

SCHOOL OF LAW  
THE UNIVERSITY OF TEXAS AT AUSTIN

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April 28, 2017

Dear Committee Against Torture,

The Human Rights Clinic at the University of Texas at Austin School of Law is pleased to submit to this Committee a report regarding slavery and slavery-like practices in Mauritania. This report is in response to this Committee's concluding observations on Mauritania from 2013, as well as Mauritania's periodic report from 2017. We greatly appreciate your time and consideration regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ariel Dulitzky".

Ariel Dulitzky  
Clinical Professor and Director  
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A handwritten signature in black ink, appearing to read "Courtney McGinn".

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**Submission to the United Nations  
Committee Against Torture**

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**Review of the Second Periodic Report of Mauritania (2017)**

**Submitted By:  
Human Rights Clinic at the University of Texas at Austin School of Law**

**April 28, 2017**

## I. INTRODUCTION

The following information is a shadow report prepared by the Human Rights Clinic at the University of Texas at Austin School of Law for the Committee Against Torture regarding the situation of slavery in Mauritania. In 2013, this Committee reviewed the State of Mauritania and the prevalence of many forms of torture occurring within the State. In that report, this Committee highlighted several concerns, including the State's failure to specifically define and criminalize ethnic discrimination related to slavery and slavery-like practices, failure to criminalize torture under its domestic criminal law, the lack of public awareness of both torture and slavery within the State, the lack of implementation and enforcement of anti-slavery laws, and the limited resources and reparations available to slavery victims.<sup>1</sup> In response, Mauritania maintained that numerous developments in the State's laws and policies have addressed the majority of issues raised. Mauritania claimed it had strengthened the efficiency of justice through the Slavery Act of 2015 by developing broader definitions of the crime and providing greater assistance to victims of slavery in legal proceedings.<sup>2</sup> Mauritania also claimed that through the establishment of the Tadamoun programme, awareness and training has strengthened the government's fight against slavery and allowed for better integration and involvement of victims, and that the relevant authorities initiate impartial investigations even in the absence of a complaint itself.<sup>3</sup> While it is noted and commended that the government has made some formal amendments and improvements, there remain a number of structural issues within the State. The justice system in Mauritania is still flawed, and the practice of slavery remains highly prevalent.<sup>4</sup> Despite the existence of institutions such as Tadamoun, they are inadequate and ineffective, as is discussed below. Although it is true that there have been significant changes to the laws and governmental institutions in Mauritania, there are still several structural issues that remain and therefore, the racially discriminatory practices of slavery, and thus the existence of torture, are still prevalent.

Mauritania is one of the last countries where people are still born into slavery and owned by their masters, facing a lifetime of abuse and forced labor.<sup>5</sup> In fact, according to numerous sources, slavery is more prevalent in Mauritania than in any other country in the world.<sup>6</sup> Slavery was only legally abolished in Mauritania in 1981, criminalized in 2007, designated as a crime against humanity under the 2012 constitutional reform, and redefined to have a more expansive meaning in 2015.<sup>7</sup> However, an estimated 1.17% of Mauritania's 3.5

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<sup>1</sup> U.N. Comm. against Torture, *Concluding Observations on the initial report of Mauritania*, June 18, 2013, U.N. Doc. CAT/C/MRT/CO/1, ¶ 21, 7, 8 (Jun. 18, 2013). [hereinafter CAT, *Concluding Observations* 2013].

<sup>2</sup> U.N. Comm. Against Torture, Second periodic reports of States parties due in 2017, Mauritania, ¶3, (Jan. 27, 2017). [hereinafter: CAT, *Mauritania's Response 2017*].

<sup>3</sup> *Id.* at ¶13, ¶107.

<sup>4</sup> Rebecca Marlin & Sarah Mathewson, *Enforcing Mauritania's Anti-Slavery Legislation: The Continued Failure of the Justice System to Prevent, Protect and Punish*, Minority Rights Group International, 2 (Oct. 2015), [http://minorityrights.org/wp-content/uploads/2015/10/MRG\\_Rep\\_Maur2\\_Nov15\\_ENG\\_2.pdf](http://minorityrights.org/wp-content/uploads/2015/10/MRG_Rep_Maur2_Nov15_ENG_2.pdf).

<sup>5</sup> See Jakub Sobik, *Double Court Victory: A Game Changer for Slavery in Mauritania?*, Anti-Slavery (May 18, 2016), <https://www.antislavery.org/double-court-victory-potential-game-changer-slavery-mauritania/>.

<sup>6</sup> See Marlin and Mathewson, *supra* note 4.

<sup>7</sup> See Gulnara Shahinian (Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences), *Follow-up mission to Mauritania*, U.N. Doc. A/HRC/27/53/Add.1 (Aug. 26, 2014) [hereinafter *Follow-up mission to Mauritania*]; See also *Portant incrimination de l'esclavage et réprimant les pratiques esclavagistes [Criminalizing Slavery and Punishing Slavery Practices] (LOIN° 2015-031) (Mauritania)* [hereinafter *Anti-Slavery Act 2015*].

million people remain enslaved.<sup>8</sup> An additional 46.77% of the population are vulnerable to slavery and slavery-like practices due to their race, ethnicity, and economic status.<sup>9</sup> Nevertheless, as the Committee is well aware, there is no official data to properly assess the dimension of the problem or to adopt, implement, and evaluate public policies to combat slavery in the country.

In Mauritania, slavery is defined as “the exercise of all or any ownership powers over one or several persons.”<sup>10</sup> As of 2015, slavery also includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery, to sell or exchange him; all forms of serfdom or debt bondage; all forms of forced labor; all acts of trade or transport in slaves; deprivation of property or inheritance rights, considering that the person is a slave; and deprivation of the right to go to court and to testify.<sup>11</sup> Mauritania has also included certain “placement” practices in its slavery definition. Placement includes the following situations: a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; the husband of a woman or his family who transfers her or attempts to transfer her to another person for value received or otherwise; the transmission by inheritance of a woman, upon the death of her husband, to another person; and the handing over of a child, by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labor.<sup>12</sup> Slavery is similarly defined at the international level. Pursuant to the 1926 Slavery Convention, which Mauritania ratified on June 6, 1986,<sup>13</sup> slavery is also defined as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”<sup>14</sup>

Slavery-like practices differ from traditional forms of slavery; they do not amount to legal ownership of a person. An example of slavery-like practices involving women include “forced marriage, the sale of women and killings for reasons of dowry, and the genital mutilation of female children.”<sup>15</sup> They are exploitative practices – such as serfdom, debt bondage, and domestic servitude – that extend from traditional or ancestral master-slave relationships.<sup>16</sup> In Mauritania, the descendants of slaves remain dependent on former masters because of poverty, lack of education, and lack of marketable skills.<sup>17</sup> Slavery-like practices continue largely because former masters do not allow former slaves or their descendants access or ownership of land that they traditionally farmed.<sup>18</sup> Furthermore, many former slaves

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<sup>8</sup> *Country Study: Mauritania*, THE GLOBAL SLAVERY INDEX (2017), <http://www.globalslaveryindex.org/country/mauritania/> (According to the Global Slavery Index, 43,000 estimated people are trapped in modern slavery in Mauritania. Mauritania’s total population is estimated to be 4,068,000) [hereinafter: Global Slavery Index].

<sup>9</sup> *Id.*

<sup>10</sup> *Anti-Slavery Act 2015*, *supra* note 7, at Art. 3.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Note verbale dated 6 April 2010 from the Permanent Mission of Mauritania to the United Nations addressed to the President of the General Assembly*, U.N. Doc. A/64/739 (April 6, 2010), [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/64/739/](http://www.un.org/ga/search/view_doc.asp?symbol=A/64/739/).

<sup>14</sup> *Slavery Convention*, U.N., Art. 1(1) (1926) <http://www.ohchr.org/Documents/ProfessionalInterest/slavery.pdf/>.

<sup>15</sup> Office of the High Commissioner for Human Rights, *Fact Sheet No. 14, Contemporary Forms of Slavery*, <http://www.ohchr.org/Documents/Publications/FactSheet14en.pdf/>.

<sup>16</sup> *Follow-up mission to Mauritania*, *supra* note 7.

<sup>17</sup> Marlin & Mathewson, *supra* note 4.

<sup>18</sup> *Id.*

continue to attach themselves to former masters because they believe their slave status is “divinely ordained” and that breaking the master-slave bond will incur religious punishment.<sup>19</sup> Lastly, former slaves are subjected to social discrimination which often limits them to performing manual labor for former masters.<sup>20</sup>

A majority of Mauritanian slaves and their free descendants belong to an ethnic group known as the “Haratine” or “Black Moors,” a dark-skinned people whose ancestors were first enslaved and assimilated centuries ago by the Arab-Berber population, or “White Moors.”<sup>21</sup> Due to Mauritania’s relatively late exposure to Europeans, traditional Arab-Berber culture remained strongly intact and the practice of slavery carried over to modern times.<sup>22</sup> Mauritania’s present-day social structure is hierarchical and based on ethnic distinctions between “White Moors” and “Black Moors”. The Haratine people, whether slaves or free, are at the bottom of the social pyramid.<sup>23</sup> Today, the Haratine community is the ethnic group most associated with slavery in Mauritania.<sup>24</sup>

“White Moors” comprise an elite minority that maintains control over Mauritania’s economy, government, military, and police force.<sup>25</sup> The free descendants of Haratine slaves are considered members of a slave caste, and they endure racial and other forms of discrimination, marginalization, and exclusion.<sup>26</sup> Haratines do not have equal access to economic opportunities and are excluded from many “mid- to high-level public and private sector jobs.”<sup>27</sup> Haratines are often barred from political participation; they encounter discrimination when trying to obtain national identity documents required for voting.<sup>28</sup> Although Haratines constitute 45% of the population and are the largest ethnic group in the country, they hold less than 10% of leadership positions in Mauritanian government.<sup>29</sup> Haratines who live in remote and rural areas are particularly at risk to exploitation because it is much easier to conceal slavery and slavery-like practices in secluded parts the country.<sup>30</sup> Mauritania’s White Moors no longer buy and sell slaves on an open market - slave status is inherited matrilineally, and slaves are bound to their master for life.<sup>31</sup>

This Committee and many United Nations and other human right bodies consistently criticize the practice of slavery and related human rights concerns in Mauritania.<sup>32</sup> Although

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<sup>19</sup> See Marlin & Mathewson, *supra* note 4.

<sup>20</sup> *Id.*

<sup>21</sup> Gulnara Shahinian (Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences), *Mission to Mauritania*, U.N. Doc. A/HRC/15/20/Add.2, ¶12 (Aug. 16, 2010). [hereinafter: *Mission to Mauritania*]

<sup>22</sup> Robert E. Handloff, *Mauritania a Country Study* 3–4, 11–12 (2<sup>nd</sup> ed. 1990).

<sup>23</sup> *Id.*

<sup>24</sup> *Mission to Mauritania*, *supra* note 21, at ¶12.

<sup>25</sup> Anti-Slavery (2017) <https://www.antislavery.org/what-we-do/where-we-work/mauritania/>.

<sup>26</sup> See *Mission to Mauritania*, *supra* note 21, at ¶12.

<sup>27</sup> U.S. DEPT. OF STATE, *Mauritania Human Rights Report*, 25 (2016), <https://www.state.gov/documents/organization/265490.pdf>.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Mission to Mauritania*, *supra* note 21 at ¶12.

<sup>31</sup> *Id.*

<sup>32</sup> See e.g., Shannon Garcia & Samantha MacBeth, *A Roadmap to Where? The Haratine and the Mauritanian Roadmap to Combat Slavery* 7-10, Unrepresented Nations and Peoples Workshop Lewis & Clark Law School (2014) <https://law.lclark.edu/live/files/18664-roadmap-to-where-v22pdf/>. (citing to the Special Rapporteur on contemporary forms of racism, Human Rights Committee, Committee on the Elimination of Racial Discrimination, Special Rapporteur on contemporary forms of slavery, Committee on the Rights of the

the 2015 law is an important step forward, the international community correctly remains concerned that the government's efforts to end slavery are inadequate. The new law must be accompanied by programs to train the police, prosecutors, and judges, as well as awareness campaigns to educate the public about slavery.<sup>33</sup> "To realize the potential of the 2015 anti-slavery law . . . the authorities must ensure that a range of reforms and supportive mechanisms are put in place so that its provisions are fully and effectively enforced."<sup>34</sup>

This Committee should again urge Mauritania to eradicate all slavery, slavery-like practices, and the vestiges of slavery. Despite the findings and observations this Committee made in 2013, the government of Mauritania has failed to effectively address and remedy the highlighted issues, to the extent that it continues to acquiesce in the torture and enslavement of the Haratine people within its jurisdiction.

