

**THE LAW AND THE MEDIA IN
MAURITANIA**

By

Sidi-Brahim

The Law and the Mauritania

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Translation: Lawrence Selikem (+233-244-695806)

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PO Box LG 730, Legon, Ghana — West Africa

Tel.: 233-21-242470

Fax: 233-21-221084

E-mail: mfwa@africaonline.com.gh

Website: www.mediafound.org

Media Foundation for West Africa

The Media Foundation for West Africa is a regional independent, non-profit, non-governmental organisation based in Accra, Ghana. It was established in 1997 to defend and promote the rights and freedoms of the media, and generally, to help expand the boundaries of freedom of speech and expression in West Africa.

Our Objectives

The goals of the *MFWA* are to:

1. Raise public awareness of and to redress violations of media rights and free expression through monitoring abuses and attacks;
2. Promote the development and expansion of media rights and free expression through legislative and policy reform;
3. Seek justice through litigation for journalists, media and citizens persecuted by the states and other actors for exercising their right to free expression;
4. Advance media professional standards to enhance their capacity in supporting democratic governance and culture;
5. Promote knowledge and awareness among citizens of their rights to free expression; and to enhance the media environment through research and publication of data, information and analysis on developments, trends and issues regarding policy, legislation and anything else affecting media and free expression;
6. Support the development or operation of institutions and or projects that promote media development and sustainability.

For further information contact:

Media Foundation for West Africa

P O Box LG730, Legon

Accra, Ghana

Tel: 233-21-242470

Fax: 233-21-221084

E-mail: mfwa@africaonline.com.gh

Website: <http://www.mediafound.org>

Executive Director: Prof. Kwame Karikari

INTRODUCTION

A third world country, Mauritania was long in having a private media. From independence in 1961 up to 1988, there was no private media. Freedom of expression was constrained.

At that time, the one-party dictatorship, which was in vogue in the third world relied on state-owned media for its own propaganda.

The first Constitution and the various military charters by which the military led the country up to 1991 did not make any mention of the freedom of expression unlike the 1991 Constitution which was the foundation of all the legal instruments adopted to promote freedom of expression in Mauritania, even if in either case there were violations here and there.

However, from 1988, the first private Mauritanian newspaper was established in Nouakchott. Freedom of expression is enshrined in the 1991 Constitution. Several weekly newspapers appeared but the new law was merely an instrument in the hands of the government to restrict freedom of the press. The national private media would face enormous difficulties.

With the regime change which occurred on August 3, 2005, a new Order on press freedom was passed by the ruling Military Council for Justice and Democracy (CMJD). It abrogated the articles inimical to freedoms, and expanded, as a result, the space for press freedom.

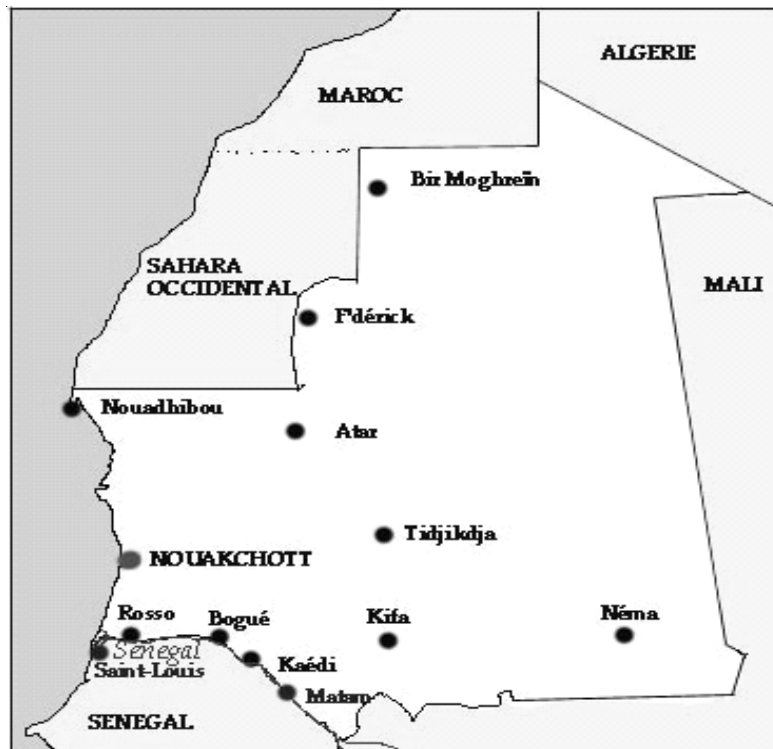
The report is presented in three parts:

Part One: All laws on the media and media freedom in Mauritania.

Part Two: Constitutional provisions on the right to free expression and the media.

Part Three: Attacks or abuses against these rights and freedoms as well as violations which occurred during the defined period.

FACTFILE ON MAURITANIA



Area: 1 030 700 square kilometres

Population: 2.5 million people (2000 census)

Capital: Nouakchott

Currency: Ouguiya

Official language: Arabic

National languages: Hassania, Pular, Soninké, Wolof

Working languages in some state agencies: French

Neighbouring countries: Algeria, Morocco (and Western Sahara), Senegal, Mali

Out of 192 countries, Mauritania is 159th for life expectancy, 165th for child mortality, 155th for per capita GDP, 91st for daily calorie intake, 178th for literacy, 154th for enrolment in schools. The entire country can be classified as desert.

Mauritania, with Nouakchott as the political capital, was established within its current borders by the Paris Treaty of June 29, 1890. It is a West African country located on the Atlantic coast and lies between latitudes 15 and 27 degrees North and longitudes 5 and 17 degrees West. It has a 600-kilometre coastline overlooking the Atlantic Ocean, stretching from Saint Louis in Senegal to the city of Nouadhibou, in the North of the country. The country is bordered to the north by the Western Sahara, Algeria and Mali to the East and Senegal to the south.

The country is inhabited by Moors (Berber Arabs) and African people made up of Peuls, Wolof and Soninkes.

As a multi-ethnic and multi-cultural country, Mauritania is halfway between Black Africa and Arab Africa. By virtue of its geographical location between North Africa and Sub-Saharan Africa, it has, in fact, for centuries been a melting pot of Arabo-African civilisations and cultures.

At the socio-demographic level the country's population increased from 1.8 million people in 1988 to 2.5 million in 2000. It is a young population, with those under 15 years accounting for a sizeable proportion (43.9% in 2000) with only 6% being above 60 years. The distribution of the population by sex has been stable between the last two censuses (1988 and 2000), with 50.5% being women. The annual growth rate of the population is 2.9%. Life expectancy at birth is 51.3 years while the fertility rate is 6.32.

The gross mortality rate is quite low (3 for a thousand among women, as against 2.8 for a thousand among men). The proportion of the overall nomadic rural population has gone down from 72% in 1970 to 32.9% in 1977 and dropped further to 11.4% in 1998.

The Islam practised in Mauritania is the Sunni type, with Malecite rites, in principle devoid of dogma and sectarianism. Being tolerant, this type of Islam cultivates solidarity, calls for unity, eschews violence

and hatred, and opposes arbitrariness and oppression, in theory. In any case, it constitutes the basis for national unity.

Administrative and Communal Organisation

The Islamic Republic of Mauritania is divided into 13 wilayas (regions) including the District of Nouakchott. Each *wilaya* is a decentralised administrative district. The *wilaya* is divided into *moughataa* (departments) and the *moughataa* into districts. The country has 53 *moughataa*.

