

## COUNTRIES AT THE CROSSROADS

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### COUNTRIES AT THE CROSSROADS 2011: MAURITANIA

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#### INTRODUCTION

Mauritania gained independence from France in 1960 but soon slipped into a series of authoritarian regimes, both civilian and military. Colonel Maayouya Ould Sidi Ahmed Taya seized power in a 1984 coup and eventually created a multiparty system in 1991. This system turned out to be multiparty in name only, however, as Taya used state resources, repression, and electoral manipulation to perpetuate his rule and that of his Republican, Democratic and Social Party (PRDS).

Taya's reign continued until 2005, when Colonel Ely Ould Mohamed Vall took power in another coup. With strong public support, Vall established a new independent electoral commission. Voters approved presidential term limits at two five-year terms in June 2006. At the end of that year, pro-military candidates secured majorities in legislative and municipal polls, a result that was repeated in early 2007 senate elections. In March 2007, Mauritania's first-ever generally free and fair elections saw the victory of the independent candidate Sidi Ould Cheikh Abdellahi.

Tension began to build early in Ould Cheikh Abdellahi's administration, particularly over the appropriate role of Taya. Ould Cheikh Abdellahi invited both groups into his cabinet. A governance crisis developed, however, amidst threats of no-confidence votes and parliamentary resignations. On August 6, 2008, the country returned to military rule when a general that Ould Cheikh Abdellahi had fired, Mohamed Ould Abdel Aziz, staged another coup. Ould Abdel Aziz installed himself at the helm of the High State Council (HSC), the 11-member junta that ran the country until elections could be held. In April 2009, Aziz resigned from the military to run for the presidency in the July elections, which he won in the first round with 52.6 percent. Despite opposition party allegations of electoral misconduct and doubts among the international community, the election results were ratified and Aziz confirmed as president.

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## COUNTRIES AT THE CROSSROADS

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None of the changes in leadership over the past few years has profoundly altered the formal and informal rules of politics in Mauritania. The 2008 ousting of the only civilian president ever elected in a multicandidate election brought the country back to its usual pattern of military-dominated autocratic rule, in which elections serve mainly to legitimize the latest strongman in power.

### ACCOUNTABILITY AND PUBLIC VOICE

Mauritania's main challenge lies in the gap between rules and their implementation. Mauritania's 1991 constitution outlines a pluralist political system with elections at the presidential, legislative, and municipal levels. The Independent National Electoral Commission (INEC) was created in 2005. This new system was used in the 2006 local and legislative elections and the 2007 presidential elections. The commission has a significant shortage of human and material resources, but improvements were made, including the obligation for military personnel to vote in the district where they are registered, thereby preventing the trucking of hundreds of "soldier voters" to pro-opposition districts. In addition, INEC's presence meant that elections were no longer under the sole supervision of the Interior Ministry, which was highly biased in favor of the ruling party and the incumbent leader. Nevertheless, although most contenders agreed that the 2006–2007 elections were Mauritania's fairest, the fact that the military's chosen candidates (at the time called the "Independents") took over both the National Assembly and the presidency indicated that there was still room for improvement.

After the 2008 coup against Ould Cheikh Abdellahi, opposition parties refused to recognize the legitimacy of the new military strongman, and nearly a year passed before all parties agreed to hold a new presidential election. According to the Dakar Accord, the transitional government organized elections for July 2009. The duration of the transitional government was extremely short at barely 21 days, however, leading to concern that it did not have the time to organize free and fair elections and to counter the pro-Ould Abdel Aziz bias in the civil service. Moreover, although military officers had promised not to run in the 2007 election, they reneged on this promise in 2009 and Ould Abdel Aziz became the leading candidate. This meant that Aziz, the military official who had just illegally seized power and who enjoyed the full support of the security apparatus and a majority of the legislative branch, was at the head of the interim government organizing the elections and also the clear frontrunner. Given his central role, it was virtually inconceivable that he would lose the election or that, in the highly unlikely event that he did, he could be prevented from illegally seizing power again. Furthermore, the contest was organized in only three weeks, a time frame so limited as to handicap the process from its inception. Credible international observers declined to observe the elections, citing insufficient conditions for a complete and effective observation mission.<sup>1</sup>

INEC supervised the July 18, 2009, presidential election with the Ministry of Interior. The formal rules were the same as in 2007, with one change, whose impact is as yet unclear: to become a candidate, it became necessary to have the support of 100 municipal councilors, located in at least half of the country's regions (called *wilaya*), as opposed to the 50 previously required. This new rule could be an obstacle for those who, unlike the head of state and a few party leaders, did not have support across the entire national territory.<sup>2</sup> Each presidential candidate could appoint two members to monitor each polling station. Media coverage was also relatively fair. Nevertheless, a former INEC member declared that INEC's mission was greatly

## COUNTRIES AT THE CROSSROADS

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impaired by a lack of material resources and by undue political influences.<sup>3</sup> The INEC chair resigned five days after the election, saying he had doubts about the validity of the results; he noted that the Constitutional Council officially recognized the results 48 hours after the election and before INEC finalized its election report, even though it was allowed up to eight days. Opposition members suggested that the chronically underfunded Constitutional Council was incapable of processing the electoral results in so short a period, implying that only significant fraud or vote count mismanagement could explain the dramatically short turnaround time.

