



Submission to the United Nations Human Rights Committee

List of Issues– Mauritania

124th session (October-November 2018)

Freedom Now welcomes the opportunity to contribute to the *List of Issues* of the Islamic Republic of Mauritania (“Mauritania”) in preparation for its second periodic review.

I. Freedom of Assembly and Association

Despite the constitutional guarantee of freedom of assembly and association, such freedoms have been significantly restricted. Freedom to protest publicly is limited; the law requires that organizations obtain consent to hold large meetings and such consent is often denied for political reasons. Activists gathering to protest without having received government authorization have been arrested or dispersed via use of force or tear gas. There are numerous reports of demonstrators being detained for longer than regulations allow as punishment for protests.

All NGOs are required to register with the Ministry of Interior, but the government can refuse to allow such registration which puts the NGO at risk of being closed down as an unauthorized organization. In July 2015, the Mauritanian Council of Ministers approved a draft law which would further restrict the freedoms of assembly and association as it cements the process for requiring prior government authorization for the formation of an organization—rather than simply prior notification—and provides stricter penalties for failure to comply. As of June 2017, the draft law was still under consideration by the National Assembly.¹

Of particular concern are two incidents that occurred during the Reporting Period. The first took place on 11 November 2014 as a local NGO known as the Initiative for the Resurgence of the Abolitionist Movement (“IRA”) and partner organizations were participating in the Caravan of Liberty, a convoy of activists travelling from town to town to inform villagers of their rights and document violations. The Caravan of Liberty had been organized by Djiby Sow, president of the minority rights organization KAWTAL. A force of 600 armed police, gendarmerie, and National Guard troops met the peaceful activists on the outskirts of the city of Rosso and used tear gas and beatings to stop the Caravan. Ten activists, including Biram Dah Abeid, Brahim Bilal Ramdane, and Mr. Sow were arrested and held *incommunicado* for three days. After a trial replete with irregularities, Mr. Abeid, Mr. Ramdane, and Mr. Sow were convicted and sentenced on 15 January 2015 to two years in prison under Article 193 of the Penal Code for “non-armed rebellion” and “refusing to comply with the orders of administrative authorities.”

¹ ‘A sword hanging over our heads’: The repression of activists speaking out against discrimination and slavery in Mauritania, Amnesty International (21 March 2018), pg. 36, available at <https://www.amnesty.org/en/latest/news/2018/03/mauritania-slavery-and-discrimination-human-rights-defenders-repressed/>.

The second incident occurred on 29 June 2016 when Mauritanian security forces in the capital city of Nouakchott stormed dwellings in the poor informal settlement of Ksar which had been occupied for decades by members of the Haratine ethnic group, many of whom were former slaves. With the Arab League's Arab Summit scheduled to be held in Nouakchott at the end of July, the Mauritanian government wanted to transfer these impoverished Haratines to a less visible area of the city. However, the forced relocation was opposed by the community's inhabitants, who began to protest the police's actions. The police forces reacted with violence and in the ensuing riots both protesters and police were injured. The police arrested about 42 protesters, including both inhabitants and activists who had come to support the inhabitants in their refusal to be forcibly evicted and illegally relocated. The government initially blamed IRA, a prominent abolitionist and Haratine-rights group, for the violence. IRA organized peaceful gatherings and press conferences to protest the forcible relocations, police violence, and the arbitrary detentions of the demonstrators. A further round of warrantless arrests and police brutality ensued as Mauritanian security forces hunted down members of the IRA leadership, taking them from their homes or pulling them out of their cars. Between 29 June and 3 July, four IRA members were hospitalized and 13 IRA leaders were detained. All of the IRA members who were arrested had initially been disappeared; neither their lawyers nor their family members were able to obtain any information about their whereabouts, which was particularly alarming considering concerns that some of the detainees had been badly injured during their arrest. However, on 12 July 2016, 23 of the detainees—10 inhabitants of Ksar and the 13 IRA members—were brought to the court in Nouakchott. (The other 32 protestors who had been detained were released.) The detainees were charged with inciting violence, belonging to a banned group, and aggression against security forces. On 18 August 2016, the 13 activists were convicted, receiving sentences ranging from three to 15 years. On 18 November 2016, an appeals court acquitted three activists and released seven more after reducing their sentences. An additional activist was released shortly thereafter. The remaining two activists were released on 12 July 2018.

