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# amnesty international

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**MAURITANIA :**

**« NOBODY WANTS TO HAVE ANYTHING TO  
DO WITH US»**

**ARRESTS AND COLLECTIVE EXPULSIONS OF MIGRANTS DENIED  
ENTRY INTO EUROPE**



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# MAURITANIA: "NOBODY WANTS TO HAVE ANYTHING TO DO WITH US"

## ARRESTS AND COLLECTIVE EXPULSIONS OF MIGRANTS DENIED ENTRY INTO EUROPE

*"When white people first came over the sea to Africa, nobody treated them as illegal immigrants; why is it that today, when we try to go by sea to Europe, we are treated as illegal immigrants?"*

Graffiti written by a migrant at the Nouadhibou detention centre

### 1. INTRODUCTION

Since 2006, thousands of migrants, accused of setting out from Mauritania with the intention of entering the Canary Islands (Spain) irregularly, have been arrested, then forcibly returned to Mali or Senegal without any right of appeal to challenge the decision before a judicial authority. Many of them have been held for several days in a detention centre at Nouadhibou (in northern Mauritania), where some have been ill-treated by members of the Mauritanian security forces. Nationals of West African countries say they have been arbitrarily arrested in the street or at home and accused, apparently without any evidence, of intending to travel to Spain. Some of these people have been the victims of racketeers and many have been forcibly returned by the Mauritanian authorities to Mali or Senegal. These arrests, followed almost automatically by being returned to the border, are all the more arbitrary since it is not an offence under Mauritanian law to leave Mauritania irregularly.

This policy of arrests and collective expulsions by the Mauritanian authorities is the result of intense pressure exerted on the country by the European Union (EU), and Spain in particular, as they seek to involve certain African countries in their attempt to combat irregular migration into Europe. Mauritania, which has traditionally been welcoming in its attitude to large numbers of nationals of neighbouring countries, agreed to sign an agreement with Spain in 2003 which obliges it to readmit onto its territory not only

Mauritanian citizens but also the nationals of third countries where it has been "ascertained" or "presumed" that they have attempted to travel to Spain from the Mauritanian coast. Mauritania has also agreed to the presence on its soil of an aeroplane and a helicopter, deployed in the context of an operation conducted by the EU in order to control its external borders. Moreover, members of the Spanish *Guardia Civil* undertake joint patrols with the Mauritanian authorities along the country's coastline. This cooperation between the EU and Mauritania has been presented as a security and humanitarian operation designed to discourage and stop migrants who are trying to reach Europe, and to save those who are at sea in makeshift crafts and are at risk of drowning. Information gathered by Amnesty International reveals that this cooperation has given rise to the violation of certain fundamental rights of migrants in Mauritania.

The reasons that drive thousands of young Africans to face difficult times and often death in an attempt to reach Europe are linked essentially to poverty, a lack of prospects and family pressure as well as political violence and the civil wars that have affected, in particular, Liberia, Sierra Leone and Côte d'Ivoire. The EU and its Member States have responded to this irregular migration by tightening up their policy on migration flow management.

In this regard, Amnesty International is extremely concerned about the security policy of the EU and its Member States, and Spain in particular. These states are in the process of externalizing their policy of migration flow management by pressing the migrants' countries of origin, or the countries through which they pass – especially certain countries of the Maghreb and sub-Saharan Africa – to themselves manage the flow of migrants who attempt to reach Europe from their territory. These countries have become the *de facto* "policemen of Europe".

Generally speaking, Amnesty International is opposed to the use of detention for the purpose of migration control. Migrants have a right to freedom and a right not to be arbitrarily arrested. The organization takes the view that the detention of migrants is legitimate only when the authorities can demonstrate that it is necessary and proportionate to the aim to be achieved, that alternatives would not be effective, that it is on the grounds laid down by law and when there is an objective risk of the person concerned absconding. In particular, it should be a requirement that such incarceration be the subject of a judicial review and that it should be for as short a time as possible. The person in question must also be provided with an effective opportunity to challenge the decision to detain him.<sup>1</sup>

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<sup>1</sup> For a general overview of Amnesty International's position with regard to the detention of migrants, refugees and asylum-seekers, see the document: Amnesty International: Migration-related Detention. A research guide on human rights standards relevant to the detention of migrants, asylum-seekers and refugees. November 2007 AI Index: POL 33/005/2007. This document gives Amnesty International's definition of the terms 'migrant', 'asylum-seeker' and 'refugee': the term migrant is used to indicate a person who is not an asylum-seeker or refugee, but a person who moves from one place to another to live and usually to work, either temporarily or permanently. Migrants, while distinct from the categories of asylum-seeker and refugee, may similarly have been compelled to leave, for example because they do not have access to adequate food, water or shelter, or in

Moreover, the rights of some refugees and asylum-seekers, the majority of whom come from the countries of West Africa and Liberia and Sierra Leone in particular, are also under threat and at times denied in Mauritania. For instance, several refugees were arrested for short periods of time and at least two of them were forcibly returned to Mali. An asylum procedure was set up in 2005, but it has not yet been implemented. It is still the Office of the United Nations High Commissioner for Refugees (HCR) that recognizes the status of refugee, but its decisions can be challenged by the new institutions that have been created by the Mauritanian authorities. In addition, there is no appeal mechanism in the event of refusal.<sup>2</sup>

This report is based on a fact-finding mission undertaken by Amnesty International in Mauritania in March 2008, during which the organization's delegates were able to interview, in particular, people held at the detention centre in Nouadhibou, migrants who had attempted – or who intended to attempt – to get to Europe, and refugees, most of whom came from the countries of West Africa. The delegates also met high officials of the Mauritanian authorities, including the then Minister of the Interior, Yall Zakaria, and diplomatic representatives of Spain in Mauritania. This report sets out the main concerns of Amnesty International in relation to the treatment of migrants, refugees and asylum-seekers in Mauritania and puts forward recommendations to the Mauritanian authorities and the EU and especially the Spanish government, calling on them to ensure that the rights of these people are upheld in accordance with current international standards.

## **2. HEADING FOR EUROPE TO ESCAPE POVERTY AND CONFLICT**

Migration flows from the countries of sub-Saharan African towards Europe have grown substantially since the 1990s. This phenomenon is the consequence of civil wars and the economic crisis which have affected many of these countries, especially in West Africa. The gateway to Europe, the coast of north west Africa (especially the coast of Morocco and Mauritania) has become a favourite transit point for sub-Saharan migrants.

### **2.1. "I promised my family I would go to Europe"**

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order to ensure the safety and security of themselves and their families. They may move to take up employment, or to be reunited with family members. Many migrants leave for a combination of reasons.

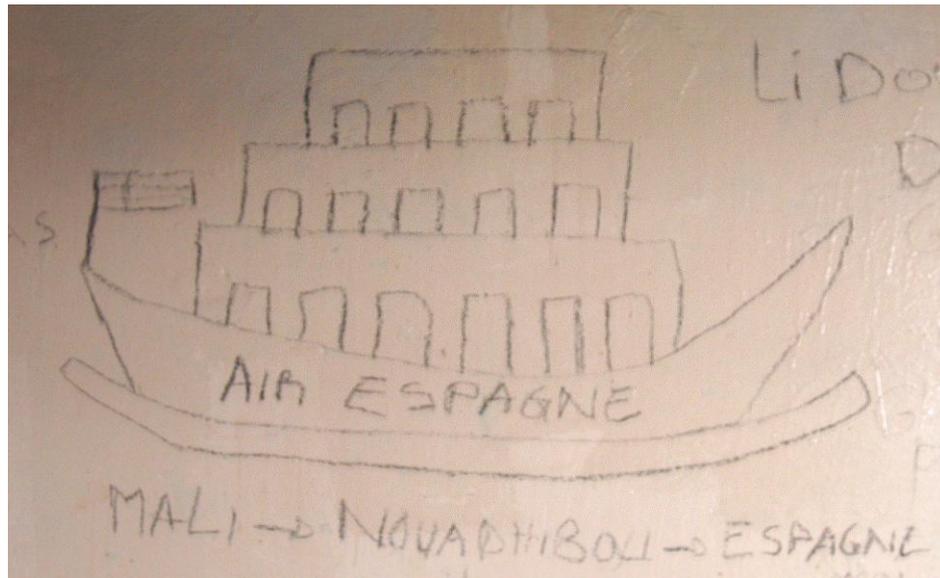
The terms refugee and asylum-seeker refer (...) to the specific categories of persons as recognised under international law which provide protection to persons fleeing persecution, conflict or human rights abuses. In addition to the standards (...) that apply to all migrants, persons who fall into the categories of refugee or asylum-seeker also benefit from an additional set of specific standards."

<sup>2</sup> This report does not deal with the present return of Mauritians who had taken refuge in neighbouring countries - Senegal in particular - following the abuses perpetrated on Negro-Mauritians at the end of the 1990s.

The reasons that drive thousands of young Africans to face difficult times and often death in an attempt to reach Europe are linked essentially to poverty, a lack of prospects and family pressure as well as political violence and the civil wars that have affected, in particular, Liberia, Sierra Leone and Côte d'Ivoire. Many migrants Amnesty International met emphasized the extent to which their parents depended on them to take them out of poverty, or simply to survive in a context of endemic economic crisis and high unemployment.

Most of the migrants who try to reach the Canary Islands from Mauritania are from the Economic Community Of West African States (ECOWAS). The great majority are from Senegal or Mali, but Amnesty International also met nationals of Gambia, Guinea, Côte d'Ivoire, Ghana, Liberia and Sierra Leone.<sup>3</sup> The reason why the vast majority of migrants in Mauritania are nationals of ECOWAS countries, is that they can enter the country without a visa, provided they have identity documents.<sup>4</sup>

A Senegalese migrant, whom Amnesty International met in early March 2008 at the detention centre in Nouadhibou, said: "My mother is old and I have two sisters; I promised my family I would go to Europe to earn some money".



© AI - Graffiti made by migrants on the wall of Nouadhibou Detention Centre

<sup>3</sup> Migrants from other regions of Africa, especially central Africa, but also from Asia, have also attempted to reach Europe via Mauritania.

<sup>4</sup> Although Mauritania ceased to be a member of ECOWAS in 1999, it continues to respect arrangements concerning freedom of movement within this sub-regional group.

Many migrants pointed out that the entire family had clubbed together so that they could leave the country and try to reach Europe. One migrant from Côte d'Ivoire told Amnesty International at the Nouadhibou detention centre:

"It wasn't because of the war that I left the country, but because of poverty. My father sold our radio and television and almost all our personal possessions so that I could leave. He said 'Do it, son, do it for me'. That's what gave me the will to do it." Since his arrest by the Mauritanian authorities at the beginning of March 2008, this person has been trying to phone his father. "My father wept when he heard that I'd been arrested. He said that our luck had run out and asked me not to be discouraged, but to try again. I know that I'll be sent back to Senegal, but I'm going to work there for a while to get some money and then I'm going to come back to Nouadhibou to give it another try. I know that without me, my family is finished. I am their only hope."

Another Ivorian migrant arrested at Nouadhibou by the Mauritanian authorities told Amnesty International: "Now I've been caught, I can't return home penniless. Maybe I'm going to grow old here, that's in God's hands. If peace returns to Côte d'Ivoire, I'm ready to go back, but only to some place where my family won't see me, because otherwise I'd be so ashamed".

Many migrants also highlighted the influential role of those migrants who have succeeded in reaching Europe and who call their families immediately to tell them of their success. One Mauritanian, who has twice tried to reach the Canary Islands, told Amnesty International: "As soon as migrants reach the Canary Islands, they call their families on their mobile phones and that encourages many young people to leave themselves."

Amnesty International has also met individuals who have fled their country because of political conflict and civil war, but who have still not sought asylum in Mauritania because their aim is to reach Europe. A Liberian national at the detention centre in Nouadhibou told the Amnesty International delegation: "I left my country to escape the civil war; I went to Côte d'Ivoire in 2004, then I came here to try to reach Europe and live in safety".

## **2.2 "He advised me to go to Mauritania because it's not far from Europe"**

Since 2006 Mauritania has become a particularly favoured departure point for migrants who want to go to Europe. For a long time, the majority of west African migrants tried to reach Europe from northern Morocco, using small fishing boats to cross the straits of Gibraltar, where the crossing is a mere 15 km. After 2002, the reinforcement of controls along the Mediterranean coast obliged migrants wishing to reach Europe to change their itinerary, notably by trying to enter the Spanish enclaves of Ceuta and Melilla in northern Morocco.

Many set out to sea on board *pateras*<sup>5</sup> from the port towns of Dakhla and Layoune (in Western Sahara) and from the Moroccan town of Tarfaya (less than 100 km from Fuerteventura in the Canary Islands, only 8 to 10 hours by sea).

