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Joint submission for the Universal Periodic Review of Mauritania, 23<sup>rd</sup> Session, November 2015

**Anti-Slavery International, Minority Rights Group International (MRG), SOS-Esclaves & L'Initiative pour la Résurgence du mouvement Abolitionniste (IRA)**

**Anti-Slavery International:** Anti-Slavery International, founded in 1839, is committed to eliminating all forms of slavery throughout the world. Slavery, servitude and forced labour are violations of individual freedoms, which deny millions of people their basic dignity and fundamental human rights. Anti-Slavery International works at local, national and international levels around the world to eradicate slavery, for example by undertaking research on slavery practices; lobbying governments and intergovernmental agencies to take action to end and prevent the practice; and supporting local organisations that work to eradicate slavery through awareness-raising, advocacy and assistance to victims of slavery. Anti-Slavery International has consultative status at the United Nations Economic and Social Council (ECOSOC). <http://www.antislavery.org/english/>

**MRG:** MRG is a Non-Governmental Organisation (NGO) which has been working for over 40 years to secure the rights of ethnic, religious and linguistic minorities worldwide, and to promote cooperation and understanding between communities. MRG has consultative status with ECOSOC, and observer status with the African Commission on Human and Peoples' Rights. MRG is a registered charity in the United Kingdom. <http://www.minorityrights.org/>

**SOS-Esclaves (SOS-Slaves):** SOS-Esclaves has been leading in the fight against slavery in Mauritania for over 14 years. It seeks to expose the realities of the practice, challenge its widespread acceptance and defend the rights of those seeking to escape slavery. It also works to end discrimination faced by people of slave descent. <http://www.sosesclaves.org/>

**IRA:** IRA has been working for the eradication of slavery and the vestiges of slavery in Mauritania for seven years. The organisation demands that the Mauritanian government rigorously apply the law 2007/048, which criminalises slavery and slavery-like practices. IRA also defends the rights of marginalised social groups in Mauritania and has received widespread international recognition, including the 2013 UN Award for Rights. Despite this, the Mauritanian authorities refuse to recognise the organisation and regularly arrest and imprison its members. <http://www.iramauritanie.org/>

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## Introduction

1. The Mauritanian population (just over 3.5 million people) is composed of various different ethnic groups. The Arabic-speaking **Beidan**, also known as White Moors, are dominant in the country's government, military, judiciary, and ownership of business, land and other resources. Historically the Beidan raided and enslaved black Africans from sub-Saharan ethnic groups, and over time those slaves were assimilated into Moor culture. The slave-descended population now constitutes a distinct Arabic-speaking group called the **Haratine** (people of slave descent, also known as Black Moors). Most now live separately from their traditional masters, but many remain in slavery to this day. There are also other black ethnic groups in the country who were never enslaved by the Beidan, such as the Wolof, Soninke and Pular; these groups are known collectively as **Black Mauritians**. These groups also have a tradition of slavery, but it is rarely practised now, though some related discriminatory practices remain. These groups typically speak their own ethnic languages as well as French. The privileges of the White Moors in Mauritanian society are reinforced by the judiciary, which typically rules in their favour in civil disputes or criminal cases even in the face of strong evidence against them.<sup>1</sup>
2. The Haratine continue to suffer discrimination, marginalisation and exclusion because they belong to the 'slave' class. Many remain affected by slavery today; these people live under the direct control of their masters/mistresses, are treated as property, and receive no payment for their work.<sup>2</sup> Slave status is passed down from mother to child, so children born to a mother in slavery will be 'inherited' by the children of the master.
3. It is commonly held by the Mauritanian authorities that slavery no longer exists because it was abolished and criminalised by the government.<sup>3</sup> However, Mauritanian anti-slavery organisations estimate that up to 500,000 Haratine may still be enslaved or living under some form of control by their former masters.<sup>4</sup> This is despite the 2007 Anti-Slavery Law prohibiting slavery and related discrimination in Mauritania.<sup>5</sup>

## Failure to Implement the 2007 Act Criminalising Slavery

4. During Mauritania's previous UPR, numerous recommendations were made for the Mauritanian government to take steps to ensure the comprehensive

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<sup>1</sup> Sarah Mathewson (Anti-Slavery International), notes from interview with Boubacar Messaoud (President, SOS-Esclaves), Nouakchott, 5 August 2011.

<sup>2</sup> Anti-Slavery International refers to this as descent-based slavery and it should be stressed that those affected clearly fall within the definition on the 1926 *Slavery Convention* as they have a status in which their master exercises "any or all of the powers attaching to the right of ownership" over them.

<sup>3</sup> See report of the former Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, on her mission to Mauritania (24 October – 4 November 2009) 24 August 2010, A/HRC/15/20/Add.2, para. 33 ;see also the interviews with government officials in the CNN digital documentary on Mauritania, March 2012, <http://thecnnfreedomproject.blogs.cnn.com/category/mauritania-slaverys-last-stronghold/>.