## II. THE HISTORICAL EVOLUTION OF SLAVERY IN MAURITANIA

As this Committee is aware, slavery has long been a feature of Mauritanian society. The practice is grounded in history and is based on a deeply rooted system of social caste. The medieval slave-trade arrived in Mauritania during the 11<sup>th</sup> century.<sup>35</sup> By the mid-16<sup>th</sup> century, as many as one thousand Mauritanian slaves per year were exported by the Portuguese to work on sugar plantations.<sup>36</sup> Modern slavery and Mauritania's contemporary social caste system can be traced to the late 17<sup>th</sup> century, when Arabs in Mauritania began assimilating Berber culture.<sup>37</sup> The resultant "White Moors" established their place in the social structure as slave masters. "Black Moors" would become slaves.

France gained colonial possession of modern-day Mauritania in 1815.<sup>38</sup> Mauritanians were not citizens of France, but subjects who enjoyed no political rights or representation.<sup>39</sup> When citizenship rights were extended to certain French territories like Senegal in 1848, Mauritania was excluded.<sup>40</sup> France abolished slavery in all of its colonies in 1848, but many Mauritanians – especially people from the Haratine community – would continue to be considered members of a slave class by Mauritanian society.<sup>41</sup> France's colonial administrators did little to combat this perception, deferring instead to local custom or Islamic law.<sup>42</sup>

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Child, Committee on the Elimination of Discrimination against Women, Committee on Economic, Social and Cultural Rights, Working Group of the Universal Periodic Review on Mauritania, International Labor Organization Committee of Experts, African Commission on Human and Peoples' Rights, and United States Department of State's Human Rights Country Report). [hereinafter *A Roadmap to Where?*]

<sup>33</sup> See Committee of Experts on the Application of Conventions and Recommendations, *Follow-up to the conclusions of the Committee on the Application of Standards*, Int'l Labor Org. (2015) [hereinafter *ILO 2015*] [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:3252838/](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3252838/).

<sup>34</sup> See Marlin & Mathewson, *supra* note 4.

<sup>35</sup> See Handloff, *supra* note 22, at 7-11.

<sup>36</sup> *Id.*, at 11.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*, at 12.

<sup>39</sup> *Id.*, at 16.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*, at 21, 25.

<sup>42</sup> *Id.*, at 11, 16-17.

France sustained its colonial control by exploiting the traditional tribal hierarchy with the help of local Islamic religious leaders and White Moor authorities.<sup>43</sup> The importance of the White Moors' role in France's colonial administration cannot be overstated. By elevating White Moors to positions of administrative authority, France institutionalized the traditional system of social caste that had been used for centuries to justify slavery.<sup>44</sup>

Colonial administrators granted Mauritians even more internal autonomy after World War II, and the politically empowered "White Moors" – the traditional slave-owning class – were left to determine the country's domestic policies.<sup>45</sup> "Although there was extensive French interference in the operations of the traditional authorities, the traditional social structure of Mauritania was maintained and thrust into the modern world."<sup>46</sup> This system of social caste is now deeply embedded and accounts for slavery's persistence.

Mauritania declared its independence in 1960, and ratified a constitution in 1961 affirming the abolition of slavery and incorporating principles of the Universal Declaration of Human Rights.<sup>47</sup> The new Mauritanian government did not overtly discriminate against the Haratine, but the community endured routine discrimination in daily life and continued to be viewed as a source of slaves.<sup>48</sup> New policies in the late 1970s, such as insisting that Arabic be used in secondary schools exclusively, inflamed tensions between "White Moors" and "Black Moors."<sup>49</sup> The president, in 1980, faced with strong opposition from the black majority, announced the abolition of slavery in a move to strengthen his political position.<sup>50</sup> Slavery in Mauritania was officially abolished by law the following year.<sup>51</sup>

Although the 1981 law was a step to improve the condition of Haratines, it was insufficient because it imposed no criminal penalty for violators.<sup>52</sup> Subsequent laws have been neutral or regressive for people vulnerable to modern forms of slavery. The Land Reform Act of 1983 gave the government the power to grant undeveloped (or fallow) land to whomever had sufficient resources and pledged to improve it.<sup>53</sup> The Act's ostensible purpose was land development, but it had the effect of transferring land traditionally possessed by Black-Africans into the hands of "White Moors."<sup>54</sup> In 2003, the Suppression of Trafficking in Persons Act criminalized the recruitment, transport and transfer of persons by threat or force for sexual exploitation.<sup>55</sup> This Act was ineffective because Mauritania's police and judiciary were unable and not trained to enforce it.<sup>56</sup> In 2007, the Mauritanian government passed the Slavery Act, which criminalized slavery and slavery-like practices.<sup>57</sup> Absent from the Act was a civil cause of action for former slaves against masters.<sup>58</sup>

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<sup>43</sup> *Id.*

<sup>44</sup> *Id.*, at 17.

<sup>45</sup> *Id.*, at 20–21.

<sup>46</sup> *Id.*, at 17.

<sup>47</sup> *Mission to Mauritania*, *supra* note 21 at ¶22.

<sup>48</sup> See Handloff, *supra* note 22, at xxii, 24, 124–25.

<sup>49</sup> *Id.*, at 33–34.

<sup>50</sup> *Id.*, at 34, 41.

<sup>51</sup> Marlin & Mathewson, *supra* note 4.

<sup>52</sup> *Mission to Mauritania*, *supra* note 21 at ¶23.

<sup>53</sup> *Id.*

<sup>54</sup> See Handloff, *supra* note 22, at 105.

<sup>55</sup> *Mission to Mauritania*, *supra* note 21 at ¶29.

<sup>56</sup> *Id.*, at ¶37.

<sup>57</sup> *Id.*, at ¶71.

<sup>58</sup> *Id.*, at ¶85.

In 2015, Mauritania replaced the 2007 law with a more expansive version. The new law defines practices that constitute slavery to include serfdom and debt bondage – and it increases penalties for violators.<sup>59</sup> The Act also provides a 5-year statutory period for victims to pursue civil claims against former masters, and it states that courts are bound to enforce compensation judgements for victims.<sup>60</sup> A companion law passed the same day establishes a legal aid program for victims, although it is unclear whether this program is being implemented.<sup>61</sup> According to the Mauritanian government, 31 cases involving “slavery-like practices” have been brought to court since the law was enacted.<sup>62</sup>

Mauritania has outlawed slavery several times, but “White Moors” nonetheless continue to hold slaves.<sup>63</sup> Haratine people who have attained their freedom usually remain on their master’s land, relegated to slavery-like conditions, and fulfilling the same role as their enslaved counterparts.<sup>64</sup> These people account for nearly half the country’s population and they are vulnerable to modern forms of slavery.<sup>65</sup> Racial prejudices have not decreased in Mauritania, and the position of Haratines in society has changed very little.<sup>66</sup>

### III. MODERN LIVING CONDITIONS OF SLAVES

#### a. Modern victims of slavery and slave-like practices

Despite abolition and criminalization, slavery continues to exist within Mauritania, in large part due to the government’s persistent denial of the problem. Slave status in Mauritania is passed down from mother to child. Children born to an enslaved mother are therefore “inherited” by the children of the master.<sup>67</sup> Neither a slave mother nor a slave father has rights to their children.<sup>68</sup> Although Haratine men are not exempt from enslavement, this “descent-based” form of slavery means that the predominant victims of slavery in Mauritania today are women and children.<sup>69</sup> In direct violation of a number of international treaties to which Mauritania is bound, victims of slavery are completely deprived of their basic, fundamental human rights.<sup>70</sup> They are treated as commodities, completely lack freedom of movement, and are expected to work inhumanely long hours with no rest and little to no remuneration.<sup>71</sup> The discrimination to which Haratine women and girls are subject to is further exacerbated by general gender discrimination in the country.<sup>72</sup> “Haratine women

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<sup>59</sup> ILO 2015, *supra* note 33.

<sup>60</sup> *Anti-Slavery Act 2015*, *supra* note 7, at §23, §25.

<sup>61</sup> ILO 2015, *supra* note 33.

<sup>62</sup> *Id.*

<sup>63</sup> See Handloff, *supra* note 22, at 55.

<sup>64</sup> *Id.*

<sup>65</sup> *Global Slavery Index*, *supra* note 8.

<sup>66</sup> See Handloff, *supra* note 22, at 42, 49–50, 55.

<sup>67</sup> Minority Rights Group International, *CONSULTANCY: Facilitator for judicial workshops on application of anti-slavery laws in Mauritania on behalf of Minority Rights Group International and SOS-Esclaves*, (Nouakchott, Mauritania, 13 – 16 March 2017)

<http://minorityrights.org/about-us/jobs/consultancy-facilitator-judicial-workshops-application-anti-slavery-laws-mauritania/>

<sup>68</sup> *Mission to Mauritania*, *supra* note 21 ¶38.

<sup>69</sup> Telephone interview with Brahim Bilal Ramdane (Feb. 24 2017).

<sup>70</sup> *Mission to Mauritania*, *supra* note 21

<sup>71</sup> *Id.*

<sup>72</sup> Amnesty International, Minority Rights Group International, SOS-Esclaves (2013), *Submission to the UN Human Rights Committee, 109th session (14 October – 1 November 2013)* [hereinafter: MRG Submission 2013].



suffer triple discrimination: firstly as women, secondly as mothers, and thirdly as slaves.”<sup>73</sup> Their status as slaves or former slaves means that they experience severe social exclusion and discrimination in terms of economic equality and access to education or employment, all of which are exacerbated due to the disadvantage they already experience as women.<sup>74</sup>

Slaves are completely denied their right to family life, and female slaves may marry only with the permission of their master. This is rare, however a master may agree in order to seize the marriage dowry. Further, “a master may permit a marriage but refuse to free the slave, thereby ensuring that through the marriage, the master gets the female slave’s husband and future children to work for him or his kin.” If the male slave is seen to be influencing the departure of the master’s property (namely the enslaved women and children), a slave master can also force divorce or separation, using physical and verbal violence to force the male slave to leave.<sup>75</sup> The occurrence of forced child marriage is also prevalent within the State, which often involves the trafficking of girls to other countries. Although not slavery in the traditional legal sense, women with children face particular difficulty due to a lack of future economic or employment option, leading many parents to marry their daughters early.<sup>76</sup>

As previously described, slavery and slave-like practices are distinct. There is a particular concern with the “exploitation of girls in child labor under slave-like conditions, in particular in the south of the country.”<sup>77</sup> Underage work does not necessarily equate to slave-like practices, however many children in Mauritania are subjected to underage labor as a result of indentured and hereditary slavery, “the worst forms of child labor.”<sup>78</sup> Under Mauritanian law, children over the age of fourteen are permitted to perform non-agricultural work. Children under the age of thirteen are permitted to work in the agricultural sector if the Minister of Labor “grants an exception owing to local circumstances.”<sup>79</sup> However, there are reports of children under the age of thirteen working in all sectors.<sup>80</sup> Largely due to the ancestral master-slave relationships described previously, Haratine children in Mauritania continue to be exploited and subjected to both child labor and slave-like practices.<sup>81</sup> In some cases there are reports of young boys being forced to beg by Islamic religious leaders, known as “*marabouts*.” Religious students, or “*talibes*”, are often forced to beg on the streets for the financial benefit of the *marabouts*. This practice does not constitute slavery in the traditional legal sense, but is a severe form of exploitation which is, in fact, considered a “form” of slavery.<sup>82</sup> Children can thus be exploited through such slave-like practices while appearing to be carrying out religious duties, thus ensuring their continuous, unquestioned servitude. Although Mauritania has established programs targeting child labor, the scope of such programs is insufficient to address the extent of the problem.<sup>83</sup>

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<sup>73</sup> *Mission to Mauritania*, *supra* note 21.

<sup>74</sup> *MRG Submission to the UN 2013*, *supra* note 72.

<sup>75</sup> *Mission to Mauritania*, *supra* note 21.

<sup>76</sup> *Global Slavery Index*, *supra* note 8.

<sup>77</sup> *Follow-up mission to Mauritania*, *supra* note 7.

<sup>78</sup> U.S. DEPT. OF LABOR, Findings on the Worst Forms of Child Labor, 685 (2015) [hereinafter: U.S. Dept. of Labor 2015].

<https://www.dol.gov/sites/default/files/documents/ilab/reports/child-labor/findings/2015TDA.pdf>.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Mission to Mauritania*, *supra* note 21 at 12. (citing ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor).

<sup>83</sup> *U.S. Dept. of Labor 2015*, *supra* note 78.