The UN Working Group on Arbitrary Detention has issued opinions finding that the activists detained in both of these incidents were arbitrarily deprived of their liberty in violation of their rights to freedom of association and assembly.²

² *UN Working Group on Arbitrary Detention Opinion No. 36/2016, concerning Biram Dah Abeid, Brahim Bilal Ramdane and Djibril Sow* (Mauritania), UN Doc. No. A/HRC/WGAD/2016 (21 October 2016); *UN Working Group on Arbitrary Detention Opinion No. 35/2017, concerning Mohammed Shaikh Ould Mohammed Ould M. Mkhaitir* (Mauritania), UN Doc. No. A/HRC/WGAD/2017/35 (7 July 2017); *UN Working Group on Arbitrary Detention Opinion No. 90/2017, concerning Amadou Tidjani Diop, Ahmed Hamar Vall, Hamady Lehbouss, Mohamed Daty, Balla Touré, Moussa Biram, Khatri Rahel, Mohamed Jaroulah, Abdallahi Matala Saleck and Abdallah Abou Diop* (Mauritania), UN Doc. No. A/HRC/WGAD/2017/90 (21 December 2017).

Recommended Questions to Mauritania

1. *Please provide information on government responses to protests during the Reporting Period, including the Caravan of Liberty and Ksar incidents.*
2. *Please provide information on the results of government investigations into use of excessive force during protests, including the Caravan of Liberty and Ksar incidents.*
3. *Please provide the number of NGOs who were granted registration by the Ministry of Interior as well as the number of NGOs denied registration during the Reporting Period.*
4. *Please provide information on any legal actions taken by the government against NGOs during the Reporting Period.*
5. *Please describe what steps have been taken to guarantee and protect freedom of association, particularly as recommended in paragraph 22 of the Concluding Observations.*

II. Violation of Freedom of Expression

Although the Mauritanian constitution includes guarantees of freedom of expression, such protection often does not extend to expression deemed inimical to Islam or entrenched social interests, such as slavery or caste-discrimination. Mauritians questioning government policy, religious doctrine or provocative social topics can find themselves subject to criminal charges.

For example, Mohammed Shaikh Ould Mohammed Ould Mkhaitir published a blog post in 2013 criticizing the use of religion to justify caste-discrimination; the post suggested that the Prophet Mohamed had discriminated against certain groups in his life. Shortly thereafter, Mr. Mkhaitir thereafter found himself sentenced to death for the crime of apostasy. As discussed in more detail in section V below, although Mr. Mkhaitir's sentence has been reduced to time-served, he remains in detention, over four and a half years after his arrest. Mr. Mkhaitir was sentenced under Article 306 of the Criminal Code ("public offenses against Islamic morals and decency"), which the UN Working Group on Arbitrary Detention has confirmed is so vaguely worded as to be "at variance with international standards, in particular the principle of legality, which is required in order to exclude the possibility that an act may be retroactively classified as criminal."³ (As discussed in more detail in section IX below, Article 306 was recently amended to impose a mandatory death penalty on anyone convicted of apostasy.)

Abolitionists also find themselves facing harassment or detention for their vocal opposition to slavery or caste-discrimination. For example, related to the Caravan of Liberty and Ksar incidents described in section I above, the UN Working Group on Arbitrary Detention has issued opinions confirming that at least 13 anti-slavery activists were arbitrarily detained in violation of

³ *Report of the Working Group on Arbitrary Detention, Addendum: Mission to Mauritania*, ¶ 77, U.N. Doc. A/HRC/10/21/Add.2 (21 November 2008).

their rights to freedom of expression.⁴

Although Mauritania's press has seen some liberalization in the past few years, it is still considered only "partly free" due to journalists' self-censorship in their coverage of sensitive issues and the harassment suffered by dissenters who disseminate news considered troublesome by the authorities.⁵

Recommended Questions to Mauritania

1. *Please provide information on how many individuals have been charged with speech-related crimes, including under Article 306 of the Criminal Code.*
2. *Please describe what steps have been taken to guarantee and protect freedom of expression, particularly with respect to individuals espousing abolitionist, anti-discrimination, or religiously-provocative views.*