<sup>4</sup> Estimate of the IRA..

<sup>5</sup> Loi n. 2007-048 du 3 Septembre 2007 portant incrimination de l'esclavage et réprimant les pratiques esclavagistes.

eradication of slavery by, *inter alia*, ensuring full and effective implementation of the 2007 anti-slavery law.<sup>6</sup> However, to date, the police and the courts have hardly used the anti-slavery law. This is due to an unwillingness to investigate or prosecute allegations of slavery as well as several fundamental flaws in the law itself that undermine its potential to be enforced. Only one slave-owner has been successfully prosecuted under the Act, in November 2011, for holding two young boys in slavery. However, he was given a sentence of just two years (well below the recommended sentence of 5-10 years). He appealed the sentence and was released on bail by the Mauritanian Supreme Court just four months after his conviction, while waiting for his appeal.<sup>7</sup> At the time of writing, the appeal has not yet taken place and the convicted slave-owner remains at liberty.

5. According to the 2007 Slavery Act, administrative authorities as well as police officers and police agents are under an obligation to follow up complaints about slavery cases. However, in practice, neither the administrative authorities nor the police routinely follow up cases of slavery or slavery situations reported by victims or human rights associations. SOS-Esclaves has documented cases in which the authorities, in particular the police, did not take any action after reports of slavery were brought to their attention, claiming that the site of the slavery situation was inaccessible or too far away.<sup>8</sup> The Slavery Act stipulates that those who fail to respond to a denunciation of any slavery or slavery-like practices shall be liable to a prison sentence and a fine. Until now, however, there have been no prosecutions for violations of this obligation.<sup>9</sup> This is unsurprising since prosecutions under this article lie with the same authorities responsible for responding to slavery complaints.
6. The case of Mbarka L., aged 20, illustrates the unwillingness of the police to follow up on complaints of slavery cases. Mbarka was allegedly enslaved by a family in the Touabir tribe but escaped in September 2011 and filed a complaint against her former masters with the help of IRA. However, the police and the Prosecutor of Kaedi claimed that they had no jurisdiction over the case because Mbidane, the place where she was enslaved, was under the authority of the Brakna region. The deputy governor of Brakna also claimed not to have jurisdiction over the case and referred IRA to the prefect of Aleg. The prefect of Aleg finally ordered the district chief of Male to send the police to the master's family in Mbidane. In the meantime, Mbarka was subjected to serious pressure from relatives enslaved by the same masters who were sent to convince her to withdraw her claim. When she refused, she was first assaulted

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<sup>6</sup> Report of the Working Group on the Universal Periodic Review (Mauritania), A/HRC/16/17, 4 January 2011, paras. 90.10 (Ghana), 90.36 (Spain), 90.37 (Nigeria), 90.38 (Pakistan), 90.39 (United States), 90.40 (Germany), 90.41 (Syrian Arab Republic), 90.42 (Slovakia), 90.43 (Norway), 90.44 (Holy See), 90.45 (Switzerland) – all of which enjoyed the support of Mauritania; and paras. 92.15 (Canada), 92.35 (Israel), 92.36 (United Kingdom), 92.37 (Angola), 92.38 (Ecuador) – all of which Mauritania agreed to examine and consider.

<sup>7</sup> SOS-Esclaves, *Toujours l'impunité en Mauritanie*, 22 April 2012, <http://www.sosesclaves.org/Pagecentrale.htm>.

<sup>8</sup> Coordinatrice nationale de SOS Esclaves, *Rapport sur cas d'esclavage, memorandum sur cas estés en justice et lot 048/2007*, 31 March 2012, p. 4.

<sup>9</sup> Loi n. 2007-048, *Supra.*, n. 5, Article 12.

and then reported to the authorities for fornication and filial disobedience (two crimes punishable by flagellation, stoning or imprisonment under Sharia law). Disturbingly, the same authorities that had claimed not to have jurisdiction over her slavery complaint now intervened by arresting her and confirming the charges against her. Mbarka was eventually released as a result of pressure from IRA and SOS-Esclaves, but the charges against her are still pending. Her slavery claim, however, did not proceed. The police went to see her masters but did not conduct an investigation.

