

Submission to the UN Human Rights Committee  
109<sup>th</sup> session (14 October – 1 November 2013)

Anti-Slavery International, Minority Rights Group International  
& SOS-Esclaves



9 September 2013

## **I. Executive summary**

1. Anti-Slavery International (ASI), Minority Rights Group International (MRG) and SOS-Esclaves welcome the opportunity to provide information to assist the Human Rights Committee in consideration of Mauritania's Initial Report under Article 40 of the International Covenant on Civil and Political Rights, scheduled to occur during its 109th session. It has been written in response to Mauritania's Initial Report (CCPR/C/MRT/1).
2. Anti-Slavery International, founded in 1839, is committed to eliminating all forms of slavery throughout the world. Slavery, servitude and forced labour are violations of individual freedoms, which deny millions of people their basic dignity and fundamental human rights. Anti-Slavery International works at local, national and international levels around the world to eradicate slavery, for example by undertaking research on slavery practices; lobbying governments and intergovernmental agencies to take action to end and prevent the practice; and supporting local organisations that work to eradicate slavery through awareness-raising, advocacy and assistance to victims of slavery.
3. MRG is a Non-Governmental Organisation (NGO) working to secure the rights of ethnic, religious and linguistic minorities worldwide, and to promote cooperation and understanding between communities. MRG has consultative status at the United Nations Economic and Social Council (ECOSOC), and observer status with the African Commission on Human and Peoples' Rights. MRG is registered as a charity in the United Kingdom.
4. SOS-Esclaves (SOS-Slaves) has been leading the fight against slavery in Mauritania for over 14 years. It seeks to expose the realities of the practice, challenge its widespread acceptance and defend the rights of those seeking to escape slavery. It also works to end discrimination faced by people of slave descent.
5. In spite of Mauritania being a signatory to ICCPR and several other Human Rights Conventions, numerous gaps are evident in the country regarding prevention of race and caste-based discrimination, equality between men and women, the effective prohibition of slavery, protection of minorities and of children and right to family life. Historical injustices and marginalisation

against Haratine, in particular Haratine girls and women, as well as other Black-Mauritanian groups (Wolof, Soninke, Pular) have not been sufficiently addressed to date.

6. The White Moors also known as the “Beidans” control the Mauritanian administration, the legislature, the economy, the judiciary and the security forces. Haratine people also known as Black Moors are the most disenfranchised community in the country and suffer discrimination, marginalisation and exclusion due to their historic membership of the ‘slave caste’. Despite the official abolition of slavery in 1981, it is estimated that 18 per cent of Mauritania's population still live in slavery today. Haratines, who represent between 30 and 40% of the Mauritanian population, are the group most affected by slavery.
7. The discrimination experienced by Haratine women and girls is further compounded by gender discrimination. With the status of slaves or former slaves, they experience social exclusion, poverty, limited or no access to education or decent employment, all of which are made worse because of the disadvantage they also experience as women. Female slaves are likely to be beaten up and raped by their owners; they are denied the right to marry whom they want and to be mothers since their children are considered to be the owner’s property. Freed Haratine women are often trapped in informal work, without protection or decent wages, which places them at greater risk of violence.
8. Despite the criminalization of slavery in 2007, only one slave-owner has been convicted under the law then released on bail after four months of imprisonment. The submission highlights the lack of political and judicial will to enforce the law criminalising slavery as well as the flaws of the 2007 Act. In addition, the creation in March 2013 of the National Agency to Fight against the Vestiges of Slavery, for Social Integration and to Fight Against Poverty, also raises concern as to its financial and institutional ability to carry out such a broad mandate.
9. As a result of the discriminatory practices combined with other factors including geographical distance and ignorance of the law, access to justice for Haratine and Black-Mauritanian groups, and most particularly for women, is extremely low. In addition, the legal system reflects the deeply unequal and

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

10. This submission sets out the continued violations of the rights of minorities by the State Party contrary to the International Covenant on Civil and Political Rights and makes, among many others, the following recommendations:
  - a. To address the intersection of race and gender in the design and implementation of gender-oriented programmes or policies in order, for example, to support Haratine women's representation in Parliament and public administration;
  - b. To take all possible measures to eradicate the practice of slavery including by ensuring enforcement of the law criminalizing slavery. These should include, but are not limited to, the establishment of a monitoring committee consisting of several representatives of the government and civil society to monitor the implementation of the law, and the adoption and publication of the road map to ending slavery, prepared in cooperation with the OHCHR. An integrated approach to slavery should be developed in order to address and tackle the cultural, institutional, economic and political factors underlying the perpetuation of the practice;
  - c. To provide statistical data on slavery disaggregated by gender, age, region, caste and/or ethnicity and income.
  - d. To ensure that proper and effective investigations over the cases on slavery take place and result in the punishment of the convicted perpetrators.
  - e. To provide legal aid services and to adopt temporary special measures including quotas and reserved seats to improve women and minorities' access to justice as well as their representation and visibility in the judiciary. Information on how to use legal remedies to bring a claim of discrimination should also be widely disseminated.