Distinct from children working underage or in slave-like practices, there are two ways in which a child can become a slave in Mauritania: by birth or when given away as a gift.<sup>84</sup> For example, girls are often given away or “rented out” as wedding presents. Enslaved children are denied their basic rights to identity, family, childhood, and overall freedom. Rather than the name of their biological family, generic names are given to enslaved children at birth. Without any knowledge of their biological parents or siblings, enslaved children often view their masters as their family, making it more difficult for them to achieve freedom.<sup>85</sup> Caste-based slavery therefore has a serious impact on children, in particular the situation of girls who are enslaved as domestic servants.<sup>86</sup>

b. Access to education and the role of poverty in modern slavery

Deeply embedded discriminatory attitudes form the basis of slavery in Mauritania.<sup>87</sup> The Haratine people are indoctrinated from birth to believe that their purpose is to be subservient to the “White Moor” class. Particularly, “[u]nder a misguided interpretation of Islam, those in slavery are told that their paradise is bound to their master [...] believing that it is Allah’s wish for them to be enslaved.”<sup>88</sup> Slave-masters utilize this misinterpretation of religion as a powerful mechanism of control to keep their slaves in subordination, telling them that they will go to heaven only if they follow their master’s orders.<sup>89</sup> This misinterpretation continues to “perpetuate manifestations of slavery” in modern day Mauritania.<sup>90</sup> The State, and in particular the Ministry of Religious Affairs, has failed to adopt measures or collaborate with religious leaders in an attempt to educate citizens and dispel this misconception.<sup>91</sup>

Enslaved children in Mauritania are not permitted to attend school or receive any form of education.<sup>92</sup> Only the “White Moors” and Arabs, who hold the majority of wealth in the country, can afford to attend private school in Mauritania. The only education available to ex-slaves is the public education system, the quality of which is extremely poor in comparison to private schools.<sup>93</sup> Further, most slaves do not have birth certificates.<sup>94</sup> Although the Constitution of Mauritania guarantees free primary education for all children, in practice this provision is not enforced effectively, as the inability of former slaves and their descendants to prove citizenship can result in difficulty accessing education.<sup>95</sup> There are insufficient measures in place to ensure that children, in particular Haratine children, are able to exercise their right to education.<sup>96</sup> Children from families of slave descent, even if they

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<sup>84</sup> *Mission to Mauritania*, *supra* note 21.

<sup>85</sup> *Id.*

<sup>86</sup> U.N. Comm. on the Rights of the Child, *Concluding Observations, Mauritania*, June 17, 2009, U.N. Doc. CRC/C/MRT/CO/2 (Jun. 17, 2009). [hereinafter CRC, *Concluding Observations 2009*].

<sup>87</sup> *Mission to Mauritania*, *supra* note 21.

<sup>88</sup> *Mauritania: Tackling descent-based slavery*, ANTI-SLAVERY INTERNATIONAL, available: <https://www.antislavery.org/what-we-do/where-we-work/mauritania/>

<sup>89</sup> *Mission to Mauritania*, *supra* note 21.

<sup>90</sup> *Follow-up Mission to Mauritania*, *supra* note 7.

<sup>91</sup> *Follow-up mission to Mauritania*, *supra* note 7.

<sup>92</sup> Brahim Bilal Ramdane, *supra* note 70.

<sup>93</sup> *Id.*

<sup>94</sup> U.S. DEPT. OF STATE, Human Rights Report: Mauritania (2014), <https://www.state.gov/documents/organization/236594.pdf>. [hereinafter U.S. DEPT. OF STATE 2014].

<sup>95</sup> U.S. DEPT. OF LABOR, Findings on the Worst Forms of Child Labor (2014), <https://www.dol.gov/ilab/reports/child-labor/findings/2014TDA/mauritania.pdf>. [hereinafter U.S. DEPT. OF LABOR 2014].

<sup>96</sup> CRC, *Concluding Observations 2009*, *supra* note 86.

themselves have not been slaves, also face barriers to education.<sup>97</sup> As such, Haratines represent 85% of the total illiterate population in Mauritania, and more than 80% have not completed primary education.<sup>98</sup>

The barriers to education which Haratines face is one of the factors that explains the high level of poverty within the Haratine community. Mauritania's caste-based society means that even those who have been freed are still considered to be members of the "slave class." Poverty goes beyond income and economic prosperity; "[it] is also about social exclusion and is often closely related to discrimination."<sup>99</sup> Despite the government's continuous claim that there is no discrimination on the grounds of ethnicity or race, the relentless exclusion of Haratines from many aspects of economic and social life can "be taken as evidence of the contrary."<sup>100</sup> Former slaves are often ostracized from society, and thus find it difficult to access adequate employment.<sup>101</sup> As a result, for those living in extreme poverty, access to adequate health services is also serious concern.<sup>102</sup> A further consequence of this is a lack of equal access to political life, and thus "a systematic absence from almost all positions of real power."<sup>103</sup> Arabs in Mauritania account for only 30% of the population, yet represent close to 80% of the top leadership positions in the State.<sup>104</sup> Comparatively, Haratines account for at least 45% of the population, yet occupy less than 10% of political positions.<sup>105</sup> In fact, in 2013 it was reported that only five out of ninety-five seats in the National Assembly were held by Haratines, and only one out of fifty-six senators was Haratine.<sup>106</sup> Haratines are also severely under-represented from middle and high level leadership positions in the military, police, and security forces, as well as leadership positions within religious institutions.<sup>107</sup>

Former slaves and their descendants continue to remain in a dependent status, which is largely attributed to a lack of education, lack of marketable skills, and hereditary poverty.<sup>108</sup> As such, they often end up in service and manual labor positions in urban areas.<sup>109</sup> In some cases, former slaves and their children are forced to work for their former masters in exchange for a combination of remuneration, housing, food, and medical care.<sup>110</sup> Despite some progress achieved in poverty reduction throughout the State, a number of former slaves

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<sup>97</sup> U.S. Dept. of Labor 2015, *supra* note 78.

<sup>98</sup> MRG Submission 2013, *supra* note 72.

<sup>99</sup> Press Release, U.N. High Commissioner of Human Rights, First official visit to Mauritania by the UN Special Rapporteur on extreme poverty and human rights (April 2016), available:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19887&LangID=E>.

<sup>100</sup> Philip Alston (Special Rapporteur on Extreme Poverty and Human Rights), *End-of-mission statement on Mauritania*, (May 11, 2016).

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=19948&LangID=E>

<sup>101</sup> *Mission to Mauritania*, *supra* note 21.

<sup>102</sup> Philip Alston (Special Rapporteur on Extreme Poverty and Human Rights), *End-of-mission statement on Mauritania*, (2016), *supra* note 100

<sup>103</sup> *Id.*

<sup>104</sup> U.S. DEPT. OF STATE 2016, *supra* note 27 at 16.

<sup>105</sup> *Id.*

<sup>106</sup> UN Human Rights Committee, *Report of the Working Group on the Universal Periodic Review, Mauritania*, December 23, 2015, U.N. Doc. A/HRC/31/6, at 13. [hereinafter: Universal Periodic Review 2015].

<sup>107</sup> MRG Submission 2013, *supra* note 72 at 6.

<sup>108</sup> *Id.*

<sup>109</sup> *Mission to Mauritania*, *supra* note 22.

<sup>110</sup> U.S. DEPT. OF STATE 2014, *supra* note 95.

and their descendants still live in extreme poverty.<sup>111</sup> Lacking the means to find an alternative livelihood, former slaves often find themselves back in slavery as a result of this discrimination<sup>112</sup>, thus “restarting the process of exploitation.”<sup>113</sup>

c. Living conditions

i. Physical conditions

The physical conditions to which slaves in Mauritania are subjected are cruel, inhuman, and a clear violation of their basic human rights. Slaves are completely dependent on their masters for food, clothing and shelter.<sup>114</sup> It is common for slaves to have no shelter whatsoever. They are often forced to sleep outside, and will have either a makeshift room behind the house, or will be forced to sleep “where the dogs live.”<sup>115</sup> Occasionally, if the master is wealthy, enslaved women may be permitted to sleep inside the home; this, however, is rare. As slaves are considered to be property themselves, they are prohibited from owning any property or possessions.<sup>116</sup>

Once freed, slaves often live together in shacks or tents made from dirty clothes.<sup>117</sup> “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 which are plagued by poverty and illiteracy.”<sup>118</sup> Former slaves generally live together in one room, covered only by a corrugated metal roof. The makeshift shacks have no furniture, and individuals sleep on the floor with sheets warm enough to cover them only in summer.<sup>119</sup> There is a serious need for the Mauritanian Government to address housing, land, and property rights of former slaves. Haratine women in particular continue to face barriers to land and property ownership. They often live in seriously disadvantaged areas, and have limited access to a number of social services.<sup>120</sup> Much of this is attributed to the previously described discrimination and poverty to which both Haratine men and women are subjected, as well as the heightened discrimination which Haratine women face. Land ownership and land tenure are central to ensuring a sustainable livelihood, and ensuring access to such ownership and adequate housing can prevent former slaves from returning to their masters and entering “voluntary servitude.”<sup>121</sup>

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<sup>111</sup> U.N. Comm. on Economic, Social and Cultural Rights, *Concluding Observations on the initial Report of Mauritania*, December 10, 2012, U.N. Doc. E/C.12/MRT/CO/1, (Dec. 10, 2012). [hereinafter CESCR, Concluding Observations 2012].

<sup>112</sup> *Mission to Mauritania*, *supra* note 22.

<sup>113</sup> *A Look at Mauritania's Troubled History of Slavery*, UNREPRESENTED NATIONS AND PEOPLES ORGANIZATION (Jan. 6, 2015), <http://unpo.org/article/18790>. [hereinafter *A Look at Mauritania's Troubled History of Slavery*].

<sup>114</sup> *Mission to Mauritania*, *supra* note 22.

<sup>115</sup> Brahim Bilal Ramdane, *supra* note 70.

<sup>116</sup> Anti-Slavery International, *Thematic report on slavery in Mauritania for the UN Human Rights Committee, 107th session, 11- 28 March 2013*, (Dec. 21, 2012) [Thematic report on slavery in Mauritania 2012]

[http://webcache.googleusercontent.com/search?q=cache:G2LF1qkrFMcJ:tbinternet.ohchr.org/Treaties/CCPR/S\\_hared%2520Documents/MRT/INT\\_CCPR\\_NGO\\_MRT\\_14502\\_E.doc+&cd=1&hl=en&ct=clnk&gl=au](http://webcache.googleusercontent.com/search?q=cache:G2LF1qkrFMcJ:tbinternet.ohchr.org/Treaties/CCPR/S_hared%2520Documents/MRT/INT_CCPR_NGO_MRT_14502_E.doc+&cd=1&hl=en&ct=clnk&gl=au)

<sup>117</sup> *Id.*

<sup>118</sup> *A Look at Mauritania's Troubled History of Slavery*, *supra* note 115.

<sup>119</sup> John D. Sutter, *Slavery's Last Stronghold*, CNN, <http://www.cnn.com/interactive/2012/03/world/mauritania.slaverys.last.stronghold/>

<sup>120</sup> *MRG Submission 2013*, *supra* note 72.

<sup>121</sup> *Follow-up Mission to Mauritania*, *supra* note 7.

## ii. Typical duties performed

Slaves are forced to work all day without rest.<sup>122</sup> The typical duties performed varies based on gender and geographic location. Enslaved men and boys typically herd animals or work in the fields, while women and children are generally used as domestic servants.<sup>123</sup> “Female slaves who live in their masters’ homes are rarely allowed out of the master’s camp and generally work from before sunrise to after sunset, caring for the master’s children, fetching water, gathering firewood, pounding millet, moving tents made of heavy animal skin and performing other domestic tasks.”<sup>124</sup> Enslaved children begin working at a very young age.<sup>125</sup> In the countryside, children are usually forced to work in the fields tending to animals and subsistence crops, whereas children in urban areas are more likely to be used as household servants.<sup>126</sup> Elderly slaves are also expected to continue working regardless of age or health issues.<sup>127</sup> This often results in the children of elderly slaves remaining in the master’s home for longer than necessary in order to care for their parents, thus continuing the cycle of generational slavery.

## iii. Physical and sexual abuse

Slavery in Mauritania affects women differently to men. Women are significantly more likely to experience sexual exploitation, which often develops into slave-owners controlling their reproductive capacity, for example by forcing the termination of a pregnancy and vice versa.<sup>128</sup> Further, young girls in slavery are highly likely to suffer sexual violence and rape by their masters. It has been reported that one in five girls working as domestic workers are subjected to sexual violence<sup>129</sup>, although the lack of official investigation into slavery in the State, and thus lack of reliable statistics and data, means that the number is likely much higher. As such, the physical and psychological effects of slavery are usually worsened for enslaved women and girls.<sup>130</sup>

An enslaved woman may be raped not only by her master, but by his sons, friends, and anyone else whom the master permits.<sup>131</sup> There are reports of enslaved women being raped in front of their children, as well as being forced to watch their daughters being raped at gunpoint.<sup>132</sup> Because slaves are considered to be the “property” of the masters, women are commonly forced to marry slave masters as is believed to be “the right of the master.”<sup>133</sup> Further, enslaved women often become forcibly pregnant with their masters’ children.<sup>134</sup> As such, enslaved women are less likely to disobey their masters or attempt to escape when they

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<sup>122</sup> Brahim Bilal Ramdane, *supra* note 71.

<sup>123</sup> *Mission to Mauritania*, *supra* note 21.

<sup>124</sup> *Id.*

<sup>125</sup> See Marlin & Mathewson, *supra* note 4 at 3.

<sup>126</sup> International Labor Organization, *Observation (CEACR) adopted 2011, published 101st ILC session (2012), Worst Forms of Child Labor Convention, 1999 (2012), Mauritania (2012)*,

[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100\\_COMMENT\\_ID:2700636](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:2700636)

<sup>127</sup> *Id.*

<sup>128</sup> *MRG Submission 2013*, *supra* note 72.