Following the events of October 2005 in Ceuta and Melilla and the intensification of controls along the Moroccan border<sup>6</sup>, particularly between Western Sahara and Mauritania, migrants were obliged to find other, longer and therefore more dangerous, routes and try to reach Europe by sea via the Canary Islands. So thousands of people set off from Mauritania (which is some 800 km from the Spanish islands) and even Senegal (2,000 km from the Canary Islands). As the voyage is longer and more dangerous, migrants adopted new means of transport, taking to the sea in *cayucos*.<sup>7</sup>

Another factor which has been instrumental in migrants choosing to go to Europe from Mauritania, and in particular Nouadhibou – the country's northernmost town and therefore the least distant from the Canary Islands - is the opening at the end of 2005 of a new road between Nouadhibou and the capital of Mauritania, Nouakchott, considerably reducing the time and the random nature of the journey.<sup>8</sup>

The reinforcement of measures by the Spanish and Moroccan authorities to dissuade migrants from going to Spain and the almost simultaneous opening of an easier and safer road giving access to Nouadhibou meant that this region became a magnet for large numbers of migrants of West African origin eager to get to Europe. One Liberian migrant told Amnesty International: "I left Liberia for Côte d'Ivoire in 2004. On the way I met a lorry driver who advised me to go to Mauritania because it's not far from Europe; you can find work there and save enough money for the crossing."

Since the end of 2005, there has been an enormous increase in the number of migrants leaving Mauritania for the Canary Islands by sea, and this has been the subject of considerable media interest, in particular on the part of the Spanish media. Reports vary as

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<sup>5</sup> The Spanish term *patera* refers to a small, flat-bottomed wooden craft, used by fishermen. The term is generally used to describe the makeshift craft used by migrants who try to reach Spain by sea.

<sup>6</sup> In August and September 2005, hundreds of migrants who were trying to cross the border between Morocco and the Spanish enclaves of Ceuta and Melilla, came under fire from the Spanish and Moroccan security forces. Around a dozen of them were killed. These events led the Spanish and Moroccan authorities to reinforce measures designed to dissuade migrants from crossing the border. Amnesty International has publicly condemned this illegal and disproportionate use of force on several occasions. See, in particular, Amnesty International, *Spain/Morocco. Migrant rights between two fires*, 3 October 2005, AI Index: EUR 41/011/2005 and *Spain/Morocco. EU Pressure to 'keep people out' contributing to serious abuse of migrants' rights*, 26 October 2005, AI Index: EUR 41/017/2005.

<sup>7</sup> *Cayucos* are more solidly-built than *pateras*. They are between 14 and 18 metres in length and, on average, can accommodate between 50 and 70 people. This type of craft is used by the fishermen of Nouadhibou for fishing at sea.

<sup>8</sup> This road, which is 470 km long, was opened in November 2005. Before the road was built, the only option was a 500 km track. At best, the journey could take about fifteen hours, in some cases several days. The track ran along the Atlantic coast for about a hundred kilometres, but it was often only possible to drive along at sea level at low tide.

to the number of migrants arriving in the Canary Islands from Mauritania.<sup>9</sup> Confronted with the influx of migrants to the Canary Islands, along with images broadcast by the international media of bodies floating in the water and dehydrated and starving migrants drifting aimlessly, the EU reacted by seeking some means of dissuading these migrants from making the journey and saving human lives. The EU and its Member States also put pressure on Mauritania to play a more active role in the control of migration flows to Europe.

### **2.3 "The trafficker organizes everything, but he himself doesn't travel"**

In order to be able to leave Mauritania by boat and elude the Mauritanian and Spanish authorities, anyone wishing to migrate is obliged to use a trafficker and pay an enormous sum of money, which may be as much as several thousand euros. Traffickers are people who know the area and which authorities to bribe; they may be fishermen, or people who are planning to migrate themselves, or who have already done so. Irregular migration is based on a complex network of relationships and dealings the extent of which is difficult to grasp, because it is constantly changing in response to the reactions of the authorities.

According to information gathered by Amnesty International, this complex system involves different levels of responsibility and individuals: first there is the "trafficker", who organizes the whole operation; he works with touts (known locally as "coxeurs")<sup>10</sup> who have to find the migrants who want to go to Europe. At times, potential migrants might themselves become touts, seeking out other migrants keen to get to Europe by some irregular means. There are also the "captains" of small fishing boats, who receive large sums of money to engage in this kind of crossing. Finally, there are certain representatives of the Mauritanian security forces who will agree, in return for large sums of money, to allow the very departures they are supposed to prevent. As the number of potential migrants has risen, these activities have become increasingly lucrative.

One Mauritanian migrant who has tried to get to Europe several times, explained to Amnesty International how the system works:

"First the migrants must find a tout who is looking for people who want to leave. The tout finds customers for the trafficker, but never travels himself; he notes in his

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<sup>9</sup> According to a study conducted by two French academics, "in the month of January 2006 alone, 3,500 migrants arrived in the Canary Islands. In February, March and April of the same year, there were at least five attempts every night. In March, the Mauritanian Red Crescent estimates that between 700 and 800 people set out every day from Nouadhibou for the Canary Islands", see Armelle Choplin and Jérôme Lombard, *Destination Nouadhibou pour les migrants africains*, Revue Mappemonde, n° 88 (4-2007), <http://mappemonde.mgm.fr/num16/lieux/lieux07401.html>, consulted on 18 April 2008.

<sup>10</sup> A word used in various African countries, notably Senegal, to describe the person who assembles a certain number of passengers to fill a bush taxi or a bus. In the words of a Senegalese journalist: "[coxeurs] are the unavoidable intermediaries who pack the drivers' vehicles with passengers, fiercely competing with one another to do so". See Mamadou Mbengue, *Sénégal : le petit business des démarcheurs de passagers*, on the Afrik.com site, <http://www.afrik.com/article7941.html> (consulted on 12 April 2008).

book what each person has paid; the trafficker organizes everything, but he doesn't travel either; he looks for a captain among the fishermen who bring in the biggest catch, then offers to strike a deal with him".

In some cases, the touts or the traffickers betray, inform on or cheat the migrants, in particular the weakest, notably the women or some Anglophone migrants (mainly from Liberia, Sierra Leone or Nigeria) who are not familiar with the region and would not dare to complain and demand their money back. Amnesty International has gathered the testimony of several migrants who consider themselves to have been betrayed and robbed by touts or traffickers.

A 24-year-old Gambian recounted the following story to the organization's researchers at the Nouadhibou detention centre in March 2008:

"I left Gambia in 2005 to escape the poverty. I've been here two years, working as a labourer, to save up enough money to get on a boat. I've suffered a lot to save up this 200 000 oughias (around 550 euros). In August 2006 I gave the money to a Senegalese tout who said: 'It's just a question of waiting, don't worry, I'll make sure you get away'. I waited a long time, but the tout told me that the captain had disappeared along with the boat and my money. He asked me for another 50,000 oughias (around 140 euros). I gave it to him and yesterday evening [3 March 2008], he took me to where I and my group were supposed to board the boat, but the Mauritanian police were waiting for us there. I think that the trafficker had informed on us. Since then, his mobile phone is always switched off. I'll be sent back in a few days, so I won't be able to ask for my money back. I've lost everything."

One migrant who had made several attempts to go to Europe explained to Amnesty International that some traffickers would cheat prospective migrants by promising large numbers of people a place in the same boat knowing that there would not be room for all of them. "Some do the same as the airlines, they overbook. They ask 100 people for money but they know that only 75, maybe not even that many, will be able to leave because the boat mustn't be overloaded. So they give some people the wrong date, or they inform on them to the authorities". Asked about the "criteria" adopted by the traffickers to determine who was actually going to be able to go on the boat, the same person said: "They take the most determined migrants, those who could make problems for them if they don't get away, that's why it's often the women or the English-speaking migrants [who don't understand the local languages] who are left behind".

At the detention centre in Nouadhibou, Amnesty International met two women from Côte d'Ivoire, who believed they had been "betrayed" by their trafficker. One of them said: "The trafficker told us to be at a crossroads. Later he came in a car to pick us up and take us to his house where some other people were already waiting. He said he had to go out and told us to wait for him. Shortly after that, ten police officers came to arrest us. The

police told me that I was going to be sent back to Mali. We are tired in Africa, too tired. We are poor, we have nothing.... What are we going to do now, they are going to dump us at the border, we are going to die, we have no way of getting back to Mali".

Some people accused of trafficking, or presumed to be traffickers, have been arrested by the Mauritanian authorities. The Amnesty International delegation met some of them in prison in Nouakchott and Nouadhibou. Some had been convicted, while others were awaiting trial. Many traffickers manage to avoid being arrested, apparently as a result of links with influential people including, according to some allegations, people within the security forces. But others, who do not enjoy the same level of protection, have been arrested and accused of being traffickers' accomplices. For Amnesty International, the testimony gathered from some of those being held in detention confirmed that the system that exists for those attempting to reach the Canary Islands by an irregular means is complex, that it involves people at very different levels of responsibility and that the authorities must take steps to avoid people being detained in inhuman conditions as a consequence of a simple denunciation.

One particular case that came to Amnesty International's knowledge was that of a Ghanaian, who had been arrested by the Nouadhibou police on 27 October 2007. The arrest took place following notification by the Spanish authorities that he had been accused of being a trafficker by the migrants who had been arrested as they attempted to reach the Canary Islands. He had been held in custody for six days at the police station in Nouadhibou before being sent to the National Security headquarters in Nouakchott. The prosecutor before whom he was brought on 7 November 2007, decided that there was insufficient evidence to charge him and left it to the discretion of the police. Although the police should have released him under the presumption of innocence guaranteed by Mauritanian law, he was forcibly returned to Senegal via Rosso, the border town between Senegal and Mauritania. Since then, he has returned to Mauritania, but he has lost his job and is now penniless.

Several people have told Amnesty International that some members of the security forces with responsibility for coastal surveillance, would, in return for large sums of money, allow migrants to leave, even if that meant pursuing them later. One person who had attempted to go to Europe several times, told Amnesty International that at certain locations on the coast, "at night, there are only three soldiers on guard between midnight and six in the morning. They ask for 250,000 ouguiyas (around 700 euros) to close their eyes for an hour; migration is a major source of revenue for soldiers. Many of them have a Mercedes back in Nouadhibou in spite of the fact that they earn only 35 000 ouguiyas (around 100 euros)".

Amnesty International has also learned that some members of the security forces are allegedly selling motors or fuel to migrants. These motors are said to come from the fishing boats arrested and confiscated by the police. Clearly it is impossible, or very

dangerous, for migrants to complain about such behaviour. For instance, Amnesty International learned that in January 2007 a Guinean migrant was beaten up in the detention camp at Nouadhibou for having said that a police officer had agreed to let him set out to sea in return for 200,000 ouguiyas (around 550 euros). As a result of the beating, he had a fractured hand and had to be taken to the hospital.

#### **2.4. "As we approached Europe, even the waves unleashed themselves against us"**

The migrants Amnesty International met told of the conditions in which they had travelled at sea for days, their lives in danger, in an attempt to reach the Canary Islands on board small, overloaded fishing boats, often with no lifesaving equipment in the event of a shipwreck and very little food and clothing to protect them against the cold and the rain. This crossing is particularly perilous because the sea current flows southward. It is therefore easier for a boat to go from the Canary Islands to the African continent than in the opposite direction. One migrant, of Sierra Leonean origin, who had succeeded in making the crossing to the Canary Islands in September 2007 before being sent back to Mauritania by the Spanish authorities several days later, told Amnesty International: "When we left the coast of Mauritania, the sea was calm, but as we approached Europe, even the waves unleashed themselves against us. They were three or four metres high, it was like climbing a mountain. It was very dangerous and I was afraid because I can't swim."

A 24-year-old Ghanaian at the detention centre at Nouadhibou, told Amnesty International:

"I arrived in Mauritania in 2004 and I've been working in the port since then. In October 2007, at about six o'clock in the morning, I saw some people getting into a boat that was going to Spain. I followed them and went on board; there were more than 100 people on board. The captain threatened to throw me overboard if I didn't pay him immediately. I had 1,400 euros on me and he took 1,000. The crossing was very long; it took nine days. I had only my trousers and a shirt and it was very cold at night. Also, I was really afraid of falling because we had to remain seated, with our heads almost on our knees. If anyone wanted to urinate, we used a bottle, with two of the migrants holding us. It was just as difficult for the ten women who were with us; they had to use a bucket. We wept during the crossing. The waves were more than four metres high and we were afraid. We prayed the whole time. By the end of the fourth day, there was practically nothing left to eat or drink. We had used up all our supplies and some of us had even drunk some seawater. Several people fell ill, including the women. After nine days at sea we arrived in Tenerife, where the Spanish police were waiting to arrest us."

During these crossings, a considerable number of people, the magnitude of which is impossible to evaluate, have drowned. At an official audience with the Amnesty International delegation in March 2008, the then Mauritanian Minister of the Interior, Yall

Zakaria, said: "Every day we find bodies along the coast. The ocean has absorbed thousands of people." A migrant who made the crossing on a small fishing boat in September 2006 told Amnesty International: "The voyage took five days. We were spotted by a Spanish helicopter, and they called the *Guardia Civil*. The Spanish police arrived by boat and came on board while we were still at sea. During the crossing, one of us was vomiting. He was 25 or 26, from Guinea Bissau and was travelling with his older brother. We thought he was asleep because in the boat it's every man for himself and the devil take the hindmost. I don't know you and you don't know me. The Spaniards tried to wake him and realized that he was dead. They put him in a big plastic bag and took him away".

### 3 "FORTRESS EUROPE" PUSHES ITS EXTERNAL BORDERS SOUTH

Over the last 10 years or so, the Member States of the EU have considerably hardened their policy of managing migration flows. The aim was to limit the number of irregular migrants arriving on their territory, especially by reinforcing controls on their external borders. Having failed to contain this migratory phenomenon, in the end they decided to externalize their policy of combating "illegal migration".