## Article 2 paragraph 1 – Non-discrimination

11. The economy, the administration, the legislature, the judiciary and the security forces in Mauritania are dominated by one Berber-Arab community known as White Moors or 'Beidan'. Historically slave-owning White Moors raided, enslaved and assimilated people from a range of sedentary black ethnic groups along the Senegal River and indigenous tribes, who are known today as Haratines or Black Moors. The term 'Haratine' refers to people of slave descent (including slaves, former slaves and the free descendants of slaves). Even though slavery is practised by various ethnic groups in Mauritania, Haratines are most likely to be living in slavery today, and more generally, in situation of political and economic dependence. It is submitted that the practice of slavery in Mauritania, and the entrenched discrimination that accompanies it, violates all human rights, including, though not limited to: the right not to be tortured or subject to cruel, inhuman or degrading treatment; the right not to be held in slavery; the right to liberty and security of person; the right of liberty of movement; the right to equality before the courts; the right to recognition as a person before the law; freedom of marriage; the right of protection of minors; the right to take part in public affairs; and equality before the law. Some of these violations are expanded upon in the following sections of this report. Firstly though some general background information is provided as to the extent of discrimination faced by the Haratine community and other minority groups in everyday life.
  
12. Haratines who are no longer in slavery (the majority) also face discrimination relating to their status as descendants of slaves and have limited access to resources such as land, education, water and health care services. 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>1</sup> As highlighted in the Haratine Manifesto published in April 2013<sup>2</sup>, Haratines represent 85% of the total illiterate population in Mauritania. More than 80% of Haratine have not completed primary education and Haratine students constitute only 5% of the students who are enrolled in higher education. More than 90% of the dockers, domestic workers and labourers performing unskilled and low-paid jobs are Haratines. Only 2% of high ranking civil servants and senior executives in the public and private sectors are members

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<sup>1</sup> "Manifeste pour les droits politiques, économiques et sociaux des Haratines au sein d'une Mauritanie unie, égalitaire et réconciliée avec elle-même », April 29th, 2013, Nouakchott

<sup>2</sup> Ibid

of the Haratine community. Haratines are also excluded from middle and higher level positions in the military, police and security forces, despite the fact that they represent the majority of personnel in the lower ranks of these organisations. They are also under-represented in the running of religious institutions.

13. The discrimination experienced by Haratine women and girls is further compounded by gender discrimination. With the status of slaves or former slaves, they experience social exclusion, poverty and limited or no access to education or paid and decent employment, all of which are made worse because of the disadvantage they also experience as women. For instance, the housework and childcare responsibilities attached to their traditional gender role may prevent women and girls from pursuing education, training or paid work. Perceptions of women's role as servile, subordinate and inferior to men also facilitates the exercise of control and abusive treatment of women. Being trapped in informal work, without protections or decent wages, places them at greater risk of violence. Through interviews with Haratine women conducted in October 2012, MRG found that most work as domestic workers or nannies for Beidan households, in which the relationship may not be too dissimilar to the slave-master dynamic.
14. While some state that in recent decades progress has been made in terms of access to education and employment, 63% of the young Haratine women interviewed by MRG in Nouakchott consider that they are still victims of discrimination by some of the upper classes. 42% of the young Haratine women interviewed by MRG in October 2012 said that they are viewed as inferior by Beidan women and 34% believed that they are invisible to them.
15. Discrimination towards Haratines is also manifest in the nationwide census carried out since May 2011 by the Mauritanian government. The requirement of the prior registration of both parents in the census is difficult or impossible for people of slave descent to fulfill, especially those whose parents or mother were enslaved. Many Black Mauritians (people from black ethnic groups who were never enslaved by the Beidan) have had their Mauritanian origins called into question and have been subjected to humiliating and unnecessary tests, including such issues as the ability to cite a particular verse from the Qur'an, to speak the Hassaniya language and to recognise a key figure from presidential circles. Responding to a demonstration protesting the alleged racist census, the government of Mauritania arrested 13 people in the early stages of the process.<sup>3</sup>

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<sup>3</sup> Declaration of the Forum des Organisations Nationales des Droits de l'Homme (FONADH) 19 September 2011.

