HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor New York, NY 10118-3299 Tel: 212-290-4700 Fax: 212-736-1300

MIDDLE EAST AND NORTH AFRICA DIVISION

Sarah Leah Whitson, Executive Director Lama Fakih, Deputy Director Eric Goldstein, Deputy Director Ahmed Benchemsi, Advocacy and Communications Director

ADVISORY COMMITTEE

Asli Bali, Co-Chair Kathleen Peratis, Co-Chair Bruce Rabb, Vice-Chair Gary G. Sick, Vice-Chair Fouad Abdelmoumni Gamal M. Abouali Yasser Akkaoui Hala Al-Dossari Salah Al Hejailan Abdul-Ghani Al-Irvani Ahmed Al-Mukhaini Ghanim Al-Najjar Lisa Anderson Shaul Bakhash David Bernstein Robert L. Bernstein Nathan Brown Paul Chevigny Hanaa Edwar Bahey El Din Hassan Hassan Elmasry Mansour Farhang Loubna Freih Georges Aeyal Gross Amr Hamzawy Asos Hardi Shawan Jabarin Marina Pinto Kaufman Youssef Khlat Marc Lynch Ahmed Mansoor Stephen P. Marks Abdelaziz Nouaydi Nabeel Raiab Vicki Riskin

Human Rights Watch

Charles Shamas

Sid Sheinberg Sussan Tahmasebi Christophe Tanghe Mustapha Tlili

Kenneth Roth, Executive Director
Michele Alexander, Deputy Executive Director,
Development and Global initiatives
Nicholas Dawes, Deputy Executive Director,
Communications
Iain Levine, Deputy Executive Director, Program
Chuck Lustig, Deputy Executive Director, Operations
Walid Ayoub, Information Technology Director
Emma Daly, Communications Director

Babatunde Olugboji, Deputy Program Director Dinah PoKempner, General Counsel Tom Porteous, Deputy Program Director James Ross, Legal and Policy Director Joe Saunders, Deputy Program Director Frances Sinha, Human Resources Director

Barbara Guglielmo, Finance and Administration

Appendix I. Letter to Mauritanian Ministries with Preliminary Findings and Questions



www.hrw.org

July 12, 2018

Mr. Yahya Ould Hademine

Prime Minister

Nouakchott, Mauritania

Ms. Naha Mint Hamdi Ould Mouknass

Minister of Social Affairs, Childhood and Family

Mr. Dia Moctar Malal Minister of Justice

Pr. Kane Boubacar Minister of Health

Mr. Ahmed Ould Ehel Daoud

Minister of Islamic Affairs and Traditional Education

Mr. Mohamed Lemine Ould Sidi Human Rights Commission

Re: Research on Sexual Violence

Dear Ministers, Dear Commissioner,

I would like to thank your government for the welcome our delegation received when we traveled to Mauritania from January to February 2018 and in April 2018 when we participated in the 62nd session of the African Commission on Human and Peoples' Rights held in Nouakchott. On

HUMAN RIGHTS WATCH | SEPTEMBER 2018

February 6, 2018, we had the opportunity to meet with former Minister Mint Taghi to discuss our current research on sexual violence in Mauritania.

Human Rights Watch is an international human rights organization that conducts research and advocacy on human rights abuses in over 90 countries worldwide. Our recent work on Mauritania has focused on the <u>situation of human rights defenders</u>, the <u>obstacles civil</u> registration creates for children to access public schools, and women's rights.

We intend to publish later this year a report on the challenges that survivors of sexual violence face in Mauritania to receive medical, legal, and psychosocial support and to seek judicial accountability. We want to ensure that information and observations provided by the government are reflected in our final report. To that end, this letter provides you with our interim findings and concerns and invites your reply to a number of questions.

We look forward to receiving responses from the relevant government bodies to these questions and will ensure that your responses are reflected in our final report, so long as we receive these answers on or before August 6, 2018. We also would welcome the opportunity to return to Mauritania to discuss these issues with you in person.

Please do not hesitate to direct any questions or comments you may have to me at



Sincerely,

[Signature]

Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch

Summary of Findings

Human Rights Watch researchers conducted the interviews that form the basis of this study during three trips to the capital Nouakchott, and a trip to the southern city of Rosso. On January 20, 2018, the delegation interviewed women at the women's prison in Nouakchott, with permission granted by the Directorate of Prison and Criminal Affairs (*Direction des Affaires Pénitentiaires et des Affaires Pénales*).