Mauritania's parliamentary system has two chambers, the upper house, or Senate, and the lower house, or National Assembly. Every two years, a third of the Senate's 53 members is indirectly elected by a very small electoral college composed of mayors and municipal councilors, who are prone to vote buying.<sup>4</sup> Three seats are reserved for diaspora members, who are nominated by the elected senators. In the November 2009 Senate elections, candidates from General Ould Abdel Aziz's Union for the Republic Party (UPR) won 13 of the 17 seats, their allies won three seats, and the Islamist party Tawassoul won one seat. Opposition parties blamed corruption and assorted pressures for these results.<sup>5</sup> The presidential party and its allies now control 44 of the 56 seats.

The latest National Assembly elections were held in 2006. The president's party and his allies also control the National Assembly; the opposition occupied 35 of the 95 seats as of the December 2006 elections. That number is subject to change as legislators switch to the presidential coalition.

The constitution sanctions "the pre-eminence of the Head of State,"<sup>6</sup> under which the legislative and judicial branches are subordinate. The president appoints and dismisses the government and can dissolve the National Assembly and call for new elections. The assembly cannot remove him from office, except in cases of treason. The president appoints three of the six judges to the Constitutional Council (including its president), which, among other things, validates electoral results without outside oversight or approval. Executive power is strengthened through informal political channels that link the presidency to local rural leaders, powerful businessmen, and public servants. The politicization of public institutions is a method of rewarding political loyalty to the regime and punishing opposition.

There are no major obstacles to the formation of civic organizations, and donors do not face significant governmental impediments. However, these groups have had no serious effect on government policies. The only case of a civic organization facing governmental impediment is the Abolitionist Resurgence Initiative (IRA), which the interior ministry refuses to authorize. Its leader is an outspoken antislavery activist, denouncing slavery and formal and informal discrimination against the Haratin, the descendants of slaves of Arabic-speaking Moors. The government also refused to issue a new passport to the IRA's leader, preventing him from traveling abroad. Nongovernmental organizations (NGOs) increasingly have access to and use the internet, which allows them to publish reports on economic development and more political topics, including the rights of returning refugees, the marginalization of slaves and former slaves, women's conditions, etc. This increase in NGO activity does not translate to genuine influence, but NGO reports do publicize problems that were previously ignored.

The coup did not negatively affect press freedom. Newspapers are relatively free of governmental pressure, but some problems remain. For example, the January 2009 criminal defamation charges against a newspaper publisher after her paper covered allegations of mismanagement in a state-owned real estate company raised some concerns.<sup>7</sup>

## COUNTRIES AT THE CROSSROADS

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To improve press freedom, the interim government created the High Authority for the Press and the Audiovisual (HAPA) in 2006, whose main tasks consist of ending censorship, streamlining bureaucratic publication requirements, and improving media access, including by enforcing equal political party media access during electoral periods. The president appoints three of HAPA's six members, including the chair. HAPA's role has been inconsistent since 2007. It demonstrated independence from the executive in October 2008, three months after the coup, when it criticized the state-owned media for one-sided coverage and reports focusing only on General Ould Abdel Aziz while ignoring the positions and actions of the opposition.<sup>8</sup> During the July 2009 presidential elections, HAPA's monitoring of the media was strict, ensuring that state media did not favor any party, and there were no major problems with candidate media access.<sup>9</sup> However, state-owned radio and television still enjoyed a monopoly on coverage, and they exclusively advertise the words and deeds of the government. Liberalization of television and radio broadcasting would improve the situation considerably, as no private TV or radio station has been established to date. Foreign satellite channels are broadcast in the country but are available only for those who can afford it. The state owns the country's two daily newspapers and the printing press, although HAPA ensures that most papers have access to the latter. HAPA acknowledged that the absence of private radio and television was problematic during the last presidential campaign, arguing that "the liberalization of the radio and television sector is an essential condition for democracy and development."<sup>10</sup> A 2006 bill liberalizing the broadcast sector opened Mauritania's media landscape to private operators, but as of 2011, the only TV and radio channels in Mauritania's broadcast pool were public. Furthermore, a 2008 HAPA decision forced the state-owned media to provide some space for political pluralism, including coverage of opposition parties, during nonelectoral periods.<sup>11</sup> Self-censorship, particularly with regard to controversial issues such as the role of the military or of Islam, is widespread.<sup>12</sup>

Access to the internet is relatively free from government pressure, though due to the level of illiteracy and poverty, only a minority can access it. Hanevi Ould Deha, editor-in-chief of a popular website, taqadoumy.com, was arrested in June 2009 and jailed for a duration that exceeded the legal limit; the charges have changed over time and eventually he was sentenced based on comments readers left on his website. The incriminating users' comments pertained to women's sexuality and the court deemed them an insult to Islam and an encouragement to revolt. Hanevi Ould Deha was reprieved by the president in February 2010.