The wilaya is under the authority of a wali (governor) who represents the central government; the moughataa is under the authority of a hakem (prefect), while the districts are under the district administrators. It was in 1986 that the ruling Military Committee for National Salvation, implemented an administrative and constitutional reform in order to restructure government and decentralisation was adopted as a strategic option as it promotes the involvement of the communities in the management of their affairs. Introduced in 1986 as a prelude to the democratisation of politics, decentralisation was thus able to offer communities which suffered under the emergency measures and the one party system, a useful framework to learn their first lessons in democracy. Currently, the country has 216 communes, of which 9 fall within the Nouakchott municipality alone.

According to Decree N°87-289 of October 20, 1987, the communes, theoretically, exercise important mandates, particularly in the areas of community waste management and road maintenance, water supply and sanitation, culture and sports.

Education

In Mauritania, the current educational system is the result of a series of reforms which have pursued the objective of its adaptation to the social and cultural context of the multiethnic, multicultural and multilingual country. The first reform, which was implemented in 1966, established the principle of bilingualism (Arabic and French) while

the second, which was carried out in 1973, instituted a gradual arabisation of the system. The progression was pursued until it became almost complete in 2002. This further arabisation was endorsed by the transitional adjustment measures decided in 1979. The measures introduced the teaching of the national languages on an experimental basis. Unfortunately, no progress was made.

A new educational reform which was voted in 1999, retains the importance attached to Arabic and the national culture while setting the system on a course of modernization and openness in order to place the school at the service of the economic and social development of the country.

Political Development/Evolution

As soon as Mauritania attained national sovereignty, the need to establish new constitutional provisions became the topmost priority of the politicians of the time. The May 20, 1961 Constitution instituted a Presidential system of government which would drift inexorably towards a one party system, product of the union of several political parties. The one party regime, worn down by the difficulties of the national economy, hard hit by the multiple effects of drought in the Sahel, and especially by the war of the Western Sahara in which Mauritania was involved at the time finally came to an end on July 10, 1978. And the war was the reason advanced by the military for carrying out their first coup d'etat, on July 10, 1978 in which the country has been trapped ever since. On July 18, 2009, a coup leader, a General, was elected President.

BACKGROUND TO THE EXPANSION OF PRESS FREEDOMS

Following the August 2005 coup d'etat, the Military Council for Justice and Democracy (CMJD), which overthrew former president Maaouiya Ould Sid' Ahmed Taya, promised to restore democracy, particularly

press freedom. Already by December 2006, this pledge was fulfilled; several laws on press freedom were passed.

While the regime of ex-president Taya expressed the desire (since 1991) to establish a legal framework to guarantee press freedom through the drafting of Decree N°91-023 July 25, 1991, it was not until August 3, 2005 that Mauritania was ushered onto a new stage of its history, marked by a change meant to entrench a spirit of departure from the practice of withholding and confiscation of information. Thus the establishment of the National Advisory Commission for Print and Broadcast Media Reform, to make a thorough diagnosis of the state of the print and broadcast media and propose measures to promote freedom of expression, within an atmosphere of maturity and responsible citizenship, taking into consideration the realities and socio-cultural peculiarities of Mauritania.

Yet, these socio-cultural peculiarities of Mauritania are themselves a draw-back on the development of any form of freedom of expression. The trend currently is towards the establishment of a legal and institutional framework suited to the development of the media, within the context of the rule of law. However, external and internal factors stand in the way of any reform of the print and broadcast media in the country.

First of all, with regard to the external factors, the state has legitimately and effectively reserved for itself the monopoly over anything that has to do with the activity of giving information. The government authorities have prerogatives often adopted to create obstacles to the freedom of expression, in the name of the “national interest”, “internal security”, “national unity”, “respect for moral and religious values”, etc. In actual fact, these controls aim to restrict press freedom, in particular, and public liberties in general.

Secondly, with regard to the external factors, it is necessary to underscore the lack of professionalism on the part of journalists. Very often articles written by them are based on rumours; for this reason, journalists are frequently imprisoned or referred to the state prosecutor following complaints from members of government or private individuals. It is essential to stress that, with the exception of 4 or 5

publications, the product put out on the market is difficult to digest. This state of affairs derives from a lack of professionalism and especially of general knowledge, the back-bone of all communication. Thus, it can be observed that the professional newspapers are few on account of the sole quest for gains. Subjectivity and praise-singing, for that matter, or smear-campaigns against some or defamation against others, therefore assumed pride of place; the rules of general ethics or the professional code of conduct having been set aside.

With regard to the legal environment, July 23, 1991 Decree pertaining to press freedom, was the legal instrument which made a mark on this sector in recent years. The legislative and regulatory framework for communication in Mauritania was unable to keep pace with the rapid development of this sector. It was limited to the concern of the public authorities to thoroughly circumscribe the media in order to control them better. That is why information, an area considered sensitive, and even “dangerous”, is linked to the sovereignty of the state on the same footing as National Defence, Foreign Affairs, the Interior and Telecommunications.

From the 1990s, it established a Ministry of Communication, strangely made responsible for Relations with Parliament. Its powers over national television, radio and the Mauritanian News Agency (A.M.I.) derive from the Office of the President which appoints its directors general, hence exercises control over their news and editorial policy.

Within the framework of relations between government authorities and the private media, the perception of political leaders of the media has greatly determined the relationship between these two entities in Mauritania. This relationship, marked by fear and mistrust, has weighed heavily on the development of the media in the country. That is why since Mauritania’s independence, the political leadership have controlled the information outlets such as *Radio-Mauritania*, the Mauritanian News Agency, *Mauritania Television*. In fact, this control until recently translated into making the information sector a department under the Ministry of the Interior most of the time, a situation which reduced the media to propaganda tools of political

power. Up to 1991, members of government only dealt with the state media. Similarly, within the government, withholding of information has always been the rule.

These relationships strained by mistrust, are forged in a situation of total insecurity surrounding the work of journalists. Thus, journalists are assaulted nearly every week, and there is no mechanism to ensure the protection of journalists in the practice of the profession.

MEDIA LEGISLATION AND MEDIA FREEDOMS IN MAURITANIA

From 1961 to 1978, Mauritania was under a one-party civilian regime, even though the Constitution at the time made vague references to values derived from the French Revolution of 1789. Between 1978 and 1991, it was the military who ruled the country with constitutional charters which did not contain any provisions on press freedom. None of the numerous military charters of that time alluded to freedom of expression.

It was in 1991, when Colonel Maouiya Ould Sid' Ahmed Taya, the former head of state, wanted to democratise the country that the Constitution of July 20, 1991 aimed to promote and protect press freedom. In another thrust towards the liberalisation of the print media and broadcasting, a new Decree repealed the first one, and then other laws came into being.

Decree No. 91/23 of July 25, 1991 on Press Freedom

Decree No. 91/23 of July 25, 1991 on press freedom made provisions such as for “political and trade union freedoms, public and personal liberties in particular, the freedom of opinion and of thought, freedom of expression; freedom of assembly and association”, among others. Article 1 of this Decree aims to: “Define the conditions for exercising the freedom of expression and communication of ideas and political opinions as well as applicable sanctions in case of breaches of the

rules setting out this freedom”. Better still, the preamble to this law provides that the right to information, the right of everyone to know the truth about problems concerning them, about their country, as well as the affairs of this world, is one of the fundamental freedoms of the human being recognised by the people of Mauritania.

It is equally so of the freedom of expression. Suddenly, the Decree issued a threat by harping on the fact that : “There are duties deriving from all these factors for the government as well as for journalists and for all those who choose the practice of the activities related one way or the other to the noble profession of informing. As a result of this, the state makes, observes and ensures the observance of laws and regulations which guarantee the exercise of these rights. However the best guarantee resides in the responsible and dignified comportment of all the protagonists: government, journalists and users, that is society as whole. All must make it a point of honour to submit themselves to a certain number of basic principles based on tolerance, respect for others, equity, honesty and a higher motivation: that of action for the ideal of freedom, social justice, of the defence of human rights and for peace among peoples.

