

Islamic Republic of Mauritania

Summary

Mauritania's legal system is a hybrid of French civil law and Islamic Sharia Law. Crimes against Islam are punished particularly harshly and both corporal and capital punishment is common.

Mauritania does not have any laws or provisions to protect whistleblowers. The Labor Code does not provide any channels for making protected disclosures or recourse for retaliation suffered for whistleblowing in the workplace or elsewhere. Simply put, there are literally no protections for whistleblowers in either the public or private sectors.

While basic freedoms, including freedoms of speech, expression and the media are enshrined in the law, in all instances these freedoms are immediately followed by a clause that they are limited "by the law". Consequently, the media operates in an ambiguous legal environment in which journalists face frequent harassment and arbitrary arrest. Conflicting provisions in different laws, such as the Penal Code and the Freedom of the Press Law, compound this ambiguity and allow for harassment and abuse under the guise of the rule of law. Like so many other African countries, constitutional protections are not what they appear to be, and citizens simply cannot rely on what is written in the law to save them from governmental reprisals for their whistleblowing.

Many journalists practice self-censorship, particularly around issues relating to the military, corruption, Islam, and slavery.

Legal and Policy Framework

The Constitution "guarantees to all citizens public and individual freedoms", including freedom of expression, freedom of assembly, and freedom of opinion and thought. The Constitution adds that these freedoms "cannot be limited *except by the law*"¹.

The Labor Code contains no reference to whistleblower protections. It does, however, limit legitimate reasons for dismissal to *force majeure*, mutual consent of the employer and employee, gross negligence on the part of one of the parties "left to the discretion of the competent court," or the death of the employee². In the case of a contested dismissal, it rests on the employer to prove a legitimate reason,³ although no penalties for unfair dismissal are specified. Notably, dismissal for whistleblowing is not specifically prohibited, unlike

¹ *Mauritania's Constitution of 1991 with Amendments through 2012*,
https://www.constituteproject.org/constitution/Mauritania_2012.pdf

² *Loi N° 2004-017 portant code du travail, Article 44*,
http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=96375&p_country=MRT&p_count=245&p_classification=01.02&p_classcount=4

³ *Loi N° 2004-017 portant code du travail, Article 60*,
http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=96375&p_country=MRT&p_count=245&p_classification=01.02&p_classcount=4

dismissal on the grounds of race, color, gender, age or political opinions.⁴ Mediation is required before a case can be brought to the Labor Court.

Legal and Legislative Policy Gaps

There are no specific whistleblower protections delineated in the law in Mauritania, and there is no evidence that any such legislation is being considered.

Despite any apparent public support in favor of a national whistleblowing law, the government has called for supranational protection of whistleblowers. The 2015 Nouakchott Declaration calls upon members of the African Union to “extend sufficient protection to whistleblowers in the public and private sectors, who play a key role in the prevention and detection of corruption, thus defending the public interest”⁵. With that said, the declaration has not translated into domestic law.

National Security Exemptions

Mauritania has draconian secrecy laws and harsh punishments for those who violate them. Revealing national defense information is punishable by 20 years at hard labor.⁶ If treason is not the intent of the information release, the penalty can be reduced to 10 years.⁷ Publishing “information related to the investigation of the traitor” is punishable by 20 years at hard labor.

Employees who reveal their employers’ trade secrets to “foreigners or Mauritanian residents in a foreign country” can be punished by up to five years in prison. If the recipient is a Mauritanian resident in Mauritania, the maximum sentence is two years.⁸ There are no protections for journalists or non-employees, and they can be prosecuted for espionage or treason as easily as an employee with direct access to the information.

Laws and Policies Governing Press and Speech

The Constitution does not provide for freedom of the press, although a separate Freedom of the Press Law states that access to information and freedom of the press “are inalienable rights of the citizen”. However, the law also notes these freedoms can be limited “by law and to the extent strictly necessary for the preservation of the democratic society.”⁹ In practice, freedom of the press can mean whatever the government wants it to mean, and most journalists practice self-censorship lest they fall afoul of government censors.

⁴ *Loi N° 2004-017 portant code du travail, Article 60,*

http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=96375&p_country=MRT&p_count=245&p_classification=01.02&p_classcount=4

⁵ Nouakchott Declaration on Transparency and Sustainable Development in Africa,

<http://www.africaprogresspanel.org/wp-content/uploads/2015/01/DECLARATION-FINAL-ENGLISH.pdf>

⁶ Penal Code, Article 72

⁷ Penal Code, Article 73

⁸ Penal Code, Article 388

⁹ République Islamique de Mauritanie, Ministère de la Communication, Ordonnance n° 017 – 2006 sur la liberté de la presse, Année 2006, Article 2
<https://www.hapa.mr/files/Ordonnance%20n°%20017-2006.doc>

The Penal Code provides for harsh sentences for crimes against religion and “good morals”. Committing heresy or apostasy (including in print) is punishable by death¹⁰. Written or spoken claims that accuse a Muslim of adultery, homosexuality, or being the child of unmarried persons is punishable by 80 lashes. The sentence can be commuted if the victim pardons the accused or the accusation is confirmed, per Sharia Law.¹¹

Distributing “printed matter, writings, drawings, posters, engravings, paintings, photographs, films...[or] objects or images contrary to good morals” carries a sentence of imprisonment for up to two years and a ban of up to six months on carrying out the activity by which the material was distributed, such as publishing.¹² Re-offenses carry harsher penalties. Again, “good morals” is not defined and it thus can mean whatever the government wants it to mean.