### CIVIL LIBERTIES

Article 13 of the Mauritanian constitution protects citizens from torture and inhumane treatment in prisons. Under both Ould Cheikh Abdellahi and Ould Abdel Aziz, there was a net decrease in unjustified political imprisonment and torture, which occasionally do occur. Although in general NGO activists and opposition members have not been imprisoned, ousted president Abdellahi and his closest collaborators were illegally detained and placed under house arrest for almost five months, until December 21, 2008.

The case of the National Commission for Human Rights (CNDH) also raised concerns. This independent body was created in October 2007 under Ould Cheikh Abdellahi. When Ould Abdel Aziz came to power, the CNDH's newly appointed chair (who had served under the Taya regime) dismissed one of its members, most probably on the basis that one of his organizations,

## COUNTRIES AT THE CROSSROADS

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the IRA, was too critical of state authorities. A large number of well-established NGOs, many of which partner with UN agencies in local development programs, denounced this dismissal.<sup>13</sup>

The treatment of Islamist activists is more complex. Al Qaida in the Islamic Maghreb (AQIM) and its predecessor, the Salafist Group for Preaching and Combat (GSPC), have launched a series of attacks in Mauritania since 2005, including attacks on remote military garrisons and ongoing kidnapping attempts and attacks on Western nationals. Mauritanian civilians have not been targeted so far. Under Taya, security forces arrested and tortured people of diverse political allegiances whose only commonality was that they referred to Islam as their main source of political thought. These included mainstream Islamist political actors (such as the members of the Tawassoul party) and young activists who allegedly travelled to AQIM camps in Mali. Security forces have developed a more focused strategy under the Abdellahi and Aziz regimes, but terrorist attacks remain a serious concern among the population.

The judiciary proved partly independent in March 2010, when it rejected a number of articles from the new Anti-Terrorist Law that the government attempted to pass in January 2010. This included articles on eavesdropping, detention without trial, and warrant search.<sup>14</sup> A new version was adopted in July 2010 that expands government power to pursue suspected terrorists and broadens the range of terrorism-related infractions, including money laundering and other activities. Under this new law, three prisoners accused of connections to AQIM were sentenced to death.<sup>15</sup> Meanwhile, the president freed 200 Islamist prisoners in 2010, a gesture that demonstrated the executive's willingness to differentiate among different kinds of Islamists.

A number of local NGOs have condemned prison conditions in Mauritania. The majority of prisoners have been in jail awaiting trial well beyond the legal limit for detention. Despite penal code procedures reformed in 2006 to provide a stricter and more transparent framework for preventive detention, 60 percent of prisoners in Nouakchott's main prison are in preventive detention.<sup>16</sup> Conditions in jail depend on each prisoner's private and family or tribal support; rich or well-connected prisoners have much better conditions than the vast majority of detainees.<sup>17</sup> Local human rights organizations condemned these issues after the death of dozens of prisoners in September and October 2010,<sup>18</sup> most probably due to poor sanitary conditions and severe overcrowding, though no official reasons were made public. The National Commission for Human Rights officially recognized that conditions in these jails were highly problematic.<sup>19</sup> Amnesty International has also condemned the violations of human rights in Mauritanian jails.<sup>20</sup> A mediator of the republic (similar to an ombudsman) was established in 1993 to investigate disputes between citizens and representatives of the public administration and to make recommendations to settle these disputes, but there is no evidence of the mediator's activities; the previous two mediators were active members of the Ould Taya regime.<sup>21</sup>

The treatment of women in Mauritania varies according to ethnicity, status group (or caste), geographical setting, and class. In this Muslim country, Islamic legal tradition applies to personal and family matters and maintains certain forms of gender inequalities, which are inscribed in the 2001 personal status code.<sup>22</sup> This code has improved certain aspects of gender relations, such as the obligation to obtain a woman's consent for marriage, the fact that a husband cannot prevent his wife from going to school, and an older tradition of a woman's right to divorce without her husband's permission (*khul*).<sup>23</sup> However, a "tutor" (most commonly a male relative) can marry off a woman under 18 if he determines it is in her interest. The word "interest" is not defined and the silence of minor women is considered consent. In addition, the gap between official texts and practices is problematic; despite the aforementioned legal requirements, child marriage remains widespread.