7. The non-enforcement of the 2007 Slavery Act is not only due to resistance to investigating slavery allegations from the administrative and police authorities, but is also due to the prosecution authorities' unwillingness to prosecute alleged slaveholders. This is evident from the cursory nature of most 'investigations', which are usually limited to interviewing the victims and alleged masters (often bringing the two together). This places enormous pressure on victims, who are extremely vulnerable, to change their testimonies.
8. Several slavery cases brought to the authorities have been re-classified as cases of work-related conflict or exploitation of minors or have been resolved with informal settlements.<sup>10</sup> This has the effect of denying these cases' legal existence. This also constitutes a clear failure to enforce the 2007 Slavery Act and demonstrates once more an unwillingness to expose slaveholders to criminal liability.
9. Salem, 50 years old, went to the police of Boutilimitt in September 2011 after his master severely beat and injured him. His master was later arrested but was charged with battery (*coups et blessures*), not with the crime of slavery. IRA reported that Salem was subjected to strong pressure from members of the Taguilalet tribe and received an envelope containing 60 000 MRO (around 150 EUR). Despite support from IRA, Salem ended up retracting his claim. The case was thus closed.
10. Article 36 of the Mauritanian Code of Criminal Procedure obliges the prosecutor to inform the claimant about the decision whether or not to prosecute within eight days. In cases in which there is not sufficient evidence to proceed, Article 36 also obliges the prosecutor to inform the plaintiff of his or her right to file a civil suit with the investigating judge. However, in many cases, slavery claims have been filed for months or even years without any clear response from the prosecutor or any information on the right to file civil suits.
11. In the rare incidences in which slavery claims do go to trial, procedures and deadlines are regularly not respected. Unexplained delays in the procedures indicate an unwillingness to expose slaveholders to criminal liability.

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<sup>10</sup> Coordinatrice nationale de SOS Esclaves, *Supra.*, n. 8, p. 2.

Boubacar Ould Messaoud, President of SOS-Eslaves, highlights the reluctance of judges, who emanate from the Beidan community, to condemn slave-owners and grant redress to slaves for fear of being ostracised within their own community.

12. In August 2011, SOS-Eslaves documented the case of seven siblings aged between 8 and 23 and their mother, who were enslaved to two different families.<sup>11</sup> One mistress acknowledged ‘owning’ the children in front of the prosecutor. The case was sent to the investigating judge in Nouadhibou, who retained the charges of slavery against the mistress. After being confirmed by the Appeal Court, the case went before the Supreme Court (Penal Chamber) in August 2012 as part of an ‘urgent procedure’ undertaken by the lawyers of the accused in an attempt to have the charges dropped. The Supreme Court confirmed the appeal in January 2013, remanding the case to the Criminal Court of Nouadhibou. No hearing has been scheduled since then, despite promises from the President of the Criminal Court. This seems incompatible with the ‘urgent’ nature of the procedure. Furthermore, despite claims to the contrary, the mistress has in fact since been released on bail.
13. In addition to the lack of judicial or political will to enforce the Act, there are fundamental flaws in the law itself that undermine its potential to be enforced. In particular, an investigation can only be launched if the victim lodges a complaint; the Act does not allow human rights organisations to bring complaints on behalf of victims of slavery. Descent-based slavery is so entrenched in the social structures and cultural beliefs in Mauritania that in most cases, people in slavery are unaware that their situation is illegal or even unjust; they accept their subordinate status. In addition, most of them are unaware of their rights and even if they are, there are significant barriers to them engaging with the legal process and obtaining redress. For all these reasons, it is very difficult for slaves to make use of the 2007 legislation in force. In addition, the law does not recognise slavery-like practices such as serfdom or forced marriage as constituting “offences of slavery” under the law.

### **Discrimination and Racism**

14. Haratine who are no longer in slavery (the majority) face discrimination as descendants of slaves and have limited access to education, water and health services. Notwithstanding the existence of legislation in Mauritania that prohibits race-based discrimination and several recommendations during Mauritania’s previous UPR to eradicate all forms of discrimination in law and in practice,<sup>12</sup> no case of racial discrimination has ever been referred to national

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<sup>11</sup> The seven brothers and sisters are Rabi’a, born 1989, enslaved in Nouadhibou; Mohamed, born in 1991, enslaved in Nouakchott; Aminetou, born in 1993, enslaved in Nouadhibou, mother of a girl named Rivaa; Hindou, born in 1995, enslaved in Nouakchott; Nanna, born in 1997, enslaved in Nouadhibou; Bouha, born in 1999, enslaved in Nouakchott; Mettou, born in 2004, enslaved in Nouakchott.

<sup>12</sup> Report of the Working Group, *Supra.*, n. 6, para. 90.37 (Nigeria) – which enjoyed the support of Mauritania; and paras. 92.15 (Canada), 92.35 (Israel), 92.38 (Ecuador) – all of which Mauritania agreed to examine and consider.

courts. This is despite extremely entrenched levels of racism and xenophobia in Mauritania that result from a caste-based system.<sup>13</sup> SOS-Esclaves indicates that the absence of anti-discrimination cases is mainly due to the control exercised by the White Moor elites within the judiciary, the police and security forces.