Still further, the Decree strings out a series of formalities and very severe sanctions: “Any newspaper or periodical, irrespective of the manner of its presentation and the mode of its printing shall not be published without prior licence and without the deposit of caution-money after the declaration; prior to the publication of any newspaper or periodical, a declaration shall be made to the Attorney-General’s Department and the Ministry of the Interior”.

Then follows Article 11 of the Decree, which grants unlimited power to the government to gag the media. It provides: “The circulation, distribution, or sale in the Islamic Republic of Mauritania, of newspapers or periodicals whether printed or not, of foreign inspiration or origin or likely to undermine the principles of Islam or the credit of the state, harm the public interest, undermine public order and security, regardless of the language in which it might be written, may be banned by a Decree of the Ministry of the Interior. The intentional sale, distribution or production of banned newspapers, is punishable by a prison term

of six days to one year and a fine of 60.000 to 600.000 Ouguiyas. The same shall apply to the reprint, under a different title, of the publication of a banned newspaper or written material of foreign origin. However, in this case the fine is from 120.000 to 1.200.000 ouguiyas. There shall be effected administrative seizure of copies and reproductions of banned newspapers and printed materials as well as those which reproduce the publication under a different title”.

This provision was the one that was most used against any newspaper whose editorial policy was out of line with the propaganda of the Ministry of the Interior. Finally, it was under the control of this law ostensibly passed to guarantee press freedom that freedoms of expression and of thought were the most violated by the authorities.

Very Heavy Sentences

This Decree was notable for the battery of judicial and political measures it put forward to intimidate private media practitioners. It instituted media-related crimes and offences.

In the area of provocation to crimes and offences, this law provides that those who by writing or by printed matter sold or distributed, put up for sale or displayed in public places or meetings, be it by placards or posters displayed to public view, either by speech or threats made in public places or meetings, would have directly provoked the culprit or culprits to commit the said act, if the provocation was followed through or followed only by an attempted crime, shall be punished as accomplices in an act described as a crime. Such a provision pertains solely to the penal code and should not be applied against journalists, in the practice of their profession. In fact, in articles 19-1-20 and 21, the Decree smothers journalists with so many threats that it is impossible for them to do their work. There is no mention of his protection anywhere.

With regard to offenses against the state, insult to the head of state through one of the means mentioned, shall be punishable by a prison term of three months to one year and a fine of 200 000 to 2,000,000 ouguiyas. Also, the publication, broadcast or reproduction

by whatever means, of false news, fabricated stories, falsely or deceitfully attributed to third parties, which, when done in bad faith, shall breach the public peace or is likely to breach it, shall be punishable by a prison term of six months to three years and a fine of 100 000 to 1 000 000 ouguiyas or one of these sentences only. The same acts shall be punishable by a prison term of one year to five years and fine of 100 000 to 1 000 000 ouguiyas when the publication, broadcast or reproduction made in bad faith is liable to undermine the discipline or morale of the army.

It can be seen from these provisions that the lawmaker has made the monetary fines heavier at a time when journalism is not profitable. This may appear as a way of causing newspapers to fold up.

With regard to offences against individuals, Article 24 gives a legal definition of defamation: “Any allegation or any publication of an act which damages the honour or reputation of the person or the body to which the act is imputed, is defamation. The direct publication or reproduction of this allegation or imputation shall be punishable, even if it is done doubtfully or if it is aimed at a person or body not mentioned expressly of which the identification is made possible by means of the terms of the offending written material, printed matter, notices or posters”. This position leaves the door open to arbitrariness since it makes reference to imprecise terms such as “doubtful”, “not mentioned expressly”.

With regard to the lawsuits as well as curbing the offences, the offenders are, under this law liable as the main accused in the following order:

- the Managing editors or editors irrespective of their profession or designation and, in the cases provided for under paragraph two of article 4, co-directors of the newspaper;
- the perpetrators;
- the printers;

- the vendors,
- the distributors and billposters.

The procedure for minor police court offences committed in the media or by any other means of publication shall be carried out automatically and at the instance of the Attorney General's Department.

Also, prosecution for crimes will take place in accordance with common law procedures.

Under the Decree, posting of bills, hawking as well as selling along the public highway are regulated.

Anyone wishing to practise as a hawker or distributor, along the public highway, or in any other public or private place, of books, written works, brochures, newspapers, drawings, engravings, lithographs and photographs, shall be required to register them at the administrative district where he is resident.

Similarly, the distribution, sale, exhibition for public viewing as well as possession for the purposes of distribution, sale or exhibition with the aim of propaganda, of tracts, newsletters which are harmful in any manner to the national interest are prohibited. Again, this provision leaves the door open to arbitrariness since the notion of public interest is imprecise and is left to the judgment of the officials of the Ministry of the Interior, instead of the Ministry of Justice.

The 2006 Order on Press Freedom

It was in August 2005, following the coup d'état by Colonel Ely Ould Mohamed Vall, former Director General of the Police Criminal Investigations Department, that the Military Council for Justice and Democracy (CMJD) pledged to take a set of measures to establish the appropriate framework for a genuine freedom of expression. This new Decree on press freedom aimed to expand the scope of freedoms in the area of the media and define, unlike the previous one, an appropriate regulatory system for the practice of the journalistic profession. This law was in keeping with the implementation of the

commitments made by the Military Council for Justice and Democracy with regard to the promotion of human rights, the strengthening of the rule of law as well as the application of the recommendations from the National Days for Consensus Building held in Nouakchott between October 25 to 29, 2005. The new law adopted the recommendations of a National Advisory Commission in charge of the reform of the print and broadcast media, which was established on December 29, 2005, to propose reform measures for a harmonious development of the print and broadcast media, in accordance with the demands of the rule of law.

This is really why the new law defined a set of legal criteria. It determined the regulatory authority specific to the media sector, defined “the profile of the professional journalist” and determined the rules applicable to the printing, publishing and the periodicals sector, the right of reply as well as provisions pertaining to media and publishing offences.

In accordance with this Decree, the system of issuing of deposit receipts, much decried by journalists, has been replaced by the system of declaration which put an end to the censorship system defined by the infamous Article 11 of Decree N° 91/23 of July 25, 1991. Better than the previous Decree, this recent one identified more specifically, defamation related media offences and instituted an appropriate penal system which takes into account the peculiarity of the media.

In defining new principles, Law 017-2006 provides that the right to information and press freedom are inalienable rights. These freedoms shall be exercised in accordance with constitutional principles, legal provisions as well as the professional code of ethics. They may be limited only by law and only where absolutely necessary for the safeguard of democracy.

One other innovation is that the journalist has the right to have access to sources of information, the duty and the right to protect his sources under all circumstances, except as in the cases provided by law, for the purposes of the fight against crimes and offences, particularly offences against national security and terrorism. Herein appears a “legal” undermining of this innovation, since the journalist is

compelled to cooperate where he holds information pertaining to an offence against national security or terrorism.

In the new circumstances, the regime of prior licensing and deposit of a guarantee prescribed by Article 11 of the 1991 decree is abandoned in preference to the system of declaration. However, continuous control is exercised through the obligation to deposit copies of every issue at the Office of the Attorney General in Nouakchott, and at the National Library, in particular.

Failure to fulfill this formality may attract a fine of 180.000 UM for every edition not deposited against the managing editor. However, it is worthwhile pointing out that the fate of foreign newspapers and periodicals did not see any improvement.