So pressure was exerted on the countries of the Maghreb and of sub-Saharan Africa to include them in combating irregular migration and to turn these countries into the *de facto* "policemen of Europe".

During the last few years the EU has developed its policy on migration flows around two main axis: the clauses of readmission and the joint operations of the Frontex Agency.

#### 3.1. Readmission agreements and clauses

Readmission agreements and readmission clauses inserted into co-operation and association agreements have consequently become one of the EU's preferred weapons against irregular migration. This type of agreement provides for reciprocal undertakings between the two signatories concerning the return of nationals of their own countries or of any third country who have entered the territory of one of the two parties irregularly.

Amnesty International is not opposed in principle to readmission agreements, which are not illegal in themselves. However, the organization stresses that any readmission agreement has to be fully compliant with the human rights obligations with the states parties to the agreement. They must contain clear provisions protecting the rights of migrants and asylum-seekers. These must include their rights to liberty and freedom from arbitrary detention; protection against torture or other ill-treatment; their rights to access to a fair and satisfactory asylum procedure and protection from return to a country or territory where he or she would be at risk of serious human rights violations.

In order to stem migration flows, the EU and its Member States have sought to persuade the migrants' countries of origin and the countries through which they travel to agree to enter into readmission agreements or clauses within the framework of their development aid policies.

Faced with resistance on the part of some States – unenthusiastic about agreeing to readmit nationals of third countries onto their territory - the EU resorted to what, in March 2006, the European Commissioner for Justice and Internal Affairs, Franco Frattini, clearly called "levers" or "carrots".<sup>11</sup>

In the context of the policy conducted by the EU to generalize the signature of readmission agreements or of cooperation agreements incorporating readmission clauses with countries of the South, the Cotonou Agreement, signed in 2000 with the ACP (African, Caribbean and Pacific) countries, marks an important date. Article 13 of the agreement incorporates, in effect, a standard readmission clause which provides that every State Party "shall accept the return of and readmission of any of its nationals who are illegally present on the territory" of another State Party "at that State's request and without further formalities". This text also makes provision for the possibility of adopting "if deemed necessary by any of the Parties, arrangements for the readmission of third country nationals and stateless persons".<sup>12</sup>

At the European Council meeting in Seville in June 2002, the EU went a step further by stating that, in the future, it would systematically include in its cooperation and association agreements "a clause on the joint management of migration flows and on compulsory readmission in the event of illegal immigration".<sup>13</sup>

This provision therefore became, at Community level, an essential weapon against irregular migration. However, the EU has often been faced with problems concluding readmission agreements with transit countries, in particular, which have resisted EU

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<sup>11</sup> In an address to the French Senate in March 2006, Mr Frattini, said: "The negotiation of readmission agreements has not been straightforward. Although we have completed negotiations with five countries, including Russia, negotiations are not at the same stage in all cases. The main reason for this is that, although these agreements are reciprocal in theory, it is clear that in practice they essentially serve the interests of the Community. This is particularly true of the provisions relating to the readmission of third country nationals and stateless persons – a condition sine qua non of all our readmission agreements, but which are very difficult for third countries to accept. The successful conclusion of the negotiations depends therefore on the "levers" or should I say "carrots" that the Commission has at its disposal, in other words sufficiently strong incentives to obtain the cooperation of the third party in question."

<sup>12</sup> The Cotonou Agreement, signed on 23 June 2000 and revised in 2005, links the EU to the African Caribbean and Pacific (ACP) countries. It replaces the system of Lomé Conventions, initiated in 1975, which had put in place the Community policy of cooperation between the Member States of the EU and the ACP countries.

<sup>13</sup> At the European Council meeting in Seville on 21 and 22 June 2002, the heads of State or of Government of the EU decided that: "The European Council urges that any future cooperation, association or equivalent agreement which the European Union or the European Community concludes with any country should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration", Presidency conclusions of the Seville European Council, paragraph 33, 22 June 2002.

pressure attempting to impose the readmission onto their territory of third country nationals.<sup>14</sup>

For their part, some Member States, notably France and Italy, but also Spain, are already largely committed in this respect, and have signed readmission agreements with a certain number of countries of Eastern Europe, the Maghreb and West Africa.

### 3.2. The introduction of Frontex

In parallel with these readmission agreements, in October 2004 the EU set up a European Agency for the management of operational cooperation on the external borders of the Member States of the EU, known as Frontex. The objective of this agency is to reinforce security on the EU's external borders by coordinating the action of Member States and facilitating the application of Community measures relating to the management of such borders.<sup>15</sup>

Frontex has conducted migration flow control operations along all of the EU's external borders (notably in the Baltic sea ports, the borders of Austria, Hungary, Slovakia and Romania and also the coasts of Libya, Greece and Italy).

With regard to West Africa, it was in August 2006 that Frontex put in place an operation to control irregular migration from West Africa to the Canary Islands. These operations, named HERA I, II and III have been developed at the request of Spain and have two main objectives: deployment of groups of experts from other Member States to support Spanish authorities on the Canary Islands interviewing the migrants arriving as well

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<sup>14</sup> The readmission agreement between the EU and Morocco, which has been under discussion for several years, has still not been signed because the Moroccan authorities refuse to readmit third country nationals. Nevertheless, negotiations continue.

<sup>15</sup> According to Article 2 of the Regulation establishing FRONTEX, the Agency has six main tasks: 1) coordinate operational cooperation between Member States in the field of management of external borders; 2) assist Member States on training of national border guards; 3) carry out risk analysis; 4) follow-up on the development of research relevant for the control and surveillance of external borders; 5) assist Member States in circumstances requiring increased technical and operational assistance at external borders and 6) provide Member States with the necessary support in organising joint return operations (See Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, *OJ* 2004 L 349/1.). The budget of Frontex consists of a subsidy of the Community entered in the general budget of the EU, a contribution from the countries associated with the implementation and development of the Schengen acquis, fees for services provided and any voluntary contribution from the Member States. This budget has continued to increase. It was 14 million euros in 2005 and 32 million euros in 2006. In December 2007, the European Parliament agreed to the Commission's proposal to double the budget, stating that "Given the urgency of immigration matters, the Parliament ...decided to double the amounts allocated to the Agency (Frontex). The budget earmarked for Frontex thus rises to €70 million euros in total", see *The Parliament adopts the budget for the European Union for 2008*, see the European Parliament website: [http://www.europarl.europa.eu/news/expert/infopress\\_page/034-15283-344-12-50-905-20071213|PR15281-10-12-2007-2007-true/default\\_fr.htm](http://www.europarl.europa.eu/news/expert/infopress_page/034-15283-344-12-50-905-20071213|PR15281-10-12-2007-2007-true/default_fr.htm), consulted on 20 April 2008. The material and human resources are provided by the Member States. The Agency's activities are therefore dependent on the willingness of the Member States to release the funds and the equipment required for a particular operation.

as carry out joint sea patrols along the coast of West Africa. The first objective should help to identify the country or origin of the migrants concerned in order to facilitate their return and should at the same time produce information with regard to the identification of those responsible for the facilitation of the sea crossings. The joint sea patrols are organized close to the West African coast in order to stop unseaworthy boats from continuing their dangerous journey.

Under the aegis of Spain, several European countries have participated in this operation, notably Germany, France, Italy, Luxembourg and Portugal. The operation involved sending experts to the Canary Islands and providing ships, helicopters or planes, as well as personnel on the ground. The operation was implemented in collaboration with Mauritania, Cape Verde and Senegal (agreements signed between Spain and these countries). Initially intended for a limited period, the operation has been renewed several times and is still active today. For instance, within the framework of Frontex, Luxembourg made available a helicopter to Mauritania. This is based in Nouakchott and undertakes air patrols along the Mauritanian coast.

France has also contributed to this operation. The director of the "*Direction centrale de la Police aux frontières (DCPAF, Central Directorate of Border Police)* within the Ministry of the Interior stated to Amnesty International that France was lending a Falcon plane for certain flight routes as well as providing an expertise on forged documents ( *La France fournit des heures de vol d'un Falcon depuis Marseille ainsi qu'une expertise des faux documents*). He specified that, "Owing to our knowledge of West Africa and the French language, and to our experience with forged documents from these countries; our representatives are spending one or two months there assisting Spanish officials in interviewing migrants, looking for their connections, and denouncing those responsible."<sup>16</sup>

In any case, the HERA operation is considered a success by Frontex. According to the 2006 annual report of Frontex: "During the operational phase of HERA II, 3887 illegal immigrants on 57 *cayucos* (small fishing boats) were intercepted close to the African coast and diverted. During HERA I and II operations, close to 5000 illegal immigrants could be stopped from setting off for a dangerous journey that might have cost their lives". The report does not contain any information on where the 3,887 migrants were diverted to, nor whether or not they were in need of international protection.<sup>17</sup>

Part of the HERA operations in the Canary Islands are aimed at identifying the traffickers through interviews of the migrants that arrive there. The Frontex 2006 annual report stated that Frontex experts and Spanish authorities identified 100% of the irregular

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<sup>16</sup> Information gathered by Amnesty International during a meeting on April 28, 2008

<sup>17</sup> See FRONTEX, Annual Report 2006, p. 12.

[http://www.frontex.europa.eu/gfx/frontex/files/justyna/annual\\_report\\_2006f1.pdf](http://www.frontex.europa.eu/gfx/frontex/files/justyna/annual_report_2006f1.pdf)

Moreover, the Spanish government's control of flows of illegal migration to the Canary Islands appears to have achieved most of its objectives. According to figures published by the Spanish Ministry of the Interior in January 2008, the number of illegal migrants arriving by boat in the Canary Islands fell from 31,678 in 2006 to 12,478 in 2007, a reduction of 60%. See *El balance de la Lucha contra la Inmigración ilegal* at [www.mir.es](http://www.mir.es), consulted on 29 January 2008.

migrants and it is added that "through the information collected during the interviews, it was possible to detain several facilitators mainly in Senegal and to avoid the departure of more than one thousand people". The report did not specify what the number of 1,000 prevented departures was based on.

#### **4. VIOLATION OF MIGRANTS' HUMAN RIGHTS**

Several of the migrants Amnesty International met at the detention centre at Nouadhibou told how the security forces had treated them roughly or insulted them at the time of their arrest. Most had been robbed of some of their possessions and many said that they had been arbitrarily arrested in the street or at home, when they were not making preparations to try to reach Europe irregularly. It is possible that some of these people were present in Mauritania irregularly, but others stated that their papers were in order and that they had seen these documents confiscated or torn up by the security forces at the time of their arrest.

Whatever the circumstances of these arrests, there is no legal foundation for detaining migrants who are accused of nothing more than wishing to reach Europe by irregular means. Indeed, leaving Mauritanian territory by irregular means does not constitute an offence of any kind under the country's criminal code. The only reference to leaving national territory appears in decree 64-169 of 15 December 1964 on the immigration system in Mauritania and applies only to ordinary foreign immigrants who, when they wish to leave Mauritanian soil, must "have [their] foreign identity cards stamped by the administrative authority at the place of exit". Failure to observe this formality cannot be classified as an offence. The National Security officers responsible for the detention centre at Nouadhibou are aware of this basic principle of law. One of their senior officers clearly indicated to the Amnesty International delegates that seeking to leave the country in a clandestine manner "does not constitute an offence under the law". This was also recognized by the prosecutor at Nouadhibou when he told the Amnesty International delegates: "These migrants have done nothing wrong because it is not, at least at the present time, an offence to leave the country irregularly".

Penalizing a person for an offence that does not exist under the law is a violation of one of the basic principles of national and international law. This is recalled, in particular, in article 6 of the African Charter on Human and Peoples' Rights, which states: "Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained."

##### **4.1. "We are not thieves, yet the police beat us and rob us"**

Several migrants told the Amnesty International delegation that they had been beaten and their possessions had been taken by the Mauritanian security forces at the time of their arrest. No investigation was undertaken by the authorities to verify these allegations.

Three Malians at the detention centre at Nouadhibou said they had suffered a beating and had been robbed of their possessions at the time of their arrest. One of them said:

"On the evening of 4 March [2008], I walked for two hours to catch the boat, not far from Sahara. I put on three pairs of trousers, three jumpers and a jacket and I was on the beach waiting to board the small boat that would take us to the bigger boat that was waiting for us out at sea, when the soldiers<sup>18</sup> arrived. They told us to lie down on the sand, and whenever I raised my head, they hit me. The soldiers searched the migrants and took their money and other possessions, including their mobile phones."

Other migrants were robbed of their possessions at the police station to which they had been taken. One 19-year-old Senegalese from Kaolack said that on 3 March 2008 he was waiting on the beach with about twenty other migrants for the boat that was to take them to Spain when:

"Suddenly, four soldiers arrived. I ran away, but they saw me and two of them fire into the air once, then a second time. We were arrested by the sea. They took us to the army camp by car. On the way, they hit us, slapped us and hit us with a belt. When we arrived at the camp, they stripped us and searched us. They took 25,000 ouguiyas (around 70 euros) from me as well as my mobile phone. We are human beings, workers, we are trying to find a way to help our parents. We have rights. We are not thieves, yet the police beat us and rob us, it's sickening".