15. In large cities, most Haratines live on the outskirts, in *kebbas* (or shantytowns) or poor suburbs where they constitute the vast majority of the population. The situation of those who remain in rural areas is even worse; most of them continue to live near their former masters in ghettos known as *Adwabas* that are plagued by poverty and illiteracy.<sup>14</sup> Many people of slave descent continue to work on lands to which they have been given no rights and are therefore forced to give a portion of their crops to their would-be traditional masters.<sup>15</sup>
16. In April 2013, leading Haratine researchers and organisations published a Haratine *Manifesto*,<sup>16</sup> stating that Haratines represent 85% of the total illiterate population in Mauritania. More than 80% of Haratine have not completed primary education and Haratine students constitute only 5% of the students who are enrolled in higher education. More than 90% of the dockers, domestic workers and labourers performing unskilled and low paid jobs are Haratines. Only 2% of high-ranking civil servants and senior executives in the public and private sectors are members of the Haratine community. Haratines are also excluded from middle and higher-level positions in the military, police and security forces, despite the fact that they represent the majority of personnel in the lower ranks of these organisations. They are also under-represented in religious institutions and the judiciary – according to a lawyer at the Mauritanian Bar Association there are only six Haratine judges out of a total of about 200. Moreover, there is currently only nine Haratine Members of Parliament out of a total of 147 seats.<sup>17</sup>
17. Discrimination towards Haratines has also been manifest in the nationwide census currently being carried out by the Mauritanian government. The requirement of the prior registration of both parents in the census is difficult or impossible for people of slave descent to fulfil. This is because people in

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<sup>13</sup> Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere, on his mission to Mauritania (2 to 8 September 2013), A/HRC/26/49/Add.1, paras. 6 and 21.

<sup>14</sup> *Manifeste pour les droits politiques, économiques et sociaux des Haratines au sein d'une Mauritanie unie, égalitaire et réconciliée avec elle-même*, April 29th, 2013, Nouakchott.

<sup>15</sup> The story of Mr. Brahim Ould Blal, 74, is emblematic of this situation. Ould Blal appeared in the IRA office with a judicial act that he had been handed requesting that he leave the farmland in the Gorgol Region on which he was born and that his father, grandfather and great-grandfather had serviced over generations. The judicial act passed ownership of the land to Mr. Taleb Ould Mohamed Ould Sidi, the alleged “master” of the Ould Blal family, based on a principle of law still in place in Mauritania which states that goods belonging to a slave should be returned to their masters. Ould Blal specified that the judge presiding over the case did not record his version of events but instead based his decision on the testimony of the so-called “master” and did not consider that the land is the only source of sustenance for many families. For more information on this case please see: <http://haratine.blogspot.co.uk/2014/09/le-traitement-de-lesclavage-foncier-par.html>.

<sup>16</sup> *Ibid.*

<sup>17</sup> Sarah Mathewson (Anti-Slavery International), notes from interview with Malouma Mint Bilal Said (Member of Parliament, Mauritania), Nouakchott, 22 December 2014.

slavery, as well as people of slave descent generally, have never been formally registered by the Mauritanian government. Moreover, women in slavery are usually encouraged into informal relationships in order to get pregnant from a young age – meaning that their children often do not live with or even know their fathers. It is also common for children in slavery to be separated from their mothers; they are typically sent at a young age to another member of the extended family. These circumstances make it almost impossible for people who have grown up in slavery to obtain information about their parents. During the census, many Black Mauritians have had their Mauritanian origins called into question and have been subjected to humiliating and unnecessary tests, including the ability to cite verses from the Qur'an, to speak the Hassaniya language and to recognise a key figure from presidential circles.

18. Most preoccupying for a society that claims to be seeking reconciliation, is the fact that until now, no prosecutions have ever been initiated against the perpetrators of killings, plundering, deportations, torture and detention without trial committed under the Ould Taya government against the Black Mauritanian populations between 1989 and 1991. According to the Open Society Foundation, between April 1989 and summer 1990, a conservative estimate of 75,000 Black Mauritians were forced into exile in neighbouring Senegal and Mali.<sup>18</sup> In most cases, these individuals' identity cards were confiscated or lost at the time of their expulsion. In addition to those deported, hundreds of black Mauritians were killed during this three-year period. The truth about what happened is a taboo and no official report about those 'events' has been released. The silence over the past has been accompanied, in practice, by the de facto creation of a culture of impunity on questions of racism and more generally a culture of amnesty for grave violations of human rights. Torture, for example, is rarely prosecuted despite being reportedly commonplace in police stations.
19. The 2007 Act criminalising slavery and slavery-like practices falls short of addressing the entrenched discrimination experienced by Haratine, particularly women (in the fields of employment, education, access to justice, access to land and credit, and so on). Slavery cannot be tackled without addressing and working towards eradicating the discriminatory attitudes and practices that are embedded in the social norms of Mauritania.
20. Haratines and Black Mauritians are not equally protected by the law, as illustrated by the recent prosecutions documented in paragraph 38 below. Access to justice for such communities is impaired by multiple factors, including geographical distance, illiteracy, lack of education, ignorance of the law and of their rights, legal costs, lack of assistance and psychological and financial dependence. But more importantly, there are both gender and racial biases in the way justice is administered. The legal system reflects the deeply

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<sup>18</sup> Open Society Foundation, *Fear and Statelessness in Mauritania*, October 3, 2011, <http://www.opensocietyfoundations.org/voices/fear-and-statelessness-mauritania>.

unequal and unjust society that relies on strict hierarchies between the sexes and socio-ethnic groups.