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> Johanna Higgs, *It Still Exists: Slavery Drags on in Mauritania Despite Being Illegal*, PassBlue, <http://www.passblue.com/2017/02/15/it-still-exists-slavery-drags-on-in-mauritania-despite-being-illegal/> (last visited Apr. 2, 2017)

<sup>132</sup> *Thematic report on slavery in Mauritania 2012*, *supra* note 116.

<sup>133</sup> Brahim Bilal Ramdane, *supra* note 71.

<sup>134</sup> *Mauritania: Tackling descent-based slavery*, *supra* note 89.

are unaware of the whereabouts of their children. This system is used as a powerful mechanism of control, whereby masters take away the children of enslaved mothers in order to maintain complete domination over them.<sup>135</sup> The gravity of this situation makes it impossible for such women to report sexual abuse and seek any kind of support.<sup>136</sup>

Enslaved women continue to be subject to sexual exploitation and violence once freed. Because of their status as former slaves or Haratine women generally, they face a severe lack of economic and employment opportunities. As such, many of them are forced into exploitative arrangements as domestic or sex workers. For those women who cannot secure even this type of employment, they are forced to return to their former masters and work in exchange food, money, and accommodation, thus continuing to endure slave-like exploitation and abuse even once “freed”.<sup>137</sup>

Victims of slavery, both male and female, face physical beatings on a daily basis, and have described situations whereby their master exercised complete control over them through the use of physical, verbal, and psychological abuse. Slaves are often beaten for no reason whatsoever.<sup>138</sup> When presented with the opportunity to escape, many slaves, in particular children, do not make such attempts out of fear or being killed.<sup>139</sup> Victims are “completely controlled by their owner using physical and/or mental threats, [and cannot] independently make any decision related to their lives without his or her master’s permission.”<sup>140</sup>

#### iv. Access to healthcare and adequate food

Generally, slaves are provided only the “scraps” or remains of food not eaten by the master.<sup>141</sup> They are not permitted to eat at the same time as the family, nor can they sleep in the same rooms or wear the same clothes.<sup>142</sup> There are reports of enslaved children who were rarely given any food at all, and were forced to work long days from the time they could walk with little sustenance to help them.<sup>143</sup> Additionally, slaves are given very little, if any, medical attention. Dependent on the master, a slave may be taken to a hospital if the illness is serious enough, however, they are never taken to clinics as it is too expensive.<sup>144</sup> In their 2013 thematic report, Anti-Slavery International reported one situation where a master forcibly made a young girl, whom he had raped, miscarry. When she became seriously ill as a result, the master refused to take her for medical care, forcing her to rely on Haratine neighbors to take her to a hospital where her child was stillborn.<sup>145</sup>

As is the case with access to education, a former slave’s lack of registration documents often results in a denial of access to essential health services.<sup>146</sup> Further, food shortages in Haratine villages are so extreme that there have been reports of children eating

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<sup>135</sup> MRG Submission 2013, *supra* note 72.

<sup>136</sup> *Id.*

<sup>137</sup> U.S. DEPT. OF LABOR 2014, *supra* note 96.

<sup>138</sup> *African Union hearing on child slaves hailed as milestone for Mauritania*, THE GUARDIAN (Oct. 28, 2016), <https://www.theguardian.com/global-development/2016/oct/28/african-union-hearing-child-slaves-milestone-mauritania-said-yarg-ould-saleme-hassine>.

<sup>139</sup> U.S. DEPT. OF LABOR 2014, *supra* note 96.

<sup>140</sup> *Mission to Mauritania*, *supra* note 21.

<sup>141</sup> Brahim Bilal Ramdane, *supra* note 71.

<sup>142</sup> *African Union hearing on child slaves hailed as milestone for Mauritania*, *supra* note 141.

<sup>143</sup> *Thematic report on slavery in Mauritania 2012*, *supra* note 116.

<sup>144</sup> Brahim Bilal Ramdane, *supra* note 71.

<sup>145</sup> *Id.*

<sup>146</sup> GLOBAL SLAVERY INDEX, *supra* note 8.

“sand and gritty earth” in order to relieve their hunger pangs. “Such conditions are yet another reason some Mauritanian slaves actually prefer to stay in the homes of their masters: If they leave, it’s difficult to survive.”<sup>147</sup>

#### IV. INSUFFICIENT MEASURES TAKEN BY THE GOVERNMENT

Although slavery in Mauritania was abolished in 1980, criminalized in 2007 and 2015, and designated as a crime against humanity under the 2012 constitutional reform, de facto slavery continues to flourish due to the insufficient measures taken by the Government. The International Labor Organization Committee of Experts criticized Mauritania for its measures, specifically stating that “the actions of the Government to combat slavery remain insufficient and do not create an enabling environment for its eradication, but instead maintain an environment conducive to the development of slavery.”<sup>148</sup>

Despite the Government publishing the “Roadmap to Combat the Vestiges of Slavery” (Roadmap) in 2014,<sup>149</sup> amending the Slavery Act in 2015, and taking other measures to fight against slavery, Mauritania has failed in its duty to adopt all the necessary and effective measures to end slavery, provide rehabilitation programs for victims, investigate possible slavery situations, hold slave masters criminally responsible, and create an effective system to monitor slavery and slave-like practices. This failure is due to the several flaws of the current legislation, lack of enforcement, and various barriers in effectively addressing slavery within Mauritania.

##### a. Critique of the current legislation, the Slavery Act of 2015

The Slavery Act of 2007 criminalized slavery and slavery-like practices. In 2010, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (“Special Rapporteur on slavery”) published a set of recommendations urging the Government to adopt a national strategy to combat slavery and to modify the Slavery Act of 2007.<sup>150</sup> As a response, in March 2014 the Government published a roadmap outlining steps it would take in order to comply with the recommendations of the Special Rapporteur on slavery.<sup>151</sup> In 2015, a new slavery act was promulgated (“Slavery Act of 2015”), which replaced the 2007 act.<sup>152</sup> Since its enactment, however, not much has changed in Mauritania. This is due to the numerous flaws of the Act, as well as its lack of enforcement by officials. This Act should be amended to ensure better protection for victims recognized as slaves.<sup>153</sup>

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<sup>147</sup> *Slavery’s Last Stronghold*, *supra* note 120.

<sup>148</sup> International Labour Conference, *Application of International Labour Standards 2014(I): Report of the Committee of Experts on Application of Conventions and Recommendations*, 139–40, ILC.103/III(1A) (103d Sess., 2014). at 138 [hereinafter *ILO 2014*].

<sup>149</sup> *Slavery in Mauritania: The “Roadmap to Combat the Vestiges of Slavery” is not being implemented convincingly*, SOCIETY FOR THREATENED PEOPLES (2016), [http://www.gfbv.de/fileadmin/redaktion/Publikationen\\_Dokumente/2016/RAPPORT\\_FEUILLE-DE-ROUTE\\_englishSummary.pdf](http://www.gfbv.de/fileadmin/redaktion/Publikationen_Dokumente/2016/RAPPORT_FEUILLE-DE-ROUTE_englishSummary.pdf).

<sup>150</sup> Marlin & Mathewson, *supra* note 4 at 5.

<sup>151</sup> Press Release, U.N. High Commissioner of Human Rights, Mauritanian new anti-slavery law: Effective enforcement is the key – UN rights expert (Aug. 21, 2015), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16338&LangID=E>.

<sup>152</sup> Government of Mauritania, *Loi n° 2015-031, portant 55 incrimination de l’esclavage et réprimant les pratiques 56 esclavagistes*, (Sept. 10 2015).

<sup>153</sup> *Follow-up mission to Mauritania*, *supra* note 8 at ¶36.

The Slavery Act of 2015 fails for its lack of reference to rehabilitation programs. Such programs are necessary to provide ex-slaves with an alternative means of livelihood so that they are completely freed of slave-like conditions. Without rehabilitation programs, former slaves risk ending up in voluntary servitude whereby they continue working for their master in exchange for cash or for other amenities, such as lodging, food, and clothing.<sup>154</sup> Therefore, the Act should provide additional services to assist slaves who have fled their masters. Such services should include legal advice, temporary shelter and, wherever possible, microcredit for small businesses.<sup>155</sup> In order to completely eradicate slavery and to eliminate its vestiges, the Special Rapporteur on slavery recommended that “the amended law and plan of action should be supported by a wide range of programmes that provide, for example, access to basic education, vocational training, income-generating opportunities, microcredit and equal access to employment opportunities.”<sup>156</sup> The Special Rapporteur on slavery recommended specific training for former slaves, stating they should be “receiving training . . . to be able to obtain professional qualifications and register through State or non-State labor agencies in order to get legal jobs.”<sup>157</sup>

The above recommendation is not specifically provided for anywhere in the Roadmap. Although the Government’s Roadmap declares the need to “add provisions on reintegration programs” in the 2007 Act in, this recommendation does not specify what programs it seeks to add, making their responsibility to implement such programs nonexistent.<sup>158</sup> Likewise, financial and economic support to former slaves is not specifically provided for in the Roadmap.<sup>159</sup> Therefore, Mauritania has been urged to adopt a more comprehensive strategy that would include specific programs enabling victims to leave the situation of economic and psychological dependence and the protection and reintegration of victims.<sup>160</sup> Most recently, the Special Rapporteur on slavery highlighted the need for “a holistic approach to eradicating slavery, combining the criminal law approach with measures aimed at addressing root causes of contemporary forms of slavery and programmes for victim protection, assistance and socio-economic integration with a view of providing them with alternative livelihoods.”<sup>161</sup> She had also called for greater aid to victims, including specific plans for compensation and reintegration into society, as well as medical, psychological and material support.<sup>162</sup>

The Slavery Act of 2015 must be amended in order to allow all human rights associations and public interest organizations to assist victims of slavery, not just those that are legally recognized. Article 22 of the Act states that “Any *legally recognised* human rights association is entitled to report violations of this law and to assist victims of such offences.” Similarly, Article 23 states that “Any public interest organization and any organization dedicated to the defense of human rights and the fight against slavery and slavery practices, having had *legal personality for at least five years* at the date of the facts, can engage in legal

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<sup>154</sup> *Mission to Mauritania*, *supra* note 22 at ¶89.

<sup>155</sup> *Follow-up mission to Mauritania*, *supra* note 8 at ¶40.

<sup>156</sup> *A Roadmap to Where?*, *supra* note 32 at 21.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.* at 18.

<sup>159</sup> *Id.* at 18.

<sup>160</sup> *ILO 2014*, *supra* note 151 at 140.

<sup>161</sup> Press Release, U.N. High Commissioner of Human Rights, Mauritanian new anti-slavery law: Effective enforcement is the key – UN rights expert (Aug. 21, 2015), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16338&LangID=E>.

<sup>162</sup> Marlin & Mathewson, *supra* note 4, at 5.



proceedings and bring a civil action for damages.” Although Mauritania has been congratulated for including these provisions that were absent in the 2007 act and which authorize civil societies to assist victims and lodge complaints in courts on their behalf as civil party, there is still concern with the parameters set up within the law. The Special Rapporteur on slavery expressed concern the requirements set in the law might impede civil societies ability to help slavery victims.<sup>163</sup> The requirement that the human rights association and public interest organization must be legally recognized proves to be an impossible barrier to navigate in Mauritania, especially if the mission of the organization is to fight against slavery, as is explained in the next section. Lastly, the 2015 Act lacks a retroactivity amendment, making it unclear how current cases brought under the 2007 law will be prosecuted.<sup>164</sup>

b. Government’s active repression of human rights defenders

The Government does not provide support for civil society organizations that are committed to human rights and the abolishment of slavery.<sup>165</sup> In fact, the Government has a pattern of refusing to register some NGOs as legal entities simply because they have drawn too much public attention to the issue of slavery.<sup>166</sup> The Committee on the Elimination of Racial Discrimination (CERD) has expressed its concern that some non-governmental human rights were not being legally recognized, even though they applied for such recognition.<sup>167</sup> CERD recommended that Mauritania “remove all constraints on the exercise of freedom of association and that it recognize the non-governmental human rights organizations.”<sup>168</sup> Despite that recommendation in 2004, the barrier to achieve legal recognition is still present in 2017.

For example, SOS-Eslaves and the Initiative for the Resurgent Abolition Movement (“IRA”) are two human rights organizations which have been affected by the government’s attempts to suppress anti-slavery advocates. These two groups seek to “expose the realities of the practice, challenge its widespread acceptance and defend the rights of those seeking to escape slavery.”<sup>169</sup> SOS-Eslaves and the IRA also work to end discrimination faced by people of slave descent.<sup>170</sup>

SOS-Eslaves was created in 1995 and declared illegal in 1998, and finally received official recognition in 2005.<sup>171</sup> Receiving official recognition was no minor feat; it took years of pressure from the international community.<sup>172</sup> The IRA has tried to be officially registered since its creation in 2008, but its efforts have been unsuccessful.<sup>173</sup> To this day, IRA has “faced a systematic and ungrounded refusal by the authorities,”<sup>174</sup> despite its many

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<sup>163</sup> Press Release, *supra* note 163.