Under this law, any publication whatever the language in which it appears, of which the appearance is registered elsewhere other than in Mauritania, shall be considered a foreign publication. Under Article 21 of Law 017-2006, the circulation, distribution or sale, in the territory of the Islamic Republic of Mauritania, of foreign newspapers or printed periodicals, irrespective of the language in which they are printed, may be banned by a decree of the Minister of the Interior, where they are liable to undermine Islam or discredit the state, harm the public interest, undermine public order and security. By this provision, threats for reasons which are highly subjective because they are not prescribed by any law, still hang over the foreign media. In the chapter on sanctions pertaining to the foreign media, the new decree stipulates that where sale, distribution or reproduction of newspapers or periodicals are done knowingly, the culprits shall be punished by a fine ranging from 200.000 to 500.000 UM. The same shall apply to the reproduction under a different title of the publication of a banned newspaper or periodical. However, in this case, the fine shall be doubled. Similarly, administrative seizure shall be effected on copies and reproduction⁴ of newspapers or banned written works.

However, redress is available. The banning decree is subject to appeal before the administrative court of a *wilaya*.

Unlike the former decree, the current one provides that: "Any newspaper or periodical may be published, without prior licensing and

without the deposit of a guaranty, after the declaration prescribed by the new Article 11 of the same decree.” It equally stipulates that: “Before a newspaper or periodical is published, a deposit of the publication shall be made at the office of the state prosecutor or a court of competent territorial jurisdiction, which shall contain:

- The title of the newspaper or periodical and its mode of publication;
- The name and address of the Managing Editor of the publication;
- The memorandum and articles of the institution publishing the newspaper or periodical;
- Indication of the printing press where it must be printed;
- The intended average circulation;
- Periodicity;
- Number and names of journalists, sub-editors, photographers, layout artistes, stringers, contributors,
- a sworn statement that the information provided is true.

Any change in the above-mentioned conditions shall be made known within thirty days of the said change”.

This provision is totally different from that of Article 11 of the repealed decree, which gave the Ministry of the Interior all the latitude to ban, censor or seize any newspaper.

The deposit system is more simplified. At the time of publication of the newspaper, two copies shall be deposited:

- At the office of the State Prosecutor in Nouakchott, and at the National Library, if the publication is done in Nouakchott;
- Before the Prosecutors of the court of the *wilayas*, if the publication is done in the hinterland;
- At the office of the mayor, in places where there may be

no prosecutor, since the mayor whose position corresponds to that of an officer of the police criminal investigations department.

Failure to effect the deposit shall attract a fine of 180.000 UM against the Managing Editor of the publication, for each issue not deposited. This does not constitute a prerequisite to the appearance of the publication.

There is another innovation to this law. During the electoral period, the three-day deadline for any insertion becomes one day for daily newspapers. Thus, the reply must be submitted at least six hours before the paper in which the reply is to appear goes to print. In addition, right at the start of the electoral campaign, the Managing Editor of the newspaper is required to declare to the State Prosecutor, under pain of sanctions spelt out under article 17 of the present decree, the time he will decide that his paper go to print, during this period.

The new law places under the competence of the communes, the posting of bills hawking, as well as the sale of newspapers along the public highway. Thus, in every commune the mayor indicates by a bye-law, the places exclusively designated for the posting of legal notices and other instruments of the public authority. Posting of private bills in those places is prohibited.

With regard to assistance to the media, Article 31 of Decree 017/2006 provides that: “the State has the duty to assist communication outlets which contribute to the realisation of the right of everyone to information. The modalities and conditions for the award of the media assistance shall be defined by law.” Up to now, Parliament is yet to vote on the legal provisions. Besides, this media assistance could be the source of too many problems insofar as it would only benefit communication outlets which contribute to the dissemination of information. Will media outlets which do not appear regularly be entitled to this assistance? This has/is not clarified by the relevant bodies.

Media Regulatory Body

An independent print and broadcast media regulatory body called the

Higher Authority for the Print and Broadcast Media (HAPA) shall be established under the Office of the President. It shall be run by a nine-member board appointed by the government.

They are appointed for a period of three years, renewable only once. NGOs and journalists' unions are not represented on it, hence the stranglehold of the government on the media. With regard to its role, the HAPA is explicitly charged to serve as a body protecting the freedoms of expression, though it is also a body empowered to pronounce sanctions.

Besides its role of referee between presidential candidates in matters of communication, the HAPA advises the President on all issues related to the media and communications sector, proposes for appointment by the president personalities who are to head the public media such as *Radio-Mauritania*, *Mauritania Television* and the Mauritanian News Agency.

It also advises the Parliament and government on all matters pertaining to the media sector.

Mandates of the HAPA

The Order establishing the High Authority for the Print Media and Broadcasting defines the mandates. It provides that the High Authority:

- shall advise the President on all matters pertaining to the print media and broadcast communication sector he shall refer to it;
- shall propose for appointment by the President, personalities who shall be the heads of public bodies of the print and broadcast media;
- shall advise the President and the government on all matters pertaining to the print and broadcast media sector referred to it by the Speakers of the chambers of Parliament or by the Prime Minister;
- shall always be required to advise the Prime Minister on

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- bills or draft decrees pertaining to the print and broadcast media sector, before they are presented to Cabinet;
- shall always be required to advise the Speakers of both Chambers of Parliament on proposed laws pertaining to the print and broadcast media sectors, before they are considered by the relevant Chamber;
 - shall suggest to government changes to laws and regulations as, necessitated by technological, economic and cultural evolution, in the activities of the print and broadcast media sector;
 - shall ensure the observance, by all relevant authorities or bodies, of the laws and regulations applicable to the print and broadcast media;
 - shall examine applications for the licence to establish and operate print and broadcast media enterprises, in accordance with the legal and regulatory procedures in force and award the relevant licences, in accordance with existing laws and regulations;
 - shall award licences for the use of radio frequencies, and, where necessary, is empowered to establish a coordination committee with the other public bodies responsible for managing the frequency spectrum and control it;
 - shall monitor the observance, by broadcast communication bodies, of the content of their terms and conditions and generally, the observance by the said bodies, of the principles and rules applicable to the sector;
 - shall approve the terms of and conditions of the public media and monitor their observance and propose candidates for the positions of Director Generals of public print and broadcast media enterprises;
 - shall ensure the observance of fundamental values enshrined in the Constitution, of the pluralistic expression

of the national culture as well as schools of thought and opinion, particularly as far as political expression is concerned, by the private as well as public broadcast sector;

— To this end:

it shall propose to government measures of all sorts, particularly legal, capable of ensuring the observance of the principles and fundamental values spelt out in the preamble of the Constitution and the provisions of the present draft decree;

it shall convey, depending on its own established periodicity, to the chairmen of the two chambers of Parliament, the government and leaders of political parties, labour unions, professional federations, and to any other relevant department, the record talk-time allotted to political, union or professional personalities, on the broadcasts of radio and television outlets; it may, on that occasion make any observation it shall deem useful;

— It shall ensure the observance of the laws and regulations applicable to the rules and conditions of production, programming and broadcast of programmes pertaining to electoral campaigns which public and private sector communications organs are to observe;

— It shall ensure the observance by publications, newspapers and periodicals as well as broadcast communication outlets, the laws and regulations on advertising in force.

To this end, the board is empowered to exercise control, by all appropriate means, over the modalities of programming of broadcast spaces and advertising programmes published or broadcast by the media, publications, newspapers and periodicals of the public and private sectors which hold any kind of licence to operate;

— It shall sanction infractions committed by the print media,

broadcast communication outlets and journalists or make proposals to the relevant authorities, in accordance with existing laws as well as the relevant portions of the terms and conditions for the sanctions incurred;

- It shall encourage professional excellence among journalists and print and broadcast media enterprises, particularly through professional training;
- It shall encourage out-of-court settlement of disputes pertaining to the application of the media law;
- It shall spell out legal or technical standards applicable to audience rating of broadcast communication enterprises, and circulation for the print media;
- It shall supervise and regulate the sharing of advertisements among media outlets by advertisers and public and private advertising agencies according to criteria defined by law, supervise the quality and content of advertisements in accordance with the terms of the Decree on press freedom and broadcasting.