III. Violation of Freedom from Slavery and Freedom from Discrimination

The foremost human rights issues in Mauritania are slavery and discrimination against members of the Haratine and other low castes. As of 2015 there were an estimated 43,000 people enslaved in Mauritania,⁶ the vast majority of whom are Haratine.⁷ With 1.06 percent of the population enslaved, Mauritania has one of the highest incidence of slavery in the world.⁸ However, some high-ranking government officials, including the president, publicly deny that slavery still exists in the country.⁹

Mauritania was the last country in the world to formally abolish slavery in 1981 and to criminalize it in 2007.¹⁰ In 2015, the director of the government agency charged with combating slavery indicated the government's intention to fight slavery through indirect means, such as

⁴ UN Working Group on Arbitrary Detention Opinion No. 36/2016, *supra* note 2; UN Working Group on Arbitrary Detention Opinion No. 35/2017, *supra* note 2.

⁵ Freedom House, *Freedom of the Press 2015 – Mauritania*, (2015), available at <https://freedomhouse.org/report/freedom-press/2015/mauritania>.

⁶ Walk Free Foundation, *The Global Slavery Index*, (2015), available at <http://www.globalslaveryindex.org/country/mauritania/> (*hereinafter*, Global Slavery Index).

⁷ Unrepresented Nations and Peoples Organization and Initiative pour la Résurgence du Mouvement Abolitionniste Mauritanie, *Joint Submission to the UN Office of the High Commissioner for Human Rights for the consideration of the 2nd Universal Periodic Review of the Islamic Republic of Mauritania during the 23rd Session*, 6, available at <http://unpo.org/downloads/1321.pdf> (*hereinafter*, NGO Universal Periodic Review Submission).

⁸ Walk Free Foundation, *The Global Slavery Index*, 16, (2015), available at <http://www.globalslaveryindex.org/country/mauritania/>

⁹ The CNN Freedom Project, *Mauritanian minister responds to accusations that slavery is rampant*, (17 March 2012), available at <http://thecnnfreedomproject.blogs.cnn.com/2012/03/17/mauritanian-minister-responds-to-accusations-that-slavery-is-rampant/>; Interview with President Aziz Abdel, *Le général Mohamed Ould Abdel Aziz sur TV5 monde, l'esclavage n'existe pas dans notre pays*, (28 Nov. 2015), available at <https://www.youtube.com/watch?v=dUdwDHbSahM> (*hereinafter*, Interview with President Aziz Abdel).

¹⁰ Joshua Keating, *A Modern-Day Abolitionist on Fighting Slave Power*, SLATE, (18 Dec. 2013), available at http://www.slate.com/blogs/the_world_/2013/12/18/biram_dah_abeid_an_interview_with_a_modern_day_abolitionist.html.

awareness campaigns, rather than through referrals to criminal prosecution.¹¹ As of 2016, only three people had ever been convicted of the crime of slavery.¹² The UN Special Rapporteur on contemporary forms of slavery has expressed her concern over the low number of prosecutions, as well as the misinterpretation of religious texts to perpetuate slavery in Mauritania.¹³

In comparison with the leniency shown to slave masters, anti-slavery activists have faced harsh repression from the Mauritanian government.¹⁴ In the past few years, the Mauritanian police and gendarmerie have harassed, intimidated or arrested numerous members of anti-slavery organizations.¹⁵ In 2015, President Abdel Aziz gave an interview in which he accused anti-slavery activists of being the “peddlers of the idea” of slavery, which he claimed did not truly exist in the country.¹⁶ Such state harassment has concentrated on members of the Haratine community; reportedly, whenever the police forces clash with anti-slavery activists the police make an effort to arrest and detain only individuals of Haratine ethnicity in order to publicly present the issue as a strictly Haratine affair. As discussed in section I above, this repression was most clearly seen through the Ksar incident as well as the arrest, conviction and lengthy detention of the three Caravan of Liberty activists.

Unfortunately, even freed slaves often find themselves the victims of government discrimination and persecution. Despite being the largest ethnic group in Mauritania, Haratines are drastically underrepresented in government, industry or military positions.¹⁷ Haratines are also systematically discriminated against in the process of attributing land for housing purposes as the government routinely allots Haratines the unfavorable and isolated land parcels.¹⁸ Haratines are further discriminated against in school enrollments,¹⁹ and Haratine children are often denied an education.²⁰

While Haratine are likely the most discriminated against ethnicity in Mauritania, other individuals belonging to so-called low castes also face discrimination. For example, the blog post authored by Mr. Mkhaitir decried the use of Islam to justify discrimination against certain castes;

¹¹ United States Department of State, *Mauritania 2015 Human Rights Report*, 26, (2015).