<sup>164</sup> Marlin & Mathewson, *supra* note 4 at 5.

<sup>165</sup> *Slavery in Mauritania: The “Roadmap to Combat the Vestiges of Slavery” is not being implemented convincingly*, *supra* note 152.

<sup>166</sup> *Id.*

<sup>167</sup> U.N. Comm. on the Elimination of Racial Discrimination, *Concluding Observations, Mauritania*, December 10, 2004, U.N. Doc. CERD/C/65/CO/5, ¶ 11, 15, 23 (Dec. 10, 2004). [hereinafter CERD, *Concluding Observations* 2004].

<sup>168</sup> *Id.*

<sup>169</sup> Marlin & Mathewson, *supra* note 4 at 5.

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

achievements. The IRA and its members have received several awards and recognitions for their fight against slavery, racism, and gender oppression in Mauritania.<sup>175</sup> Due to the IRA's involvement with supporting the struggle against slavery, this organization has been, and continues to be, a target of harassment by the Government of Mauritania. Despite international recognition, as of 2017, the Government of Mauritania has refused so far to legally recognize the IRA. In fact, the IRA has branches in countries such as Belgium, France, and the United States, amongst others, so that it can continue its efforts in eradicating slavery, racism, and gender oppression.<sup>176</sup>

By arbitrarily and unreasonably preventing legal recognition of certain organizations in Mauritania, the Government is also limiting the availability of recourse for slavery victims. Without legal recognition, organizations cannot assist victims or lodge civil complaints on their behalf. Therefore, the potential number of advocates for slavery victims is severely limited and possibly bars the availability of a civil cause of action for victims. This would leave victims with a rather unfavorable alternative; rely on the police and prosecution to enforcement of the Act through a criminal prosecution.<sup>177</sup> As such, many victims remain will silent and not report crimes committed against them. Such a result would be contrary to the purpose of enacting the Slavery Act. Furthermore, when the Government denies legal recognition, anti-slavery activists are then arrested and criminally charged for being a member of an unapproved association.

Even with the recent criminalization of slavery in mind, the Government has continuously failed to appropriate measures to protect victims of slavery. Instead, it has been actively repressing human rights defenders and those who protest against slavery. In its concluding observations on the Mauritania report, the Human Rights Committee noted with concern that human rights defenders and activists have been “threatened, intimidated and harassed by members of security forces” or police.<sup>178</sup> Likewise, because of their work as anti-

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<sup>175</sup> In 2011, Biram won the German Weimar Human Rights Award for his work against slavery. Marlin & Mathewson, *supra* note 4. In 2013, Biram was also awarded the UN Human Rights Prize and the Front Line Award for Human Rights Defenders at Risk. *Id.* On 10 December 2015, the IRA was awarded the Human Rights Tulip Award, a prestigious prize awarded by the Dutch government, in recognition of their continuous fight against slavery and discrimination in Mauritania. *IRA-Mauritania Receives Human Rights Tulip Award*, UNREPRESENTED NATIONS AND PEOPLES ORGANIZATION (Dec. 11, 2015), <http://unpo.org/article/18790>. On 22 June 2016, the IRA was awarded the prestigious James Lawson Award for the achievement in the practice of nonviolent conflict, given in recognition for the organization's “nonviolent combat and for its struggle to free slaves and conquer slavery in Mauritania.” *ANNOUNCING: The 2016 James Lawson Award*, INT'L CENTER ON NONVIOLENT CONFLICT <https://www.nonviolent-conflict.org/james-lawson-awards-recognizing-excellence-studying-practicing-reporting-nonviolent-conflict/>. On 1 July 2016, The Office to Monitor and Combat Trafficking in Persons (TIP), US Department of State, chose the President and Vice President of IRA among its 2016 heroes. U.S. DEP'T OF STATE, *TRAFFICKING IN PERSONS REPORT 50* (2016).

<sup>176</sup> See *Le Royaume de Belgique reconnaît IRA*, INITIATIVE FOR THE RESURGENT ABOLITION MOVEMENT (May 4, 2016), <http://www.iramauritanie.org/2016/05/le-royaume-de-belgique-reconnait-ira/>; JOURNAL OFFICIEL DE LA REPUBLIQUE FRANCAISE, [https://apps.irs.gov/app/eos/pub78Search.do?ein1=&names=abolition&city=&state=All...&country=US&deductibility=all&dispatchMethod=searchCharities&submitName=Search;](http://www.journal-officiel.gouv.fr/association/index.php?ACTION=Rechercher&HI_PAGE=1&HI_COMPTEUR=0&original_method=get&WHAT=IRA+mauritanie&approche=1&JTH_ID=&JAN_BD_CP=&JRE_ID=&JAN_LIEU_DECL=&JTY_ID=&JTY_WALDEC=&JTY_SIREN=&JPA_D_D=&JPA_D_F=&rechercher.x=29&rechercher.y=6&rechercher=Rechercher; Exempt Organizations Select Check, INTERNAL REVENUE SERVICE, <a href=)

<sup>177</sup> Issue with relying on the police and prosecution for the enforcement of the Act is discussed in the following subsection (c).

<sup>178</sup> U.N. Human Rights Committee, *Concluding Observations on the Initial Report of Mauritania*, U.N. Doc. CCPR/C/MRT/CO/1, ¶22 (Nov. 21, 2013).

slavery human rights defenders, protestors and activists have been the subject of repeated acts of judicial harassment, intimidation and deprivation of their legally recognized rights. Many activists are arrested for taking part in peaceful protests, sit-ins, or marches. Once detained, they are degraded, tortured, and refused medical treatment for government-inflicted wounds.<sup>179</sup> Specifically, in November 2014, three anti-slavery activists were arrested on anti-terrorism charges and subsequently sentenced in January 2015 to two years' imprisonment.<sup>180</sup> In July 2015, protestors that gathered to demand release of the activists were tear-gassed and arrested by police.<sup>181</sup> In August 2015, the appeal against those sentences was dismissed.<sup>182</sup> Due to the arrest and prosecution of activists by the Government, there is a lack of confidence in current and former slaves or their advocates that the Government is serious about ending the practice of slavery in Mauritania.<sup>183</sup> This is even more true in light of the failure to prosecute slave masters.

Although the United Nations mandate on human rights defenders acknowledges that the criminalization of participation in unregistered entities is contrary to the right to freedom of association,<sup>184</sup> the Government pursues this strategy through its enforcement of the Law on Associations. The Law on Associations imposes severe civil and criminal consequences on those who operated without authorization. Article 8 states that those who hold administrative positions in an unauthorized organization will receive a 3,000 to 540,000 UM fine as well as a term of imprisonment of one to three years. For those who just participate in the operation of unauthorized associations, they are subject to a fine of 3,000 to 270,000 UM, as well as a term of imprisonment of six months to one year. Applying criminal sanctions in this context is contrary to any international human rights standard because it does not fall within the acceptable reasons for restrictions, and because consequences must be proportional to the acts committed. However, applying criminal law is never proportional to joining a human rights demonstration.

It is important to note that Mauritania has rejected recommendations made in the Universal Periodic Review Report from Ireland, Belgium, and Germany to “prevent the arbitrary arrest and detention of human rights defenders, to release human rights defenders calling for abolition of slavery, and to create a safe and enabling environment in which human rights defenders can operate freely and safely.”<sup>185</sup> This shows that the Government's attitude is incapability with its international obligations, and that it does not plan on effectuating adequate change anytime soon.

### c. Lack of enforcement of applicable anti-slavery laws

The restrictive language in the Slavery Act of 2015 requires human rights associations and public interest organizations to be legally recognized before they may assist victims and lodge civil complaints on their behalf. Since many organizations are often denied legal

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<sup>179</sup> Marlin & Mathewson, *supra* note 4 at 5.

<sup>180</sup> *Id.* at 2.

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> U.N. Human Rights Office of the High Commissioner, *Commentary to the Declaration on Human Rights Defenders: an essential guide to the right to defend human rights*, 39, <http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>.

<sup>185</sup> *Mauritania: Amnesty International Calls for an End to Slavery and Torture and Ill-Treatment in Mauritania*, AMNESTY INT'L (March 22, 2016), <https://www.amnesty.org/en/documents/afr38/3691/2016/en/>.

recognition, there is an increased likelihood that victims of slavery will be forced to rely entirely on the police and prosecution for the Act's enforcement.

However, police and the prosecution have “shown a reluctance to follow up on allegations of slavery-like practices, with most cases being closed without any proper investigation.”<sup>186</sup> Both government officials and civil society representatives in Mauritania concede that lack of enforcement is a problem that allows slavery to continue.<sup>187</sup> This reluctance is also shown in judiciary. The Special Rapporteur on slavery was informed that judges are hesitant to provide appropriate, legal remedies in order to protect victims of slavery.<sup>188</sup> In the past, when the 2007 act was still governing, magistrates did not always apply it because “they did not want to be seen as breaking ranks or ostracized by their kin.”<sup>189</sup> Similarly, the investigatory authorities have a tendency to shelve cases without follow up, and the judicial authorities to re-classify the facts to avoid the application of provisions criminalizing slavery.<sup>190</sup> Specifically, where cases of slavery are reported to the relevant authorities, some are reclassified and filed under a different name such as “inheritance or land dispute.”<sup>191</sup> This results in cases never being reported as “slavery” cases and therefore, judicially, slavery cases do not exist.<sup>192</sup>

For example, the Minority Rights Group (“MRG”) gathered a selection of twenty-nine slavery cases in 2015, including their current status in the Mauritanian justice system.<sup>193</sup> Although the examples MRG provides were by no means exhaustive, they adequately illustrated the manner in which cases of slavery are dealt with. Specifically, how these cases “are routinely obstructed at different stages of reporting, investigation and prosecution.”<sup>194</sup> Out of those twenty-nine cases, four were closed by the police without an investigation, six were closed by the prosecution due to an unwillingness to prosecute, three cases have been blocked at the prosecution stage for years, and four cases were either reclassified as a non-slavery offense or the prosecution brought charges on lesser, non-slavery offenses.<sup>195</sup> In addition, several cases remain pending after several years, complaints were retracted due to pressure from slave masters, and many cases were settled with “informal arrangements,” such as a cow and a calf or simply paying a fine.<sup>196</sup>

Although Mauritania established special courts for hearing slavery cases, there has been less than a handful of convictions. Mauritania contends that the national courts have dealt with thirty-two cases of slavery-like practices, and that the “judgments in these cases resulted in convictions of imprisonment, judicial review, fines and civil reparation for the victims.”<sup>197</sup> However, there has only been three convictions of slavery in the ten years that the Slavery Act was originally made a law, and only one of those convictions has been after the Slavery Act of 2015. Furthermore, those convicted are given relatively low sentences and

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<sup>186</sup> *Follow-up mission to Mauritania*, *supra* note 7 at ¶11., *See also Concluding Observations 2013*, *supra* note 1.

<sup>187</sup> *Mission to Mauritania*, *supra* note 21 at ¶90.

<sup>188</sup> *Id.* at ¶94.

<sup>189</sup> *Id.*

<sup>190</sup> *ILO 2015*, *supra* note 33.

<sup>191</sup> *Mission to Mauritania*, *supra* note 21 at ¶91.

<sup>192</sup> *Id.*

<sup>193</sup> *Marlin & Mathewson*, *supra* note 4 at 17.

<sup>194</sup> *Id.*

<sup>195</sup> *Id.*

<sup>196</sup> *Id.*

<sup>197</sup> U.N. Comm. on the Elimination of Racial Discrimination, *Eighth to fourteenth periodic reports of States parties due in 2008, Mauritania*, ¶155, U.N. Doc. CERD/C/MRT/8-14 (Feb. 9, 2017).

finances in comparison to the years of hardship their slaves faced. In 2010, a slave master was prosecuted for owning two boys, aged 10 and 11. She was sentenced to a two-year imprisonment term but was released after serving only four months.<sup>198</sup> This case also led to the arrest and imprisonment of anti-slavery activists who brought the case to the government's attention."<sup>199</sup> In 2016, two slave masters were sentenced to five years in prison and were required to pay a fine of 6 million UM.<sup>200</sup> However, the men are likely to serve only one year of the sentence, according to Anti-Slavery International.<sup>201</sup> Like mentioned above, officials show a pattern of non-enforcement of the Slavery Act. As a result, cases of slavery are routinely obstructed at different stages of reporting, investigation and prosecution, and the conviction rate under the Act is extremely low. Many cases are closed by the police without an investigation, closed or even blocked by the prosecution due to its unwillingness to prosecute, and even reclassified as a different crime, such as battery or child exploitation.<sup>202</sup> The failure to implement the law and prosecute public officials who fail to comply with its provisions has allowed for continued abuse of people living in slavery.<sup>203</sup> Although it is true that more cases are being brought to court, "difficulties persist in obtaining the conviction of those responsible with the imposition of really dissuasive penal sanctions."<sup>204</sup>

This reluctance by the police, prosecution, and judges deters victims of slavery to lodge a criminal complaint for fear of retribution or other harm.<sup>205</sup> Judges also fear removal if they decided a case in a slavery victim's favor or simply decide a case against the President's wishes.<sup>206</sup> The President has actually removed judges for deciding a case a way he did not like, such as Mohammad Neiny.<sup>207</sup> Such actions impede on the victims' ability to express themselves and to be heard in a court of law. Without enforcement, the Slavery Act is seemingly useless; it provides no benefits to the individuals it was created to protect and provide redress for.

d. Inadequate government agencies, courts, and programs in place to address slavery in Mauritania

The Mauritanian Government created the National Agency for the Fight against the Consequences of Slavery, for Reintegration and for the Fight against Poverty (Tadamoun) in March 2013. Tadamoun is responsible for "identifying and proposing programs to eradicate the consequences of slavery and to ensure their implementation."<sup>208</sup> Although the agency may lodge complaints against alleged perpetrators of slavery-like practices on behalf of the

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<sup>198</sup> *Slavery Convictions in Mauritania: Real Reform or Deliberate Deception?*, FRONT PAGE MAGAZINE (June 10, 2016), <http://www.frontpagemag.com/fpm/263142/slavery-convictions-mauritania-real-reform-or-stephen-brown>.