## COUNTRIES AT THE CROSSROADS

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Local NGOs have reported that violence against women and girls is still a major problem that the state has not addressed. For instance, women's rights groups reported that many young girls working as servants are subjected to domestic violence; most of them are poor and from marginalized communities (e.g., Haratin or vulnerable migrant groups), which makes their conditions even more difficult.<sup>24</sup> On several occasions, local police forces appear to have protected alleged perpetrators because of family and political connections.<sup>25</sup>

Political party lists must include at least 20 percent female candidates, and 20 percent of municipal council seats are reserved for women. At the legislative level, a 20 percent quota is also imposed on party lists, the size of which depends on the number of seats for each electoral district.<sup>26</sup> In practice, women comprise 19 percent of the National Assembly (18 out of 95 deputies), 12.5 percent of the Senate (7 out of 56), and 30 percent in local municipal assemblies (1,120 out of 3,688 local elected officials).

The non-Arabic-speaking minorities (Haalpulaaren, Sooninko, and Wolof) and the Haratin are politically, economically, and socially marginalized. Since January 2008, groups of Mauritanian refugees in Senegal, mostly Haalpulaaren and Wolof who were forced into exile in 1989–1991, have returned to their homeland. The state has offered some help upon their return through the National Agency for the Support and Reintegration of Refugees (ANAIR). After three years, about 83 groups of returnees (including about 20,000 people, or about 5,000 families) had returned to Mauritania. The government pledged to provide pension funds to public servants who were forcefully driven out of Mauritania in 1989 and who have since returned. However, no concrete program had been established as of 2011, and policies of reinsertion (housing, land restitution, employment, financial compensation, etc.) have failed to materialize.<sup>27</sup> The Program for the Prevention of Conflicts and the Consolidation of Social Cohesion established in 2009 does not seem to have made major concrete achievements. In addition, the 1993 Law of Amnesty, which prohibits any judicial investigation and prosecution of military personnel involved in the 1989–1991 massacres of black Africans, is still in effect.<sup>28</sup> The new government has pledged to promote the rights of Haratin with a policy of affirmative action,<sup>29</sup> as well as a program to provide material assistance to Haratin and returning refugees.

Slavery and practices associated with it were abolished in 1981, but only technically became criminal acts in 2007 with the Criminalization of Slavery Law.<sup>30</sup> Local NGOs have estimated that there continue to be approximately half a million enslaved people in the country.<sup>31</sup> NGOs have shed light on the bias among local judicial authorities, who never press charges against the perpetrators.<sup>32</sup> Despite the adoption of the 2007 law, not a single case has been brought to justice, even though several cases have been identified by the media or local NGOs.<sup>33</sup> Two groups of people were arrested in late 2010 and early 2011, accused of enslaving young girls, but they were both released without charges. In August 2010 the UN Special Rapporteur on Contemporary Forms of Slavery denounced the persistence of practices associated with slavery in Mauritania:<sup>34</sup> “The police and the courts have shown a reluctance to follow up allegations of slavery-like practices. . . . judges [were reluctant] to take appropriate action to provide for legal remedies to protect victims of slavery. . . . [and] magistrates sometimes did not apply the 2007 Slavery Act because they did not want to be seen as breaking ranks or ostracized by their kin.”

As in previous years, a major issue concerning ethnic minorities and former slaves is their representation in the state apparatus, especially in the most important ministries and in the security forces. Though exact numbers are difficult to obtain (and for political reasons national censuses do not provide statistics on ethnicity), a glance at some of these state agencies reveals that the dominant ethnic group, the “white Moors” (*Bidhân*), are overrepresented. For instance,

## COUNTRIES AT THE CROSSROADS

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the list of the Ministry of Justice's judges and assistant judges includes almost no individual from the Haalpulaar, Wolof, Sooninko, or Bamana.<sup>35</sup> The same can be said about appointments within the national police, the top military ranks, the education ministry, and other areas.<sup>36</sup>

A few steps have been taken to address discrimination against disabled people. The government passed a law in 2006 to protect and promote the rights of the disabled, although it still lacks concrete legal application. The government eventually created a new state agency within the Ministry of Health and issued a national action plan in 2009 for disabled people. A concrete example of this was the creation of a cultural and sports center for disabled people in Nouakchott in 2009, although some concerns were raised when it was uncovered that the director of the local NGO running the center has close family ties to the minister of health.<sup>37</sup>

Nearly all Mauritians are Muslim. Foreigners can generally practice their religion without interference, but distribution of materials from religions other than Islam is forbidden. Following other Muslim countries, the government has tried to control the practice of Islam and prevent the rise of what it considers radical Islam through the creation of state or quasi-state institutions such as the High Islamic Council and the Mauritanian League of Ulama, and by directly appointing imams. The 2003 Law on Mosques also defines mosques as public spaces under state scrutiny. The Ould Abdel Aziz government organized meetings in 2010 between state-sanctioned religious scholars and radical Islamists to persuade them to adopt a more liberal interpretation of Islam. It is not clear whether this strategy will work, as the state's own legitimacy problems and widespread corruption do not help to buttress the legitimacy of state-appointed religious scholars and preachers.