The peaceful demonstration was dispersed by the police who reportedly exercised excessive force. One young man aged 19 years old, Lamine Mangane, was shot by the police in Maghama, southern Mauritania. In addition, Mauritians living in France were asked to provide a valid residence permit as a prerequisite for their registration. On February 2013, Ould Abdel Aziz, the president of the *l'Organisation des Travailleurs Mauritaniens de France* wrote to the President of Mauritania to explain that this requirement had no legal basis and that it could have grave consequences for all Mauritanian workers who found themselves living illegally in France and who could become stateless.<sup>4</sup>

16. Despite the extremely high levels of racism and xenophobia in Mauritania that result from a caste-based system, and notwithstanding the existence of legislation that prohibits race-based discrimination and incitement to acts of racial and ethnic discrimination, we are concerned that no case of racial discrimination has ever been referred to national courts. SOS-Esclaves indicates that this situation is mainly due to the control exercised by the White Moor elite over the magistrature, the police and security forces. Most preoccupying for a society that aims towards reconciliation, is the fact that until now, no prosecution has been initiated against the perpetrators of killings, plundering and deportations committed between 1989 and 1991 against the Black-Mauritanian populations. The truth about what happened during this period represents a taboo and no official report about those events has even been released. This silence over the past has been accompanied, in practice, by the de facto creation of a culture of impunity on questions of racism and slavery and more generally of a culture of amnesty for grave violations of human rights. Torture, for example, and despite its recurrence in police stations, is rarely prosecuted.

### **Article 3 – Equality between men and women**

- **Intersectional discrimination experienced by Haratine and other Black-Mauritanian women**

17. Despite some steps forward in terms of women's rights, most notably the adoption of the principle of equal pay contained in the Labour Code<sup>5</sup>, the instigation of quotas on electoral lists (2005), the national strategy on women's

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<sup>4</sup> Letter from the OTMF – Organisation des travailleurs Mauritaniens de France - to the President of Mauritania, Ould Abdel Aziz, <http://www.renndo.com/index.php/78-information/99-l-exigence-de-la-carte-de-sejour-trouble-le-recensement-des-mauritaniens-de-france>

<sup>5</sup> Order 017/2004 of July 6th 2004

rights (2004-2008)<sup>6</sup>, the establishment of a Ministry of Social Affairs, Childhood and the Family<sup>7</sup>, and the adoption of the Personal Status Code (2001), MRG and its partners regret that these do not address the particular vulnerabilities faced by Haratine women and women of other minority groups such as the Pular, Soninke and Wolof.

18. Indeed, women members of the Haratine community experience intersectional discrimination on account of their gender and their belonging to the Haratine group. Haratine women experience prejudice and marginalization that are not experienced by women belonging to the upper class.<sup>8</sup> They are virtually absent from the educational system, formal employment, politics and the legal system. In its General Recommendation 28, CEDAW<sup>9</sup> urges the governments to legally recognise intersectional discrimination, to prohibit it and to design programmes and policies aimed at combating those specific forms of discrimination.<sup>10</sup> Similarly, in its General Recommendation 25, CERD has required States to incorporate a gender dimension in the design of policies and programmes aimed at combating racism and xenophobia.<sup>11</sup> In Mauritania, intersectional approaches are basically absent from public policies and until now, no consultation, awareness-raising or policy on the situation of Haratine women have been undertaken or adopted by the government.
19. While MRG and its partners welcomes the establishment of quotas of 20 per cent for women in decision-making level positions in public administration, we are concerned that the number of seats reserved for women (20 seats) have not been adapted to the increase in the number of seats in Parliament from 96 to 148. Following this increase, women now only represent 13% of the total of Members of Parliament, which constitutes a regression compared to the previous years where the level of representation of women in Parliament was 17%.<sup>12</sup> In addition, such a quota system has done nothing to address the discrimination faced by Haratine women given that they remain vastly underrepresented in Parliament.<sup>13</sup>

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<sup>6</sup> Stratégie Nationale de Promotion Féminine (2004-2008)

<sup>7</sup> Ministère des Affaires Sociales de l'Enfance et de la Famille (MASEF)

<sup>8</sup> UNPO reference

<sup>9</sup> Mauritania became a party to the Convention on the Elimination of All Forms of Discrimination Against Women in 2000.