¹² Unrepresented Nations and Peoples Organization and Initiative pour la Résurgence du Mouvement Abolitionniste Mauritanie, *Joint Submission to the UN Office of the High Commissioner for Human Rights for the consideration of the 2nd Universal Periodic Review of the Islamic Republic of Mauritania during the 23rd Session*, 6, available at <http://unpo.org/downloads/1321.pdf> (hereinafter, NGO Universal Periodic Review Submission); Anti-Slavery International, *Landmark Victory from Mauritania: Voices from Mauritania*, (27 May 2016), available at http://www.antislavery.org/english/press_and_news/blog_and_news_2016/mauritania-slavery-victory.aspx.

¹³ UN Human Rights Council, *Report of Special Rapporteur on Contemporary Forms of Slavery, including its causes and consequences, on her follow-up mission to Mauritania (24-27 February 2014)*, UN Doc. A/HRC/27/53/Add.1, ¶¶11, (26 August 2014).

¹⁴ NGO Universal Periodic Review Submission, *supra* note 12, at 8.

¹⁵ Amnesty International, “Mauritania”, in *Amnesty International Report 2014/2015*, 246 (2015).

¹⁶ Interview with President Aziz Abdel, *supra* note 9.

¹⁷ United States Department of State, *Mauritania 2015 Human Rights Report*, 23, (2015) (hereinafter, Department of State Report).

¹⁸ NGO Universal Periodic Review Submission, *supra* note 7, at 8.

¹⁹ *Id.*

²⁰ Department of State Report, *supra* note 17, at 20.

it was this “blasphemous” suggestion—that Islam should not be used to justify caste-discrimination—likely as well as the fact that Mr. Mkhaitir himself belonged to a lower caste, which led to his arrest and conviction on apostasy charges.

Recommended Questions to Mauritania

1. *Please provide specific data on the practice of slavery, as well as on investigations, prosecutions, convictions and penalties, and the rehabilitation of victims.*
2. *Please provide information on the criminal and civil legal framework around slavery offenses, including how victims may enforce their rights to damages in court, how often such criminal cases and civil suits have been filed and the de jure and de facto obstacles preventing such actions from being more widely used.*
3. *Please provide information on any human rights training provided to judges, lawyers, law enforcement officers, and the population generally regarding the practice of slavery and the treatment of its victims.*
4. *Please provide specific data on the economic and social standing of Haratines and other groups deemed low-caste in the country, including their representation in all ranks of government, industry, or military positions, school enrollment and literacy rates, household earnings, rates of land or house ownership, etc.*
5. *Please provide information on any legislative framework in place to guarantee freedom from discrimination, as well as any steps taken to criminalize racial discrimination or adopt a national plan of action against racial discrimination.*
6. *Please provide information on any human rights training provided to judges, lawyers, law enforcement officers, and the population generally regarding issue of racial discrimination.*
7. *Please provide information on any incidents of harassment or detention of anti-slavery or anti-discrimination activists; any investigations undertaken into such complaints; and the results of such investigations, particularly with respect to harassment and detention suffered by members of IRA.*
8. *Please describe what steps have been taken with respect to the recommendations set forth in paragraphs 7 and 17 of the Concluding Observations.*

IV. Violations of Freedom from Arbitrary Arrest and Detention and the Right to Privacy

Although under Article 37 of the Mauritanian Code of Procedures a prosecutor is required to authorize an arrest before it is carried out, arrests are often made without proper warrants. Such unauthorized arrests may also be accompanied by warrantless searches, in violation of such detainees’ right to privacy. For example, the officers did not produce an arrest warrant for any of

the IRA leaders arrested after the Ksar incident described in section I above, nor was a search warrant produced for the ensuing searches of their homes and offices.

Exacerbating the issue of arbitrary arrest, detainees are often unable to promptly exercise their *habeas corpus* rights by challenging the legality of their detention before a judge or judicial officer, which has been interpreted by the UN Human Rights Committee to mean within about 48 hours unless there are exceptional circumstances.²¹ In the case of the IRA leaders arrested after the Ksar incident, these individuals were held in detention for between 3 to 12 days before being brought before a judge. The 10 men who were arrested during the Caravan of Liberty incident described in section I above were not brought before a judge for three days.