<sup>199</sup> John D. Sutter, *Attorney: Charges Against Liberated Mauritanian Slave Dropped*, CNN, <http://www.cnn.com/2014/10/20/opinion/sutter-mauritania-slave-charged/> (last updated Oct. 23, 2014); Alexis Okeowo, *Freedom Fighter: A Slaving Society and an Abolitionist's Crusade*, *The New Yorker* (Sept. 8, 2014), <http://www.newyorker.com/magazine/2014/09/08/freedom-fighter>.

<sup>200</sup> John D. Sutter, *'It's unbelievable': Turning point for slavery's last stronghold*, CNN (May 19, 2016), <http://www.cnn.com/2016/05/19/opinions/sutter-mauritania-slavery-convictions/>.

<sup>201</sup> *Id.*

<sup>202</sup> Marlin & Mathewson, *supra* note 4 at 17-18.

<sup>203</sup> *Id.* at 2.

<sup>204</sup> *ILO 2015*, *supra* note 33.

<sup>205</sup> *Mission to Mauritania*, *supra* note 7 at ¶90.

<sup>206</sup> Brahim Bilal Ramdane, *supra* note 71.

<sup>207</sup> *Id.*

<sup>208</sup> *Follow-up mission to Mauritania*, *supra* note 7 at ¶17.

victims as a civil party, the agency has not received any complaints alleging slavery or slavery-like practices.<sup>209</sup> This is due to the faulty set up of the agency since it is not independent, impartial, or autonomous. Tadamoun is administratively, part of the Presidency of the Republic. As such, the Special Rapporteur on slavery has expressed concern that the agency's standing as a civil party contravenes the principle of the separation of powers.<sup>210</sup> In fact, many others have become weary of the agency's ability to adequately fight for those affected by slavery and do not perceive the agency as independent from the Government.<sup>211</sup> Without a trusted mechanism for lodging civil complaints, slavery victims may only rely on the Slavery Act of 2015 which has several issues of its own.

Former slaves have complained about the lack of social, economic, and education-related support from the authorities, despite the founding of Tadamoun, which is supposed to provide help for former slaves and to further their integration into society and the economy.<sup>212</sup> Tadamoun continues to be ineffective as this agency tends to "initiate projects to combat poverty in general, instead of focusing on the former slaves and helping them with their specific problems."<sup>213</sup> The International Labor Organization Committee of Experts expressed its regret that the focus by Tadamoun Agency on poverty reduction was to the detriment of other aspects of its mandate, such as helping individual slavery victims, and that trade unions and associations engaged in combating slavery are excluded from its activities.<sup>214</sup> Therefore, Tadamoun has not yet developed any sustainable projects to enable former slaves to become and stay economically independent.

The Special Rapporteur on slavery urged for a stronger role for Tadamoun to oversee the enforcement and implementation of the anti-slavery law. Specifically, the role of Tadamoun should include the following in order to be effective: conduct nationwide training for police and administrative and judicial authorities on the new law to ensure that they pursue the cases of slavery brought to their attention efficiently and effectively; 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; and 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).<sup>215</sup>

Similarly, the National Human Rights Commission of Mauritania was created in May 2010.<sup>216</sup> The Commission is mandated to monitor human rights-related issues, to provide advisory opinions on national legislation, and to raise awareness on human rights issues.<sup>217</sup> The Commission also has the power to investigate human rights violations brought to its attention and to take appropriate measures in coordination with the authorities concerned. Although operational, the Commission seems inactive. For approximately four years, the Commission did not submit any public reports on its investigations.<sup>218</sup> The delay in such a

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<sup>209</sup> *Id.* at ¶20.

<sup>210</sup> *Id.* at ¶20.

<sup>211</sup> *Id.* at ¶21.

<sup>212</sup> *Slavery in Mauritania: The "Roadmap to Combat the Vestiges of Slavery" is not being implemented convincingly*, *supra* note 152.

<sup>213</sup> *Id.*

<sup>214</sup> *ILO 2015*, *supra* note 33.

<sup>215</sup> Marlin & Mathewson, *supra* note 4 at 5.

<sup>216</sup> *Follow-up mission to Mauritania*, *supra* note 7.

<sup>217</sup> *Id.* at ¶23.

<sup>218</sup> *Id.*

crucial step in combating human rights abuses puts the Commission's effectiveness at issue. To date, there is no website in place, either. Without public reports, there is a limited chance of raising awareness and changing peoples' attitudes and beliefs towards slavery at all levels of society. The Commission's effectiveness also has been questioned local NGOs in Mauritania due to its lack of transparency in the appointment of its members, lack of independence from the executive, lack of cooperation with civil societies, and failure to report cases of human rights violations.<sup>219</sup>

More specifically, the Commission has been criticized for its lack of transparency in the appointment of its members and lack of independence from the executive due to complaints from human rights activists that maintain they are often excluded from the nomination process without any justification.<sup>220</sup> This is even more true when individuals are vocal critics of the authorities.<sup>221</sup> Due to this perceived lack of independence from the executive, many NGOs distrust the Commission, especially those working on subjects considered sensitive, such as slavery, torture or Arbitrary detention.<sup>222</sup> To add to the distrust, the Commission never denounced these persistent practices and on the contrary, "merely adopted on several occasions the government's position by for example commending the authorities for the absence of torture, despite the many cases which had been documented by civil society."<sup>223</sup> Lastly, there is concern regarding the Commission's failure to report human rights abuses due to the Commission commending the of the execution of Mohamed Cheikh Ould Mohamed, a 28-year-old engineer sentenced to death for apostasy.<sup>224</sup> Local NGOs believe such a statement infringed the credibility of the Commission as an independent body and explained that "it did not fall within the Commission's mandate to pronounce itself on the guilt of a defendant, particularly when the person concerned is being prosecuted arbitrarily and is at risk of being sentenced to death."<sup>225</sup> Furthermore, the lack of formal or public declaration of the Commission affirming the incompatibility of the application of the death penalty for an offense of that nature with the international human rights norms and standards was highly criticized.<sup>226</sup> The Commission also failed to condemn the arrest of anti-slavery, even after a group of seven United Nations human rights experts had issued a press release to express their "serious concern" about their situation.<sup>227</sup> In the statement, the experts highlighted that the activists were "imprisoned for their alleged role in a demonstration against forced evictions in Nouachkott" and "targeted by the government for their anti-slavery advocacy."<sup>228</sup>

In addition to the public reports of the Commission, the Mauritanian Government must also raise awareness of slavery by making the relevant slavery laws publicly available,<sup>229</sup> and "nationwide awareness-raising and sensitization campaign should be conducted to educate victims of slavery about their rights and the remedies available to

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<sup>219</sup> *Mauritania: Review of the National Human Rights Commission Postponed to Autumn 2017*, ALKARAMA, <https://www.alkarama.org/en/articles/mauritania-review-national-human-rights-commission-postponed-autumn-2017>. [hereinafter *Review of the National Human Rights Commission*]

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

<sup>222</sup> *Id.*

<sup>223</sup> *Id.*

<sup>224</sup> *Id.*

<sup>225</sup> *Id.*

<sup>226</sup> *Id.*

<sup>227</sup> *Id.*

<sup>228</sup> *Id.*

<sup>229</sup> Marlin & Mathewson, *supra* note 4 at 16.

enable them to pursue legal action and exercise their rights.”<sup>230</sup> In order to eliminate the prejudices held by those in power, aware-raising efforts should also include “mandatory, specialized training seminars for judges and representatives of local authorities, gendarmeries, police, the media and non-governmental organizations.”<sup>231</sup> Such public awareness campaigns would also strengthen the Government’s knowledge on slavery as well. As noted during her mission in 2009, the Special Rapporteur on slavery explained that “the Government lacks definitive data on the nature and incidence of slavery in Mauritania, which further exacerbates the problem of addressing slavery properly.”<sup>232</sup> Since it is impossible to combat any issue without the proper information, a thorough evidence-based study on the history and nature of slavery in Mauritania must occur. Although the Roadmap states Mauritania will “[p]ublicize the texts on slavery and raise awareness through displays, debates, slogans and broadcasting,” this recommendation is ineffective because there is a high chance of the target audience, slaves, not being reached since slavery still exists primarily in rural areas, and access to media in those areas could be limited.<sup>233</sup> The clear intent of the Special Rapporteur on slavery was that information on the Slavery Act should be accessible and meaningful to those currently enslaved. Similarly, CERD informed Mauritania that these type of campaigns and programs should be specifically targeting the population concerned,<sup>234</sup> which is those enslaved or former slaves.

CERD also expressed concern about the lack of racial discrimination cases brought before the national courts.<sup>235</sup> As CERD pointed out, the lack of racial discrimination complaints is “not necessarily a positive indicator,” as the result could be attributed to “the limited resources available to victims, their lack of awareness of their rights, their lack of confidence in the police and judicial authorities, or the authorities’ lack of sensitivity to racial discrimination.”<sup>236</sup> If the proper awareness campaigns were conducted by Mauritania, victims would know their rights and the authorities would become aware of how to deal with racial discrimination. By remaining inactive and by failing to have adequate means of public awareness, the Government is providing a platform for individuals to ignorantly deny that slavery is not an issue, although many still suffer in solitude.

e. Government’s denial of the existence of slavery

Although the Government claims that “the eradication of the legacy and contemporary forms of slavery is a priority position of government action,”<sup>237</sup> many government officials deny slavery even exists. Despite the convictions of the three slave masters, the Government routinely denies that slavery still exists in Mauritania and state that “only a few vestiges” remain.<sup>238</sup> As noted by the International Labor Organization Committee of Experts, the refusal of certain authorities to recognize fully the existence of slavery by only referring to its vestiges is an obstacle to the eradication of slavery in Mauritania.<sup>239</sup> This

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<sup>230</sup> CERD, *Concluding Observations* 2004, *supra* note 167; see also *Follow-up mission to Mauritania*, *supra* note 7 at ¶41.

<sup>231</sup> *Follow-up mission to Mauritania*, *supra* note 7 ¶41.

<sup>232</sup> *Id.* at ¶42.

<sup>233</sup> *A Roadmap to Where?*, *supra* note 32 at 21.

<sup>234</sup> CERD, *Concluding Observations* 2004, *supra* note 167.

<sup>235</sup> *Id.*

<sup>236</sup> *Id.*

<sup>237</sup> CERD, *Mauritania’s Response* 2017, *supra* note 197 at ¶126.

<sup>238</sup> *Haratin: Mauritanian Government Claims Anti-Slavery Criticism is ‘Out of Proportion’*, UNREPRESENTED NATIONS AND PEOPLES ORGANIZATIONS (April 4, 2016), <http://unpo.org/article/19061>.

<sup>239</sup> *ILO 2015*, *supra* note 33.



denial is widespread amongst government officials. Justice Minister Brahim Ould Daddah declared that "traditional slavery no longer exists in the country."<sup>240</sup> Similarly, when the country's minister of rural development was confronted about slavery's existence, Brahim Ould M'Bareck Ould Med El Moctar stated that "all people are free in Mauritania and this phenomenon (of slavery) no longer exists."<sup>241</sup> Mint Abdel Wedoud, chairman of the National Commission on Human Rights, which collaborates with the Government, stated that "There are in fact no slaves here. In my whole life, I have never seen a slave. Nor have my children. Slavery is a historical phenomenon that we used to see. But that's all in the past."<sup>242</sup> In fact, some government officials deny that slavery ever existed in Mauritania, explaining that "Mauritanian society had never known servitude, exclusion or discrimination ... and no vestiges of such practices could thus persist."<sup>243</sup>

The President of Mauritania, Mohamed Ould Abdel Aziz, follows suit in this denial, claiming that only the "legacy" of slavery still exists.<sup>244</sup> Furthermore, police refuse to investigate slavery complaints, judges throw out cases involving slavery or change the charges so it is not a slavery charge, but "exploitation of a minor" or "non-payment of wages."<sup>245</sup> As Sarah Mathewson, Africa Program Manager at Anti-Slavery International emphasized, there is blanket denial at every stage.<sup>246</sup> However, the enactment of the Slavery Act in 2007 and its successor in 2015, as well as the three following convictions indicate that slavery still continues in Mauritania. Therefore, Mauritanian officials can no longer deny that modern slavery exists in the country. By continuing to deny the issue of slavery within the State, the Government has failed to investigate and collect official statistics and data regarding its prevalence, thus acquiescing in the practice.