<sup>10</sup> CEDAW, General Recommendation 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/2010/47/GC.2, 19 October 2010 : <<http://www.refworld.org/docid/4d467ea72.html>>

<sup>11</sup> CERD, General Recommendation 25 on Gender related dimensions of racial discrimination, 20 March 2003, <<http://www.unhcr.ch/tbs/doc.nsf/0/76a293e49a88bd23802568bd00538d83?Opendocument>>

<sup>12</sup> CEDAW, Concluding Comment to Mauritania, 11 June 2007

<sup>13</sup> There are 4 Haratine women out of 19 women in the National Assembly and 0 Haratine women out of 8 women in the Senate

- **Violence against women**

20. MRG and its partners are concerned by the high levels of violence against women experienced by Mauritanian women such as rape (including marital rape), domestic violence, sexual aggression that results from the dominance of a patriarchal ideology and the persistence of early and forced marriages between adults because of the continuation in practice, despite its illegality, of the prohibition of inter-caste marriage. Haratine women are at greater of risk of violence both in the public and private spheres (because of the domination of White Moor men in the public sphere as well as the control exercised over women in family settings). MRG and its partners also regret the absence of legislation or programmes aimed at addressing the issue of violence against women and note the absence of statistical data on the incidence of acts of violence against women. While we welcome the government's commitment to criminalize violence against women, we are concerned by the fact that the draft law has been in Parliament for more than a year and does not seem to be granted the level of attention that it deserves. In addition, the draft law falls short of recognizing that Haratine, Pular, Soninke and Wolof women are more vulnerable to gender-based violence as a result of the intersection of their minority identity with their gender.

#### **Article 8 – Freedom from slavery**

- **Lack of enforcement of the 2007 Act criminalizing slavery and slavery-like practices**

21. To date, the 2007 anti-slavery law has hardly been used by the police or the courts and has only resulted in one successful prosecution (though even that is currently under appeal). Different cases supported by Anti-Slavery International, MRG and SOS-Esclaves exemplify the lack of political and judicial will to enforce the law criminalising slavery. The two examples which follow are but two of many.
22. In November 2011, Ahmed Ould Hassine was found guilty of enslaving two boys, sentenced to two years' imprisonment and ordered to pay compensation (1,350,000 MRO (approx. 4,100 Euros)). An appeal was immediately filed on behalf of the two children (the civil party), because the sentence and the damages awarded were not considered commensurate with what the boys had experienced; indeed, recommended sentences for the crime of slavery are 5-10 years. The State Prosecutor did not appeal the lenient ruling immediately; he only filed an appeal after the lawyer representing the boys, Said and Yarg,

personally intervened. An appeal was also lodged by the slave master against the conviction and sentence. Less than four months later, the convicted slave-owner was released on bail for the sum of 200,000 MRO (approx. 537 euros). At no point was the children's lawyer informed of the request for bail or release, despite the potential risks for the boys. The decision to grant bail made on 23 March 2012 only became known to the boys' lawyer on 2 April. The lawyer noted that this is "inconsistent with the fact that the civil party must be informed at all stages of the process". Since then, the appeal has been postponed by the court more than 5 times.

23. The judge also ruled against Said and Yarg's mother, Salka Mint Mbarke, who was given a suspended sentence of one year's imprisonment. It was contended that she had supported the master and his family in holding her children in slavery. Yet the ruling fails to take into account the indoctrination and subjugation that is an integral part of the system of descent-based slavery: the mother may well have believed the boys' slavery was normal, and she was not in a position to challenge their treatment at the hands of the master.
24. The case of Rabi'a, Minetou and Nana, three sisters held in slavery in Nouadhibou, also exemplifies the delays and the lack of respect for the procedures and deadlines within the Mauritanian justice system. The case has been at the Supreme Court level for more than two years. Initially sent by the investigating judge to the Criminal Court, that decision was appealed by the defence but subsequently confirmed by the Appeal Court. The defence then sought recourse to the Supreme Court and the case remained pending at this level until January 14<sup>th</sup>, 2013 when the case was sent back to the Criminal Court of Nouadhibou where it is now pending. Furthermore, the victims were originally told that the mistress was arrested and was placed in jail pending the outcome of the court case. However, investigations by SOS-Esclaves and their lawyer revealed that there were no prisons for women in the region and that, the mistress had in fact been released on bail.
25. Similarly, as outlined by the UN Special Rapporteur on contemporary forms of slavery, police investigators have shown reluctance to follow up on allegations of enslavement due to an ignorance of the law and/or insufficient evidence. Anti-Slavery International has received over 50 reports regarding the failure of the relevant authorities in Mauritania to respond appropriately to the legal proceedings initiated by the slavery victims towards their owners. Boubacar Ould Messaoud, President of SOS-Esclaves, also highlights the reluctance of judges to condemn slave-owners and grant redress to slaves for fear of being ostracized within their own community. Under international human rights law, the State is