The state recognizes the right of citizens to assemble, to form independent trade unions, and to demonstrate peacefully, and it does not compel people to join specific organizations. There have been some improvements since the Ould Taya era, as no government since 2005 has prohibited or shut down a civic or political organization. Under the Taya regime, Islamists were under tight control of the government, but since 2007 they have been allowed to create their own political parties. While Mauritanian unions are relatively small, mostly covering workers in the modest industrial sector and civil servants, citizens are free to join them. The government is relatively quick to suppress demonstrations and protests, which are not common in Mauritania, when they do occur. For example, during the most recent demonstrations by Nouakchott youth in favor of the uprisings in Egypt and Tunisia in end of 2010 and early 2011, security forces quickly cracked down.

### **RULE OF LAW**

The Mauritanian judicial system combines French and Islamic (Malikite rite) legal traditions. The constitution guarantees the independence of the judiciary in theory (Article 89), and an organic law also protects judges from undue influence. The independence of the judiciary is weakened in practice, however, by other rules that endorse the formal domination of the executive over the judiciary. For example, the president presides over the High Council of Magistrates, whose tasks include the nomination of judges.<sup>38</sup> The constitution also enables the president to appoint three of the six members of the Constitutional Council, including its chair, who casts tie-breaking votes. In addition, the president appoints all five members of the High Islamic Council, which advises the president on matters of Islamic law.

## COUNTRIES AT THE CROSSROADS

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The formal subordination of the judiciary to the executive has been aggravated by informal practices. First, the rapid turnover of Supreme Court chief justices is highly problematic. Although the chief justice is supposed to serve for five years, the president appointed three different chief justices between 2007 and 2010 with no clear reasons given (as is the case for most appointments), thus impeding the judiciary's independence.<sup>39</sup> Similarly, connections and ethnic background seem to be important criteria in dismissal and appointments in the Ministry of Justice. In a September 2010 decision, the High Council of Magistrates appointed two judges who are relations of the chief justice of the Supreme Court (who is by law the deputy president of the High Council of Magistrates), and four other important positions were filled with people connected to the minister.<sup>40</sup> In September 2010, the president promised to undertake judicial reform, asking the Council of Magistrates not to proceed with new nominations until this takes place.<sup>41</sup> Three years after the previous reform, which has not produced significant changes, it remains to be seen to what extent this promise will actually translate into concrete decisions. In 2006, the chair of the Mauritanian Bar pleaded for more judicial independence.<sup>42</sup> Four years later the chair strongly criticized the state of Mauritania's judiciary, pointing to the high frequency of arbitrary detentions, the large number of prisoners in preventive detention long after the legal limit, the devastating and underdeveloped state of legal assistance (despite the existence of a National Council for Legal Assistance, with regional offices in each of the country's regions),<sup>43</sup> and the exaggerated domination of the executive over the judiciary.<sup>44</sup>

Mauritania's constitution guarantees the presumption of innocence, but delays and mismanagement compromise this right in practice. Judges and lawyers are trained at the University of Nouakchott. Judges are recruited by competitive exam and must undertake two years of training before assuming the bench. The judicial system suffers from a lack of judges, if not a lack of training.<sup>45</sup>

Despite formal guarantees, due process is lacking in Mauritania. Informal political pressure, a lack of resources, and occasional executive interference in political and terrorism-related cases hamper the right of detainees to a prompt and fair trial.

The Mauritanian military has been a dominant player since the 1975 war in Western Sahara. From 1978 onward, every head of state has come from the military, with the exception of the short reign of Ould Cheikh Abdellahi (2007–2008). Although the constitution provides for a civilian government, the military has always been a key pillar of the regime. To a large extent, government loyalty is secured through the distribution of significant political and economic advantages to top officers, and loyalty can be lost when such distribution fails. Security matters, which are very broadly defined, are the reserved domain of the military, as are the internal affairs of the army. The ousting of the civilian Ould Cheikh Abdellahi by his military chief of staff, and the latter's subsequent election, illustrates this process very well.

This does not mean that civilian political actors, parties, and movements cannot engage in political activities. They are important actors, but the executive office has been beyond their reach in practice. Security forces are not held accountable; prosecution of military personnel is almost impossible and, when it does occur, is most likely the result of factional rivalry within the security forces. A few police and customs officers have been arrested for drug trafficking, but factionalism within their agencies is likely the underlying cause.