## VI. APPLICATION OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Mauritania ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("the Convention") in 2004 and its Optional Protocol in 2012.<sup>247</sup> Despite this, Mauritania continues to violate its obligations through the persistent denial of, and lack of efforts to effectively eradicate, the continued practice of slavery, and thus torture, within the State.

The Convention's object and purpose is to "promote universal respect for, and observance of, human rights and fundamental freedoms [...] by making more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world."<sup>248</sup> The Convention therefore establishes an "absolute and non-

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<sup>240</sup> *Mauritania creates new courts to try slavery cases*, DAILY MAIL (Dec. 11, 2015), <http://www.dailymail.co.uk/wires/afp/article-3356335/Mauritania-creates-new-courts-try-slavery-cases.html>.

<sup>241</sup> *Slavery's Last Stronghold*, *supra* note 121.

<sup>242</sup> *Haratin: Slavery Major Obstacle to Mauritania's Development*, UNREPRESENTED NATIONS AND PEOPLES ORGANIZATIONS (June 9, 2016), <http://unpo.org/article/19245>.

<sup>243</sup> U.N. Comm. on the Rights of the Child, *Summary Record of the 724th Meeting*, ¶22, U.N. Doc. CRC/C/SR.724 (25 Sept. 25 2001).

<sup>244</sup> *African Union hearing on child slaves hailed as milestone for Mauritania*, *supra* note 141.

<sup>245</sup> *Id.*

<sup>246</sup> *Id.*

<sup>247</sup> Office of the High Commissioner for Human Rights, United Nations, 'Ratification status by country or treaty', <http://indicators.ohchr.org>.

<sup>248</sup> Convention Against Torture, Preamble [hereinafter: CAT].

derogable prohibition against torture.”<sup>249</sup> Article 1 of the Convention defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person [...] for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”<sup>250</sup> The Convention also imposes an obligation on the State party to prevent acts which do not amount to torture as defined by Article 1, namely “other acts of cruel, inhuman or degrading treatment or punishment.”<sup>251</sup> Distinct from the physical and psychological pain and suffering to which slaves are subjected, the system of slavery itself constitutes a form of torture contrary to the entire Convention.<sup>252</sup> More specifically, as previously described, the situation of slavery in Mauritania includes intentional and severe physical, sexual, and psychological abuse of enslaved individuals.<sup>253</sup> According to the Special Rapporteur on Torture, the following practices amount to torture: inhuman sanitary conditions, lack of proper hygiene facilities, insufficient nutrition, lack of access to education, extreme heat or cold conditions, lack of provision of beds, blankets and pillows, and insufficient medical care.<sup>254</sup> Victims of slavery in Mauritania are subject to extreme versions of such practices.<sup>255</sup> Although the Special Rapporteur made such statements in relation to places of detention, slavery itself involves the deprivation of liberty, and thus despite the difference in State responsibility, the concepts and conditions referred to could be similarly applicable to victims of slavery. The system of slavery and its specific aspects therefore constitute torture as defined by Article 1 of the Convention.

The Committee Against Torture (“the Committee”) has reiterated that the principle of non-discrimination provided for in the definition of torture under Article 1 is “a basic and general principle in the protection of human rights and fundamental to the interpretation and application of the Convention.”<sup>256</sup> The Convention therefore explicitly prohibits acts of torture “when carried out for any reason based on discrimination of any kind.”<sup>257</sup> “The protection of certain minority or marginalized individuals or populations especially at risk of torture is a part of the obligation to prevent torture or ill-treatment.”<sup>258</sup> Similarly, both the European Commission of Human Rights<sup>259</sup> and the European Court of Human Rights (ECtHR) has held on several occasions that discrimination, based on a number of factors including race and ethnicity, may amount to torture or degrading treatment in violation of Article 3 of the European Convention on Human Rights (ECHR).<sup>260</sup> The direct discriminatory basis and effect of the caste-based system of slavery on the Haratine people is

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<sup>249</sup> Comm. Against Torture (CAT), Gen. Comment No. 2 on the implementation of article 2 by States parties (Jan. 24, 2008) [hereinafter: General Comment No. 2].

<sup>250</sup> CAT, Article 1.

<sup>251</sup> CAT, Article 16(1)

<sup>252</sup> See *Cyprus v. Turkey*, 10 May 2001 (No 25781/94) 35 EHRR 731, where the European Court of Human Rights held that severe discrimination based on ethnic origin, race, and religion can amount to a violation of Article 3 of the European Convention on Human Rights, namely the right to be free from torture and inhuman or degrading treatment or punishment.

<sup>253</sup> Referring to Section III(c)(iii) of this Report.

<sup>254</sup> Juan Mendez, (Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), *Mission to Mauritania*, U.N. Doc. A/HRC/34/54/Add.1 (Dec. 13, 2016) [hereinafter: *Mission to Mauritania 2016*].

<sup>255</sup> Referring to Section III(c)(i) of this Report.

<sup>256</sup> *General Comment No. 2*, *supra* note 241 at 6.

<sup>257</sup> *Id.*

<sup>258</sup> *Id.*

<sup>259</sup> A tribunal which assisted the ECtHR from 1953 to 1998.

<sup>260</sup> *East African Asians v. United Kingdom*, ECHR ([1973] 3 EHRR 76), *Cakir v. Belgium*, ECtHR, 10 Mar. 2009 (No. 44256/06), *Sargin v. Turkey* (Nos 14116/88 and 14117/88) ([1993] 3 EHRR 76).

clear.<sup>261</sup> Further, Haratine people who are no longer enslaved continue to face discriminatory exploitation and slave-like practices.<sup>262</sup> Although Mauritania accepted a wide range of recommendations included in the Universal Periodic Report, it rejected the recommendation to abolish the caste system that continues to promote slavery in the State, and to take specific action to eliminate discrimination based on caste or ethnicity.<sup>263</sup> In response to the Committee's recommendation to specifically define and criminalize racial or ethnic discrimination related to slavery and slavery-like practices<sup>264</sup>, the State refers only to Article 1 of its Constitution prohibiting discrimination.<sup>265</sup> The State claims to be in the process of developing a draft law and plan of action to "fight against th[is] discrimination", which includes measures to combat racial discrimination, xenophobia, and intolerance as they relate to slavery within the country.<sup>266</sup> However, the State makes no reference to amending the Slavery Act of 2015.

There is also a high prevalence of active repression, torture, and ill-treatment of anti-slavery advocates within the State.<sup>267</sup> In its Concluding Observations on Mauritania Report, the Human Rights Committee raised concern over human rights defenders and activists being "threatened, intimidated and harassed" by members of security forces or police.<sup>268</sup> Anti-slavery activists are often beaten, arbitrarily detained, and tortured while in custody. Members of the Initiative for the Resurgence of the Abolitionist Movement (IRA), who were arrested during peaceful anti-slavery protests, report being interrogated at night, deprived of sleep, denied access to toilets, being suspended by ropes, and being stripped and threatened with death.<sup>269</sup> The State recently rejected the recommendation to ensure greater protection for human rights defenders, particularly those calling for full abolition of slavery.<sup>270</sup> Every aspect of the system is thus a radical departure from, and direct violation of, the object and purpose of the Convention. By continuing to deny the issue of slavery within the State, the Government continues to acquiesce in the practice, thus failing to adhere to its obligations under the Convention.

Pursuant to the Convention, the State is obligated to take effective legislative, administrative, judicial or other measures to prevent acts of torture within its jurisdiction.<sup>271</sup> This extends to the obligation to ensure that all acts of torture are offences under the State's criminal law<sup>272</sup>, and to ensure that education and information regarding the prohibition against torture are fully included in the training of public officials and law enforcement

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<sup>261</sup> U.N. Comm. on the Elimination of Racial Discrimination, *Concluding Observations, Mauritania*, December 10, 2004, U.N. Doc. CERD/C/65/CO/5, ¶ 15, (Dec. 10, 2004).

<sup>262</sup> Referring to Section III(b), (c)(i) and (c)(iv) of this Report.

<sup>263</sup> *Universal Periodic Review 2015*, *supra* note 106, Recommendations 129.49 (Uganda) and 129.51 (United Kingdom).

<sup>264</sup> *Concluding Observations 2013*, *supra* note 1 at ¶21.

<sup>265</sup> CAT, *Mauritania's Response 2017*, *supra* note 2 at ¶ 92.

<sup>266</sup> *Id.*

<sup>267</sup> Referring to Section IV(b) of this Report.

<sup>268</sup> UN Human Rights Committee (HRC), *Concluding observations on the initial report of Mauritania* November 21 2013, U.N. Doc. CCPR/C/MRT/CO/1 (Nov. 21, 2013) [hereinafter: HRC Concluding Observations 2013].

<sup>269</sup> *Mauritania 2016/2017*, AMNESTY INTERNATIONAL (2017),

<https://www.amnesty.org/en/countries/africa/mauritania/report-mauritania/#endnote-1> (last visited Apr. 20, 2017).

<sup>270</sup> *Universal Periodic Review 2015*, *supra* note 106, Recommendation 129.50.

<sup>271</sup> CAT, Article 2.

<sup>272</sup> *Id.*, Article 4.

personnel.<sup>273</sup> The State claims that the Slavery Act of 2015 provides more specific definitions and greater assistance to victims of slavery in legal proceedings.<sup>274</sup> Although the 2015 Act is more comprehensive, there remains a lack of enforcement not dissimilar to its 2007 predecessor.<sup>275</sup> Whilst the 2015 Act establishes more severe penalties for slavery and slavery-like practices, the lack of slavery cases filed in the courts, in conjunction with the lack of convictions, suggests that it is not *effective* to the extent of fulfilling Article 2 of the Convention.<sup>276</sup> The lack of enforcement of the Act by the police, prosecution, and judiciary therefore enables the practice of slavery to continue.<sup>277</sup>

In its 2013 Report the Committee recommended that the State amend its domestic criminal law to include a definition of torture that incorporates every element as defined by the Convention.<sup>278</sup> In response, the State makes reference to the adoption of its law criminalizing torture<sup>279</sup>, as well as its National Mechanism for the prevention of torture.<sup>280</sup> Although the adoption of such laws are welcome, Mauritania has failed to define the practice of slavery itself as a direct form of torture. Further, the Special Rapporteur on Torture has criticized the State's new laws, stating that the National Mechanism is not yet operational, and that it "lacks resources to fulfil its mandate."<sup>281</sup>

This Committee previously recommended that the State should make a more direct effort to raise the awareness of judges and the legal profession regarding the prohibition of slavery and torture.<sup>282</sup> On this point, the State has informed the Committee that the Office of the Prosecutor has instructed the relevant agents to ensure compliance with the legislative and regulatory provisions prohibiting the use of torture.<sup>283</sup> However, the State did not refer to slavery itself. Further, its continuous and persistent denial of slavery implies that such officials and law enforcement personnel are not provided with the required training or education on the prohibition of torture as it relates to slavery.<sup>284</sup> Again, this culture of persistent denial means that the judiciary itself is extremely hesitant to prosecute such cases.<sup>285</sup> This Committee has further stated that there is an inadequate effort on the part of the State to devise a national strategy educating officials and raising public awareness of the traditional and modern forms of slavery present within the State, including forced servitude, forced labor of children, and exploitation of domestic workers.<sup>286</sup> In response, the government refers to the creation of Tadamoun.<sup>287</sup> The government claims that through awareness and training, the programme has strengthened the government's fight against slavery and allowed better integration and involvement of victims.<sup>288</sup> Despite its creation, the lack of complaints received by the agency implies that it is largely ineffective in its current

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<sup>273</sup> *Id.*, Article 10.

<sup>274</sup> CAT, *Mauritania's Response 2017*, *supra* note 2 at ¶3.

<sup>275</sup> Referring to Section IV(c) of this Report.

<sup>276</sup> Referring to Section IV(d) of this Report.

<sup>277</sup> *Mission to Mauritania*, *supra* note 21, at ¶90.

<sup>278</sup> *Concluding Observations 2013*, *supra* note 1 at ¶7.

<sup>279</sup> Law No. 2013-011

<sup>280</sup> Law No. 2015-034

<sup>281</sup> Special Rap on Torture, <https://www.alkarama.org/en/articles/mauritania-special-rapporteur-confirms-widespread-use-torture-and-denounces-impunity>

<sup>282</sup> *Concluding Observations 2013*, *supra* note 1.

<sup>283</sup> CAT, *Mauritania's Response 2017*, *supra* note 2.

<sup>284</sup> Referring to Section IV(e) of this Report.

<sup>285</sup> *Mission to Mauritania*, *supra* note 21, at ¶94.