### **Equality between Men and Women**

21. Despite some steps forward in terms of women's rights, most notably the adoption of the principle of equal pay contained in the Labour Code,<sup>19</sup> the instigation of quotas on electoral lists (2005), the national strategy on women's rights (2004-2008),<sup>20</sup> the establishment of a Ministry of Social Affairs, Childhood and the Family,<sup>21</sup> and the adoption of the Personal Status Code (2001), these measures do not address the particular vulnerabilities faced by Haratine women and women of other minority groups such as the Pular, Soninke and Wolof.
22. With the status of slaves or former slaves, Haratine women experience discrimination on account of their gender and their belonging to the Haratine group, including social exclusion, poverty and limited or no access to education or paid and decent employment. For instance, the housework and childcare responsibilities attached to their traditional gender role may prevent women and girls from pursuing education, training or paid work - a situation further exaggerated for Haratine women given the widespread discrimination against members of the Haratine community referred to in paragraph 16 above. Perceptions of women as servile, subordinate and inferior to men also facilitate the exercise of control and abusive treatment of women. Being trapped in informal work, without protections or decent wages, places them at greater risk of violence. Through interviews conducted in October 2012, MRG found that in most work as domestic workers or nannies for Beidan households, Haratine women experience a relationship not dissimilar to the slave-master dynamic. In Mauritania, intersectional approaches are basically absent from public policies and until now, no consultation, awareness-raising or policy on the situation of Haratine women has been undertaken or adopted by the government.
23. The establishment of quotas of 20 per cent for women in decision-making level positions in public administration is a positive step. There are 35 female Members of Parliament out of 147 seats. However, this is far from parity, and such a quota system has done nothing to address the particular discrimination faced by Haratine women, given that there are currently only 2 female Haratine Members of Parliament.<sup>22</sup>

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<sup>19</sup> Order 017/2004 of July 6<sup>th</sup> 2004.

<sup>20</sup> Stratégie Nationale de Promotion Féminine (2004-2008)

<sup>21</sup> Ministère des Affaires Sociales de l'Enfance et de la Famille (MASEF)

<sup>22</sup> Sarah Mathewson, *Supra.*, n. 17.



## **Rape, Sexual Violence and Early and Forced Marriage**

24. Despite several recommendations during Mauritania's previous UPR to combat gender-based violence by developing nationwide policy consistent with CEDAW, high levels of violence against women, such as rape (including marital rape), domestic violence and sexual aggression continue.<sup>23</sup> This results from the dominance of a patriarchal ideology in Mauritania, the persistence of early and forced marriages and the de-facto prohibition of inter-caste marriage. Haratine women are at greater risk of violence both in the public and private spheres (because of the domination of white Moor men in the public sphere as well as the control exercised over women in family settings, particularly for those who remain in slavery and are therefore considered the property of their master). Furthermore, it is possible to prosecute girls and women who have been raped for extramarital sex, which is a crime under the Sharia legal system that co-exists with secular laws in Mauritania. In this regard, Mauritania is yet to withdraw its general reservation to CEDAW that upholds Sharia law, as was recommended in its previous UPR in order to facilitate the elimination of all forms of discrimination against women.<sup>24</sup>
25. Unfortunately, there is an absence of legislation or programmes aimed at addressing the issue of violence against women and an absence of statistical data on the incidence of acts of violence against women. While the government committed to criminalising violence against women in 2012,<sup>25</sup> this is yet to come into fruition and does not seem to be granted the level of attention that it deserves. In addition, the draft law falls short of recognising that Haratine women, as well as women belonging to the minority Pular, Soninke and Wolof groups, are more vulnerable to gender-based violence as a result of belonging to disadvantaged groups.
26. Despite the prohibition of forced marriage and the fact that the age of marriage was set at 18 years old under the 2001 Personal Status Code, early marriage is still widely practised in Mauritania, due to entrenched norms and traditions. The absence of programmes and policies addressing the structural causes of early marriage (patriarchal norms, poverty, illiteracy, slavery) hinders the legislative efforts made by the government.
27. Since slaves are considered as the property of their masters, the age at which female slaves are allowed to marry, in addition to the person that they marry, is in practice decided by their "owners". Even when the masters allow their

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<sup>23</sup> Report of the Working Group, *Supra.*, n. 6, paras. 90.9 (Spain), 90.11 (Malaysia), 90.17 (Bangladesh), 90.18 (France), 90.27 (Argentina), 90.30 (United Kingdom), 90.48 (Burkina Faso) – all of which enjoyed the support of Mauritania; and para. 91.6 (Slovenia) – which enjoyed the support of Mauritania, which considered that it had already been implemented; and paras. 92.7 (Ghana), 92.13 (Ecuador), 92.20 (Indonesia), 92.21 (Brazil), 92.32 (Israel), 92.33 (Ecuador), 92.39 (Israel) – all of which Mauritania agreed to examine and consider.