required to act with due diligence in investigating, prosecuting and punishing those who hold others in slavery.<sup>14</sup>

26. Additionally, the 2007 Act criminalizing slavery and slavery-like practices falls short of addressing the entrenched discrimination experienced by Haratines, particularly women (in the fields of employment, education, access to justice, access to credit and so on). Slavery cannot be tackled without addressing and working towards eradicating the discriminatory attitudes and practices that are deeply embedded in the social norms of Mauritania.

- **Additional concerns over the 2007 Act**

27. While MRG and its partners welcome the recognition of slavery as a crime against humanity in the Mauritanian constitution, we consider that the gravity of the crime should be reflected in the length of the imprisonment sentences imposed on slave-owners. The 2007 Act that makes slavery punishable with prison sentences of only between five and ten years should be amended to include imprisonment sentences in line with international standards and jurisprudence for crimes against humanity.
28. In addition to the lack of judicial or political will to enforce the Act, there are several flaws in the law itself that undermine its potential to be enforced. In particular, the burden of proof lies with the victim. Thus, an investigation can only be initiated if the victim lodges a complaint. The act does not allow human rights organisations to bring complaints on behalf of victims of slavery. Descent-based slavery is so entrenched in the social structures and cultural beliefs in Mauritania that in most cases, people in slavery are unaware of their situation and accept their subordinate status. In addition, most of them are unaware of their rights and if they do, there are significant barriers to them engaging with the legal process and obtaining redress. For all these reasons, it is very difficult for slaves to make use of the new legislation in force. In addition, the law does not recognize slavery-like practices such as serfdom or forced marriage as constituting “offences of slavery” under the law.

- **The government’s denial that slavery still exists today**

29. The Mauritania government refuses to recognise the continuing existence of slavery, although it acknowledges the “vestiges of slavery”. The official position

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<sup>14</sup> See among others; Article 4(c) of The Declaration on the Elimination of Violence against Women (DEVAW),1993; General Comment 19 of the Committee against the Elimination of all Forms of Violence Against Women (CEDAW), Violence against women, 29/01/1992; General Comment 31 of the Human Rights Committee, Nature of the Legal Obligation imposed on States Parties to the Covenant, 26/05/2004, CCPR/C/21/Rev.1/Add.13

of the government is that slavery does not exist as an institution anymore as the result of the prohibition and criminalization of slavery. We consider that the adoption of the 2007 law criminalizing slavery is an implicit recognition that slavery is still widely practised in Mauritania. Anti-slavery organizations estimate that 18% of the population are still living in slavery today. Haratines, those most likely to be affected by slavery today, are estimate to constitute 30-40% of the Mauritanian population. It is not clear to what extent other black ethnic groups outside the Moor community, such as the Pular, Soninke and Wolof practise slavery<sup>15</sup>; as the UN Special Rapporteur on contemporary forms of slavery explains, “slavery in the black African community is less frequently talked about because it takes the form of social stratification. It is also less easy to identify slavery because it occurs within homogeneous racial group unlike slavery within the Moor community.”<sup>16</sup>

30. The Special Rapporteur has been unequivocal in describing situations that she encountered during her visit in Mauritania as slavery, stating that it results in the ‘social death of many thousands of women and men’.<sup>17</sup> Many Haratines live separately from their masters but are still treated as slaves, and subjected to the exercise of property rights. They may be forced into marriages arranged by owners, to give a share of their agricultural production to their masters, or obliged to vote as the master wishes.