Some members of the Mauritanian security forces allegedly insulted and humiliated the migrants they arrested. One group of Senegalese told Amnesty International at the detention centre at Nouadhibou: "the police arrested us on the beach as we were preparing to board a small boat. They hurled insults at us in a Mauritanian language, insulting our fathers and made us lie on the ground, handcuffed, for some time, but they did not hit us".

Torture and ill-treatment are generally prohibited by all international human rights instruments that protect the rights of migrants in particular (see Part 7: International Standards on the Protection of Migrants).

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<sup>18</sup> The security forces, described by the migrants as "soldiers", appear in fact to have been Mauritanian *gendarmes*. This is what Amnesty International was told by the Regional Director of National Security in Nouadhibou: "On the beaches, the gendarmes have authority, they are the ones charged with arresting the migrants, collecting the bodies that have been thrown into the sea and taking action to help anyone in distress".

#### 4.2. "They arrested me, but it's not fair because I haven't yet attempted to go to Spain"

Corroborating information indicates that some members of the security forces do carry out arbitrary arrests of foreign nationals, notably nationals of ECOWAS countries. These people, arrested in the street or at home, apparently without any evidence, were allegedly accused of intending to leave Mauritania irregularly to travel to Europe. Some of these people, held at the detention centre at Nouadhibou to await being sent back to Mali or Senegal, told the Amnesty International delegation that they were legally present in Mauritania and that, at the time of their arrest, the security forces had torn up their residence permits. Amnesty International fears that these arbitrary arrests are one of the perverse effects of the pressure exerted by the EU on the Mauritanian government.



© AI – Migrants in the Nouadhibou Detention Centre

Some people being held at the detention centre at Nouadhibou said that they had been arrested at home in the middle of the night. A 41-year-old Malian who had been at Nouadhibou for two years said: "I was arrested yesterday, in my room. I don't know why. I slept on the floor at the police station and I came here [to the detention centre] this morning. Yet I have a job, I have a rickshaw, I'm not an illegal migrant, I have been living here for two years and all my papers are in order. I have no intention of going to Europe; I'm head of a family. I don't know what's going to happen, they don't tell us anything. What will happen to me and my family if they send me back to Mali? My rickshaw is worth 20,000 ouguiyas (around 55 euros) and I could lose it".

Others who have been arrested then sent to the detention centre at Nouadhibou told Amnesty International that they had been arrested in the street simply because they were wearing two jackets or two pairs of trousers. This simple fact appears to be interpreted by the Mauritanian security forces as proof that they are preparing to leave for Europe, even though the weather can be cold in Nouadhibou, especially in the evening. One Malian, born in 1987, recalled: "I live here at my friends' house and I do odd jobs, especially car washing. Yesterday evening [2 March 2008], I was walking alone; I was cold and was wearing two pairs of trousers and a jacket when I was arrested by the police. I don't speak their language, but I understood that they were accusing me of intending to leave for Europe. They seized my identity card and brought me here. I know that I'm going to be sent back to Mali, but it's not fair because I wasn't going to go to sea."

Amnesty International also gathered the testimony of an Ivorian at the detention centre at Nouadhibou, who said that he had been arrested on 1 March 2008 when he was in a taxi. "I was arrested in a taxi by police officers who were looking for migrants. They said if I gave them money they would release me. I refused and was taken to the police station. I said that I was selling mobile phones, but they accused me of making preparations to leave. If I'm earning money and I can leave, I accept that they can arrest me as an illegal migrant. But they didn't catch me on the way; I find that hard to take. I acknowledge that I intended to leave, but I haven't done it yet because I can't afford it yet".

Other people have told Amnesty International of the sense of injustice and impotence they felt with regard to an arrest which was not justified by an attempted departure to Europe. One Guinean national told Amnesty International: "I was arrested yesterday evening [Sunday 2 March]. I was at home, and I went out to eat. The police arrested me and I had forgotten to take my identity card. They arrested me, but it's not fair because I haven't yet attempted to go to Spain, I can't afford it, and now they are going to send me back to Senegal".

Information gathered by Amnesty International also shows that the Mauritanian security forces have sometimes arrested nationals of ECOWAS countries, simply in order to demand money from them. Those who refused to pay found themselves at the detention centre and were then expelled. This is what appears to have happened to an 18-year-old Malian, who told Amnesty International:

"I don't want to go to Europe. I came to Nouadhibou to buy dried fish to sell in Mali. On Saturday, 1 March, at around 23.00, I was coming back from the port where I had ordered some dried fish. I was wearing a Barcelona football shirt and a tracksuit when the police arrested me. They asked me what I was doing there and I said that I had just been to order some dried fish. They asked me for money, but I told them that I didn't have any. They took my identity card and my vaccination card. Then they sent me here and said that I was going to be sent back to Mali."

It is certainly possible that some of these detainees were in an irregular situation when they were arrested because many migrants enter Mauritania at unofficial crossing points and do not register with the authorities which is a criminal offence.<sup>19</sup>

However, there is evidence that appears to indicate that nationals of African countries, notably ECOWAS countries, have been arrested arbitrarily, even though they have papers, on the pretext that they were attempting to go to Europe irregularly. The arbitrary nature of these arrests has been condemned by the United Nations Working Group on Arbitrary Detention which, following a mission to Mauritania in February 2008, reported: "The Group noted that many foreigners are detained by the police without any warrant, sometimes even when they have papers, particularly if they are suspected of attempting to emigrate to Europe".<sup>20</sup>

#### **4.3. "It's like being in prison. It's not normal, we're not criminals"**

The migrants arrested in the Nouadhibou region who were known, or presumed, to have attempted to reach Europe irregularly, are held in a centre governed by the National Security Service without any legal control on the part of the judicial authorities (See the box entitled "*Guantanamo*", a detention centre with no official name).

The Amnesty International delegation made two visits, in March 2008, to the detention centre at Nouadhibou. The first time the delegates arrived at the centre, 62 people were being held there, including two women who were in a separate room. All the men were in two former classrooms, which had become *de facto* cells and were overcrowded. The hygiene conditions did not meet the international standards applicable to persons deprived of their liberty. In addition, several minors were present in the room, alongside the adults.

Many migrants complained about the conditions of their confinement. For instance, a group of 35 who had been expelled by Morocco were being held in a room measuring 8m by 5m, with bars at the windows, which contained 17 bunk beds. A 27-year-old Malian said: "You can't leave this place. You have to urinate into a bucket on the spot. For other

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<sup>19</sup> For instance, according to Law n° 65.046 of 23 February 1965 on the criminal provisions relating to the immigration system, any foreign national who has omitted or neglected to complete the information card provided for by law, or who has knowingly provided false, incomplete or inaccurate information thereon, as well as travellers who have refused to give their landlords the required identity information or who have given inaccurate information and those who have omitted to have their identity cards stamped, either when they change address on conditions laid down by law, or when they leave Mauritanian soil, are liable to a fine and/or two to six months in prison. For more detail on the legal conditions with regard to access to Mauritanian territory, see the Memorandum of Professeur Haimoud Ould Ramdam, *Droit des étrangers et protection des réfugiés en Mauritanie*, Revue juridique de droit mauritanien, April 2007.

<sup>20</sup> Press release of the Working Group on Arbitrary Detention, *Le groupe de travail sur la détention arbitraire conclut sa mission en Mauritanie*, 1 March 2008. This working group has not yet published its report.

personal needs, we are obliged to bang on the door and beg the guards to let us go to the lavatory. Sometimes, they make us wait 20 to 30 minutes before opening the door for us".

Another migrant told of the living conditions that he and his companions were obliged to endure:

"It's like being in prison, it's not normal; we're not criminals. You have to take your chance; sometimes you fail. They have to let us leave – there are adventurers all over the world. The doors of our room are locked at all times; it's hot and some people smoke in here. The Red Cross brings us food, that's all; we eat on our beds. We urinate into a big bucket that's kept in what used to be the schoolteacher's cupboard. They tell us nothing. They are going to send us back, Inch Allah! You've failed, don't make a fuss. Why do they treat us like prisoners? They tire us out, we can't sleep".

Many migrants expressed their astonishment at being treated in this way by the Mauritanian authorities. One Malian told the Amnesty International delegates: "We can't understand why they treat us like this. We're not criminals. The guards don't tell us anything about what is going to happen. I know that they are going to send me back to Mali. If Mauritania expels you like this, it's because they have Europe's backing".

Those migrants who dare to complain are in danger of being beaten by the guards. On the day the Amnesty International delegation made its first visit to the centre, 3 March 2008, two Malians had been beaten up. One of them recalled: "I've been here four days. This morning, my companion and I asked the police to let us go because we had done nothing wrong. The police officers handcuffed us together, then five of them made us lie on the ground, and one of them kicked us and hit us with a belt."

Forced to remain silent, the migrants let their anger and their frustration spill out on to the walls of their "cells". Below are some examples of graffiti that the Amnesty International delegation read on the "cell" walls:

- "Please release us; God grant that we never come back to this place".
- "When white people first came over the sea to Africa, nobody treated them as illegal immigrants; why is it that today, when we try to go by sea to Europe, we are treated as illegal immigrants?".
- "Tired of living, but afraid of dying. What can I do?"
- "Life is a risk. But what is the risk?"

These detention conditions are contrary to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and, in particular, Principle 6 which states: "No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance

whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment." Principle 11, for its part, states: "A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law."<sup>21</sup> However, all of the information gathered by Amnesty International clearly shows that the migrants who had been arrested and held at the detention centre at Nouadhibou awaiting expulsion did not, at any time, have the opportunity to challenge the legality of their detention or appeal the decisions for collective expulsion taken against them.

### **"Guantanamo", a detention centre with no official name**

The detention centre at Nouadhibou was opened in April 2006<sup>22</sup>. It is a former school which was restored by the Spanish authorities early in 2006. The authorities had set up large tents and a canteen in the school yard. However, as soon as the Mauritanian authorities began to use it as a detention centre, the tents and the canteen disappeared, leaving just the former classrooms which became *de facto* "cells". At the present time, the former classrooms have 216 bunk beds distributed among several former classrooms, but when the Amnesty International delegation visited the centre at the beginning of March 2008, only three classrooms were in use, which resulted in a serious problem of overcrowding and deplorable hygiene conditions. The centre is managed by the Mauritanian authorities, but meals are funded and delivered by the Spanish Red Cross and the Mauritanian Red Crescent. These two organizations also give migrants the opportunity to telephone their parents.

This detention centre appears to have been set up within the framework of the decisions taken at a high level meeting at Nouakchott on 16 March 2006, attended by the Spanish Secretaries of State for Foreign Affairs and Security and their Mauritanian counterparts with responsibility for the Interior and Foreign Affairs and Cooperation. A joint press release, published after the meeting, states, in particular:

"The Mauritanian party informed the Spanish party of its intention to open reception centres for immigrants involved in repatriation proceedings. For its part, the Spanish party undertakes to support Mauritania in the construction and management of such centres".<sup>23</sup>

<sup>21</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the United Nations General Assembly in resolution 43/173 of 9 December 1988.

<sup>22</sup> Before this detention centre was opened, migrants arrested by the police were mainly held at police station No 6 in Nouadhibou.

<sup>23</sup> Mauritanian-Spanish Meeting on Immigration, joint press release, Nouakchott, 16 March 2006.



© AI – Nouadhibou Detention Centre

The centre, which is not governed by any regulations applicable to Mauritanian detention centres, does not appear to have an official name, either. The Regional Director of National Security in Nouadhibou told Amnesty International that the Mauritanian authorities referred to it as the "reception centre for clandestine migrants". The Spanish Consul in Nouadhibou has said that the Spaniards called the centre "internment centre or detention centre" (*Centro de internamiento o centro de retención*). The migrants held at the centre refer to it as the "Red Cross Centre", while other inhabitants of Nouadhibou and some migrants call it "*Guantanamo*".<sup>24</sup> This uncertainty as to the name of the centre is a further indication of the absence of any legal character for this detention centre.

According to official sources, the centre receives between two and three hundred people every month. Statistics supplied to Amnesty International by the National Security Service in Nouadhibou show that, for the year 2007, 3,257 people were held in the retention centre, including 1,381 Senegalese and 1,229 Malians. All were subsequently expelled to Senegal or Mali. As the centre is not governed by any law, there is no limit on the duration of such detention, which may extend from one or two days to a week or more, until the police are able to organize transport for these people.

As soon as they arrest persons suspected of trying to reach Spain irregularly, the Mauritanian authorities interrogate them concerning their nationality and their point of entry into Mauritania (in almost all cases, these people enter over land through either Senegal or Mali). This may prove to be a difficult task, because those migrants who leave in fishing boats dispose of their papers. Some migrants say they are of a nationality other than their real nationality to avoid being forcibly repatriated to countries to which they do

<sup>24</sup> Throughout this text, Amnesty International refers to this place as a "detention centre".

not wish to go. This is particularly true of some Senegalese migrants whom the Amnesty International delegation met at the detention centre at Nouadhibou. These migrants had been arrested in Morocco, then expelled to Algeria via the border post of Oujdah in very difficult conditions<sup>25</sup>. Re-arrested by the Moroccan authorities after attempting another crossing to the Canary Islands, they said they were Mauritanian, so as to be expelled to that country rather than Algeria<sup>26</sup>.