<sup>24</sup> *Ibid.*, paragraphs 90.9 (Spain), 92.11 (Brazil), 92.13 (Ecuador) – all of which enjoyed the support of Mauritania.

<sup>25</sup> Rapport combine de la Mauritanie (2006-2010) relatif à la mise en œuvre de la Convention pour l'Élimination de toutes les formes de Discrimination à l'égard des Femmes (CEDEF) (State report of Mauritania (2006-2010) on implementation of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)), 2012, <[http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.MRT.2-3\\_fr.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.MRT.2-3_fr.pdf)>, para. 126.

slaves to marry freely, there are often restrictions imposed by the masters that limit the freedom of the couple. For example, Jabhalla, a young woman in slavery, wanted to marry and asked for her master's permission. The owner agreed but told Jabhalla that, even as a married woman, she should remain at his home and serve him as usual. A husband or father of a woman or girl in slavery is only recognised if the owner has consented to the marriage. As such women, men and children are denied the right to family life.

28. The prohibition of female genital mutilation (FGM) for minors in the Act 015/2005 relating to criminal protection of the child, along with the adoption of a national strategy to promote the abandonment of FGM, are positive steps. Nonetheless, the practice persists and figures from 2013 showed three-quarters of women between 15 and 49 years old had been cut in Mauritania.<sup>26</sup> These figures apparently include Haratine girls, although no specific data is available. The health implications of FGM have been widely documented and can affect Haratine girls more severely given their limited access to health services.

### **Children of Slave Descent and Access to Education**

29. Notwithstanding several recommendations during Mauritania's previous UPR to promote children's rights in line with the provisions of the Convention on the Rights of the Child, many children are denied the majority of their rights, given that no action is taken to help children out of slavery.<sup>27</sup> Indeed, children in slavery are also considered the masters' property and, like other slaves, can be rented out, loaned, given as gifts in marriage or inherited by the masters' children.
30. Enslaved people start working for their masters at a very young age and therefore have no access to even basic levels of education. Furthermore, people of slave descent who are no longer under the control of their masters typically have limited access to education due to the legacy of poverty and marginalisation. The former UN Special Rapporteur on Slavery highlighted this in her initial report on Mauritania.<sup>28</sup>
31. Said Ould Salka, aged 13, is a former slave who grew up with his mother's master. During the time he was enslaved, he was mistreated by his master and did not receive any education or payment for his work. He was too afraid of his master to study secretly. His 9-year old brother, Yarg Ould Salka, was also in slavery and was also denied education. When his aunt offered that he stay

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<sup>26</sup> GIZ, *Female Genital Mutilation in Mauritania: Strengthening the Competence of religious leaders to bring the practice to an end*, 2013, <http://www.giz.de/fachexpertise/downloads/Fachexpertise/giz2013-en-fgm-islam-ly.pdf>, p. 5.

<sup>27</sup> Report of the Working Group, *Supra.*, n. 6, paras. 90.11 (Malaysia), 90.27 (Argentina), 90.36 (Spain), 90.46 (Senegal), 90.49 (Brazil), 90.58 (Saudi Arabia), 90.59 (Azerbaijan) – all of which enjoyed the support of Mauritania; and paras. 91.3 (Poland), 91.11 (Yemen), 91.17 (Sudan), 91.18 (Angola) – all of which enjoyed the support of Mauritania, which considered that they had already been implemented; and paras. 92.11 (Brazil), 92.39 (Israel), 92.40 (Norway) – all of which Mauritania agreed to examine and consider.

<sup>28</sup> Report of the former Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, Addendum, Mission to Mauritania, para. 53, UN doc. A/HRC/15/20/Add.2 (24 August 2010), para. 13.

with her so that he could attend school, he refused, fearing that his master would beat him. Said and Yarg are now being taken care of by the family Biram Ould Dah Ould Abeid, the president of IRA. However, they remain unable to enrol in State school because they do not possess identity documents. This illustrates clear discrimination against children who have grown up in slavery or are of slave descent.

32. Since slaves are denied education, they do not acquire any skills that would enable them to undertake work other than domestic servitude or tasks relating to cattle-herding or agriculture. This has the effect of discouraging slaves from escaping from their masters, and even when they have managed to escape slavery or are freed, it is difficult for them to find paid work. They usually enter into similar work under exploitative arrangements.