It can receive complaints from political organisations, unions, state-recognised associations as well as natural persons, concerning violations by the broadcast and print media, of laws and regulations applicable to the print and broadcast media sectors

It shall examine, where necessary, the said complaints and take the expected actions in accordance with the present decree, the laws and regulations applicable to the offences.

It may also be seized by the judicial authority, in order to apprise it of its opinion on complaints based on violations of laws or regulations pertaining to the print and broadcast communication sector and which the said authority might have been brought to its notice.

The HAPA is empowered, besides, to approach the relevant authorities in order to be apprised of practices which run counter to the law the right to determine prices and free competition within its

area of jurisdiction. The same authorities may approach it for its opinion.

It may also demand from print and broadcast media enterprises the publication of explanations or rejoinders at the instance of any person who shall have suffered any injury, following the publication or broadcast of any information which may attack their honour which is patently contrary to the truth.

The HAPA shall determine the content and modalities of the said publications, attaching to their non-observance, should the need arise, a penalty of which it shall determine the amount and mode of recovery.

The Commissions

In addition to its secretariat, the HAPA is made up of a Print Media Commission (CPE) and a Broadcast Communication Commission (CCA).

Print Media Commission (CPE)

The CPE monitors publications, printing and advertisement in the print media. It is, in addition, responsible for preparing matters brought to the HAPA and the implementation of the decisions taken by it. It:

- Collates and processes applications submitted for press cards and deals with disputes pertaining to the card.
- Takes note of infringements of the media law as well as media offences and offences by the media against the principles and rules of professional ethics and suggests coercive measures in accordance with the provisions of the relevant code.
- Initiates any study or research related to the support for the media and printing.
- Examines and investigates for the attention of the HAPA

Commission/council any restrictive practice to free competition, by monitoring, with the view to any attempt at establishing a monopoly or oligopoly in the print media.

Commission on Broadcast Communication

Under the authority of the Chairman of the HAPA, the Commission on Broadcast Communication (CCA) is responsible for addressing all matters pertaining to broadcast communication.

In coordination with the telecommunications services, the Commission is responsible for the management of the terrestrial broadcast spectrum and the allocation of radio and television frequencies.

Besides, it must promote the efficiency of the technical resources, encourage their emergence and development. It also ensures the observance of the technical aspects defined in the terms and conditions for the holders of licences granted by HAPA.

It is required to answer applications for frequencies within a maximum deadline of six weeks.

In order to fulfill the missions assigned to it by the present decree and the subsidiary laws for its application or execute HAPA's rulings, the Commission on Broadcast Communication has a body of regulators, placed under the authority of the Chairman of the CCA, who are responsible for investigating, where necessary, based on documentation and on spot checks, in order to record the infringements of the provisions of the terms of reference and the laws and regulations in force.

The regulators are empowered to:

- record all radio and television broadcasts, according to the appropriate means;
- Obtain, from both public agencies and corporate bodies or natural persons who are holders of licences issued to broadcast communication service enterprises, all information necessary to ensure the observance of obligations made on holders of licences;

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- Carry out investigations on the same natural persons or corporate bodies.

They shall be assisted in their tasks, where necessary, by officers of the police criminal investigations department appointed for the purpose by the competent authority.

When in the exercise of their normal function of monitoring or following an investigation carried out at the request of the HAPA board, acts which constitute infringements of laws and regulations in force are brought to the notice of the Chairman of the HAPA, particularly practices contrary to Islam, to the law, to standards of good behaviour, the respect of the human person and his dignity, the protection of children and adolescents, the professional code of ethics or a violation of the terms of reference by holders of a licence, the Chairman of the Commission shall immediately inform the HAPA board, which after deliberation, shall decide on the actions to take and, especially, authorise the Chairman of the Commission to pursue a legal action on behalf of the High Authority and refer the matter to the competent administrative, judicial and professional authorities.

The High Authority shall ensure, particularly in an electoral period, that equal rights are granted to all the candidates, as well as regular airtime by public service radio and television stations with national and regional coverage, and also space in state public service newspapers and periodicals.

Media Professional Code of Ethics

An essential element notable in the preamble to the code is the particular need of journalists and print as well as broadcast media practitioners, to assert their desire to carry on the Mauritanian media's traditions of struggle for the freedom of expression and the public's right to information.

Media professionals also express their commitment to the promotion of the democratic culture in accordance with the Constitution which guarantees press freedom in Mauritania. They are of the

conviction that the responsibilities of journalists in their mission to inform the public supersede any other responsibility, particularly vis-a-vis their employers and most of all the authorities.

They state that this mission could only be undertaken on the basis of healthy professional practices. Consequently, they decided to draw up a professional code of ethics which spells out the duties and rights of journalists in the practice of their profession.

Duties of Journalists

In the chapter on duties, journalists are to stick to facts, whatever the cost to them personally, in order to achieve the following duties as imposed by the professional code of conduct:

- ***Honesty and the public's right to true information:***
Journalists must stick to facts, whatever the cost to them personally, on account of the public's right to know the truth.
- ***Social responsibility:***
Journalists shall only publish information for which the origin, veracity/truth and accuracy have been established.
- ***Respect for privacy and human dignity:***
Journalists shall respect the individual's right to privacy and dignity. Publication of information pertaining to the private lives of individuals and public figures can not be justified on the grounds of the public interest.
- ***Professional integrity and freedom:***
Beyond the remuneration due to them by their employers in connection with their professional services, journalists must refrain from receiving money or any benefit in kind from beneficiaries or persons concerned by their services, whatever the value and purpose. They shall not give in to

any pressure and shall receive editorial directive only from the heads of the editorial department. Journalists shall refrain from any form of blackmail by way of publication or non publication of a piece of information in return for remuneration.

- ***Professional secrecy:***
Journalists shall observe professional secrecy and shall not reveal the source of information received in confidence.
- ***Separation of comment from facts:***
Journalists are free to take position on any issue. They are under the obligation to separate comment from facts. In making comments they must be scrupulous and concerned about ensuring balance as ground rules in the publication of their information.
- ***Separation of information from advertisement:***
Information must be separated from advertisement
- ***Inciting to hatred:***
Journalists must refrain from making any publication inciting to tribal, racial, ethnic, sectarian and religious hatred. They must eschew all forms of discrimination. They shall abstain from encouraging criminal acts.
- ***Sensationalism:***
Journalists shall abstain from sensationalism in the treatment and presentation of information.
- ***Identity of information:***
Journalists are responsible for their publications, the choice of photographs, sound extract, images and commentaries thereon, and these in agreement with their senior officials.
He gives notice if images are from the archives, are

“delayed” or “live”, material for information or as an advertisement.

— ***Professional honour:***

Journalists shall avoid resorting to unfair methods to obtain information, photographs and illustrations.

— ***Protection of minors:***

Journalists shall respect and protect the rights of minors by abstaining from publishing their photographs and revealing their identity.

— ***Violence and obscenity:***

Journalists shall, as much as possible, refrain from publishing scenes of violence, sordid or obscene images.

— ***Confraternity:***

Journalist shall cultivate the spirit of confraternity. They shall refrain from using the columns of newspapers or airtime for purposes of settling scores with their colleagues. Journalists shall not ask for the position of a colleague, nor shall they cause their dismissal by offering to work for lower conditions.

— ***Incompatibility of the duties of journalist and press attaché***

The duties of press attaché, public relations officer and other related functions are incompatible with the practice of journalism.