Article 15 of the constitution ensures the right to own property. The 1983 Law on Land Tenure guarantees private ownership of land. However, it includes a clause that the state can evict citizens, with compensation, when economic and social development needs apply. In rural



## COUNTRIES AT THE CROSSROADS

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areas, de facto extortion of land by powerful agents with connections to high-ranking civil servants is frequent. These were, in part, responsible for the growing tensions between state officials and ethnic communities of the Senegal River region, which eventually led to state-sponsored killings and eviction of thousands of black African citizens between 1989 and 1991. In urban centers, shantytowns have been the frequent targets of violent and sudden eviction by state officials. Interior ministry agents who control land transactions have been accused of abuses of power and corruption. Hence in Nouakchott, for instance, where the value of land has skyrocketed in recent years, in 2010 media reported cases where pieces of land were taken from poor families and sold to wealthy buyers, usually people with political connections.<sup>46</sup> The government had to dismiss two Nouakchott governors in 2010 after corruption scandals were made public.<sup>47</sup> Ould Abdel Aziz has undertaken to survey all squatted land in and around Nouakchott so as to make land transactions more transparent.

A 2002 Code of Investments facilitates foreign direct investment. To make the local legal environment for business transactions more secure, the transition government specifically created two tribunals of commerce in Nouakchott and Nouadhibou in 2006, although the latter lacked a full-time judge for two years. While it is difficult to judge whether, in practice, these tribunals have improved the economic environment, it is notable that the government now wants to put in place a new code of investments.

### ANTICORRUPTION AND TRANSPARENCY

Throughout the 2000s, state economic policy became more clearly defined through the adoption of an investment code, simplification of the tax system, and elimination of many bureaucratic regulations. However, less formal state intervention did not mean better state intervention or less informal state intervention. As with most state policies, the gap between the rules and implementation remains the biggest problem. Political clientelism remains widespread and encourages corruption, and the management of public resources is strongly influenced by political and private imperatives.

There are two major anticorruption bodies: the State General Inspectorate (IGE), which was created in 2005 and is led by an inspector general (nominated by the prime minister), and the Court of Accounts (CdC), which was created in 1993 with a chair appointed by the president. The IGE has had the freedom to investigate all public institutions. For example, IGE investigations led to the arrest of the chairs of the national anti-AIDS agency and of the National Human Rights Commission, both of whom were accused of corruption.<sup>48</sup> Important concerns about the IGE have been raised since the 2008 coup, however. The current inspector general is the chair of the ruling party's women's commission. Her predecessor was the executive secretary of the UPR,<sup>49</sup> and his predecessor was also a presidential ally.<sup>50</sup> The chairpersons of most state agencies are UPR members, which calls into question the extent of the IGE's capacity to undertake unbiased and thorough investigations of state institutions. The many institutions not inspected by the IGE, such as the state agencies chaired by military officers (usually at the rank of colonel), is indicative of this.

The CdC's monitoring and investigation capacities are also mixed. In March 2010, the CdC published its auditing report on the FY2006 budget.<sup>51</sup> The fact that the CdC was able to audit state agencies and the budget-making process is a sign of progress, given that the CdC had been almost entirely inactive in previous years. Moreover, the level of budgetary

## COUNTRIES AT THE CROSSROADS

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misappropriation and other forms of misuse of public resources reported by the CdC suggests that it is relatively autonomous. However, delays in publication of its reports are problematic—the FY2005 report was published in 2007, and no report has been published since the 2006 report—regardless of whether the delays are a result of lack of funds or of political will. Finally, the FY2006 report only investigated cases under the previous regime. The real independence and efficiency of the CdC will be proven if and when it audits budgets passed under the current government.

In June 2010, the Mauritanian government created a commission to reactivate and update the 2007 state employee census and to audit and computerize the payroll system. After an initial investigation, which identified more than 5,000 fictitious (or ghost) state employees, the commission has stalled.<sup>52</sup>

In April 2007, just when Ould Cheikh Abdellahi became president, the government adopted a code of ethics for public officials.<sup>53</sup> No concrete actions have been taken since then, however. Three years after it was adopted, the government was only at the stage of explaining the code to public servants through workshops.<sup>54</sup> In the same vein, the Ould Cheikh Abdellahi government created the Commission for Financial Transparency in Public Life in October 2007, which has the power to require state officials, including the president, to declare their personal assets. After initially refusing, the current president and some ministers and other high-ranking civil servants declared their assets in fall 2010. However, although these declarations may play a positive symbolic role, it is well known that personal assets are often hidden under the names of relatives. Also, the commission has no power to verify these declarations, which are confidential. Finally, the executive appoints the commission's president, which raises concerns of autonomy.

