organization. In February, reprisals were taken against at least one detained who had testified to the United Nations Working Group on arbitrary detention (see chapter 4).

<sup>2</sup> Custody (*garde à vue*) is the period during which suspects can be detained by the police prior to being brought before a judge (or other judicial representative), who must confirm their place of detention. That does not necessarily mean that suspects are detained *incommunicado* (that is, without access to a lawyer, family or doctor) or that they are imprisoned at an unknown location (with the authorities denying their detention or refusing to indicate the place of detention).

<sup>3</sup> See the public statement by Amnesty International. *Mauritania: Torture of alleged Islamists widespread*, 12 June 2008, AI Index: AFR 38/004/2008.

<sup>4</sup> See public statements by Amnesty International. *Mauritania: Amnesty International calls for the release of the President of the Republic and respect for fundamental freedoms*, 12 August 2008, AI Index: AFR 38/007/2008 and *Mauritania: Peaceful demonstrations demanding restoration of the rule of law violently repressed*, 8 October 2008, AI Index: AFR 38/008/2008.

<sup>5</sup> This decision was communicated to the political parties in a letter from the governor of Nouakchott on 30 September 2008.

<sup>6</sup> See Amnesty International press releases. *Mauritanie: Reactions d'Amnesty International au verdict rendu le 3 février 2005*, 4 February 2005, Index AI : AFR 38/001/2005 and *Mauritanie: L'absence de peines capitales ne doit pas faire oublier le sort inquiétant des condamnés*, 4 February 2005, AFR 38/002/2005.

<sup>7</sup> Law No 2005 047 of 26 July 2005 on combating terrorism.

<sup>8</sup> Amnesty International denounced similar torture practices against black Mauritians at the end of the 1980s. See *Mauritania 1986-1989, Background to a crisis*, AFR 38/13/89.

<sup>9</sup> See General Comment 20 of the Commission on Human Rights, which states that: "To guarantee the effective protection of detained persons, provisions should be made for detainees to be held in places officially recognized as places of detention." In addition, the Special Rapporteur on torture, Sir Nigel Rodney, stated, in 1995, that: "Interrogation should take place only at official centres and the maintenance of secret places of detention should be abolished under law. It should be a punishable offence for any official to hold a person in a secret and/or unofficial place of detention" (E/CN.4/2003/68, para. 26.). Also see paragraph 23 of the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines) adopted by the African Commission on Human and Peoples' Rights in October 2002.

<sup>10</sup> See Principle 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly in Resolution 43/173 of 9 December 1988.

<sup>11</sup> Commission on Human Rights, General Comment 8: Right to liberty and security of persons (art. 9), 30/06/82.

<sup>12</sup> On this issue, the Commission on Human Rights said that "Provisions should also be made against *incommunicado* detention. [...] The protection of the detainee also requires that prompt and regular access be given to doctors and lawyers and, under appropriate supervision when the investigation so requires, to family members." See the Commission on Human Rights, General Comment. 20, *op. cit.*, paragraph 11.

<sup>13</sup> See, for example, Resolution 62/148 adopted by the General Assembly in 2007, which "reminds all States that prolonged *incommunicado* detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or

degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person.”

<sup>14</sup> See the Report of the Special Rapporteur on Torture, E/CN.4/2003/68, paragraph 26.

<sup>15</sup> The United Nations Special Rapporteur said: “No statement or confession made by a person deprived of liberty, other than one made in the presence of a judge or lawyer, should have probative value in court.” See Doc. E/CN.4/2001/66/Add.2, pages 55- 56, para. 169 (h).

<sup>16</sup> In June 2005, the garrison at Lemghaity in the north of the country, came under attack and 15 Mauritanian soldiers were killed. The Mauritanian authorities accused members of the GSPC of carrying out the attack.

<sup>17</sup> The Working Group stated: “The subject of major concern in this regard relates to the lack of effective control by the prosecutor over police action in general and over the situation of individuals in custody in particular. Under the law, the prosecutor is charged, in particular, with ensuring that the guarantees against torture and ill-treatment are respected, with ensuring that maximum detention periods in police custody are respected, that the police custody register is kept up to date as provided for by law and with making regular visits to places of detention. The Group noted that, in practice, this control is ineffective. It was also informed by a large number of detainees that abuse of power, corruption, torture and ill-treatment are commonplace in places of detention and that often they are forced to admit to the deeds with which they are charged. It is also alleged that complaints against the police are investigated only in exceptional cases.” See:

<http://www.unhcr.ch/hurricane/hurricane.nsf/view01/FFA4F54F0D771272C1257401006780E5?opendocument>

<sup>18</sup> See article 15 of the Convention against Torture, which states: “Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” See also Guideline No 29 of the Robben Island Guidelines, adopted by the African Commission on Human and Peoples’ Rights, which calls on States to “Ensure that any statement obtained through the use of torture, cruel, inhuman or degrading treatment or punishment shall not be admissible as evidence in any proceedings except against persons accused of torture as evidence that the statement was made.”

<sup>19</sup> Article 16 of the United Nations Guidelines on the Role of Prosecutors states: “When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect’s human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.”

<sup>20</sup> Article 11 of Decree No 98-078 on the organisation and operation of penal and reintegration institutions.

<sup>21</sup> Dar Naïm prison takes only male prisoners. In Nouakchott there is a women’s prison, which Amnesty International also visited in July 2008 where the conditions of detention appear not to give such cause for concern.

<sup>22</sup> See article 10(1) of the International Covenant on Civil and Political Rights.

<sup>23</sup> Article 449 of the 1983 Criminal Code states: “Any matter not dealt with in the present code shall be settled according to Islamic law”.

<sup>24</sup> Principle 1 of the Basic Principles on the Role of Lawyers states: “ All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings”.

<sup>25</sup> General Comment No 2 of the Committee against Torture, paragraph 11.

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