



Mauritania must immediately release Mohamed Mkhaitir, blogger sentenced to death for apostasy

Joint Public Statement (AFR 38/002/2015)

5th March 2015

We, the undersigned human rights and civil society organisations, call for the immediate and unconditional release of Mohamed Cheikhould Mohamed Mkhaitir. We consider him to be a prisoner of conscience who has not committed any crime but was merely peacefully exercising his right to freedom of thought, conscience, expression and religion.

International law prohibits any coercion that would impair the rights to have or adopt a religion or belief, including the use of penal sanctions to compel believers or non-believers to adhere to any religious beliefs, to recant their religion or belief or to convert. We further consider that this provision of the Mauritanian penal code, imposing the death penalty, violates Mauritania's international obligations.

Mohamed Mkhaitir, a 29 year old blogger who was held in pre-trial detention for almost one year, was sentenced to death for apostasy¹ at the Nouadhibou Court on 24 December 2014 in northwest Mauritania. He had posted an article online on the Aqlame newspaper's website, in December 2013, which was later taken down as it was deemed blasphemous towards the prophet Mohamed. The article was addressed to the members of his Moulamine (meaning blacksmith) social category and criticised those who use religion to marginalise certain groups in Mauritanian society.

Though article 306² of the Mauritanian penal code provides for leniency in case of repentance, none was shown to Mohamed Mkhaitir in spite of the fact that he repented during his pre-trial hearing at the gendarmerie (military police) station.

During his trial at the Nouadhibou Court the judge told Mohamed Mkhaitir that he was accused of apostasy for "speaking lightly" of the Prophet Mohamed. Though Mohamed Mkhaitir repented again during his trial, explaining that his article was solely intended to denounce those who use religion to belittle others, he was shown no leniency. This is the first death sentence imposed in Mauritania for apostasy since independence in 1960.

His lawyers have since appealed the decision to hand down the death sentence.

The right to freedom of expression is a fundamental human right. According to the African Commission on Human and Peoples' Rights (ACHPR), established pursuant to the African Charter on Human and Peoples' Rights to which Mauritania is a state party, freedom of expression under the charter has two primary elements: the right to receive information and the right to express and disseminate opinion.

¹ The abandonment and criticism of one's religious faith, belief or cause.

² Article 306 of the Mauritanian penal code provides that, "any Muslim guilty of the crime of apostasy ... will be asked to repent within a period of three days...if he does not repent within this time; he shall be sentenced to death as an apostate." This article also states that "Any person guilty of the crime of apostasy (Zendagha), shall be sentenced to death, unless he repents beforehand," and also that, "...if he repents before the execution of this sentence, the prosecutor will seize the Supreme Court, to the effect of his/her full rehabilitation, without prejudice to any sentence provided in the first paragraph this article [3 months to 3 years in prison and a fine of 5000 to 60000 UM]."

The United Nations Special Rapporteur on freedom of religion or belief notes in particular that freedom of religion or belief and freedom of expression are two mutually reinforcing human rights.³ He also further notes that similar to freedom of expression, freedom of religion or belief has a strong communicative dimension, which includes sharing one's convictions with others, receiving and disseminating information about religious or belief issues and trying to persuade others in a non-coercive manner.⁴

The United Nations Human Rights Committee (UNHRC) established pursuant to the International Covenant on Civil and Political Rights (ICCPR) in its General Comment No.34⁵ notes also that, "Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the [ICCPR], except in specific circumstances where individuals are advocating "national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" (article 20 of the ICCPR).⁶

We also take this opportunity to remind the Mauritanian authorities of the recent recommendation made by the UNHRC, which stipulates that Mauritania "should remove the crime of apostasy from its legislation and authorize Mauritians to fully enjoy their freedom of religion, including by changing religion."⁷

We the signing organisations, oppose the death penalty in all cases without exception, regardless of the nature or circumstances of the crime, the guilt, innocence or other characteristics of the offender or the method used by the state to carry out the execution. The death penalty violates the right to life as proclaimed in the Universal Declaration of Human Rights (UDHR); and it is the ultimate cruel, inhuman and degrading punishment. Mohamed Mkhaitir's death sentence is also a clear violation of Mauritania's obligations under the ICCPR to respect the right to freedom of expression.

The signatory organisations :

Action des Chrétiens pour l'abolition de la Torture ; Africivistes (Senegal) ; Agir Ensemble pour les Droits de l'Homme (France) ; Amnesty International ; Anti Slavery International ; Article 19 ; Association des Femmes Chefs de Famille (Mauritania) ; Association mauritanienne des droits de l'Homme (Mauritania) ; Association Semfilms (Burkina Faso) ; Centre for Civil and Political Rights (Switzerland) ; Comité de Solidarité avec les Victimes des Violations des Droits Humains (Mauritania) ; Fédération internationale des ligues des droits de l'Homme (FIDH) ; Forum des Organisations Nationales des Droits de l'Homme en Mauritanie (Mauritania) ; Initiative pour le Réurgence du Mouvement Abolitionniste (Mauritania) ; Initiative pour le Réurgence du Mouvement Abolitionniste, IRA (USA) ; Ligue pour la Défense de la Justice et de la Liberté (Burkina Faso) ; Minority Rights Group International (UK) ; Mouvement Burkinabè des Droits de l'Homme et des Peuples (Burkina Faso) ; Pen International ; Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO) (Senegal) ; Reporters sans Frontières (RSF) ; Society for Threatened Peoples ; SOS Esclaves (Mauritania) ; World Organisation Against Torture.

³ Report of the Special Rapporteur on freedom of religion or belief, 13 August 2012, paragraph 17, <http://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/67/303&Lang=E>, (last consulted 2 March 2015).

⁴ Ibid, paragraph 27.

⁵ UNHRC, General Comment No 34 on the ICCPR, 12 September 2011, paragraph 48, <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>, (last consulted 2 March 2015).

⁶ ICCPR, article 20, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>, (last consulted 2 March 2015).

⁷ UNHRC, Concluding observations on the initial report of Mauritania, 21 November 2013, article 21, CCPR/C/MRT/CO/1, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CCPR/C/MRT/CO/1&Lang=Fr, (last consulted 2 March 2015).