<sup>286</sup> *Concluding Observations 2013* at ¶8, 21.

<sup>287</sup> CAT, *Mauritania's Response 2017*, at ¶107.

<sup>288</sup> CAT, *Mauritania's Response 2017*, at ¶113.

form, predominantly due to its lack of independence or impartiality.<sup>289</sup> In fact, the government itself states that an “interdepartmental committee” is responsible for ensuring the implementation of Tadamoun.<sup>290</sup> Many officials who deny the existence of slavery claim that the State’s criminalization of the practice means it no longer exists as an institution.<sup>291</sup> These officials often refer to the remnants or vestiges of slavery which exist as a result of poverty, thus perpetuating the notion that the practice has been eradicated.<sup>292</sup> It appears that such officials consider investigation into the system unnecessary, implying that the law itself is the enforcement of criminalization. Thus, despite the State’s apparent adherence to these provisions through the enactment of Tadamoun and the 2015 Act, its ineffectiveness renders it incompatible with several provisions of the Convention. According to the Special Rapporteur on Torture, “the legal safeguards against torture and ill-treatment are in place, but they don’t work.”<sup>293</sup>

The Convention stipulates that the State must ensure prompt and impartial investigation wherever there is reasonable grounds to believe that an act of torture has been committed in any territory under its jurisdiction.<sup>294</sup> The State must also ensure that any individual who alleges he has been subjected to torture has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities.<sup>295</sup> In addition, the State is obligated to ensure that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.<sup>296</sup> Mauritania is severely failing to adhere to these obligations.

The State has failed to conduct thorough and independent investigations into all allegations of torture or ill-treatment generally, and slavery in particular, thus failing to ensure that the perpetrators of such acts are brought before the courts and that appropriate penalties are imposed upon them.<sup>297</sup> As previously described, anti-slavery laws are not publicly available, and the relevant law enforcement authorities continuously fail to adequately investigate allegations of slavery specifically.<sup>298</sup> Due to the lack of autonomy within the relative investigatory and judicial branches, those cases which are investigated are neither prompt nor impartial. Of those cases that are brought before the courts, there is severe reluctance within the judiciary to either apply the law or provide appropriate, legal remedies in order to protect victims of slavery.<sup>299</sup> Additionally, the court has refused to examine allegations of torture made by human rights defenders who were detained for their activism.<sup>300</sup> Yet, the criminal courts have shown an alarming willingness to sentence anti-slavery advocates to long terms of imprisonment.<sup>301</sup> For example, the Criminal Court of Nouakchott recently sentenced thirteen members of the Initiative for the Resurgence of the Abolitionist Movement (IRA) to sentences ranging from three to fifteen years’ imprisonment,

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<sup>289</sup> Referring to Section IV(c) & (d) of this Report.

<sup>290</sup> CAT, *Mauritania’s Response 2017*, at 17.

<sup>291</sup> *Mission to Mauritania*, *supra* note 21.

<sup>292</sup> *Id.*

<sup>293</sup> U.N. Office of the High Commissioner on Human Rights, *Mauritania: “Safeguards against torture must be made to work” – UN rights expert urges*, (Feb. 3, 2016).

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17009&LangID=E>

<sup>294</sup> CAT, Article 12.

<sup>295</sup> CAT, Article 13.

<sup>296</sup> CAT, Article 14.

<sup>297</sup> *Concluding Observations 2013*, *supra* note 1.

<sup>298</sup> Referring to Section IV(d) of this Report.

<sup>299</sup> Referring to Section IV(c) of this Report., CAT 2013 para 21. † CHECK

<sup>300</sup> *Mauritania 2016/2017*, AMNESTY INTERNATIONAL (2017), *supra* note 260.

<sup>301</sup> *U.S. DEPT. OF STATE 2016*, *supra* note 26.

convicting them of unarmed rebellion and violence against police officers, among others. Others were convicted of involvement in riots despite evidence that they were not present at the demonstration.<sup>302</sup> Allegations of torture in this case have not been investigated.<sup>303</sup> These convictions suppress the efforts of activists to bring awareness to the issue, and indicate an active attempt to cover up evidence that slavery remains highly prevalent within the State. There is an “almost total absence of investigations into allegations of torture and ill-treatment.”<sup>304</sup> This lack of enforcement renders the anti-slavery laws ultimately inefficient, resulting in a severe lack of effective access to justice within the State. Additionally, this Committee has raised concern over this lack of implementation and enforcement, stating that “the crime of slavery is rendered meaningless in legal terms.”<sup>305</sup> The State is thus failing to effectively investigate allegations of torture within its jurisdiction in contravention of its obligations under the Convention.

In violation of Article 14 of the Convention, the deeply entrenched caste-based system present within the State is exacerbated by the Government’s failure to acknowledge and educate victims of their rights, the process by which they can file complaints, and the support they are entitled to.<sup>306</sup> The Committee has recommended that the State should amend the law to provide measures of reparation and rehabilitation for victims of slavery.<sup>307</sup> In response, the State informed the Committee that the 2015 Act provides for the “execution of judicial decisions granting compensation to victims of slavery and slavery-like practices.”<sup>308</sup> Despite this, the previously discussed lack of enforcement of the Act, and thus low conviction rate, means that victims of slavery are unlikely to receive such reparations.<sup>309</sup> Further, the 2015 Act makes no provision for rehabilitation of freed slaves.<sup>310</sup> As previously described, the absence of rehabilitation programmes means that former slaves continue to remain in a dependant state.<sup>311</sup> In its most recent response, the government failed to address or respond to the Committee’s recommendation regarding rehabilitation.

## VII. RECOMMENDATIONS

Slavery and slavery-like practices persist in Mauritania, even if often underground, creating an environment in which ill-treatment and torture flourishes. In order to seriously tackle the issue, the government must acknowledge the prevalence of slavery within the state, and fully enforce the anti-slavery laws in place.<sup>312</sup> Specifically, the government should:

- Amend the Criminal Penal Code and Slavery Act of 2015 to define the practice and institution of slavery itself as a direct form of torture.
- Amend the Criminal Penal Code and Slavery Act of 2015 to ensure greater protection of members of groups especially at risk of being tortured, by

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<sup>302</sup> *Id.*

<sup>303</sup> Amnesty International, *Mauritania: Appeal court must quash unfair sentences and free 13 anti-slavery activists* (Nov. 10, 2016), <https://www.amnesty.org/en/latest/news/2016/11/mauritania-appeal-court-must-quash-unfair-sentences-and-free-13-anti-slavery-activists/> (last visited Apr 20, 2017).

<sup>304</sup> *Mission to Mauritania 2016*, *supra* note 246.

<sup>305</sup> *Concluding Observations 2013*, *supra* note 1.

<sup>306</sup> Referring to Section IV(d) of this Report.

<sup>307</sup> *Concluding Observations 2013*, *supra* note 1.

<sup>308</sup> CAT, *Mauritania’s Response 2017*, *supra* note 2 at 16.

<sup>309</sup> Referring to Section IV(d) of this Report.

<sup>310</sup> *Follow-up Mission to Mauritania*, *supra* note 7.

<sup>311</sup> *Id.*

<sup>312</sup> *Mission to Mauritania 2016*, *supra* note 246.

including a specific provision and definition regarding discrimination based on race, colour, or ethnicity.<sup>313</sup>

- Amend the Slavery Act of 2015 to include rehabilitation programmes for former slaves, as such programmes are necessary to provide former slaves with an alternative means of livelihood so that they are completely freed of slave-like conditions.<sup>314</sup>
- Amend Articles 22 and 23 of the Slavery Act to ensure that Mauritanian human rights associations and public interests organizations, whether or not they are registered and irrespective of how long they have been in existence, can denounce violations of the law, assist victims, and act as civil party in criminal proceedings.<sup>315</sup>
- Facilitate nationwide training for police, prosecutors, and other law enforcement personnel on the prohibition of slavery and torture, in order to ensure that cases of slavery and torture are promptly and effectively investigated.<sup>316</sup>
- Facilitate training for the judiciary on its obligations under the 2015 Act to effectively prosecute perpetrators of slavery and torture, in order ensure justice for victims and create a culture of deterrence within the State.
- Conduct nationwide awareness-raising and sensitization campaigns to educate victims of slavery about their rights and the remedies available to enable them to pursue legal action and exercise their rights.<sup>317</sup>
- Effectively and adequately combat discrimination based on descent or ethnicity in the education system, the media, and government institutions, including through legal means.
- Establish awareness-raising campaigns to combat racist and gender-based stereotypes.
- Adopt special measures to address the structural racial discrimination suffered by Haratines.
- Conduct investigations with a view to collecting official statistics on the impact that cultural discrimination has in relation to cases of torture and

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<sup>313</sup> *Concluding Observations 2013* at ¶21.

<sup>314</sup> *Follow-up Mission to Mauritania*, *supra* note 7 at 10.

<sup>315</sup> CERD, *Concluding Observations 2004*, *supra* note 1 at 2; *see also* Press Release, U.N. High Commissioner of Human Rights, *Mauritanian new anti-slavery law: Effective enforcement is the key – UN rights expert* (Aug. 21, 2015), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16338&LangID=E> at 16 (this was also recommended by ASI, IRA, MRG, SOS-Esclaves, STP and UNPO).

<sup>316</sup> CAT, *Concluding Observations 2013*, *supra* note 1 at ¶7; *see also Follow-up mission to Mauritania*, ¶41, *supra* note 7; HRC *Concluding Observations 2013*, *supra* note 259 at 5.

<sup>317</sup> *Follow-up mission to Mauritania*, ¶41, *supra* note 7; *see also CESCR, Concluding Observations 2012*, *supra* note 111 at 2; HRC *Concluding Observations 2013*, *supra* note 259 at 5.

slavery.<sup>318</sup>

- Collect detailed data on the nature and incidences of slavery and slavery-like practices in Mauritania to allow monitoring of efforts to eradicate slavery.<sup>319</sup>
- Instruct the National Human Rights Commission to regularly report its investigations and findings and to create a functional and running website.
- Encourage the National Human Rights Commission to implement an equitable and participatory nomination process to ensure pluralism in its composition.<sup>320</sup>
- Encourage the National Human Rights Commission to cooperate with a wide range of civil society organizations to become more effective in fulfilling its mandate of promoting and protecting human rights.<sup>321</sup>
- Encourage the National Human Rights Commission to public denounce human rights violations, such as slavery, torture and arbitrary detention.<sup>322</sup>
- Encourage the National Human Rights Commission to promote and ensure respect for all human rights and democratic principles, as well as strengthen the rule of law in all circumstances without exception.<sup>323</sup>
- Encourage Tadamoun to focus on former slaves, including helping them with their specific problems as former slaves, rather than dedicating the entirety of its resources to poverty alone.
- Encourage Tadamoun to issue a statement regarding its independence from the executive branch which should include complete transparency of that relationship.
- Permit Tadamoun to oversee the enforcement and implementation of the anti-slavery law.
- Ratify international human rights conventions without reservations, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>324</sup>

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<sup>318</sup> CAT, *General Comment No. 2*, ¶23, *supra* note 241; *see also Follow-up mission to Mauritania*, *supra* note 156 at 11.

<sup>319</sup> *Follow-up mission to Mauritania*, ¶42, *supra* note 7.

<sup>320</sup> *Mauritania: Review of the National Human Rights Commission Postponed to Autumn 2017*, ALKARAMA, <https://www.alkarama.org/en/articles/mauritania-review-national-human-rights-commission-postponed-autumn-2017>.

<sup>321</sup> *Id.*

<sup>322</sup> *Id.*

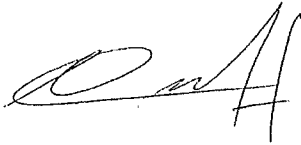
<sup>323</sup> *Id.*

<sup>324</sup> *Enforcing Mauritania's Anti-Slavery Legislation* at 16, *supra* note 315 (this was also recommended by ASI, IRA, MRG, SOS-Esclaves, STP and UNPO).



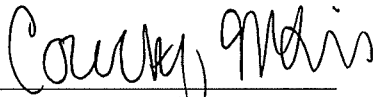
## VIII. CONCLUSION

Despite the enactment of numerous laws and programmes developed to target the ongoing practice of slavery within the State, Mauritania has failed to provide effective remedies and enforcement mechanisms. The State has failed in its duty to adhere to the provisions of the Convention against Torture by failing to define the system of slavery itself as a form of torture, to successfully prosecute those responsible, to effectively monitor and investigate allegations of slavery and slave-like practices which amount to torture, and to provide effective legislative and judicial measures to prevent torture, and thus slavery, within the State. Mauritania is therefore failing in its duty to prevent and eliminate slavery within the State as a whole. The Human Rights Clinic at the University of Texas at Austin School of Law respectfully requests that the Committee Against Torture issue a further report to Mauritania, including the recommendations found above. Thank you for your time and consideration regarding this matter.



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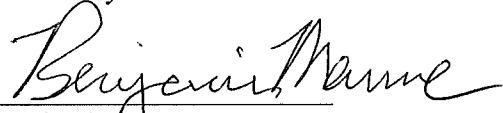
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