Defamation can also carry heavy fines. The Freedom of the Press Law allows monetary fines for journalistic offenses against the president¹³; defamation against government officials, certain government employees and official bodies, including courts and the military;¹⁴ and “offenses committed publicly” against foreign heads of state and diplomats.¹⁵ Defamatory claims about the private lives of government officials can be punished with jail time of up to six months if the claim relates to a person’s ethnic group, nationality, religion or race.¹⁶ The definition of defamation in the Freedom of the Press Law does implicitly extend to private citizens, but no punishments are set for defaming those outside government office.

The Freedom of the Press Law prohibits publication of any court procedures before they have been read in open court¹⁷. In addition, the Penal Code forbids the media from providing details or circumstances of executions, other than what is included in an official report posted on the door of the prison in which the execution took place.¹⁸

Parliament adopted a Cyber Crime Bill in 2015 which provides for prison sentences and heavy fines for disseminating certain types of politically sensitive content over the internet, as well as publishing material that undermines Islam and sharing information considered to be relevant to the national defense. The law says that journalists have “the duty and the right” to protect their sources in “all circumstances, except in the cases provided for by law for the

¹⁰ Penal Code, Article 306

¹¹ Penal Code, Article 341

¹² Penal Code, Article 263

¹³ République Islamique de Mauritanie, Ministère de la Communication, Ordonnance n° 017 – 2006 sur la liberté de la presse, Année 2006, Article 35
<https://www.hapa.mr/files/Ordonnance%20n%2017-2006.doc>

¹⁴ République Islamique de Mauritanie, Ministère de la Communication, Ordonnance n° 017 – 2006 sur la liberté de la presse, Année 2006, Articles 37 – 39,
<https://www.hapa.mr/files/Ordonnance%20n%2017-2006.doc>

¹⁵ République Islamique de Mauritanie, Ministère de la Communication, Ordonnance n° 017 – 2006 sur la liberté de la presse, Année 2006, Articles 44-45,
<https://www.hapa.mr/files/Ordonnance%20n%2017-2006.doc>

¹⁶ République Islamique de Mauritanie, Ministère de la Communication, Ordonnance n° 017 – 2006 sur la liberté de la presse, Année 2006, Articles 40-41,
<https://www.hapa.mr/files/Ordonnance%20n%2017-2006.doc>

¹⁷ République Islamique de Mauritanie, Ministère de la Communication, Ordonnance n° 017 – 2006 sur la liberté de la presse, Année 2006, Article 46-48
<https://www.hapa.mr/files/Ordonnance%20n%2017-2006.doc>

¹⁸ Penal Code, Article 14

purpose of combating crimes.” Thus, there is little real protection for sources in cases related to national security.

The 2018 Freedom House *Freedom of the Press* report¹⁹ rates press freedom in Mauritania as “Not Free,” a significant change from 2016, when it was “Partly Free.” The report notes concern that the new cybercrime law “established prison sentences and heavy fines for disseminating certain types of politically sensitive content over the internet”.

The Freedom House report also notes that the Mauritanian media is highly politicized, saying that opposition members maintain that the allocation of broadcast licenses favors pro-government political, tribal, and ethno-racial interests. It further claims that the High Authority for the Press and Audiovisual Sector specifically warned journalists against criticizing the president or his family and suspended a radio talk show for threatening “national unity and social cohesion”.

The report notes several incidences of harassment of journalists, including arrests for publishing documents related to alleged bank fraud and investigating a recent death at a hospital; as well as the repeated questioning of a journalist who had published an article about an alleged corruption scandal involving an elected official and a businessman tied to the ruling party.

Harassment of journalists also was alleged in the 2017 Freedom House *Freedom in the World* report²⁰, which noted that a journalist received death threats and was interrogated by authorities after he reported on corrupt dealings between a member of parliament and a businessman connected to the ruling party. (The 2018 report’s text had not yet been published when this paper was written.)

Reporters Without Borders ranks Mauritania 72nd in the 2018 world rankings, a drop of 17 positions.²¹ The group notes that “media freedom has declined dramatically in Mauritania since 2014 after several years of great progress. Under a law passed in November 2017, apostasy and blasphemy are now punishable by death, even when the offender repents.”