Arbitrary arrests are often a prelude to a longer arbitrary detention. Within the Reporting Period, the UN Working Group on Arbitrary Detention has issued several opinions declaring that Mauritania has arbitrarily detained individuals on the basis of their exercise of their fundamental rights (such as free expression, association and assembly), on the basis of their ethnicity, and/or without being afforded their due process rights, including all of the individuals mentioned within this *List of Issues*.²² Some of these arbitrary detentions are shorter term, for instance in the case of the Caravan of Liberty members who were arrested alongside Mr. Abeid, Mr. Ramdane and Mr. Sow but released after trial. However, some of these arbitrary detentions last several years. Mr. Mkhaitir, for example, has now been in detention for over four and a half years; Abdallahi Matala Saleck and Moussa Biram, the two IRA leaders who remain in prison, have now been in detention for two years.

Recommended Questions to Mauritania

1. *Please provide information on the mechanisms in place by which an individual may report improper arrests or searches.*
2. *Please provide data on how many individuals during the Reporting Period were arrested before an arrest warrant had been issued; how often reports of improper arrests were investigated; and the results of such investigations, including for the IRA-leaders arrested in June-July 2016.*
3. *Please provide data on how many police searches of their belongings, homes or offices of suspects took place a valid search warrant; how often such reports of improper search warrants were investigated; and the results of such investigations, including for the IRA-leaders arrested in June-July 2016.*
4. *Please provide data on how often, during the Reporting Period, a judge or judicial officer allowed into evidence any information where such judge or judicial officer had*

²¹ *General Comment No. 35: Article 9 (Liberty and Security of Person)*, ¶ 33, Human Rights Comm., U.N. Doc. CCPR/C/GC/35, (16 December 2014).

²² UN Working Group on Arbitrary Detention Opinion No. 36/2016, *supra* note 2; UN Working Group on Arbitrary Detention Opinion No. 35/2017, *supra* note 2.

received a complaint of an improper search in connection with the investigation that produced such evidence.

5. *Please provide information on what steps have been made to comply with the opinions of the UN Working Group on Arbitrary Detention, particularly with respect to the cases of Mr. Biram, Mr. Ramdane, and Mr. Sow; Mr. Mkhaitir; and Mr. Saleck and Mr. Biram; specifically, please provide information on why Mr. Mkhaitir is still being held in detention even after a domestic court order for his release has been made.*
9. *Please provide data on how many individuals during the Reporting Period have complained before domestic or international mechanisms of arbitrary detention; any investigations undertaken into such complaints; and the results of such investigations.*
10. *Please provide information on any guarantees included in the Mauritanian Constitution, Penal Code and any other laws which protect an individual from arbitrary arrest and detention and provide for a detainee's right to promptly challenge the legality of his detention before a judge.*
11. *Please describe what steps have been taken with respect to the recommendations set forth in paragraph 18 of the Concluding Observations.*

V. Independence of the Judiciary

Although the Mauritanian Constitution establishes the principal of independence of the judicial branch, in practice Mauritania's judiciary is significantly influenced by the government. The executive has the power to appoint and remove judges, including members of the Constitutional Council and the High Islamic Council. The National Bar Association of Mauritania has suggested that the role of the Supreme Court of Justice has been reduced to only handling administrative matters. Moreover, the subjection of the judiciary to the executive has been exacerbated by the rapid turnover of Supreme Court chief justices as well as the cronyism of the Ministry of Justice which seems to rely on ethnic background as important criteria in its hiring process.