#### **4.4. "Nobody wants to have anything to do with us": how forcible expulsion takes place**

Although Mauritania agreed to co-operate with Spain in dealing with irregular migrants, it also adopted a policy of expulsion to Mali or Senegal with regard to migrants from third countries expelled by Spain or arrested in Mauritania while avowedly or allegedly trying to travel to Spain irregularly. Expulsions are organized as quickly as possible, with no official procedure and no possibility for individuals to challenge the expulsion order. A Mauritanian official told Amnesty International that the number of migrants taken to the border rose to 11,600 in 2006 and 7,100 in 2007. All Malian migrants or those supposed to have entered Mauritania through Mali are sent to Gogui (a Malian village near the border with Mauritania). All other arrested migrants, of whatever nationality, are sent to Rosso, on the River Senegal, from where they are forcibly expelled by boat to Senegal.

The Mauritanian authorities offer migrants no right of appeal against expulsion. Only a few refugees arrested on suspicion of wanting to travel to Spain irregularly have been released after the United Nations High Commission for Refugees (UNHCR) or its local operational partners were able to confirm their status as refugees. Amnesty International knows of at least one case of an Ivorian refugee released from Nouadhibou detention centre after his status was confirmed by the UNHCR's operational partner in that town.

The Nouadhibou regional director of national security openly acknowledged that the authorities' objective is to forcibly expel non-Mauritanian migrants as quickly as possible to Senegal or Mali. He told the Amnesty International delegation: "We hire private buses for the drive to Nouakchott, where the national office takes care of transporting them to Gogui [in Mali] or Rosso [on the border with Senegal]. At least 19 people are needed for a full load, which explains why some migrants may stay at the detention centre for a few days."<sup>27</sup> The cost of transporting migrants to the border is high and, according to a

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<sup>25</sup> Morocco's collective expulsions of migrants to Algeria have been condemned by Amnesty International. See, in particular, *Amnesty International: Spain and Morocco: Failure to protect the rights of migrants - Ceuta and Melilla one year on*. October 2006, AI Index: EUR 41/009/2006.

<sup>26</sup> See Annex 1, the full testimony of one of these migrants which gives an idea of the miles travelled by migrants over several countries and the suffering they endure.

<sup>27</sup> At a meeting with Amnesty International on 3 March 2008, the regional director of national security in Nouadhibou said that two trips were scheduled for the following day – 4 March: two buses each carrying 20 migrants and two police officers to Rosso and Gogui respectively. These trips cost a total of 352,000 ouguiyas (about 975 euros). Hiring the bus cost 190,000 ouguiyas (about 526 euros) to Gogui and 90,000 ouguiyas (about

Nouadhibou security officer, the Mauritanian authorities cover the costs "in co-operation with international partners".<sup>28</sup>

In addition to the migrants arrested in the Nouadhibou region, hundreds of other migrants are regularly forcibly expelled to Mali or Senegal from Nouakchott after having been flown back by Spain from the Canary Islands in accordance with the 2003 readmission agreement. One of these migrants, a Ghanaian, born in 1984, described to Amnesty International the conditions of detention on the Canary Islands and how he was sent back to Mauritania.

"The Spanish police arrested us as our boat was approaching Tenerife. They took us to a police station where we were interrogated individually so that we couldn't agree on a story. The police took our fingerprints and made a note of our names. We spent most of the time on mattresses in the yard at the police station. After three days, we were taken to a camp. We were very tired; I spent the whole time lying down. After 28 days, the police came to get us. They put a green band on our arms, the sort of thing you put on newborn babies. They gathered us all together and took us by bus. I thought this was a positive sign; they were taking us into town. I thought: 'I've done it. They're going to take us to Madrid or Barcelona'. I had memorized the phone numbers of close friends in Spain. It was only when we reached the airport that I realized. The police handcuffed us and the next thing we knew we were in Nouakchott. There, the Spaniards gave us 50 euros each and handed us over to the Mauritians".

Several migrants have told Amnesty International that the Spanish authorities do not tell migrants they are being forcibly expelled to Mauritania, probably to avoid protests.

The Amnesty International delegation visited Rosso, on the banks of the River Senegal, where all expelled migrants judged to have entered the country through Senegal are sent to, whatever their nationality. The delegation met the Rosso chief of border police who told us that approximately a dozen migrants were forcibly expelled every day to Senegal. He added: "we do not have any statistics, sometimes there are a lot. If they refuse to go, we sort it out, we manage to persuade them." Amnesty International obtained information according to which migrants who are expelled to Senegal or Mali were generally left without much food and no means of transport.

In some cases, these collective expulsions lead to disputes between the Senegalese and Mauritanian local authorities, with each country trying to get rid of the migrants. One Ghanaian migrant told Amnesty International that in December 2007: "The Mauritians

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249 euros) to Rosso. The regional director of national security explained that the trip to Senegal was less because the distance was shorter.

<sup>28</sup> Asked by Amnesty International about the identity of these international partners, the Spanish consul in Nouadhibou said the Spanish government did not meet any of the costs of forcible repatriation.

took us to Rosso. We got on the ferry to cross the river, accompanied by Mauritanian police officers. When we got to the Senegalese shore, the Senegalese soldiers refused to accept us and sent us back. We did four round trips between Mauritania and Senegal. Nobody wanted anything to do with us. In the end, the Senegalese agreed to take us. After a week in Senegal, I came back to Mauritania and now I'm trying to get to Spain."

#### **"Kandahar", a minefield in no man's land between Morocco and Mauritania**

Several migrants interviewed by Amnesty International in Nouadhibou said they had been expelled from Morocco to a five-kilometre long desert zone between the south of Western Sahara and Mauritania. This area, considered by the two countries to be a no man's land, is called Kandahar because of the anti-personnel mines that date from the conflict between Mauritania and the Polisario Front.<sup>29</sup>

Some migrants were trapped in this minefield for weeks. For example, five sub-Saharan migrants, arrested on 28 June 2006 off Dakhla, Morocco, were abandoned in Kandahar for 24 hours, with neither Morocco nor Mauritania allowing them into their territory. They managed to survive thanks to the assistance of *Médicos del Mundo*, a Spanish NGO that has an office in Nouadhibou. The NGO publicly denounced this situation and Mauritania finally agreed to allow them entry.

In August 2006, another group of 53 people, shipwrecked on the coast of the Western Sahara were expelled by Morocco to Kandahar, with no food or water. This group of migrants from Senegal, Gambia, Côte d'Ivoire, Guinea and Mali had left Mauritania aiming to reach the Canary Islands. A *Médicos del Mundo* team went to the area to help the migrants. They found the body of one Malian migrant and two other people in an advanced state of dehydration. The *Médicos del Mundo* coordinator in Nouadhibou, who was a member of this mission, said that the "two sick people were so exhausted that their companions had to help them drink and eat."<sup>30</sup>

Before being allowed to return to Mauritania, a Mauritanian migrant expelled to Kandahar in May 2007, told Amnesty International: "The migrants are over there in 'Kandahar' and they can't get out. You can't come back to Morocco, because you've just been expelled and you can't go back to Mauritania because you have no papers, because everyone who wants to leave gets rid of their papers before they board the boat. People

<sup>29</sup> The Polisario Front called for an independent Western Saharan state, but the area was occupied by Morocco and Mauritania in 1975 after Spain withdrew from the area. A conflict between the Polisario Front and Morocco and Mauritania ensued. In 1979, Mauritania signed a peace agreement with the Polisario Front "*renouncing all territorial claims and definitively leaving the war.*" *Morocco occupied and annexed the area left vacant by the Mauritanian army.*" The armed confrontation between Morocco and the Polisario Front, which constituted a self-proclaimed government in exile from the refugee camps in south-west Algeria, continued until 1988, when the two parties accepted a United Nations plan to resolve the conflict. The implementation of this plan continues to be the subject of negotiations between the parties, under the aegis of the United Nations.

<sup>30</sup> See the *Médicos del Mundo* communiqué: *Médicos del Mundo denuncia el abandono de 53 inmigrantes en el desierto entre Sahara Occidental y Mauritania*, 29 August 2006.

can be there for weeks and months. They are fed by the Red Crescent and they sleep in tents donated by the Red Crescent. Often it's the *Médicos del Mundo*, based in Nouadhibou, who manage to get them back into Mauritania."

Amnesty International reiterates that migrant workers are entitled to protection against arbitrary or collective expulsion under several international human rights instruments and notably under article 22 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. These collective expulsions are also inconsistent with the standards provided for in General Recommendation No. 30 of the Committee on the Elimination of Racial Discrimination. (see also part 7 on international standards on the protection of migrants).

## 5. SPANISH PRESSURE ON MAURITANIA

It is impossible to understand Mauritanian policy towards migrants who attempt to travel to Europe irregularly via the Canary Islands without examining the pressure that Spain puts on the Mauritanian government.<sup>31</sup>

### 5.1 The immigration agreement of July 2003

The presence of Spanish forces on Mauritanian territory forms part of the increasingly close cooperation between Spain and Mauritania in their fight to control the flow of migrants attempting to reach Spain, especially the Canary Islands, from the Mauritanian coast. This cooperation has its principal legal basis in the Agreement on Immigration signed by the two countries in July 2003. The agreement contains a readmission clause covering migrants from third countries. The agreement also provides that Spain will provide technical assistance to Mauritania.

Spain has increasingly based its actions on this agreement since 2006, when the flow of migrants from Mauritania increased considerably. Under the agreement, Spain can request that Mauritania readmit not only Mauritanian migrants but also migrants from third countries who have tried to travel to Spain from the Mauritanian coast.

The Spanish government has therefore been within its rights to request that the Mauritanian authorities readmit migrants who have avowedly or allegedly reached the Canary Islands from the Mauritanian coast. During its mission, Amnesty International learned that between 28 February and 6 March 2008, the Mauritanian authorities received

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<sup>31</sup> For a general analysis of Spanish policy towards migrants and refugees, see the Amnesty International report: *Spain: The Southern Border. The State turns its back on the human rights of refugees and immigrants*, 20 June 2005, AI Index EUR 41/008/2005.

three requests for readmission of a total of 274 migrants, including 14 minors who, according to the Spanish authorities, admitted embarking from Nouadhibou. Almost all these migrants were citizens of ECOWAS countries. The legal basis on which Spain bases its requests to Mauritania to readmit Mauritanian migrants and citizens of third countries is article IX of the 2003 agreement. Paragraph I of this article states that:

"Each Contracting Party must readmit, at the request of the other Contracting Party, citizens of third countries who did not or no longer fulfil the conditions of entry or residence applicable in the territory of the requesting Contracting Party if it is **verified** [emphasis by Amnesty International] that the citizens of third countries have travelled through the territory of the requested Contracting Party."

Paragraph 2 repeats this text with a single change, the significance of which is considerable because it provides for readmission of third country citizens to the territory of one of the two parties "if it is **presumed** [emphasis by Amnesty International] that third country citizens have travelled through the territory of the requested Contracting Party after an agreement on their case."

Paragraph 2 has allowed the Spanish government to ask Mauritania to readmit migrants even without being able to prove they embarked from the Mauritanian coast. Amnesty International has learned that the Mauritanian government has often sought to avoid the obligation to readmit migrants to its territory by questioning whether migrants arrested in Spain did in fact embark from the Mauritanian coast. In such cases, the agreement stipulates that the representatives of the Mauritanian authorities should go to the Canary Islands to lead a counter inquiry to determine whether the migrants in question embarked from Mauritania. However, the investigation capacity of the Mauritanian authorities cannot rival the resources available to the Spanish authorities with the support of Frontex. A representative of the Mauritanian authorities told Amnesty International: "The Spanish use satellite photos to show the Mauritanian government that such and such a group of migrants embarked from Mauritania and that they must return there. We do not have the technical resources to contradict this information." Another Mauritanian official admitted that the Mauritanian government very often agreed, under pressure from senior representatives of the Spanish government, to readmit migrants from third countries "while knowing that they did not travel through Mauritania." This official said that the policy caused problems with the people of neighbouring countries. The official also indicated that on one occasion, after the collective expulsion of migrants to Mali, "the Malian people took issue with the Mauritanian police officers escorting the migrants, telling them: 'You are the police officers of the whites.'"

Another Mauritanian official told Amnesty International: "We are forced to use our meagre resources to take migrants back to Senegal and Mali. This situation makes our government ill at ease with regard to the people of neighbouring countries. Frontex cannot solve our problem. The security response is not the most effective. It is necessary to

promote development in Africa, but our European interlocutors are obsessed by the security aspects."

Amnesty International believes that all those expelled from Spain to Mauritania should have access to fair and satisfactory asylum procedures in Spain if they so wish. In addition to respecting the principle of non-refoulement, Spain must respect the right of individuals to determine their state of destination. Such third country citizens should not be forced to return to Mauritania, but should instead choose their country of destination, subject to the latter country's agreement.

## **5.2 Agreement of March 2006**

Spain has also signed a cooperation agreement with Mauritania to conduct joint surveillance operations along the Mauritanian coast. Spain began to provide equipment and training to the Mauritanian authorities with the aim of allowing them to strengthen maritime border control. This is set out in the joint communiqué issued after a high-level meeting between the Spanish Secretaries of State for Foreign Affairs and Security and their Mauritanian counterparts responsible for the Interior Foreign Affairs and Cooperation, in Nouakchott on 16 March 2006. The document states that: "Aware of the importance of material and technical resources for border control, as expressed by Mauritania, the Spanish authorities agree to provide the Mauritanian gendarmerie with four patrol boats in perfect condition and to ensure the training of the personnel responsible for their operation." The Spanish authorities also agreed to provide "appropriate training to Mauritania, to ensure the improvement of its security forces in the fields of investigation, research into trafficking networks, the trafficking of people, the analysis and processing of information, border control, research into false documents and training of the Mauritanian teams responsible for maritime surveillance and all other requests made by Mauritania."