Overall, the delegation interviewed over 30 females who reported enduring one or more incidents of sexual assault and dozens of representatives of women's rights groups, centers providing direct services to survivors, lawyers, social workers, health professionals, activists, and community organizers. The delegation also met with members of Mauritania's Parliament. Our research has focused on incidents of alleged sexual assault and rape.

We take note of Mauritania's ratification of major international and regional human rights treaties and its constant engagement with human rights mechanisms and special procedures of the United Nations and the African Union. Human Rights Watch also welcomes the recent adoption of a law on reproductive health and the General Code on Children's Protection, which both advance children's and women's rights. We also welcome the government's approval of a draft law on gender-based violence in March 2016 that is pending before the National Assembly today.

Under international human rights law, Mauritania is obligated to protect individuals within its jurisdiction from all forms of violence including by taking appropriate measures to prevent, punish, investigate, or redress harm to individual's rights whether the harm stems from acts by private individuals and entities, or state employees and institutions. However, we found that women and girls who report being victim of sexual assault face institutional barriers to seeking judicial accountability and accessing comprehensive care and rehabilitation services. Such barriers raise concerns with regard to the rights of survivors to nondiscrimination, bodily integrity and autonomy, privacy, health, and an effective remedy.

Human Rights Watch was not able to identify standardized protocols that police in Mauritania follow when responding to complaints of sexual violence. We interviewed survivors who reported that, at police stations, the in-take procedures did not respect their privacy and confidentiality: they said officers usually questioned the complainant in open spaces, in the presence of colleagues and family members, usually without offering the complainant an opportunity to speak in privacy, or if available, with a female officer. Some survivors recounted that when police officers or state prosecutors heard them, some officials offered their own assessment of the incident reported, and some police officers refused to investigate their complaint.

We found that without a formal written police referral (*réquisition*), some doctors practicing in public hospitals and health centers refuse to examine survivors in the immediate aftermath of alleged sexual violence incidents. Only one forensic doctor seems available nationally to examine victims of sexual violence. Along with the scarcity of forensic expertise, there seems to be no uniform protocols doctors are required to follow when collecting forensic evidence. As a consequence, obstetrician-gynecologists may perform non-standardized forensic testing and reporting (often including the collection of vaginal swabs, semen analysis, and testing for sexually transmitted infections) that is not in line with the World Health Organization's guidelines on forensic reporting on sexual violence. The quality of forensic testing and health assessments can vary depending on the doctor, and health conditions relevant to criminal proceedings can be overlooked by some without proper training and guidance regarding standardized forensic testing.

Further, beyond the initial psychological screening offered by some centers providing support services to sexual violence survivors, women and girls interviewed reported receiving no psychological support following the assault. Medical care for survivors of sexual violence, including emergency interventions and forensic examinations, involves out-of-pocket expenses for the patient that none of the survivors Human Rights Watch spoke to said they could afford.

Human Rights Watch was not able to identify state-run shelters, providing care tailored to the specific needs of sexual violence survivors. Our delegation visited five centers providing support services to sexual violence survivors in Nouakchott and one in Rosso, all run by Mauritanian civil society organizations. They were only able to provide overnight

accommodation in extreme emergency scenarios, never exceeding a night or two, and had limited funding to expand the care and rehabilitations services offered to survivors.

Our research also found that Mauritania lacks a comprehensive legal arsenal to prevent and punish all forms of sexual violence, particularly sexual assault, and to protect survivors and support their access to an effective remedy. Social workers, women rights' activists, and practicing lawyers all reported that criminalization of consensual sexual relations outside marriage (zina) creates an additional serious risk of prosecution for survivors, particularly women and girls, who may go from accuser to accused in the course of legal action if they file a complaint about sexual assault and then cannot prove their own lack of consent. Risk of prosecution does not only punish victims but also deters women and girls from reporting sexual assault incidents to the police in the first place since reporting rape in itself is an admission that sexual relations took place. Human Rights Watch interviewed both women and girls charged with zina who were placed under judicial control, in pretrial detention, or in prison serving an indefinite term because of a conviction to a Sharia law sentence such as flogging, no longer applied in Mauritania. Zina charges breach rights to privacy and may also be discriminatory as the offense is easier to prove against women and girls, whose pregnancy can act as evidence of the offense, even where they may report that it took place as a result of rape.