This failure of independence can have disastrous consequences for detainees and defendants. For example, shortly after the January 2014 arrest of Mr. Mkhaitir after he published his post viewed by some to be disrespectful of Islam, Mauritanian President Mohamed Ould Abdel Aziz joined a protest against Mr. Mkhaitir to demonstrate his sympathies with those calling for the death penalty; President Aziz also gave a speech after Friday prayer in which he promised to “apply God's law on whoever insults the Prophet, and whoever publishes such an insult.”²³ After being held in pre-trial detention for nearly 12 months, Mr. Mkhaitir was convicted of apostasy and sentenced to death—despite the fact that under Mauritanian law itself his repeated apologies should have negated the imposition of the death penalty. It was not until significant international

²³ *Petition to the UN Working Group on Arbitrary Detention in the matter of Mohammed Shaikh Ould Mohammed Ould Mkhaitir*, Freedom Now (25 May 2016), pg. 22, available at <http://www.freedom-now.org/wp-content/uploads/2016/05/Mkhaitir-UNWGAD-Petition-May-25-2016-FINAL-redacted.pdf>.

attention had focused on his case that, nearly three years after Mr. Mkhaitir's initial arrest, an appeals court reduced his sentence to time-served; nonetheless, as of the date of this submission, Mr. Mkhaitir remains in detention.

Recommended Question to Mauritania

1. *Please describe what steps have been taken to guarantee and protect the independence of the judiciary, particularly as recommended in paragraph 20 of the Concluding Observations.*

VI. Violations of Fair Trial Rights

Given the dependence of the judiciary on the executive, it is unsurprising that due process rights and the presumption of innocence are rarely respected in cases in which the government has an interest. State-run media and government officials have even gone so far as to publicly express certainty about a defendant's guilt prior to the trial. For instance, after the arrests of the IRA leaders after the Ksar incident, not only did one of Nouakchott's governors specifically name several of the detainees as the criminals responsible for the riots, but Mauritanian state television aired a program aimed at scapegoating and smearing IRA activists as enemies of the state, racism-mongers, and instigators of civil unrest. Perhaps even more egregiously, at times President Abdel Aziz himself has denounced suspects or defendants as guilty. For instance, after Mr. Abeid was arrested as part of the Caravan of Liberty, President Abdel Aziz stated that, as long as he was the president, Mr. Abeid would be imprisoned and called Mr. Abeid a criminal, in a statement which was carried on both national television and radio.²⁴ In perhaps the most outrageous example, when public opinion turned against Mr. Mkhaitir after his publication of an allegedly blasphemous blog post, President Abdel Aziz joined protestors against Mr. Mkhaitir and confirmed that Mauritania would punish anyone who insulted the Prophet.

Detainees are often held *incommunicado* and are unable to consult with legal counsel. For example, all of the 13 IRA leaders detained after the Ksar incident were initially held *incommunicado*, some for up to 12 days. Mr. Abeid, Mr. Ramdane and Mr. Sow, along with the seven other Caravan of Liberty members who were arrested in November 2014, were held *incommunicado* for three days after their arrest, meeting their lawyers for the first time only at their arraignment. After the Court of Appeals reduced Mr. Mkhaitir's sentence to time served in November 2017--at which time he should have been released--the government rather moved him to *incommunicado* "administrative detention", where he was unable to speak with his attorneys for about 7 months.

²⁴ *Petition to the UN Working Group on Arbitrary Detention in the matter of Biram Dah Abeid, Brahim Bilal Ramdane, and Djiby Sow*, Freedom Now (18 December 2015), pg. 17, available at <http://www.freedom-now.org/wp-content/uploads/2015/12/IRA-Mauritania-UNWGAD-Petition-Redacted.pdf>.

Even after detainees gain access to counsel such access is often limited and not confidential. For instance, although Mr. Abeid, Mr. Ramdane, and Mr. Sow were permitted to meet with their attorneys after the initial three-day *incommunicado* period, prison guards would always remain within earshot. Given this truncated access to counsel, defendants often find themselves without the ability, time or facilities to properly prepare a defense.

Recommended Questions to Mauritania

1. *Please provide information on the rates of acquittal for criminal defendants who are being tried on expression, association, or assembly-related charges, such as apostasy, blasphemy, non-armed rebellion, unlawful armed assembly, incitement to armed assembly, and membership in an unregistered organization.*
2. *Please provide information about any public statements made by government or court officials proclaiming an individual's guilt or criminality before the conclusion of a trial, as well as any actions taken to reprimand such speaker for prejudicing the court.*
3. *Please provide information on how long after arrest a detainee has access to his or her attorney by law; on any instances in which a detainee was held without access to his or her attorney for more than 48 hours; and on how often a suspect or detainee is interrogated without his or her attorney present.*
4. *Please specifically provide information on whether any inquiry has been made into the periods of incommunicado detention suffered by IRA leaders and Mr. Mkhaitir and what steps have been taken to ensure that detainees are granted full and confidential access to their attorneys in the future.*
5. *Please describe what steps have been taken to ensure due process rights are respected at every stage of a judicial proceedings and that the judiciary and the bar receive human rights training, particularly as recommended in paragraph 20 of the Concluding Observations.*