## **5.3 The case of *Marine I***

Although these agreements sought to establish close cooperation between Spain and Mauritania in order to control migration, they were unable to respond to humanitarian crises such as the one which occurred on 30 January 2007 following the interception by the Spanish sea rescue service of a boat, the *Marine I*, which had 369 people aboard. The passengers, believed to be from Asia and Sub-Saharan Africa, were travelling to the Canary Islands. The Spanish rescue service assisted the boat to a position 12 miles off the coast of Mauritania. The boat remained stranded there for almost two weeks until the Mauritanian and Spanish authorities agreed on 12 February to allow the boat to land in Mauritania. Part of the agreement allowed the Spanish authorities to manage the welfare and processing of the migrants and asylum-seekers in Mauritania. The Spanish authorities agreed to process the asylum claims of 10 Sri Lankans on board, who were transferred to the Canary Islands along with 25 others. However, despite a positive report from UNHCR, the UN refugee

agency, the asylum claims were not admitted into the Spanish asylum procedure and all 10 individuals were deported on 25 March 2007.

At the end of March 2007, most migrants accepted repatriation to their countries of origin<sup>32</sup> but twenty-three individuals remained for three months in a hangar in Nouadhibou Mauritania under the effective control of Spanish authorities in conditions of detention that did not comply with Spanish law. According to allegations received by Amnesty International, these men were held in a room that measured 25 m<sup>2</sup>. They were prevented by the Spanish *Guardia Civil* from leaving this room and were reportedly not allowed to go outside and had to request permission to use sanitary facilities. According to reports, their physical and mental health seriously deteriorated during this period and they showed symptoms of severe anxiety and stress. Furthermore, the detainees did not have access to counsel, to a court to challenge the legality of their detention or to the outside world. On 18 May 2007, 17 of them were transferred to a detention centre under Mauritanian jurisdiction, and in June they were returned to Pakistan. The remaining six were transferred to Melilla (Spain) to receive psychological treatment as a result of their experience in detention.

Although the detentions did not occur on Spanish territory, Amnesty International believes that the Spanish authorities exercised *de facto* effective control over the 23 men. Therefore, under international law, the government of Spain had a duty to ensure that their human rights were respected and protected, including their rights to liberty and freedom from arbitrary detention; protection against torture or other ill-treatment; their rights to access to a fair and satisfactory asylum procedure and protection from return to a country or territory where they would be at risk of serious human rights violations.

Amnesty International has communicated its concerns to the Spanish government, which replied, on 20 July 2007, that: "The intervention of the Spanish government, although it had no jurisdiction in the matter, occurred with the sole aim of fulfilling its humanitarian duty to come to the rescue of the boat [Marine I] and to save the passengers and crew. This is why one cannot call its conduct into question or demand it assumes responsibilities and takes actions that are outside its jurisdiction."

However, information obtained by the Amnesty International delegation during its mission to Mauritania in March 2008 confirms that the Spanish authorities exercised significant psychological pressure on the 23 individuals requesting asylum in Nouadhibou and kept them in very gruelling detention conditions apparently in order to break their physical and moral resistance.

## 6. ASYLUM SEEKERS AND REFUGEES

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<sup>32</sup> In April it was reported that of the 369 people aboard Marine I, 35 were returned to Guinea, 161 to India and 115 to Pakistan.

The situation of asylum seekers and refugees in Mauritania is precarious. The national procedure for requesting asylum, established in 2005, is not yet fully operational and it is still the UNHCR that examines almost all applications for asylum. In 2007, the *Commission nationale consultative sur les réfugiés*, National Consultative Commission on Refugees, examined only a few dozen cases of individuals granted refugee status by the UNHCR delegation in recent years.

Most of the refugees in Nouakchott in March 2008 were worried about the situation in Mauritania. Many of them mentioned their children's lack of access to education. Some have tried to leave the country and travel to Europe while others plan to do so. Despair can lead to tragic situations. In Nouakchott, the Amnesty International delegation met a family in which one parent was considering risking the trip to the Canary Islands while the partner did not want to risk the safety of their children. The Sierra Leoneans met by Amnesty International said they had asked to return to their country in 2004 and that their certificates of refugee status had not been renewed; some of those who were expelled have returned to Mauritania and live there without authorization.

The consideration of refugee applications for asylum and protection is currently going through a transitional phase in Mauritania. Until 2005, no law gave the Mauritanian authorities any jurisdiction to consider issues regarding refugees. Cases were dealt with by the UNHCR Nouakchott office, which considered requests for asylum and granted certificates, renewable in six months, to those it recognized as refugees.<sup>33</sup> These certificates do not take the form of an identity card and consist of a single sheet of green paper. Refugees do not receive a refugee card or a residence permit or a travel permit allowing them to leave the country.

Moreover, although a copy of the UNHCR certificate is sent to the Ministry of the Interior, several refugees have provided testimony to Amnesty International showing that some elements of the security forces either do not seem to be aware of the existence of this document or they dispute the authenticity of it. In some cases, it even seems that police officers have torn up these certificates in an arbitrary manner.

Amnesty International has also learned that refugees are regularly arrested and are not usually released without the intervention of the UNHCR or a third party guarantor of their status. One refugee told Amnesty International: "The police often arrest us and take us to the national security offices for questioning. We showed them our refugee certificates but they tell us they have to check with the UNHCR because there are many forged certificates."

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<sup>33</sup> The UNHCR works with local operational partners, which offer reception services to asylum seekers, record applications for refugee status and provide applicants with a certain amount of assistance. When the Amnesty International delegation visited Mauritania, the UNHCR had two local NGO partners: the *Association mauritanienne de lutte contre la pauvreté* (ALPD, Mauritanian Association for the Struggle Against Poverty) and the *Association pour la Protection de l'Environnement et Action Humanitaire* (APEAH, Association for the Protection of the Environment and Humanitarian Action, working in Nouakchott and Nouadhibou respectively).

In another case, several refugees were arrested on 25 February 2008 inside and at the entrance of a restaurant in Nouakchott and were only released the following day, after the employer of one of them intervened. One of this group, a Sierra Leone citizen, told Amnesty International :

"Around 1.15 pm, I was inside my restaurant when three policemen got in. They asked for my papers which they did not look at and asked me to accompany them to the national security office, near the ministry of internal affairs. Other refugees were also arrested near my restaurant or in town. On our arrival, one of the refugees called the UNHCR protection officer who asked us to be patient and that we were going to be released soon. The police told us that the UNCHR should come to testify that we were in fact refugees. The next day, the employer of one of the refugees came and he testified that he knew one of us. We were then released."

In at least one case, two Sierra Leonean refugees, recognized as such by the UNHCR, were arrested and expelled by the Mauritanian security forces to Mali in December 2004. One of them, Alpha Koroma, died on the way to Mali from the effects of an illness. Amnesty International met Alpha Koroma's travelling companion, who was expelled with him but who has returned to Mauritania. He told us:

"I went to visit Alpha who was being held at the police station in the Fifth arrondissement in Nouakchott. All the refugees had mobilized to demand his release and the HCR had been called. We had clubbed together to obtain his release, but the police said that it wasn't enough. During one of these visits, I was arrested and expelled with Alpha before the HCR could intervene. Alpha was ill and he died en route between Kayes and Bamako".

### **6.1 Mauritanian legislation on asylum**

It is only since 2005 that Mauritania has domestic procedures to decide on applications for asylum and protection. The two applicable laws in this area are Decree 2005.022 of 3 March 2005 from the prime minister "setting the modalities of application of Conventions on refugees"<sup>34</sup> and circular 0007 of 2 May 2006 from the Minister of the Interior on the "modalities for the registration of applications for asylum and refugee status."

The Decree of 3 March 2005 refers to the two definitions of refugees in article 1 of the 1951 Convention relating to the Status of Refugees and article 1 of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

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<sup>34</sup> This is the 1951 Convention relating to the Status of Refugees and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

This Decree states that applications for refugee status must be addressed to the Ministry of the Interior by the applicant or UNHCR. Applicants receive a receipt that serves as a provisional residence permit, renewable after three months, giving the right to employment and access to social services. Requests are communicated to the *Commission nationale consultative sur les réfugiés* (CNCR), National Consultative Commission on Refugees, which examines cases and gives an opinion to the Minister of the Interior, who decides whether to grant refugee status.

This Commission "advises the Minister of the Interior. Its remit is to give an opinion on applications for refugee status and, in general, on any question related to refugees and submitted to it for consideration." It is chaired by a representative of the Ministry of the Interior and is composed of a representative from each of the following ministries: Foreign Affairs and Cooperation, Defence and Justice as well as a representative of the National Security Department, the National Police and the Commission for Human Rights, Poverty and Integration.

If refugee status is granted, article 13 of the 3 March 2005 Decree states that "beneficiaries of refugee status shall receive the same treatment as citizens with regard to access to health care, employment, social security and education." Article 12 of the same Decree states that: "Beneficiaries of refugee status wanting to travel abroad shall be granted a travel permit, on request."

The Decrees do not provide for any appeal procedure in cases where requests for asylum are rejected. The Decree includes clauses for the suspension and exclusion of the Geneva Convention but the Circular only says that decisions on applications will be communicated to the local authorities.

Despite the existence of these laws, Mauritanian legislation is not yet really implemented and, in the absence of the regular operation of the CNCR, it is still the UNHCR that examines applications for asylum and refugee status.

However, following the adoption of this decree and the creation of the CNCR, the responsibility for dealing with requests for asylum is being gradually transferred from the UNHCR to the Mauritanian authorities. The UNHCR is therefore currently passing the cases of recognized refugees on to the Ministry of the Interior, which is authorized to confirm or refuse such status.

According to information obtained by Amnesty International during its mission, there are currently 950 refugees under the protection of the UNHCR. In March 2008, the refugee status of 38 of the 80 cases so far transferred by the UNHCR to the Ministry of the Interior had been confirmed. It is therefore possible and even probable that people granted refugee status by the UNHCR are refused confirmation of their status, which could become a source of violation of the rights of refugees.

Amnesty International believes that the current system governing the consideration of asylum requests in Mauritania does not guarantee fair and satisfactory access to asylum procedures, notably with regard to the right of appeal in the event of rejection of applications. These guarantees are essential to ensure respect for the rights of all individuals "to seek and to enjoy in other countries asylum from persecution" in the event of persecution.<sup>35</sup> These guarantees are also indispensable to ensuring that Mauritania respects its obligations under the terms of the 1951 Convention relating to the Status of Refugees and the OAU Convention of 1969 Governing Specific Aspects of Refugee Problems in Africa.

## 7. INTERNATIONAL STANDARDS ON THE PROTECTION OF MIGRANTS

A certain number of international standards and United Nations reports have affirmed and set out the fundamental rights of migrants. The United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which came into force in July 2003, and was ratified by Mauritania on 22 January 2007, is the most comprehensive standard on migrants' rights.

With regard to the conditions for the arrest and detention of migrants, Article 16 of this Convention states that;

"Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law." (paragraph 4)

"Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them." (paragraph 5)

"Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used." (paragraph 8)<sup>36</sup>

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<sup>35</sup> Article 14 of the Universal Declaration of Human Rights.

<sup>36</sup> International Convention on the Protection of the Rights of all Migrant Workers and Their Families, adopted by the General Assembly in Resolution 45/158 of 18 December 1990.

Besides, the collective expulsion of migrants is prohibited by the United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families that states that "Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually."<sup>37</sup>

Such expulsions are also inconsistent with the standards provided for in General Recommendation No. 30 of the Committee on the Elimination of Racial Discrimination which states, in paragraphs 25-28 that States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination should take steps to:

25. Ensure that laws concerning deportation or other form of removal of non-citizens from the jurisdiction of the State party do not discriminate in purpose or effect among non-citizens on the basis of race, colour or ethnic or national origin, and that non-citizens have equal access to effective remedies, including the right to challenge expulsion orders, and are allowed effectively to pursue such remedies;

26. Ensure that non-citizens are not subject to collective expulsion in particular in situations where there are insufficient guarantees that the personal circumstances of each of the persons concerned have been taken into account;

27. Ensure that non-citizens are not returned or removed to a country or territory where they are at risk of being subject to serious human rights abuses, including torture and cruel, inhuman or degrading treatment or punishment;

28. Avoid expulsions of non-citizens, especially of long-term residents, that would result in disproportionate interference with the right to family life."<sup>38</sup>

In a report submitted to the Human Rights Council on 25 February 2008, the Special Rapporteur on the Human Rights of Migrants, Jorge Bustamante, denounced the tendency to criminalize migrants who try to reach another country in an irregular way. The Special Rapporteur said that in some states "national immigration regulations are often made into measures that criminalize and punish in an attempt to discourage irregular migration. Undocumented migrants therefore become particularly vulnerable to criminal procedures, which are by definition punitive in nature, for many of the same infractions as administrative detention would encompass, such as irregularly crossing the State borders, leaving a residence without authorization, or breaching or overstaying conditions of stay."<sup>39</sup>

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<sup>37</sup> International Convention on the Protection of the Rights of all Migrant Workers and Their Families, article 22.