Whistleblower cases

There are no published cases of whistleblowing in Mauritania. It is unclear whether there have been cases of whistleblowing that have been suppressed, or whether the absence of legislative protections has stopped people from coming forward with sensitive information.

Particularly noteworthy is the death sentence imposed on blogger Mohamed Cheikh Ould Mohamed M’Kheitir for criticizing Mauritania’s unequal social order and the prophet Muhammad. M’Kheitir’s case garnered global attention, and his death sentence was finally commuted to two years in prison after he had already served three.

Human rights activists also risk lengthy prison sentences, with those active in the anti-slavery movement particularly susceptible to arrest. The 2018 Global Slavery Index estimates that

¹⁹ Freedom House, 2016, *Freedom of the Press: Mauritania*, <https://freedomhouse.org/report/freedom-press/2016/mauritania>

²⁰ Freedom House, 2016, *Freedom in the World: Mauritania*, <https://freedomhouse.org/report/freedom-world/2016/mauritania>

²¹ Reporters Without Borders, 2016, Mauritania <https://rsf.org/en/mauritania>

43,000 Mauritians are enslaved in all sectors of society.²² Forced labor and forced marriage are also common. Other estimates are much higher, although the government staunchly denies that slavery exists in Mauritania.²³ The president of the Initiative for the Resurgence of the Abolitionist Movement (IRA) has been jailed at least three times and alleges that he was tortured in prison²⁴. He was most recently released in May 2016 after serving 20 months for “inciting trouble,” “belonging to an unrecognized organization,” “leading an unauthorized rally,” and “violence against the police.”²⁵

Relevant legislation

- Constitution of Mauritania
- Criminal Code of Mauritania (Ordonnance 83-162 du 09 juillet 1983 portant institution d’un Code Pénal)
- Labor Code (Loi n° 2004-017 portant Code du travail)
- Freedom of the Press Law (Ordonnance n° 017 – 2006 sur la liberté de la presse)
- Cyber Crime Bill (Projet de Loi Relative a la Cybercriminalité)
- Nouakchott Declaration on Transparency and Sustainable Development in Africa

Organizations of Interest

None noted.

Further information

The appetite to enhance protections offered to the media may be somewhat limited, particularly with regard to religion. Reports indicate that thousands of religious conservatives demonstrated during the trial of Mohamed Cheikh Ould Mohamed M’Kheitar, celebrating when the death sentence was handed down.²⁶

Keeping Score: Mauritania versus International Standards

The following standards for whistleblower laws are derived from guidelines developed by the OECD, Council of Europe, Blueprint for Free Speech, Government Accountability Project, and Transparency International.

Key

1 = National law is recognized as consistent with international standards

2 = National law is partially recognized as consistent with international standards

3 = No national law or national law is not recognized as consistent with international standards

²² Global Slavery Index 2016, <https://www.globalslaveryindex.org/country/mauritania/>

²³ Sutter J., CNN, *Slavery’s Last Stronghold*,

<http://www.cnn.com/interactive/2012/03/world/mauritania.slaverys.last.stronghold/>

²⁴ Biram Dah Abeid, Speech at the 2017 Geneva Summit,

<https://www.genevasummit.org/biram-dah-abeid-speaks-at-2017-geneva-summit/>

²⁵ Underrepresented Nations and Peoples Organisation, *Crackdown on Anti-Slavery Movement in Mauritania Continues after Release of Biram Dah Abeid*, <http://unpo.org/article/17712>

²⁶ Committee to Protect Journalists, 2014, *In Mauritania, blogger sentenced to death for apostasy*, <https://cpj.org/2014/12/in-mauritania-blogger-sentenced-to-death-for-apost.php>

	Standard	Public Sector	Private Sector
1.	A broad range of organisations and workplaces are covered	3	3
2.	A broad range of offenses may be reported as whistleblowing	3	3
3.	The definition of who may qualify as a whistleblower is broad	3	3
4.	A range of disclosure channels to report internally or to regulators is in place	3	3
5.	People who make disclosures to external organizations, the media or the public are protected	3	3
6.	The threshold for protection is a reasonable belief that the information disclosed is true	3	3
7.	There are opportunities and protections for anonymous disclosures	3	3
8.	Whistleblower confidentiality is protected unless expressly waived	3	3
9.	Organizations are required to establish internal disclosure procedures	3	3
10.	Whistleblowers are protected from a broad range of retaliatory acts	3	3
11.	Victimized whistleblowers have access to a full range of remedies and compensation	3	3
12.	Those who retaliate against a whistleblower are subject to sanctions	3	3
13.	A whistleblower oversight or regulatory agency has been designated	3	3

14.	Whistleblower laws are administered and reviewed transparently	3	3
-----	--	---	---