VII. Torture of Detained Persons

In the concluding observations on the initial report of Mauritania adopted by the Human Rights Committee (“the Committee”) at its 109th session (14 October – 1 November 2013) (the “Concluding Observations”), the Committee expressed its concern about “allegations of the systematic practice of torture and ill-treatment of excessive use of force by members of the police or the security forces.”²⁵ The Committee has also pointed out that *incommunicado* detention of a detainee serves to exacerbate the risk of other abuses occurring, such as mistreatment or torture.²⁶ Unfortunately, in Mauritania this fear has been realized as many of the

²⁵ UN Human Rights Committee, *Concluding observations on the initial report of Mauritania adopted by the Committee at its 109th session (14 October – 1 November 2013)*, U.N. Doc. CCPR/C/MRT/CO/1, ¶ 14, (21 November 2013).

²⁶ UN Human Rights Committee, *General Comment No. 35*, UN Doc. CCPR/C/GC/35, ¶ 35, (16 December 2014).

detainees held without access to their attorneys or families have been abused by their interrogators. For example, all of the 13 members of IRA who were arrested after the Ksar incident were abused during their initial detention; five endured particularly brutal physical torture involving prolonged stress positions, sexual humiliation, and painful lacerations. Moreover, despite the prohibition on using confessions gleaned from torture as evidence at trial in Mauritanian law, it is not uncommon for judges to ignore evidence of torture and consider such evidence. The judge in the trial of the detained IRA members, for example, dismissed the defendants' complaints of torture by stating that such investigation was outside of his jurisdiction as he was limited to only adjudicating the charges against the defendants.

Recommended Questions to Mauritania

1. *Please provide data on how many individuals during the Reporting Period have reported mistreatment, abuse or torture during their interrogation; how often such reports of mistreatment, abuse and torture were investigated; and the results of such investigations.*
2. *Please provide information on the investigations undertaken into complaints of torture and the prosecution and convictions of persons who have committed acts of torture during the Reporting Period, including those officers who tortured the IRA members during their 2016 incarceration.*
3. *Please provide data on how often, during the Reporting Period, a judge or judicial officer allowed into evidence any information where such judge or judicial officer had received a complaint of mistreatment, abuse or torture in connection with the interrogation that produced such information.*
4. *Please provide information on any guarantees included in the Mauritanian Constitution, Penal Code and any other laws which protect a detainee from torture during interrogation and prevent a court from using any confession or information gleaned therein as evidence.*
5. *Please describe what steps have been taken with respect to the recommendations set forth in paragraphs 14 and 15 of the Concluding Observations.*

VIII. Conditions of Detention, Extended Pre-Trial Detention, and Medical Care Available for Detained Persons

Prison conditions in Mauritania are notoriously harsh. Prisoners live in a climate of violence, where allegations of torture, beatings, abuse and ill-treatment are routine. Prisons are also severely overcrowded, which can lead to inadequate sanitation and poor hygiene. In some prisons the only opportunity that prisoners have to stretch their legs is in cramped hallways which are filled with refuse. The problem of overcrowding has been exacerbated by the Mauritanian government's practice of holding detainees in extended pre-trial detention. For example, Mr. Mkhaitir was held in pre-trial detention for nearly a year, from the time of his

arrest on 2 January 2014 to the time of his conviction on 24 December 2014. Mr. Abeid, Mr. Ramdane and Mr. Sow, three human rights activists who were convicted to two years in prison in January 2015 for their non-violent protest activities, were held in pre-trial detention for over three months.

Prisoners are held in stifling heat and are rarely allowed to leave their cells; many sleep on rags on the floor surrounded by vermin. Mr. Abeid, Mr. Ramdane, and Mr. Sow were all held together in the Aleg prison in cell about 2 meters by 3 meters long, which only had small air vents at the top of the walls. The heat in the cell was stifling, regularly reaching over 100 degrees Fahrenheit. The three men were not allowed to leave their cell, which was infested with vermin and mosquitoes and they were initially not permitted visitors and not provided with mattresses, mosquito netting or nourishing food. In February 2015, the three men staged a hunger strike to protest the dire prison conditions, which they ended when prison authorities agreed to allow them visitors.