The Mauritanian tax system, despite some reforms, is burdensome, pushing many small and medium enterprises to opt for tax evasion and the informal economy, which in turn shrinks the state's tax base.<sup>55</sup> The Mauritanian Tax Agency (DGI) recently undertook an unprecedented tax recovery operation. In June 2010, the DGI tried to recover taxes from most of the country's banks.<sup>56</sup> According to a DGI official: "these bank managers produced fake tax reports; they have always enjoyed undue favours that violate tax regulations."<sup>57</sup> During the operation, the CEO of one of the banks was appointed to a leading position in the UPR.<sup>58</sup> A journalist investigating the issue was briefly detained. A few weeks later, the chair of the DGI was fired.<sup>59</sup> An IMF study advised the government to "conduct a new census of tax payers and complete the computerization of the tax revenue agencies."<sup>60</sup>

Large private economic actors (individuals and firms) enjoy great economic freedom and comprise an oligarchy,<sup>61</sup> parts of which have ties with the presidency. Post-coup events suggest that this oligarchy has not changed, although its internal hierarchy has shifted, with those closer to the new ruler gaining special access to state contracts and licenses. These actors control most sectors of the market economy, including transport, banking, telecommunications, food imports, and construction. As stated in a 2010 World Bank report, "The four-firm concentration ratio for the imports of wheat and sugar tops 90 percent. Moreover, two firms dominate the rice imports, exhibiting a combined market share of 80 percent."<sup>62</sup> Three of the richest businessmen were arrested in 2009 on accusations that the private banks they own had embezzled money from the central bank. They were, however, quickly released in early 2010 after an out-of-court deal whereby they promised to reimburse the central bank.<sup>63</sup>

Transparency is limited both by law and in practice. Public contracts are under the supervision of the Central Commission for Public Contracts. In September 2010, journalists were able to investigate the case of the National Center for Oncology, which awarded a government

## COUNTRIES AT THE CROSSROADS

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contract to a Moroccan firm in a noncompetitive process. However, the fact that the commission authorized the opaque deal, despite the media's investigation, demonstrates the public's powerlessness in such cases.<sup>64</sup>

Similarly, contract allocation to foreign mineral companies is very opaque.<sup>65</sup> Mauritania became an official candidate for the Extractive Industries Transparency Initiative (EITI) in 2007, but three years later it had still not completed its EITI validation. It was granted an extension until September 2010, which was renewed again until June 2011.<sup>66</sup>

Petty and official corruption are widespread. Paying bribes is common practice.<sup>67</sup> However, a number of public agencies and officials were dismissed in 2009, including the dismissal of the public import-export company (Sonimex), officials of the national electricity company (Somelec), the chair of the public microcredit agency (Procapec), the director of the National Center for Oncology, and that of the National Commission for Public Contracts.<sup>68</sup> One problem in all of these dismissals is that there have been no official corruption charges. The lack of information surrounding the dismissals and the absence of legal action hinder the anticorruption process.

The education sector is hampered by corruption and clientelism. This seems to explain the appointment of dozens of unqualified individuals in numerous positions in the Ministry of Education, probably in return for political favors granted during the 2009 presidential election. The fact that some of these appointments were eventually cancelled by the education ministry signals that some limits to political assignments were established.<sup>69</sup>

An IMF study cited "poor financial intermediation (limited access to and cost of bank financing), red tape, cumbersome tax regulations" as significant shortcomings in the Mauritanian system.<sup>70</sup> Regarding the budget-making process, among the pieces of information now available is the report of the National Assembly's Finance Commission on the budget, which evaluates the executive's draft budget presented to the parliament.<sup>71</sup> The World Bank noted that the computerization of the budget "helped to enhance the capacity of sector ministries to carry out the major functions of budget execution, monitoring and reporting . . . accounting and treasury management systems. This has led to speedier execution of budgets, greater transparency in government expenditure and improved oversight." However, the report also noted that "progress has been slow because of the current political situation."<sup>72</sup>

There is no law to protect whistleblowers. Would-be whistleblowers tend to leak information to private newspapers instead. In theory, a safe legal environment for citizens who denounce cases of corruption is provided by the mediator of the republic, the penal code, and the constitutional right of expression. In practice, however, the judicial system's lack of independence constitutes an obstacle for the creation of such a safe legal environment. The safeguard role of the mediator of the republic is impaired by three problems: only elected representatives can lodge a complaint, but the majority of representatives belong to the ruling and presidential party (there is talk about changing the rules to allow citizens to lodge a complaint directly, but no decisions have yet been made); the mediator is appointed directly by the president, which may make citizens with complaints against presidential appointees in the administration reluctant to solicit the mediator; and the previous two mediators were well-established within the regime's top circle.<sup>73</sup>

## RECOMMENDATIONS

## COUNTRIES AT THE CROSSROADS

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- A multi-party parliamentary committee, not the executive, should appoint the head of the IGE.
- INEC should be allocated significantly more resources in order to play its role adequately and satisfactorily, including a full presence in all regions of the country during electoral periods.
- The government must compensate returning refugees in proportion with the loss inflicted upon them (for instance, adequate pension for returning civil servants, land for returning peasants and rural-dwellers, etc.), and the government must repeal the Law of Amnesty that prohibits investigation and prosecution of military personnel involved in the 1989–1991 atrocities.
- The government should implement the law criminalizing slavery. Civic organizations should be allowed to lodge complaints on specific slavery cases (alleged victims have a difficult time doing so alone), and alleged victims should be offered police protection (with the help of the human rights commissioner). Serious and extensive investigation of alleged slavery cases should be undertaken by authorities.
- No member of the military involved in any coup d'état should be eligible to run in a presidential election. To go further, any member of the military forces, active or retired, should be banned from candidacy in presidential elections.