**The National Agency to Fight against the Vestiges of Slavery, for Social Integration and to Fight Against Poverty (“Tadamoun”) and the Road Map to end Slavery**

33. The establishment in March 2013 of the National Agency to Fight against the Vestiges of Slavery, for Social Integration and to Fight Against Poverty, also called “Tadamoun” (or *solidarity*) Agency appeared to be a positive development. However, its institutional and financial ability to address and combat those three major issues at the same time is a concern for anti-slavery organisations. Furthermore, meetings between anti-slavery campaigners and the Agency have so far been extremely discouraging. Anti-Slavery International and SOS-Esclaves met with the head of the Agency in March 2014. The Agency appeared to have done little to no work on slavery issues; instead, it appeared to be commissioning projects aimed at ending poverty. The head of the Agency claimed that he was unaware of any current slavery cases (despite a number of cases receiving high levels of media attention in the preceding year), and emphasised that his mandate only referred to the *vestiges* of slavery (i.e. not the practice of slavery itself).
34. Indeed, all the undersigned organisations regret the failure to recognise that slavery continues to exist (not only its vestiges) and we are concerned that the government will claim to be addressing the issue within more general programmes on poverty alleviation, while doing nothing specifically to help people of slave descent. Furthermore, the absence of disaggregated data on slavery and its vestiges hinders the adoption of long-term evidence-based and results-orientated strategies to eradicate slavery and slavery-like practices.
35. The measure that grants legal standing to the Agency – in that it can act as civil party and be associated in a court action with the public prosecutor – is concerning. For SOS-Esclaves, this constitutes a major violation of the principle of separation of powers, since the Agency is under the direct control of the executive branch. Furthermore, Ms. Gulnara Shahinian, the former Special Rapporteur on contemporary forms of slavery, was informed on her follow-up mission to Mauritania from 24 to 27 February 2014 that even

though the legal department was ‘operational’, the agency had not received any complaints alleging slavery or slavery-like practices.<sup>29</sup>

36. While the establishment of a Road Map to end slavery in January 2014, followed by its formal adoption by the government in March 2014, is a positive step, the Road Map does not include specific victim protection measures, does not allow *locus standi* to third parties and continues to place the burden of proof with the victim of slavery without considering their high levels of vulnerability.
37. The Road Map includes provisions for an emergency fund to provide socio-economic support to those escaping slavery as well as positive discrimination policies towards those of slave descent. Nonetheless, the proposed deadline by OHCHR to see the Road Map implemented within one year has proven to be unrealistic given the high prevalence of slavery in Mauritania and the apparent opposition to implementing anti-slavery legislation and policies from the authorities.
38. The Government’s establishment of a special tribunal to prosecute slavery cases is welcome. However, this announcement would be more meaningful if the State were already being proactive in prosecuting slavery cases in ordinary courts.
39. It is apparent from the foregoing that the Government has commenced a series of initiatives in the last two years. However, the fact that since embarking on these initiatives there have been no further prosecutions under the 2007 Slavery Act and no appeal hearing in the one successful prosecution to date, brings into question the effectiveness of, and indeed the Government’s commitment, to such initiatives.

### **Freedom of Expression and Assembly for NGOs**

40. On 11 November 2014 Biram Ould Dah Ould Abeid, President of IRA was violently arrested along with nine other anti-slavery activists. At the time of their arrest the activists were involved in a peaceful campaign to raise awareness about land rights for people of slave descent.
41. Following the arrests, Mauritanian police forces closed the IRA headquarters in the city of Nouakchott and arrested the organisation’s spokesperson, as well as other activists who began protesting against the initial arrests.<sup>30</sup> Calls for the killing of Biram Dah Abeid were reportedly made publicly at the Central Mosque of Nouakchott, as well as public death threats against prominent women’s rights and anti-slavery activist Aminétou Mint Moctar. On 15 January 2015, Dah Abeid and two other activists were sentenced to two years

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<sup>29</sup> Report of the former Special Rapporteur on contemporary forms of slavery including its causes and consequences, Gulanara Shahinian, Follow-up Mission to Mauritania, A/HRC/27/53/Add.1, 26 August 2014, para. 20. .

<sup>30</sup> Amnesty International, *Mauritania must end clamp down on anti-slavery activists*, 12 November 2014, <http://www.amnesty.org/en/news/mauritania-must-end-clamp-down-anti-slavery-activists-2014-11-12>.

in prison, while the others were acquitted. They have appealed their sentence, but have been sent to a high-security prison pending this. This stands in stark contrast to the only slave-owner convicted for slavery, who also received a two year sentence, but who was released on bail pending his appeal shortly afterwards (and the appeal has never taken place).

42. Indeed, the Mauritanian government's arrest of anti-slavery campaigners contradicts its commitment in the Road Map to support civil society action against slavery, and exposes its real hostility to genuine efforts to end the slavery system. The authorities' lack of action to investigate, arrest and prosecute slave-owners, even in cases brought to their attention by anti-slavery organisations, must be seen in this light. It is also worth noting that a young man was sentenced to death for apostasy at the end of 2014, after writing an article on social media that was critical of the caste system in Mauritania, and Islamic tenets used to justify it. We believe that both of these rulings are indicative of an increasingly hostile climate for human rights defenders in Mauritania.