<sup>38</sup> Committee for the Elimination of Racial Discrimination, *General Recommendation 30: general recommendation on discrimination against non-citizens*, 1 October 2004.

<sup>39</sup> Report of the Special Rapporteur on the human rights of migrants, 25 February 2008, Doc. UN A/HRC/7/12, paragraph 42.

The Special Rapporteur on the Human Rights of Migrants also highlighted the risks of methods seeking to "externalize" border controls to countries of origin and transit of migrants. "The concern is that these policies [externalization], while legitimately aimed at reducing irregular migration, and while often incorporated into bilateral agreements that can have significant positive aspects for the countries that are the recipients of the aid, have contributed to the criminalization of irregular migration insofar as they treat migration violations as a criminal rather than administrative offence without the proper human rights protections afforded to migrants in the process."<sup>40</sup>

In addition and more generally, the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Mauritania in December 1988, emphasizes the obligation of States Parties to treat equally persons who are not nationals of that country. General Recommendation 30 of International Convention on the Elimination of All Forms of Racial Discrimination emphasizes that States Parties must "ensure that non-citizens enjoy equal protection and recognition before the law." The Recommendation also affirms that States Parties must "combat ill-treatment of and discrimination against non-citizens by police and other law enforcement agencies and civil servants by strictly applying relevant legislation and regulations."<sup>41</sup>

## **8. THE REACTION OF THE MAURITANIAN AUTHORITIES AND SPANISH DIPLOMATIC REPRESENTATIVES IN MAURITANIA**

During its mission, Amnesty International met the Mauritanian authorities and Spanish diplomatic representatives in order to share its concerns about attacks on the human rights of some migrants and refugees.

### **8.1 The reaction of the Mauritanian authorities**

The organization met and expressed its concerns to the Nouadhibou regional director of national security about the conditions of arrest and detention of migrants at the Nouadhibou centre.

Amnesty International echoed the complaints made by migrants detained at the Nouadhibou detention centre about the fact that they were almost never authorized to leave their "cells". The regional director of national security recognized that the conditions were "far from ideal", but added that "migrants do not stay here for more than one week and they are usually authorized to go for a walk in groups." However, he added that following a series of escapes or attempted escapes, the guards might decide to refuse migrants the right to independently leave their 'cells'." With regard to the fact that about 60

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<sup>40</sup> Report of the Special Rapporteur on the Human Rights of Migrant Workers, paragraph 19.

<sup>41</sup> United Nations Committee on the Elimination of Racial Discrimination. General recommendation 30: General recommendation against non-citizens, CERD/C/64/Misc.11/rev.3, 64<sup>th</sup> session, paragraphs 19 and 21.

people were detained in two "cells" of 40 m<sup>2</sup> each, he explained that there were "*other rooms with beds but the locks did not work.*"

Amnesty International also expressed its disquiet about the risk of the arbitrary arrest of migrants accused without evidence of trying to leave the country irregularly. The Nouadhibou regional director of national security replied that:

"People entering Mauritania should do so lawfully, by an official entry point, in accordance with International Organization for Migration (IOM) rules. Some migrants enter Mauritania by unofficial crossing points, without identity documents. Others abandon their identity documents before embarking for Europe. Anyone who has no papers, or who has abandoned them, is deemed to be an illegal migrant and has to be expelled."

Among the categories of people arrested and detained at the Nouadhibou detention and then expelled to Senegal or Mali, the regional director of national security mentioned:

- people found at night on the beach, on the point of embarking on pirogues or boats, even though they are not fishermen. "These persons are arrested in the act, sometimes with the help of the Spanish *Guardia Civil* present in the mixed patrols on board police launches."
- Migrants in the city, especially in houses, preparing to depart "when we have information indicating that they are getting ready to leave the country illegally."<sup>42</sup>

Amnesty International also communicated allegations of ill-treatment of migrants held in the detention centre. The Nouadhibou regional director of national security said that the migrants were not ill-treated but acknowledged that problems might occur when guards were confronted by "undisciplined groups". He added that when problems occurred, the police called the Red Cross, which sorted out the situation. However, he did not exclude the possibility that "individual blunders" might occur, while assuring us that if he became aware of such incidents, he would punish anyone responsible.

During its meeting with the Mauritanian Minister of the Interior, Mr Yall Zakaria, Amnesty International reminded him that, contrary to international standards on this matter, Mauritania forcibly expelled all migrants to Mali or Senegal, whatever their nationality. While recognizing the problem, the Minister of the Interior said that: "the

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<sup>42</sup> Another Nouadhibou national security official admitted that the service sometimes arrests migrants in private homes when they are gathered there with their luggage. He said that this was considered to be proof of preparation for travel to Europe. The official described this kind of arrest as a "flagrant offence".

Mauritanian government does not have the resources to send Ivorians back to Côte d'Ivoire, Congolese back to the DRC etc."

On the subject of the detention centre, in general terms, the Nouadhibou regional director of national security recognized that the centre "had been built in a rush" and said that there were plans for the construction of a new centre that would conform to international standards in the field of detention. He added:

"This centre is not subject to the rules governing the prison system and has a social role. The action we take is purely humanitarian and has nothing to do with security. Our role is to facilitate departures rather than to keep migrants at the centres. The aim is to send them back to the border as quickly as possible, not to set up a punitive system. Europe will not accept these migrants so illegal migrants have to be sent back from their point of arrival in the country".

In meetings with the Mauritanian authorities, Amnesty International also questioned the absence of any right of appeal by refugees and asylum seekers in the detention centre against expulsion. The Nouadhibou regional director of national security said that "it is rare for individuals to have refugee status. If there is any doubt, we ask the APEAH [the UNHCR's operational partner in Nouadhibou]."

When it visited Rosso, the delegation also asked the town's chief of border police if the people forcibly expelled to Senegal had requested asylum. He replied: "If a person tells us that they will be under threat if expelled, we inform senior officials, but that has never occurred."

## **8.2 The reaction of Spanish diplomatic representatives in Mauritania**

Amnesty International did not meet the Spanish ambassador to Mauritania, despite several requests to do so, but the organization's delegation met the Spanish consuls at Nouakchott and Nouadhibou.

The Spanish Consul at Nouadhibou told the Amnesty International delegation that there were about 15 *Guardia Civil* officers in the town. The consul added that "a helicopter and a boat supported operation Frontex in Nouadhibou" and that "the Spanish police officers do not carry out the function of the police, they provide technical support, they take part in the joint patrol boats but they are not armed and their presence requires authorization by the Mauritians." He also emphasized the "humanitarian" aspects of their action by saying that the Spanish authorities did not abandon boats in distress at sea but went to their aid and brought them back to Mauritania.

Responding to the organization's concerns about the conditions in which migrants are detained at Nouadhibou, the Spanish Consul said that the Spanish government insisted,

in their dealings with Mauritania, that all forms of detention of migrants "respect international detention standards." He emphasized that this centre had been put in place within the framework of an agreement between Spain and Mauritania: "There used to be an old school whose walls were collapsing. We renovated it but are not authorized to go there. We therefore do not know what happens there. The centre is managed by the Mauritanian authorities but the presence of the Spanish Red Cross and the Mauritanian Red Crescent seems to me to constitute a guarantee of respect for human rights." The Spanish Consul in Nouadhibou also mentioned the plan to build a new detention centre.

## 9. CONCLUSIONS AND RECOMMENDATIONS

The information obtained by Amnesty International during its mission to Mauritania in March 2008 shows that the rights of migrants and some refugees are violated by the Mauritanian security forces, which sometimes make arbitrary arrests, operate rackets and inflict ill-treatment on individuals accused of wanting to travel to Europe irregularly.

The organization is particularly worried about conditions at the Nouadhibou detention centre, which houses individuals accused of having avowedly or allegedly travelled to Spain irregularly. This detention centre is not governed by any legal framework and is not subject to any judicial control. The duration of detention is not subject to any limit and there is no appeal against decisions on expulsion. Amnesty International is also concerned that individuals are forcibly expelled to Mali or Senegal, whatever their nationality. These people are left at the border, often without much food and no means of transport. Amnesty International is particularly concerned at the conditions in which some migrants have been abandoned without food or water on the border between Morocco and Mauritania, in the no man's land called "Kandahar".

The organization is also extremely concerned about the pernicious effects of pressure put on Mauritania by the EU, especially Spain, to oblige Mauritania to participate actively in the EU's fight against irregular migration. It seems that some violations committed against migrants are the product of a desire to show the EU and its Member States that Mauritania is "fulfilling its part of the bargain", even though this means denying fundamental rights such as the right to not be subjected to arbitrary detention or ill-treatment.

Amnesty International reiterates that international law states that detention must be an exception and not the rule. International standards expressly restrict recourse to detention and demand that prisoners and their fundamental rights are respected. They also affirm that special attention must be given to particularly vulnerable groups, notably women and children. In its fight to protect the rights of uprooted people, Amnesty International has adopted positions on several questions related to the fundamental rights of migrants and refugees. Anyone placed in detention must be promptly brought before a

judicial authority and have the option of disputing the legality of the decision to imprison. In Mauritania, the right to appeal against the legality of their detention is systematically refused to migrants accused of wanting to travel to Europe irregularly and it seems clear that the intense pressure exercised by the EU and especially Spain on the Mauritanian government contributes to the violation of this fundamental right.

## RECOMMENDATIONS

### A) Recommendations to the Mauritanian government

#### Regarding migrants

Amnesty International is opposed to the use of detention for the purposes of migration control. Detention of migrants will only be lawful when the authorities can demonstrate in each individual case that it is necessary and proportionate to the objective to be achieved, that alternatives will not be effective, that it is on grounds prescribed by law, and when there is an objective risk of the person absconding. The individuals concerned are also provided with an effective opportunity to challenge the decision to detain them.

Migrants have the right to liberty and to freedom from arbitrary detention. This means that detention should be subject to restraints, including the requirement that the detention is in accordance with the law, justified in the individual case as a necessary and proportionate measure that conforms with international law, be subject to judicial review and for the shortest time possible.

If the Mauritanian authorities continue to operate a policy of detaining migrants, Amnesty International urges, as a minimum, adoption of the following recommendations:

- detention of migrants should be used only if, in each individual case, it is demonstrated that it is a necessary and proportionate measure that conforms with international law;
- criteria for detention should be clearly set out in law;
- alternative non-custodial measures, such as reporting requirements, should always be considered before resorting to detention;
- the decision to detain should always be based on a detailed and individualized assessment, including the personal history of, and the risk of absconding presented by, the individual concerned. Such assessment

- should consider the necessity and appropriateness of detention, including whether it is proportionate to the objective to be achieved;
- each decision to detain should be automatically and regularly reviewed as to its lawfulness, necessity and appropriateness by means of a prompt, oral hearing by a court or similar competent independent and impartial body, accompanied by the appropriate provision of legal assistance;
  - detainees have the right to be informed of the reason for their detention in writing in a language which they understand;
  - detention should always be for the shortest possible time and must not be prolonged or indefinite;
  - there should be a maximum duration for detention provided by law which should be reasonable in its length. Once this period has expired the individual concerned should automatically be released;
  - migrants should be granted access to legal counsel, consular officials (if desired), interpreters, doctors, members of their families, friends, and religious and social assistance;
  - there should be a prohibition on the detention of unaccompanied children provided by law;
  - any allegations of racism, ill-treatment and other abuses of those held in detention should be investigated immediately in compliance with relevant international standards and those responsible should be dealt with appropriately, including when warranted, by disciplinary or penal measures as appropriate;
  - detention of migrants with psychological problems, as well as those belonging to vulnerable categories and in need of special assistance, should be only allowed as a measure of last resort;
  - detainees should have access to adequate medical and psychological assistance.

### **Regarding the rights of refugees :**

Amnesty International is opposed to the detention of refugees and asylum-seekers apart from in the most exceptional circumstances as prescribed by international law and standards. Therefore the organization calls on the Mauritanian authorities to ensure that detention will only be lawful when the authorities can demonstrate in each individual case that it is necessary and proportionate to the objective to be achieved, that it is on grounds prescribed by law, and that it is for one of the specified reasons which international and regional standards recognize as legitimate grounds for detaining asylum-seekers.

Amnesty International also opposes the detention of people who have claimed asylum and whose claims have been rejected by the authorities, unless, for example, the detaining authorities can demonstrate that there is an objective risk that the individual

concerned would otherwise abscond, and that other measures short of detention, such as reporting requirements, would not be sufficient. Anyone held in detention must be promptly brought before a judicial authority and be provided with an effective opportunity to challenge the lawfulness of the decision to detain him or her. Detention should also be for the shortest possible time.