- **Additional vulnerability and rights violations of women subject to slavery**

31. Slavery affects women differently to men. The physical and psychological impact of slavery on women is usually worsened by sexual abuse and the exercise of reproductive controls. La *Confédération libre des travailleurs de Mauritanie* reports that girls in slavery are highly likely to suffer sexual violence and rape by their masters.<sup>18</sup> In addition, children who are born to a mother in slavery and a master are considered to be the master’s property and are therefore treated as slaves. They may also be rented out or given away as gifts. Their situation of slavery makes it virtually impossible for these women to report sexual violence and seek support. In addition, those who manage to escape from their owners have very limited economic opportunities, leading many of them into exploitative arrangements as domestic or sex workers. A recent study from the

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<sup>15</sup> Report of the Special Rapporteur on Contemporary Forms of Slavery, including its causes and consequences, Gulnara Shahinian, Mission to Mauritania, 16 August 2010, A/HRC/15/20/Add.2 [http://www2.ohchr.org/english/issues/slavery/rapporteur/docs/A.HRC.15.20.Add.2\\_en.pdf](http://www2.ohchr.org/english/issues/slavery/rapporteur/docs/A.HRC.15.20.Add.2_en.pdf)

<sup>16</sup> Ibid, para 11

<sup>17</sup> Ibid, Introduction, page 2

<sup>18</sup> US Department of Labor’s Bureau of International Labor Affairs (2010), available at: <http://www.unhcr.org/refworld/pdfid/4e8c3985d.pdf>

Ministry of Social Affairs and Family reports that 1 in 5 girls working as domestic workers were subjected to sexual violence.<sup>19</sup>

32. SOS-Eslaves explain that women in slavery may be more vulnerable than men because of their children. By taking children away from their mothers, masters are able to maintain control over women in slavery. In this regard, the UN Special Rapporteur on contemporary forms of slavery indicates that “a slave woman is less likely to disobey or attempt to escape when she does not know where her children are and only the master possesses that information”.<sup>20</sup> And when she escapes, she either has to take her children with her (which makes the escape and struggle for survival more difficult) or leave them behind. SOS-Eslaves indicates that it receives far more women than men because women generally need the assistance of the organization to find a place to stay as well as to obtain financial support for her and her children. In a patriarchal society such as Mauritania, it is easier for single men to leave, find accommodation and a decent livelihood.
33. MRG and its partners welcome the criminalization of sexual exploitation of women in slavery by their owners under the 2007 Act, in that it recognizes the gender dimension of slavery and its different impact on women’s lives and experiences. However, MRG and its partners note with concern the absence of concrete measures taken to ensure that women can effectively access legal remedies and be provided financial and psychological support in case they decide to lodge a complaint against their master. Thus, the absence of shelters to protect women and their children who are particularly vulnerable to sexual exploitation and destitution contributes further to the disempowerment and dependence of women in slavery.

**• Absence of data on slavery and its gender dimension, institutional and practical concerns about the new National Agency and the delayed adoption of the road map to eradicate slavery**

34. While welcoming the adoption in March 2013 of the National Agency to Fight against the Vestiges of Slavery, for Social Integration and to Fight Against Poverty, also called “Tadamoun” (or *Solidarity*) Agency, we express concern about its institutional and financial ability to address and combat those three

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<sup>19</sup> MASEF (2009), Études sur les pires formes du travail des enfants en Mauritanie, p.10

<sup>20</sup> Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, Mission to Mauritania, 16 August 2010, A/HRC/15/20/Add.2, page 11, para 38, <[http://www2.ohchr.org/english/issues/slavery/rapporteur/docs/A.HRC.15.20.Add.2\\_en.pdf](http://www2.ohchr.org/english/issues/slavery/rapporteur/docs/A.HRC.15.20.Add.2_en.pdf)>

major issues at the same time. The fact that the new agency combines three mandates is likely to undermine its credibility and future efficiency. We are also concerned that the mandate of the eradication of the vestiges of slavery will be granted less priority than the other mandates and as result, that it becomes incorporated in more general programmes on poverty alleviation. In addition, we regret the failure to recognise that slavery continues to exist (not just its vestiges) and the absence of disaggregated data on slavery in that it hinders the adoption of long-term evidence-based and results-oriented strategies to eradicate slavery and slavery-like practices.