**Recommendations to the Mauritanian Government:**

- i. Formally acknowledge the existence of slavery in Mauritania;
- ii. Issue orders to the police and judiciary on the enforcement of national legislation prohibiting slavery, ensuring that those responsible for the practice are effectively investigated and prosecuted, and receive and serve sentences that are commensurate with the crime;
- iii. In order to ensure the effectiveness of the special tribunal to prosecute slavery cases, a special 'brigade' should be created to act as a policing arm of the court, which would be able to locate alleged slave-owners in situations in which the police and judiciary claim that they are unable to do so.
- iv. Ensure that bodies such as the Parliamentary Commission and the Internal Affairs body within the Justice Ministry effectively follow up on individual complaints brought against the police and prosecution authorities for failing to address slavery cases and that in such cases they are liable to a prison sentence and a fine, as stipulated by the 2007 Slavery Act;
- v. Amend article 15 of the 2007 Slavery Act to ensure that Mauritanian human rights organisations can not only denounce violations of the law and assist victims, but can also act as a civil party. On account of the psychological state of most victims and the nature of descent-based slavery in Mauritania, human rights organisations should be granted a *locus standi* to enable them to bring charges and pursue cases on behalf of victims;

- vi. Amend the 2007 Slavery Act to ensure that the burden of proof does not lie with the person deemed the “alleged slave”, as the psychological and economic vulnerability of slaves and former-slaves leaves them open to manipulation and pressure from their masters and others to retract the case. Given the prevalence of slavery in Mauritania, prosecution authorities should be aware of the high likelihood that the plaintiff is a victim of slavery;
- vii. Amend the 2007 Slavery Act by increasing the prison sentence for the crime of slavery from the current five-ten years to an imprisonment period in line with international standards and jurisprudence for crimes against humanity (as slavery is declared to be under Mauritania’s Constitution);
- viii. Ensure that alleged slave-owners are not released on bail, as this appears to be used as a strategy to unofficially release and ensure impunity for slave-owners;
- ix. Ensure that female victims of Slavery who have been raped are not deterred from pursuing cases against slave-owners based on fear of being charged with *zina* (extramarital or premarital sex) under Sharia law;
- x. Develop and implement public awareness-raising campaigns in order to change public attitudes towards slavery across the different levels of society. Victims of slavery must be made aware of laws and policies available for the pursuit of legal action against their ‘masters’. Nationwide training for police and administrative and judicial authorities must also be carried out, in order to ensure they pursue the cases of slavery brought to their attention efficiently and effectively;
- xi. Respect the rights to freedom of expression and assembly for all individuals and civil society organisations and adhere to commitments to support civil society action against slavery made under the Road Map to end slavery;
- xii. Introduce a law specifically prohibiting discrimination practices based on caste or ethnic slavery and accompany this with effective measures to compensate for discrimination and to assist the integration of victims of slavery into an independent life, as called for by the former Special Rapporteur on slavery.<sup>31</sup>
- xiii. Adopt policies to facilitate equal access to and take-up of education and employment opportunities for those of slave-descent;

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<sup>31</sup> As recommended in the Report of the former Special Rapporteur, *Supra.*, n. 29, para. 36.

- xiv. Take steps to promote a higher representation of minorities, including minority women, in the government, parliament, judiciary and other public institutions;
- xv. Ensure that crimes of gender-based violence are investigated and prosecuted.
- xvi. Take measures to implement laws against early and forced marriage and Female Genital Mutilation in Mauritania;
- xvii. Establish an independent watchdog in order to ensure effective implementation of the Road Map to end slavery;
- xviii. Equip the Tadamoun Agency so that it can:
  - a) Collect detailed data on the nature and incidence of slavery in Mauritania to allow monitoring of efforts to eradicate slavery;
  - b) Conduct nationwide training for police and administrative and judicial authorities on the 2007 law to ensure that they pursue the cases of slavery brought to their attention efficiently and effectively;
  - c) Train police, prosecutors and judicial authorities in the handling of victims of slavery practices, especially on how to create a safe, supportive and gender-sensitive environment for victims to seek legal services;
  - d) Attach more weight to the protection of victims of slavery and slavery-like practices, as well as redress and access to employment and livelihood opportunities, including housing, land and property rights;<sup>32</sup>
  - e) Create a fund specific to slaves and former slaves to facilitate access to justice, legal empowerment and humanitarian relief (including emergency shelter and provisions for people escaping slavery);
  - f) Provide adequate compensation and reintegration support for victims of slavery practices, including through training and micro-credit;
  - g) Combat discrimination based on descent in the education system, the media and government institutions, including through legal means and by establishing awareness raising campaigns to combat racist stereotypes.

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<sup>32</sup> As recommended in the Report of the former Special Rapporteur, *Supra.*, n. 29, paras. 35, 36, 40