Questions

We would welcome your comments on any of the preceding observations and appreciate your responses to the following questions:

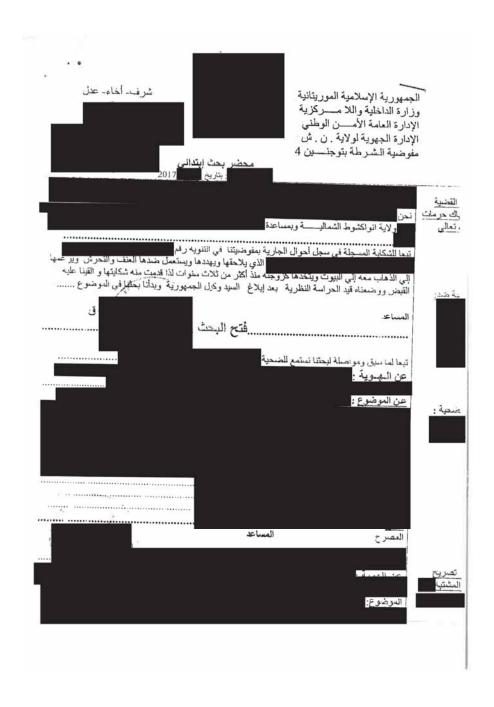
- How is the government recording and monitoring incidents of sexual assault nationally, regionally, and locally?
- How many reports of sexual assault incidents did authorities record since 2014?
 Please disclose the types of statistics that authorities maintain on sexual assault and, if available, provide us with a breakdown by location of the incident, the age of the victim, and the type of offense alleged.
- What steps, if any, has the government taken to ensure that:
 - Law-enforcement and judicial officials conduct investigative procedures offering complainants the possibility to speak with officials of their preferred gender, respecting their right to privacy and confidentiality and

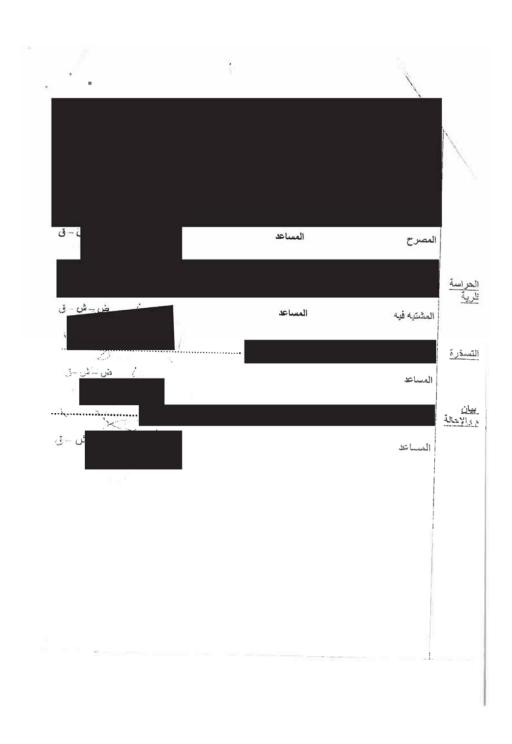
- ensuring their safety and protection from retaliation throughout investigative and court proceedings?
- Law-enforcement and judicial officials provide both a lawyer and a social worker to support children who have reported sexual violence to the police, and prioritize the child's best interest throughout investigative and court proceedings?
- There is guidance and protocols that prosecutors and judges should follow in responding to sexual violence incidents in a gender-responsive manner, ensuring women and girls' right to nondiscrimination and access to an effective remedy under international human rights law?
- Police forces and other law enforcement bodies (including the national guard) recruit women, and ensure their career progression?
- What kind of direct legal, medical, and psychosocial services does the government provide to survivors of sexual violence?
- How is the government ensuring that children who are victims of sexual assault can get access to medical, psychological, and legal counseling, be supported by a social worker, and that alternative housing options are available if the child cannot return home?
- Is the government directly operating or funding women's and children's shelters? If so, how many, where and what kind of services do they provide? How much funding is provided to existing centers providing support services to sexual violence survivors?
- How many individuals have authorities charged with and/or detained for zina since 2014? Please provide us with a breakdown by sex and age of the defendant, and judicial district of the case.
- How is the government ensuring that persons convicted of zina do not serve
 indefinite jail time when sentenced to Sharia law sentences that Mauritania no
 longer carries out, such as flogging or death by stoning?
- What rules or protocols, if any, govern the collection of forensic evidence in sexual assault cases?
- What rules of evidence ensure that judges hearing cases of sexual violence review medical records when available and take such evidence into account to rule on a case? How does the government ensure that Arabic-speaking judges can understand and review medical records often drafted in French?

• Has the government taken steps, if any, to ensure that the draft gender-based violence law is in line with international human rights standards, and will be promptly reviewed by the National Assembly?