If government authorities continue to operate a policy of detaining asylum seekers, Amnesty International urges, as a minimum, adoption of the following recommendations:

Asylum procedures must contain the following safeguards:

- That national asylum procedures effectively identify all those in need of protection and therefore provide information to facilitate the respect for the fundamental principle of *non-refoulement*;
- All asylum-seekers, in whatever manner they arrive within the jurisdiction of a state, must be referred to the body responsible for deciding on claims for asylum;
- The body responsible for deciding on claims for asylum must be an independent and specialized authority whose sole and exclusive responsibility is examining and making decisions on asylum claims;
- The decision-makers of that independent body must have expertise in international refugee law and international human rights law. Their status and tenure should afford the strongest possible guarantees of their competence, impartiality and independence;
- The decision-makers of that independent body must be provided with services of a documentation office whose task should be to impartially collect and provide them with objective and independent information on the human rights situation in asylum-seekers' countries of origin or any countries to which they might be sent;
- All asylum-seekers, at all stages of the procedure, must benefit from the right to legal counsel and interpreters, and the right to contact and to have access to UNHCR.
- Asylum claims should be examined at first instance through a personal appearance by every asylum-seeker before the decision-makers of the independent body responsible for deciding on asylum claims, where there is a thorough examination of the circumstances of each case.
- All asylum-seekers must receive written reasons if their asylum claim is rejected, and have the right to appeal to an independent body against a negative decision. The appeal should normally be of a judicial nature and must in all cases have suspensive effect on expulsion.

## **B) Recommendations to the Spanish government**

With regard to the conditions under which migrants are detained in Mauritania, Amnesty International calls on the Spanish authorities:

- To ensure they are satisfied that the Mauritanian government respects the rights of detainees in the Nouadhibou detention centre renovated by the Spanish government and that detainees are not submitted to any form of ill-treatment or humiliation.
- To ensure that the readmission agreement signed with Mauritania does not lead to the arbitrary arrest without evidence of people accused of wanting to irregularly travel to Spain.
- To ensure that irregular migrants repatriated from Spain or arrested because they are suspected of wanting to travel to the country irregularly are not collectively expelled, and that the forcible repatriation of people not requiring international protection takes into account their dignity and security.

With regard to the treatment of migrants and asylum-seekers who arrive in Spain, notably the Canary Islands, Amnesty International calls on the Spanish authorities to:

- Ensure that asylum-seekers are not returned to a country where they would not have access to fair and satisfactory asylum procedures;
- Ensure immediate and unimpeded access to lawyers and NGOs to provide legal advice, interpreting and humanitarian assistance to the people concerned;
- Ensure that the people concerned have prompt access to a judicial authority, including for the purpose of realizing the right to challenge the lawfulness of their detention;
- Ensure that the people concerned have immediate access to a fair and satisfactory asylum procedure, with all necessary procedural safeguards including competent legal advice and interpreting assistance, and effective access to an independent appeal with suspensive effect, so that they are able to articulate their protection claim;
- Ensure that no-one is forcibly returned in any manner whatsoever to a situation where they would be at risk of torture or other serious human rights violations;
- Ensure that the people concerned are held in accordance with international standards relating to the humane treatment of detainees, and in particular do not interfere with the right to health of the people concerned.

### **C) Recommendations to the European Union (EU)**

Amnesty International calls on the EU and Member States to:

- Ensure that EU cooperation with Mauritania in the field of migration, whether in the context of Article 13 of the Cotonou Agreement, working arrangements in the framework of FRONTEX or cooperation within the framework of the ministerial conferences on migration and development between the EU and African countries as organized in Rabat and Tripoli, is firmly rooted in the respect of rights of migrants, asylum seekers and refugees and in compliance with international human rights law and standards.
- Ensure that projects developed between the EU and Mauritania in addressing mixed migratory flows are implemented with full respect of the fundamental rights of migrants, asylum seekers and refugees and include effective and independent human rights monitoring.
- Address in particular the issue of arbitrary detention and ill-treatment of migrants and asylum seekers as well as the conditions in the detention centres in Nouakchott and Nouadhibou in the various forms of dialogue and cooperation between the EU and Mauritania. This should include investing in projects to ensure proper judicial review of detention decisions as well as return decisions as well as the lack of legal assistance.
- Ensure that the present and future policy of the EU on migration and asylum respects the rights of migrants, asylum seekers and refugees and that these rights are effectively protected, particularly taking the measures below.
- Ensure that individuals forming part of mixed groups of migrants and others in need of protection are properly identified and protected.
- Ensure that asylum seekers have access to fair and satisfactory procedures. Procedures that are insufficient or inappropriate must not be used to accelerate the deportation of asylum seekers.
- Ensure that no refugee or asylum seeker is deported to a country where they will not benefit from effective protection.
- Ensure that individuals needing international protection are not arbitrarily or unnecessarily detained and have access to all their rights for as long as they are on EU territory.
- Ensure that migrants in an irregular situation are not the subject of collective expulsions and that the deportation of individuals not needing international protection takes account of their dignity and security.
- Become fully involved in the preparation of a practical strategy to deal with the root causes of migrations.

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© AFP – Migrants arrested at sea by Spanish coast guards in the Spanish Canary Island of Tenerife, 10 September 2006.

## ANNEX I: A MIGRANT'S TRAVELS

By way of illustration, here is the full story of a Senegalese migrant, born in 1981 in Saint-Louis, whom the Amnesty International delegation met at the detention centre in Nouadhibou in March 2008. This account illustrates the dangers encountered by migrants and the different human rights abuses they suffer in the countries through which they travel.

There was too much poverty in Senegal and my family told me to go to Europe to help them survive. I left Saint-Louis for Nouadhibou, taking my identity card with me. I arrived here in October 2007. I looked for work so that I could save up the money that the tout had asked for. My family helped me as well, sending money via Western Union. I gave the tout 300,000 ouguiyas (830 euros). He was a Gambian fisherman. He said "Be patient, I'm going to buy what's needed and contact the captain. When everything is ready, I'll call you." I finally left in mid-November with a group of 67 people. We gathered on the beach one night and boarded a small boat. We set off, but the boat drifted towards Moroccan waters. The next day, the Moroccan police saw us and took us to Dakhla (a port in Western Sahara).

The Moroccan police questioned us about our nationality. The Mauritians were sent back to their country by road, but all the others, including me, were held for a month and nine days in a football stadium. They weren't ill-treated, they fed us and allowed us to call our respective embassies so that they could pay for the air tickets so that we could be repatriated. We called the Senegalese embassy in Rabat several times and they said they were trying to find the means to repatriate us. But they never called us. After 20 days in detention, we went on a hunger strike. The Moroccan police asked us to abandon the strike and promised that the embassy would do something.

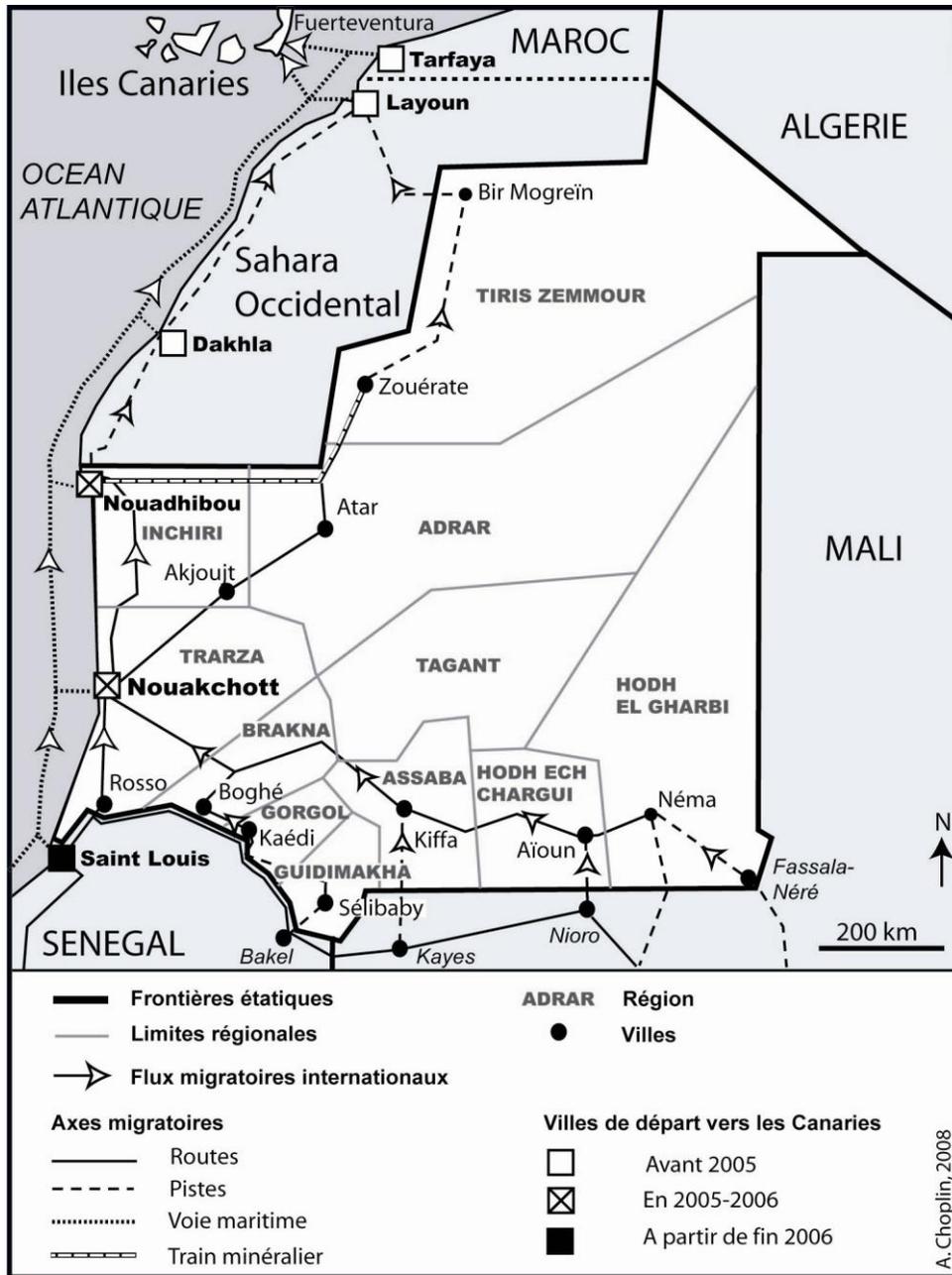
Then one day, at the end of December 2007, the Moroccans took us by bus to Oujdah, on the border with Algeria. We were put in prison at three in the morning and they didn't give us anything to eat because we had no money. The next day, at 18:00, the Moroccan police took us in a police van. There were 12 of us crammed into the van and they took us to a military camp on the border. Then they threw us out into the Sahara. Our group walked in the dark. The Moroccans do that at night. They hide what they are doing because the Algerians don't like it. Our group kept walking with armed soldiers in front of us and others behind us. When we could see the border with Algeria in the distance, they pushed us in the back with their 'kalash' and we ran in the dark, straight ahead, without knowing where we were going. We had nothing to eat, no money; as we ran we altered our course so as to avoid the Algerian border. We found ourselves in a mountainous area; it was really cold, especially at night and we had no warm clothes [in that area, in winter, the temperature often falls below zero]. We knew that we had to hide because the Algerian authorities don't like migrants who have been expelled from Morocco. We went into a small village to ask for something to eat and the Algerian villagers gave us food and clothing.

In the mountains we found other African migrants who were sleeping in tents. There were people from Cote d'Ivoire, Senegal, Mali, Guinea, Cameroon and Nigeria. We stayed there with them for a week; one of them let us make a reverse charge to our parents in Senegal to ask them to send us some money. Our parents sent us the money and came back to Morocco on foot. We walked 100 km. We hid in a goods train as far as Fez, then we bought a timetable and took a bus to Rabat. We stayed in Rabat for a week, then we went to Agadir and from there to the coast so that we could try to get to Spain again. We joined a group of 35 people. We left in a small boat, but it was no good. The waves were three metres high and they lifted the boat in the air and it sank. Of the 35 passengers, 24 lost their lives and only 11 of us survived. We had to swim for about half an hour, we were really cold and the Moroccan police arrested us. They asked us our nationality. I thought that if I told the truth, that I was Senegalese, they would send us back to Oujdah again – and there's nothing worse than that – so I said I was Mauritanian. They left me at the border with Mauritania where they handed us over to the Mauritanian police. I tried to run away and the Mauritians beat me. Now, they are angry that I lied about my nationality. I know that I am going to be repatriated to Senegal via Rosso; we will tell our parents what we've been through. If we have the means, we'll leave again, otherwise we'll stay. In Senegal you work hard for very low wages. I have a family to feed; I'm the only boy, my parents are old and I have only sisters, so I'm the only one who can help".

## ANNEX II: TABLE OF ACRONYMS

ACP:	Africa, Caribbean, and Pacific
ALPD:	<i>Association mauritanienne de lutte contre la pauvreté</i> (Mauritanian Association for the Struggle Against Poverty)
APEAH:	<i>Association pour la Protection de l'Environnement et Action Humanitaire</i> (Association for the Protection of the Environment and Humanitarian Action)
CNCD:	<i>Centre National de la Coopération au Développement</i> (National Center for Cooperation to Development)
CNCR:	<i>Commission nationale consultative sur les réfugiés</i> (National Advisory Commission on Refugees)
DRC:	Democratic Republic of Congo
ECOWAS:	Economic Community of West African States
EU:	European Union
IOM:	International Organisation for migrants
OAU:	Organisation of African Unity
UN:	United Nations
UNHCR:	United Nations High Commissioner for Refugees

**ANNEX III: MAP**



Source: Armelle Choplin, *L'immigré, le migrant, l'allochtone : circulations migratoires et figures de l'étranger en Mauritanie*, in *Politique africaine*, No 109, March 2008,