— ***The duty to ensure competence:***

Before producing an article or broadcast, journalists must bear in mind the limits of their aptitude and knowledge. Journalists shall treat their topics only after making the minimum effort to research and investigate. Journalists

must constantly improve their talent and professional practices, by improving their mind and by participating in in-service training activities organised by various professional associations

— ***Disciplinary measures:***

Any failure to observe the present professional code of ethics shall bring upon the culprit disciplinary sanctions which could be imposed against him by the media self-regulatory regulatory bodies and professional associations. The journalist shall accept the judgment of his peers, as well as the rulings from deliberations of the above-mentioned bodies. The journalist has the obligation to know the media-related legislation.

The Rights of Journalists

With regard to rights, the professional code of ethics provides that any journalist practising his profession shall demand the following rights:

— ***Free access to sources:***

Journalists in the practice of their profession shall have access to all the sources of information and shall have the right to investigate freely all matters shaping political life.

— ***Refusal of subordination:***

The journalist shall have the right to refuse to be subordinated to any directive contrary to the editorial policy of his media outlet.

— ***Conscience clause:***

The journalist, in the practice of his profession, may invoke the conscience clause.

He may refuse to write or read political commentaries or editorials which run counter to the rules of professional

ethics or to censor articles, radio and television productions of his peers, on bases other than professional ones. Should there be any conflict related to the conscience clause, the journalist may free himself from of his contractual obligations towards the enterprise, under the same conditions and same rights as pertain to a lay-off.

— ***Protection for the journalist:***

The journalist shall, throughout the entire national territory, and without any condition or restriction, have the right to the security of his person, of his equipment, to legal protection as well as respect for his dignity.

— ***The obligation to consult:***

The editorial team must compulsorily be informed of any important decision liable to affect the enterprise. It must at least be consulted, before a final decision, on any measure which concerns the composition of the editorial department: recruitment, lay-off, transfer and promotion of journalists. It must be consulted before any change in ownership.

— ***Contract and remuneration:***

In return for his duty and responsibilities, the journalist must not accept conditions below those provided for by the collective agreement. He must also demand an individual work contract which ensures his material and moral security as well as a remuneration which matches the social role which falls to him and which guarantees his economic independence.

Issuance of the Press Card

Finally, Decree 2008-027 defining the conditions for the issuance of the press card was passed on February 19, 2006 in application of Decree No. 017/ 2006.

This law provides the definition of the professional journalist who is eligible to obtain the press card. It provides that to be considered as a professional journalist, one must hold a qualification in Journalism or a post graduate degree with two years professional experience at least in a public or private media outlet, print or broadcast, or must have middle level training with five years professional experience at least in a public or private media outlet, print or broadcast, and have as the main remunerated activity the gathering, treatment and dissemination of information.

Those not considered as “Professional journalists” are advertising agents and occasional contributors. The journalistic profession shall be established by decree, particularly with regard to the modalities and criteria for issuing the press card. A collective labour agreement shall govern the relationship between employers and employees of media outlets.

Anyone applying for the press card shall submit an application with the following requirements to the Print Media Section of the Ministry in charge of Communication:

- A hand written application;
- A certified copy of the national identity card;
- Four identity format photographs ;
- A curriculum vitae.
- A certified copy of the qualification required under article 2 of the present decree;
- A testimonial from the place of work indicating the journalist’s area of specialisation, written and signed by the director of the media outlet where the applicant is in practice;
- Testimonials indicating the professional experience as defined by article 2 of the above decree;
- A copy of the last two salary advices;

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- A copy of a valid work contract;
 - An extract of a police report within the last three months;
 - A declaration of honour certifying that journalism is the applicant's main paid profession.

The press card shall be renewed for a two-year period by a ruling of the Commission for the Press Card.

Application for renewal shall be constituted as follows:

- A hand-written application,
- Four recent identity format photographs;
- An extract of a police report of not less than three months;
- A valid work contract;
- A testimonial issued by the employer;
- The last salary advice;

Article 7 of the Decree provides that the press card shall display the national motto, the national colours, the holder's full name, his area of specialisation, his photograph, his signature, his identification number, the period of validity, the name of the media outlet where he practises his profession as well as the statement that: "The relevant authorities are hereby requested to facilitate the work of the holder of this card".

The media correspondent duly accredited before the Ministry in charge of Communication shall receive a press card bearing the letter E (foreign) of which the validity shall not be more than one year. It shall be renewed each time the letter of accreditation is also renewed.

The press card shall be signed by the Minister of Communication.

The press card may be withdrawn, by a decision of the Minister in charge of communication following a justified proposal by the Commission on Press Card and upon the advice of the HAPA, for one of the following reasons:

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- Non-observance of the laws and regulation in force as well as the professional code of ethics,
 - Presentation of false documents during the submission of application for the press card,
 - Giving up of the practice of journalism

CONSTITUTIONAL PROVISIONS ON THE RIGHT OF FREEDOM OF EXPRESSION AND MEDIA FREEDOM

From 1961 to 1978, Mauritians lived under the dictatorship of the one party system. The Mauritanian People's Party (PPM) ruled all alone up to the coup d'état of July 10, 1978. Since that date, the military have governed the country with their own charters, concerned to guarantee the security of the governments. There was a Constitution which was amended after the August 5, 2005 coup d'état.

Consequently, the constitutional provisions on press and media freedom were very few in the first constitution and the military charters which governed the nation from independence in 1961 up to 2009.

There are two main reasons for this:

- The May 20, 1961 belonged to a period which came long before West African governments began to take into consideration certain values such as media-related freedoms. However, the only universal value referred to in this basic law in its article 2, was that Mauritania shall guarantee everyone the freedom of conscience. This was really a paradox at that time and even today since the existence of the freedom of conscience has been a subject of controversy among intellectuals, even if the current Constitution refers to it.
- During the period between July 10, 1978 and July 18, 2009, the country's politics was controlled by military regimes

which governed with charters. This means that the country was under dictatorship for more than 30 years.

As a result of this, the situation was not favourable for the promotion of the freedom of expression, generally.

Therefore, no provision on press or media freedom ever appeared in the military charters of July 10, 1978, April 6, 1979, or December 12, 1980.

It was thanks to the “democratisation” of the country under the regime of the former head of state, Colonel Maouiya Ould Sid’ Ahmed Taya, that the July 20, 1991 Constitution, which, it must be said, was greatly inspired by the French Constitution of 1958, referred to the principles of democracy and freedoms of expression.

In the preamble to this basic law, the lawmaker states that: whereas freedom, equality and human dignity may prevail in a society which upholds the primacy of the rule of law, is concerned about establishing lasting conditions for a harmonious social evolution, observes the precepts of Islam, the only source of the law and which is open to the demands of the modern world, the people of Mauritania hereby proclaim, in particular, the intangible guarantee of the following rights and principles:

- The right to equality;
- The fundamental freedoms and rights of the human person;
- The right to [own] property;
- Political freedoms and union rights;
- Economic and social rights;

The guarantee of public and individual freedoms is therefore enshrined in the basic law of 1991.

- The freedom of opinion and thought;
- The freedom of expression;

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- The freedom of assembly;
 - Freedom of association and the freedom to join any political organisation or labour union of their choice;
 - Freedom to undertake commercial and industrial activity;
 - The freedom of intellectual, artistic and scientific creation;

With this, freedom may only be limited by law.

It is thus, in application of these constitutional provisions that all the present laws on press freedom were promulgated and the decrees passed. However, all these freedoms have not in any way or hardly contributed to the blossoming of a free, independent media, which is conscious of its role in a country trying to entrench democracy.