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<sup>2</sup> “Loi organique n° 2009 – 021 du 02 avril 2009 modifiant et completant certaines dispositions de l’ordonnance n° 91 – 027 du 7 octobre 1991 portant loi organique relative a l’élection du president de la republique,” <http://www.ceni.mr/NR/rdonlyres/65EBC291-0491-4C4E-8F64-B99FDBCD5E3F/3490/LOIORGANIQUEN2009021DU02AVRIL2009.pdf>.

<sup>3</sup> “Cri de cœur d’un membre de la CENI,” Organisation contre les violations des droits humains, November 2, 2009, <http://www.cridem.org/imprimable.php?article=37670>.

<sup>4</sup> Bakari Guèye, “Mauritania postpones senatorial elections,” Magharebia, April 14, 2011, [http://www.magharebia.com/cocoon/awi/xhtml1/en\\_GB/features/awi/features/2011/04/14/feature-03](http://www.magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2011/04/14/feature-03).

<sup>5</sup> “Sénatoriales 2009: le retour du monolithisme,” *Le Calame*, November 11, 2009, [http://www.mauritanidees.fr/Senatoriales-2009-Le-retour-du-monolithisme\\_a1184.html](http://www.mauritanidees.fr/Senatoriales-2009-Le-retour-du-monolithisme_a1184.html).

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<sup>7</sup> Committee to Protect Journalists, *CPJ concerned about state of press freedom in Mauritania*, March 18, 2009, <http://www.unhcr.org/refworld/docid/4a1d5d5527.html>, accessed May 18, 2011.

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<sup>9</sup> HAPA’s post-campaign briefing can be found here: <http://www.hapa.mr/FR/Presidentielles2009/Rapportfr.pdf>.

<sup>10</sup> *Ibid.*, p. 9.

<sup>11</sup> “Décision N°005/2008, portant réglementation de la gestion du pluralisme politique au niveau des médias publics en période non électorale,” [http://www.transparencymaroc.ma/uploads/rapports\\_maghrebins/ACINFO\\_Mauritanie.pdf](http://www.transparencymaroc.ma/uploads/rapports_maghrebins/ACINFO_Mauritanie.pdf), p. 17.

<sup>12</sup> Mamodou Sy, “Media Sustainability Index 2009: Mauritania,” IREX, [http://www.irex.org/sites/default/files/03-Africa\\_09\\_Mauritania.pdf](http://www.irex.org/sites/default/files/03-Africa_09_Mauritania.pdf), accessed July 19, 2011.

<sup>13</sup> “Nouveau rebondissement dans le bras de fer engagé entre le président de l’IRA et les autorités mauritaniennes,” *Le Divan*, March 11, 2010, [http://www.ledivan.org/index.php?option=com\\_content&view=article&id=2541:nouveau-rebondissement-dans-le-bras-de-fer-engage-entre-le-president-de-lira-et-les-autorites-mauri&catid=35:politique&Itemid=75](http://www.ledivan.org/index.php?option=com_content&view=article&id=2541:nouveau-rebondissement-dans-le-bras-de-fer-engage-entre-le-president-de-lira-et-les-autorites-mauri&catid=35:politique&Itemid=75).

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<sup>67</sup> Manuela Francisco and Nicola Pontara, “Does Corruption Impact on Firms’ Ability to Conduct Business in Mauritania? Evidence from Investment Climate Survey Data,” *Policy Research Working Paper*, no. 4439 (December 2007): p. 11, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1073382](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1073382).

<sup>68</sup> “Opération mains propres à Nouakchott,” *Les Afriques*, November 4, 2009, <http://www.lesafriques.com/actualite/operation-mains-propres-a-nouakchott.html?Itemid=89?articleid=20180>.

<sup>69</sup> “Ça bouge au MEF: Affectations nulles et non avenues,” *Le Calame*, November 26, 2009, <http://www.cridem.org/imprimable.php?article=38472>.

<sup>70</sup> “Islamic Republic of Mauritania: 2009 Article IV...”, p. 15.

<sup>71</sup> For FY2009, see :

<http://www.assembleenationale.mr/indexfr.php?ArtID=&ArtCat=&tochid=&where=&filecr=&resp=&filialeid=&empid=&respfilialeidp=&respfilialeid=&sitefilialeid=&catp=&unter=&alles=&wilids=&wilid=&mouid=&depid=&epid2=&groid=&parid=&seanceid=&loiid=&suche=>

<sup>72</sup> The World Bank, “Status of Projects in Execution (SOPE), FY09–Mauritania,” October 2, 2009, p. 10.

<sup>73</sup> “Médiateur de la République: Une institution très mal connue,” *Le Calame*, September 3, 2008.