**Submission to the United Nations Committee against Torture Mauritania**

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مبادرة إنبعـــاث الحــــركة الانعتـــــــاقية

**INITIATIVE DE RESURGENCE DU MOUVEMENT ABOLITIONNISTE EN MAURITANIE**

**IRA – Mauritanie**

The Initiative for the Resurgence of the Abolitionist Movement is an anti-slavery group in Mauritania headed by Biram Dah Abeid who is a former slave himself. The group has been involved in sit-ins in front of the justice ministry, hunger strikes and marches through cities and towns around Mauritania. IRA-Mauritania received the Human Rights Tulip award in December 2015.

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**Unrepresented Nations and Peoples Organization**

The Unrepresented Nations and Peoples Organization (UNPO) is an international, nonviolent and democratic membership organisation. Its Members are indigenous peoples, minorities, unrecognised States and occupied territories that have joined together to defend their political, social and cultural rights, to preserve their environments and to promote their right to self-determination.

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# Introduction

This report, jointly submitted by the Unrepresented Nations and Peoples Organization (UNPO) and the Initiative pour la Résurgence Du Mouvement Abolitionniste En Mauritanie (IRA), on the occasion of the 64th Session of the Committee against Torture, during which Mauritania is under consideration, draws attention to cases of torture or other cruel, inhuman or degrading treatment or punishment perpetrated against people from the Haratin community. First, the report will give a brief background to the situation of the Haratin in Mauritania to then address the different violations of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter the Convention against Torture) committed by the Mauritanian State against the Haratin community. Finally, it will present a series of recommendations aimed to facilitate constructive discussion during the State review by experts of the committee.

# Background

Mauritania ratified the Convention against Torture in 2004 and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in October 2012. However, international instruments are not implemented by law, policy and practice as the use of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter other ill treatments) continues to be widespread and systematic in Mauritania.

At the national level, on 9 September 2015, Mauritania adopted Law No. 033-2015 which provides for the prohibition, prevention and repression of acts of torture and other cruel, inhumane or degrading treatment or punishments. This law also provides for reparation and protection measures for victims. Despite the adoption of a legal framework regulating the prohibition of torture, the Mauritanian government, through state agents, continues to perpetrate acts of torture on the territory, particularly against members of the Haratin community who denounce peacefully the on-going situation of slaves in the country.

Even though slavery is illegal in Mauritania since 1981 and Mauritania adopted Law No. 052/15. regarding the prohibition of slavery in 2015, this issue is still widespread in Mauritania. As Mauritania does not have statistics regarding slavery, it is not possible to cite precise national official numbers.[[1]](#footnote-1) However, local rights groups estimate that up to 20% of the population is enslaved, with one in two Haratin forced to work on farms or in homes with no possibility of freedom, education or pay.[[2]](#footnote-2) Presently, half of the Haratin population is forced to live in de facto slavery as the practice remains entrenched in Mauritanian society. The overwhelming majority of slaves are Haratin women and children who are “inherited” by slave-owning families from one generation to the next. Despite recent legislation outlawing slavery, criminalising the practice and even making slavery a crime against humanity, these are not enforced and the government resists attempts by NGOs and individuals at tackling the issue. The Haratin who have been freed face persistent discrimination in the areas of education, healthcare, land rights, employment and political participation. Furthermore, anti-slavery activists are targeted by violence, intimidation and death threats and are frequently arrested, beaten and harassed by the authorities whilst engaging in peaceful initiatives.

# Violations of the Convention against Torture

## Slavery as an act amounting to torture under Article 1 of the Convention against Torture

According to Article 1 of the Convention against Torture, the term ‘’torture’’ means ‘’*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 an official capacity or with the consent or acquiescence of a public official or other person acting in an official capacity*.’’

As mentioned hereinbefore, slavery affects in particular the Haratin community, which is victim of discrimination from the ruling majority in Mauritania. Being enslaved inflicts both physical and mental suffering and the authors, on discriminatory grounds, impose the practice intentionally. This practice is discriminatory as it is directed almost exclusively against the Haratin community considered as the slave cast in Mauritania. Even though the practice is carried out by private actors, it is our submission that the Article 1 of the Convention against Torture applies to this case as Mauritania is under a negative obligation – to not violate the provisions – but also under a positive obligation, which means it should prevent the violations or in the alternative, investigate the violations committed by private actors. By not complying with its obligation to protect, Mauritania endorses the actions of the perpetrators. Furthermore, the Committee against torture has stated that torture and other forms of ill treatment can happen ‘*’in contexts where the failure of the State to intervene encourages and enhances the danger of privately inflicted harm*’’.[[3]](#footnote-3) Hence, it is our submission that the failure of Mauritania to intervene has encouraged and enhanced the occurrence of the practice of slavery by private actors, which amounts to torture, or in the alternative, to cruel, inhumane or degrading treatment.

## Torture and other cruel, inhumane or degrading treatment or punishments perpetrated against Haratin activists during arrests, police custody and detention

The use of torture and other ill treatment is widespread in Mauritania, particularly in the early stages of arrest and detention. Police and gendarmerie units often resort to ill- treatment to extract confessions from detainees.[[4]](#footnote-4) In March 2017, Mr. Boubacar Ould Messaoud, member of the National Mechanism for the prevention of torture declared that torture in Mauritania is still an issue and that the law prohibiting it did not change the situation. He reported cases of torture in jails, gendarmeries and police stations, perpetrated by security forces and the police, who often prevent the victims to enter the premises of police stations or courts to report about the case.