When this constitution was amended by referendum on June 25, 2006, the same provisions on press freedom were not modified by the Military Council for Democracy and Justice which had subjected the Constitution to a referendum. No doubt, it was for this reason that the Charter of the Military Council for Justice and Democracy (CMJD), which emerged from the August 3, 2005 coup d'état had provided, with regard to press freedom, that the provisions of the July 20, 1991 Constitution as well as its preamble, pertaining to individual and collective liberties shall be maintained.

It is, however worth mentioning that paragraph 2 of Article 8 of the Constitutional Charter of the High Council of State (HCE) provides that: "When, for any reason, the operation of Parliament is impeded, the High Council of State shall enact by Decrees, the necessary measures having the force of law to guarantee the continuity of the public authorities and the guarantee of the freedom and transparency of proposed presidential elections. The Decrees enacted in application of the present article may not, under any circumstance, infringe on public and individual liberties recognised under the constitution and the laws of the Republic.

Having regard to this provision, it must be noted that the Constitutional Charter of the High Council of State (HCE) is more protective of public liberties than the preceding military charters.

According to this Constitution, the freedoms of expression have become effective.

Parties and political groupings contribute to shaping and the expression of the political will. They are formed and undertake their activities freely on condition that they observe democratic principles and refrain from undermining, by their purpose or by their action, the national sovereignty, the territorial integrity as well as the unity of the Nation and the Republic.

The law determines the conditions for the establishment, operation and dissolution of political parties.

Free expression and the right to strike are enshrined in the two provisions:

- Political parties and groupings contribute to the shaping and expression of the political will. They are formed and undertake their activities freely on condition that they observe democratic principles and refrain from undermining, by their purpose or by their action, the national sovereignty, the territorial integrity as well as the unity of the Nation and the Republic.

The law determines the conditions for the establishment, operation and dissolution of political parties.

- The right to strike is recognised. It is exercised within the laws which regulate it.

Strike actions may be prohibited by law, for all public services or activities of vital interest for the nation. These are the defence and security sectors.

VIOLATIONS OF MEDIA RIGHTS AND FREEDOMS IN MAURITANIA FROM INDEPENDENCE TO JULY 2009

The history of the independent media in Mauritania is relatively recent. It started from 1988.

Since the country's independence, the first newspaper in the country, *Mauritanie Nouvelles*, was established in 1961. It was thus, the first official media outlet of the state. This paper was the forerunner of the daily newspapers *Horizons* and *Chaab* which are published by the Ministry of Information, and have since become "public media". A state radio and television station is controlled by the authorities and placed at the service of their propaganda.

The Early Days of the Private Media

The first independent newspaper was established in 1988. This was *Mauritanie-Demain* of which the former Managing Editor is currently a member of the High Authority for the Print and Broadcast Media (HAPA). This newspaper was licensed by the authorities on the basis that it was a cultural newspaper. This means that the licence did not mark a genuine desire of the authorities at the time to observe freedom of expression; especially when at that time there was no national law in that regard. This was really why when the first issue, then the second respectively treated issues on democracy and Human Rights, the authorities began a process of countering it by encouraging the establishment of "newspapers" in their pay to serve their propaganda ends.

In order to really attack this first and only private newspaper in the country, the authorities began to put spokes in its wheel that very year, right at the national printing press. The difficulty created was to constantly raise the cost of printing, in addition to other obstacles. At the same time, the newspaper published, for the first time in Mauritania, an article on torture, when this horrible practice was the norm. This was the last straw which broke the camel's back: *Mauritanie-Demain* was targeted by the country's political authorities. The Managing Editor came under constant pressure from the political authorities. The political police stepped up its harassment of the newspaper's Managing editor.

Promulgation of the First Law « liberating" the Media

In 1991, a new Decree on press freedom was promulgated in July, in

favour of a new era of democratisation in Mauritania. This Decree which was promulgated to protect press freedom in Mauritania was a tool for repression in the hands of the agencies of the Ministry of the Interior for many years, to force the disappearance of several independent newspapers. The political police arrested some journalists and committed acts of violence against others.

In April 1989, there were some tragic events between Mauritania and Senegal. During the course of those events, human rights violations were repeatedly committed, against the backdrop of lootings and deportations. The victims were black Africans.

With regard to the human rights violations committed in 1989, the newspaper *Mauritanie Demain* carried out some investigations and interviewed survivors of the said events. However that issue was seized by the Ministry of the Interior following the publication of Decree No.91 of July 23, 1991 on press freedom. This seizure was the first alarm sounded under the new law.

The law which was supposed to promote and protect the freedom of expression contains oppressive clauses. We are here concerned with article 11. It stipulates thus:

“The circulation, dissolution, or sale in the Islamic Republic of Mauritania, of newspapers or periodicals whether or not inspired or coming from abroad, or liable to undermine the principles of Islam discredit the state, harm the public interest, undermine public order and security, irrespective of the language in which they are written, may be banned by an Order of the Minister of the Interior. When carried out knowingly, the sale, distribution or production of newspapers or banned written materials, shall be punishable by a prison term of six days to one year and a fine of 60.000 to 600.000 Ouguiyas. The same shall apply to the reproduction of the publication, under a different title, of a banned newspaper or written material of foreign origin. However, in this case, the fine is raised from 120.000 to 1.200.000 ouguiyas.

There shall be administrative seizure of copies and reproductions of banned newspapers and written materials and

of those which reproduce the publication under a different title”.

Following a series of seizures and bans, *Mauritanie Demain* finally disappeared from the newsstands. It gave way to another private weekly newspaper, *El Bayane*.

From 1991 to 1993, the restrictions on press freedom had reduced considerably. There was a time when no ban or seizure was recorded.

Forcing the Private Media to Fall in Step

In July 1994, another weekly newspaper, *Le Calame* which continues to appear up to today, was established. It came under censorship in 1994 by the Ministry of the Interior for the stated reason that it had published an article on King Juan Carlos of Spain. However, the actual reason is linked to an investigation on the role played by the Minister of the Interior during the events of 1989, when he was the *wali* of Trarza, an administrative region on the border with Senegal, where there were too many deportations and looting of goods belonging to black Africans.

From the second semester of 1994, the authorities adopted a strategy of forcing the media into step by resorting to a multiplicity of censorship measures, seizures and bans, in particular,

The authorities became increasingly determined in their hounding of the private media outlets. The weekly newspaper, *Le Calame*, was censored 33 times and banned two times. The first ban lasted three months; the second was one month. *Akhbar El Esbou*, another Arabic language edition was simply handed a definite ban, without the slightest explanation to the director of the publication/newspaper.

Imposition of a Licensing Regime

Again, in 1997, the newspaper *Le Calame* was censored more than 30 times. It was banned on two occasions for three months each.

It was at the Ministry of the Interior that an all-out arbitrary system of censorship was set up because it was left to the judgment

of the officials of the department, who freely abused their powers, to create hindrances to public liberties.

In theory, under the 1991 Decree, the registration of copyright consisted in depositing two copies of a newspaper at the Ministry of the Interior, and two at the Ministry of Justice. If six hours after this deposit, the authorities do not serve the Managing Editor with any seizure notice, the newspaper is collected from the printing press, upon presentation of a deposit receipt issued by the Ministry of the Interior, for distribution.

In practice, however, the story is different. The deposit receipt is no longer given immediately after the copyright deposit. It depends on the mood of the official at the Ministry. This means that sometimes, the product may remain for three days at the printing press. By this practice, the administration instituted a licensing system, which is not provided for under the media law.

Major Abuses Against the Freedom to Inform

During the year 1999, *Le Calame* was suspended for three months. Barely two months into the year, the Arabic and French editions of *Le Calame* newspaper were suspended indefinitely. These abuses also extended to the British Broadcast Corporation (BBC) correspondent in Nouakchott as well as the Arabic language newspaper *El Hayat*, which is published in London. The correspondent's accreditation was withdrawn by the Ministry of Information. This action was followed soon after by the arrest of the director of the newspaper *Rajoul Echare* (man in the street), then again by the censorship of the 13th issue of the newspaper *La Nouvelle Expression* and of the independent newspaper *La Dépêche*.