Prisons are also plagued by inadequate ventilation, lack of potable water, and the spread of communicable diseases. Unfortunately, in such conditions, medical care is extremely limited. Mr. Sow, Mr. Abeid, Mr. Mkhaitir, and several of the imprisoned IRA members suffered from serious medical ailments which were exacerbated after the authorities refused to allow timely treatment.

Recommended Questions to Mauritania

1. *Please provide data on the number of prisoners within each of Mauritania's prisons along with the capacity of such prison and how many of such detainees are being held in pre-trial detention.*
2. *Please provide information on any guarantees included in the Mauritanian Constitution, Penal Code and any other laws which entitle a detainee to release pending trial.*
3. *Please provide information on any steps taken to ensure that detainees' right to release pending trial is respected, including an explanation as to why Mr. Mkhaitir, Mr. Abeid, Mr. Ramdane and Mr. Sow were held in extended pre-trial detention.*
4. *Please provide data on the state of sanitation, hygiene, temperature conditions, provision of nutritional food and clean water and visitation rights for each of Mauritania's prisons.*
5. *Please provide data on reports of prisoner mistreatment, abuse or torture during the Reporting Period within each of Mauritania's prisons, including how often such reports of mistreatment, abuse and torture were investigated; and the results of such investigations.*
6. *Please provide data on any deaths or hospitalizations among detainees which has occurred within each of Mauritania's prison.*

7. *Please provide data regarding the incidence and spread of communicable diseases within Mauritania's prisons.*
8. *Please provide information about the health care and treatment available to detainees, including an explanation as to why Mr. Sow, Mr. Abeid, Mr. Mkhaitir and several of the imprisoned IRA members were unable to access timely care and whether an investigation until the denial of care to these detainees has been instigated.*
9. *Please describe what steps have been taken to improve conditions of detention, particularly with respect to the recommendations set forth in paragraph 19 of the Concluding Observations.*

IX. Imposition of Capital Punishment

Mauritania allows capital punishment for certain crimes, such as apostasy, adultery or homosexuality.²⁷ Although no execution has been carried out since 1987, the threat remains an active one. For example, Mr. Mkhaitir was sentenced to death on 24 December 2014 for the crime of apostasy. On 9 November 2017, the Court of Appeals of Nouadhibou commuted Mr. Mkhaitir death sentence to a two-year prison term and a fine, after recognizing his repentance. However, a week later, the Council of Ministers approved a draft law to repeal and replace Article 306 of the Penal Code. The new law makes death penalty mandatory for anyone convicted of “blasphemous speech” and acts deemed “sacrilegious.” It also eliminates the possibility under Article 306 of substituting prison terms for the death penalty for certain apostasy-related crimes if the offender promptly repents. The law also extends the scope of application of the death penalty to “renegade acts.” The law was passed by the National Assembly on 27 April 2018.

While international law does not prohibit the use of capital punishment, it does proscribe a number of limitations as its use, including that capital punishment must be restricted to perpetrators of the most serious crimes who have been convicted after a fair trial and that it cannot be a mandatory punishment. Considering the types of non-violent offenses for which Mauritania imposes a sentence of capital punishment, and as discussed above, considering that Mauritanian courts are not independent, often subject detainees to torture in order to obtain a confession and often do not respect a defendant's full slate of due process rights, the imposition of the death penalty in Mauritania is in contravention of the prohibition against cruel and inhuman punishment in the ICCPR.

Recommended Questions to Mauritania

1. *Please provide data on the number of prisoners currently under a sentence of death in Mauritania and the offenses for which such sentence was given.*

²⁷ Penal Code of Mauritania, arts 306, 307 and 308, Ordinance No. 83-162, 9 July 1983.

2. *Please describe whether any steps have been taken to reform the Mauritanian Penal Code to ensure that the use of capital punishment is restricted to persons who have committed the most serious of violent offenses.*
3. *Please describe whether any steps have been taken to ensure that the due process rights of individuals charged with a capital crime are scrupulously observed.*
4. *Please describe what steps have been taken with respect to the recommendations set forth in paragraph 12 of the Concluding Observations.*