Hereinafter is a list of different cases of torture or other ill treatment that have taken place during the arrest, custody or detention of members of the Haratin community. All the cases were reported to IRA.[[5]](#footnote-5)

1. ***Torture during secret detention in Tevragh Zeina, Nouakchott***

In the beginning of July 2016, Mr. Mousi Bilal Biraml and Mr Aballahi Matallah Seck, two IRA activists have been victims of torture during their secret detention at the ‘’2ème Compagnie de police’’ in Tevragh Zeina, Nouakchott.

On 30 June 2016, the police took Mr. Mousi Bilal Biraml in a violent way in front of his children. He was handcuffed and blindfolded and taken to an unknown location. He wasn’t given any food to break his fast and wasn’t given permission to contact his family, his lawyer nor a doctor. They started investigating him despite the fact that he hadn’t been given any food since he had been arrested. During the interrogation, the policemen intimidated him so that he would confess charges that had no legal ground. Since he refused, they kept intimidating him the whole night. Mr Biraml declared that about 5 or 6 men took him to a room, handcuffed his wrists and feet very tight. They tied his legs and hanged him from the ceiling while beating him. He stated that they tortured him every night during his detention. One night the policemen hurt his genitals. The victim declared that they tried to tear them off causing him to urinate blood. He was then presented to the court on 12 July 2016, still suffering from the consequences of the torture he was a victim of, he had injuries on his hands and legs caused by the tight handcuffs causing the cutting of some veins, he was also still urinating blood and suffering from mental distress.

In the beginning of July 2016, Mr Aballahi Matallah Seck has also been subjected to torture during his detention in the same location as Mr Biraml. He declared that he was forced to get naked and was chained with a chain handcuffing his hands on his back, to his feet, also handcuffed. This caused him very painful contortions. He also reported beatings every night during the time of his detention.

1. ***Torture during detention in Laksor 1 police station in Elmina, Nouakchott***

On Thursday 16 February 2017, Mr. Amado Adresa Genk was subjected to inhuman treatment and torture by police officers. The facts took place in the neighbourhood of Elmina, in dar El beida, between dar El beida That and dar El beida vowg. He was severely beaten until he lost conscience. He was then driven to the yard of an old airport, where he was not able to move due to the severity of the pain. Locals found him and tried to save him and contact his family. However, the police came back and took the victim back to the "Laksor 1" police station, preventing him from visiting the hospital for 24 hours in fear that he would reveal the behaviour of the policemen during his detention.

## Failure to investigate allegations of attacks amounting to torture and other cruel, inhumane or degrading treatment or punishments

In principle, under Mauritanian law, prosecutors can and must investigate all allegations of torture and ill treatment according to Article 9 of Law No. 033-2015. The article provides that in case of reasonable doubts that an act of torture or ill treatment has been perpetrated the prosecutor shall investigate the case, if there has been a complaint, or even *proprio motu*, if there hasn’t been any formal complaint about the case.

Despite the existence of legal safeguards, it is difficult for detainees to bring a claim in these circumstances as they very rarely have access to lawyers. Furthermore, they are often prevented to bring a complaint by their perpetrators. In any case, when victims succeed in bringing a claim, the judiciary lacks the will to investigate and prosecute allegations of torture and ill treatment. All these obstacles contribute to impunity for the perpetrators. While there is a national legal framework in place, Mauritania is in violation of Articles 10, 11, 12, 13 and 14 of the Convention against Torture.

Aballahi Matallah Seck and Moussa Bilal Biram, abovementioned, presented their testimony to the Prosecutor and to the judges of the Criminal Court of Nouakchott, however the tribunal did not take into the account the allegations of torture of both victims and did not start an investigation. This, even though according to Article 9 of Law No. 2015\_033, prosecutors are under an obligation to investigate the allegations of torture or other ill treatment. Moreover, there were reasonable grounds to believe that they had been victims of torture as they both presented signs of violence on 12 July 2016 when they appeared before the prosecution.

Mr Amado Adresa Genk also brought a complaint regarding his conditions of detention, however until today the prosecutor did not start any proceedings regarding his case.

# Recommendations

In light of the observations made above, IRA and UNPO call on the Islamic Republic of Mauritania to:

1. Create an enquiry commission in charge of investigating allegations of torture, in accordance with Mauritanian and International law.
2. Guarantee the respect of freedom of expression and association of the members of the Haratin community, including antislavery activists, by ceasing systematic repression of members of IRA and other human rights movements.
3. Guarantee that education and information regarding the prohibition against torture is fully included in the training of law enforcement officials or any others who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest or detention.
4. Enforce the Law No. 052/15 from August 2015 on the criminalisation of slavery and publish official national data on the state of slavery in Mauritania.
1. The Tadamoun Agency, in charge of fighting against the repercussions of slavery in Mauritania, does not publish any data on statistics regarding slavery in Mauritania. [↑](#footnote-ref-1)
2. The Guardian, The unspeakable truth about slavery in Mauritania, 8 June 2018, available at: <https://www.theguardian.com/global-development/2018/jun/08/the-unspeakable-truth-about-slavery-in-mauritania>, accessed on 15 June 2018 [↑](#footnote-ref-2)
3. UN Committee against Torture, General comment n. 2, Implementation of Article 2 by States Parties. CAT/C/GC/2 (24 January 2008), para. 15, para. 18 [↑](#footnote-ref-3)
4. UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Mauritania, 13 December 2016, A/HRC/34/54/Add.1 [↑](#footnote-ref-4)
5. The persons having testified have agreed that their names will be disclosed in this document. [↑](#footnote-ref-5)