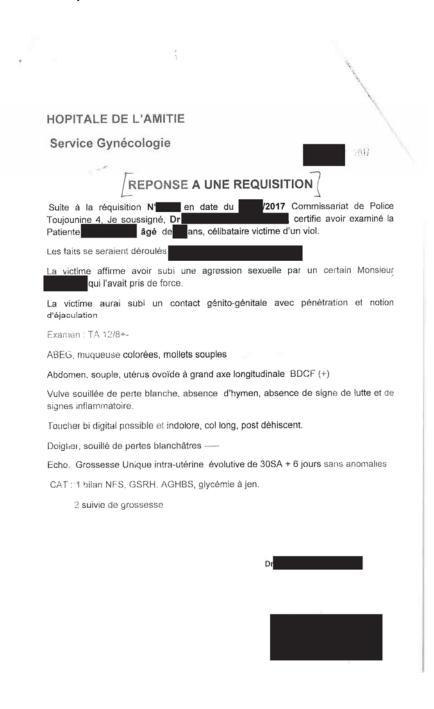
Appendix II. Case File of a Woman who Reported Being Raped, Convicted of *Zina*

Complainant's Statement to the Police



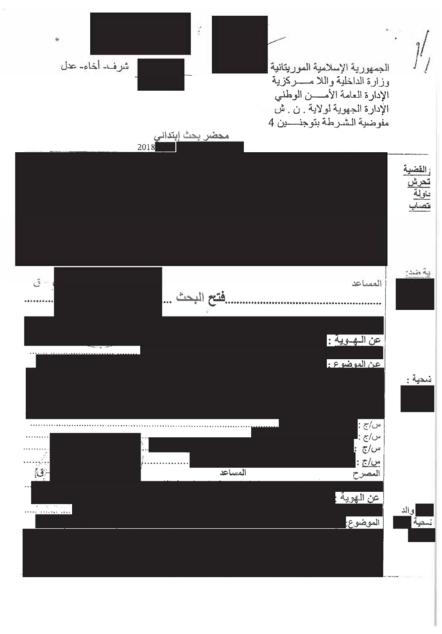


Medical Report in Response to a Police Referral

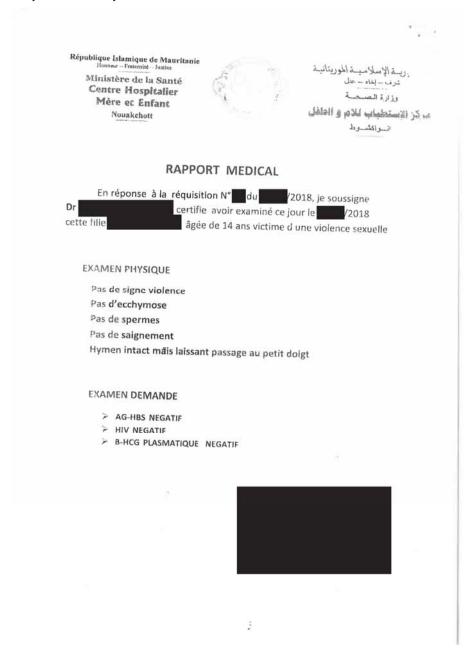


Appendix III. Case File of a Girl who Reported Being Raped

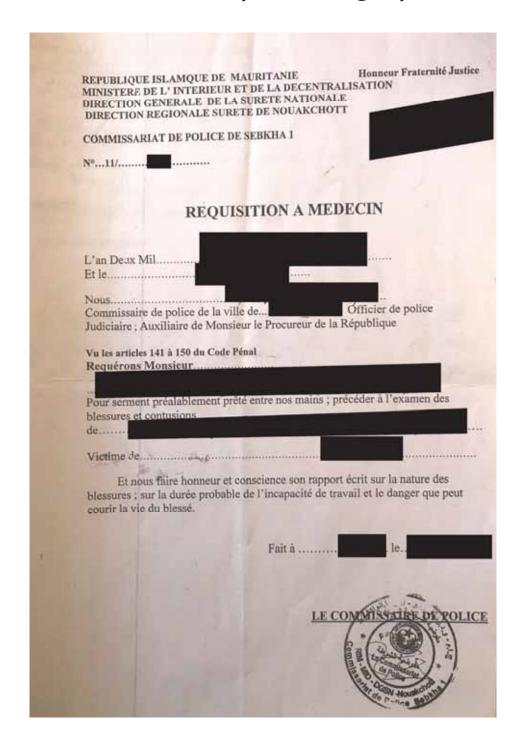
Complainant's Statement to the Police



Medical Report in Response to a Police Referral



Appendix IV. Police Referral for Medical Examination of a Woman who Reported Being Raped



Appendix V. Court Order Placing a Girl Accused of *Zina* under Judicial Supervision