Before the end of the year 1999, the authorities in Nouakchott had stepped up their attacks against public liberties in general, because from the attacks against the media they moved against political parties: the political party, Attalia, was banned. More than two daily newspapers were banned by virtue of article 11 of Decree 91-23 pertaining to press freedom. Among the reasons ascribed to this ban, the authorities

cited an article devoted to the Western Sahara occupied by Morocco. The ruling regime wanted the national media to fall in line with the official position on the Western Sahara issue.

In December, *Le Calame* suffered its umpteenth censorship which, according to the paper was due to information it had published on aid given by the Israeli government to the Mauritanian regime, as part of agreements on the dumping of nuclear waste in the vast Mauritanian desert. The matter caused a great deal of stir at the time since Mauritania had always denied any such dumping of [nuclear] waste on its territory.

During the year 1999, *Le Calame* came under censorship more than 23 times and was suspended for three months.

All in all, from December 1997 to the end of 1999, the independent media suffered 30 suspensions, bans and censorship measures.

The Widening Scope of Sanctions Against the Private Media

That year was hardly better for the Mauritanian independent media. Many newspapers had stopped appearing, because censorship was systematic while financial resources were lacking. This was the consequence of repeated bans and censorship measures. At that time, journalists did their best against all odds to survive, since the profession was confronted with many problems. Among the major demands were the institution of a collective agreement, which would guarantee that journalists earned salaries, the drawing up of a professional code of ethics and above all a reduction in the cost of printing.

A number of newspapers were also banned by the authorities by virtue of article 11; among them was the opposition weekly, *L'Eveil Hebdo*; in addition to this was a one-month ban imposed on the newspaper *Errouya Al Watania*.

On July 3, 2000, the Mauritanian authorities invoked Article 11 of the media law to seize the private weekly newspaper *La Tribune*. The latter had published three articles which the Ministry of the Interior considered dangerous for "national security". First of all, there was in fact an interview of a former Colonel of the Mauritanian National

Army, who was exiled in France. Next was another article dealing with the expulsion of two French citizens, one of whom was a diplomat, on July 1, 2000. Finally, the editorial of the issue in question, dealt with police violence along the border zones, which brought to the fore “state delinquency”.

According to the newspaper’s director, the seizure could be attributed to an editorial entitled “A holiday for what?”, which referred to the commemoration of the July 10, 1978 coup d’état and judged that the “track record of the military was negative at all levels”. Similarly, an article which severely criticised the President’s visits abroad might not have gone down well with the censors.

During the first quarter of the year, the private weekly newspaper, *Le Carrefour*, as well as the Arabic language newspaper, *Al Alame* were banned one after the other following the publication of articles on the arrest of three officers of the National Army, as well as their coverage of activities of protest movements in Mauritania.

The year ended with the censorship of issue No. 140 of *La Tribune* by the government in Nouakchott, and the ban on October 5, 2000, of RFI’s FM broadcasts in Nouakchott.

The Fall of the Dictator in 2005

Up to 2003, the regime pursued its policy of gagging the independent media. In the very 2003, *Eveil-Hebdo*, which continues to appear, was subjected to several acts of censorship.

In August 2005, the former head of state, Maouiya Ould Sid’ Ahmed Taya, the one who promulgated the first law on press freedom, was chased out of power. A military Council for Justice and Democracy (CMJD) took over power. After a five-year interruption, the new government in Nouakchott, under pressure, hurriedly lifted the ban imposed since October 2000 on Radio France International FM broadcasts in Nouakchott.

The head of state during the transition promised to establish a National Advisory Commission responsible for the reform of the Print Media and Broadcasting. This Commission called for the passing of

Decree No. 017-2006 on press freedom, and by that abolished the infamous Article 11 of the 1991 Decree, and thus succeeded in developing an appropriate legal framework for free expression and pluralism of thought and writing.

The 2006 Decree on Press Freedom

The 1991 Decree on press freedom was repealed on July 17, 2006 by Decree No. 017-2006 of July 17, 2006 on press freedom in Mauritania. By this, Mauritania abolished censorship which had gagged the private media since it was established in 1988.

Expansion of Press Freedom

The Decree provides, among other things, that henceforth anything pertaining to the media be under the Ministry of Justice, and no longer the Ministry of the Interior as was the case under the 1991 Decree on press freedom. The Decree allows journalists not to reveal their sources any longer and endorses the regime of declaration instead of the system of licencing which was in force, so as to avoid the obstacles which hindered the freedom of journalists. Furthermore, the principle for the establishment of the High Authority for the Print and Broadcast Media was adopted. The event was hailed by the private media as well as freedom of expression advocates throughout the world.

Judicial Control of the Private Media

Henceforth, instead of the licence regime it is the regulatory regime which obtains. The law confers oversight responsibility on the Ministry of Justice. As a result of this the Ministry of the Interior no longer has anything to do with it; on the contrary, it is the Ministry of Justice which has taken over through the Office of the Attorney General where duty copies are now deposited. This marked the depoliticisation of the control of the private media. Since the promulgation of this Decree on press freedom in July 1991, more than 100 cases of

editorial censorship dictated by the Mauritanian authorities against the independent media were recorded, based on article 11, of which the main victims have been the now defunct weekly newspaper *Mauritanie Nouvelles*, *Le Calame*, *La Tribune* among many others.

The Ministry of the Interior had set up a system of censorship by which a copy of each newspaper was to be submitted to the Ministry of the Interior and the State Prosecutor, so that within less than 48 hours, they could issue or not a deposit receipt authorising the publication of the product.

Conclusion

The Mauritanian private media have taken a leap forward since the promulgation of Decree No. 017/2006. In 21 years of struggle against military regimes and civilian dictatorships, the number of publications went from one newspaper to 35, which appeared regularly. Many observers are of the opinion that since 2006 Mauritania has become a good example for freedom of expression in West Africa, even though the authorities are yet to liberalise broadcasting and the airwaves.

Currently, the issue is no longer an inappropriate legal framework for the private media. It has a host of other problems. First of all, a change in mentality is necessary since Mauritians have socio-cultural specificities which by themselves constitute drawbacks to a positive development of the freedoms of expression.

Also, from the 1990s, a Ministry of Communication was established which, strangely, was responsible for relations with Parliament. It has no real powers over the public media. The National Television, Radio and the Mauritanian News Agency (A.M.I.) come under the Office of the President which appoints their Director Generals, which accounts for the control of their news and editorial policy, the main concern of which is to carry out propaganda for the ruling regime.

It is absolutely necessary to note that even if there is currently no restriction to the freedom of expression in Mauritania, the effect has not really been felt because those who choose this profession do

not have the financial and material resources to take advantage of the legal framework which is adequate for the development of the profession. In other words, to continue to appear, they are forced to lapse into some form of “mendacity”. Thus, one wonders if, given such material conditions, there can be and independent media and how. The media assistance provided for under the 2006 Order pertaining to press freedom is yes to come from the HAPA.

In order to survive, journalists take to smear campaigns, often baseless, as well as criticism. This explains the numerous lawsuits for defamation and insult against individuals and even the authorities — all this against the backdrop of lack of professionalism. Most of the journalists are motivated by the quest for gains and not by the duty to inform.

Journalists’ unions which are rather few are unable to work hand in hand to defend the interests of the profession.

The private media need to be overhauled. In Mauritania, anyone can be a journalist; there are no criteria for enrolling in the profession; thus discharged military men, business people gone bankrupt and public servants, particularly teachers in practice, enter the profession easily.

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