35. We are also concerned about the measure that grants legal standing to the new National Agency in that it can act as civil party and be associated in a court action with the public prosecutor. For SOS-Eslaves, this constitutes a major violation of the principle of the separation of powers, since the Agency is under the control of the executive branch.
36. After the visit of Ms. Gulnara Shahinian, the Special Rapporteur on Contemporary Forms of Slavery, the government indicated that a road map to ending slavery would be designed in cooperation with the OHCHR, which opened an office in Nouakchott in 2010. However, at the time of writing in August 2013, the road map has not yet been finalized or adopted. Moreover, civil society has not been consulted in the finalization process.

### **Article 23- Protection of the family and the right to marriage**

#### **• The continuing practice of early marriage**

37. The government recognizes that despite the prohibition of forced marriage and the fact that the age of marriage was set at 18 years old under the 2001 Personal Status Code, early marriage is still widely practised in Mauritania, due to entrenched stereotypes, norms and traditions. The absence of programmes and policies addressing the structural causes of early marriage (poverty, illiteracy, slavery) hinders the legislative efforts made by the government.

#### **• Protecting people's right to marry whom they want and to found a family**

38. Since slaves are considered as the property of their masters, the age at which female slaves are allowed to marry is decided by their owners. They are typically prevented from marrying or forced to marry the person of their owner's choosing. Even when the masters allow their slaves to marry freely, there are often restrictions imposed by the masters that limit the freedom of the couple. In

one case, a former slave named Moina was allowed to marry her cousin. However, her husband later divorced her as she was not allowed to leave her master's home. A similar situation was also experienced by Jabhalla, a young woman in slavery who took care of her owner's animals. She wanted to marry and asked for her master's permission. The owner agreed but told Jabhalla that, even as a married woman, she should remain at his home and serve him as usual. A husband or father of a woman in slavery is only recognized if the owner consents to the marriage. As such women, men and children are denied the right to family life.

39. The violation of the right to marry is also manifest when action is taken to prevent any marriage between a person of slave descent and a person from the upper class. While there are no official laws against intermarriage, couples usually face intense pressure and challenges from their families and communities and receive little support from State institutions.

#### **ARTICLE 24 – Special protection for children**

40. While MRG and its partners welcome the prohibition of female genital mutilation (FGM) for minors in the Act 015/2005 relating to the criminal protection of the child,<sup>21</sup> and the adoption of a national strategy to promote the abandonment of FGM, it notes with concern the persistence of the practice with current figures showing that 71% of women have been cut in Mauritania.<sup>22</sup> These include Haratine girls, although no specific data are available. The health implications of FGM have been widely documented (bleeding, long-term risks related to pregnancy, disability, etc.) and can affect Haratine girls more severely given their limited access to health services.

#### **ARTICLE 26 – Equality before the law**

41. It will be apparent from earlier sections of this report that members of the Haratine community and other Black Mauritanian ethnic groups are not equal before the law (whether de jure or de facto) and are not equally protected by it.
42. In addition, access to justice for such communities is impaired by multiple factors including geographical distance, illiteracy, lack of education, ignorance of the law

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<sup>21</sup> Order 015/2005 relating to the judicial protection of the child, 5 December 2005

<sup>22</sup> GIZ/ BMZ (2011) Female Genital Mutilation in Mauritania, available at: <http://www.giz.de/Themen/de/SID-B3D140A9-FA5058EC/dokumente/giz-fgm-EN-mauritania-2011.pdf>

and of their rights, legal costs, lack of assistance, and psychological and financial dependence. But more importantly, there are both gender and racial biases in the way justice is administered. The legal system reflects the deeply unequal and unjust society that relies on strict hierarchies between the sexes and socio-ethnic groups.

43. Members of the Haratine community and other Black Mauritanian ethnic groups are reportedly not treated equally before the law, mainly because lawyers and judges are largely members of the White Moor elite and are therefore biased by cultural stereotypes regarding race and gender. As outlined in the Haratine Manifesto, of over 200 magistrates practising in Mauritania, less than ten are Haratines. SOS-Esclaves indicate that White Moor judges and magistrates fear being ostracized within their community if they deliver judgments that go against the interests of the upper caste.
44. Training for judges and magistrates would be a step in the right direction but is far from a complete solution because it does not address the root cause of the problem which is the lack of representation of Haratine and other Black Mauritanian ethnic groups in the judiciary.

#### **ARTICLE 27 – Rights of minorities**

45. The identity of Haratine has long been denied as the result of their enslavement and assimilation by White Moors. We are concerned that the cultural practices specific to Haratine that still remain alive today such as the music, the songs, are being appropriated by the White Moorish elite as part of the Moorish identity.
46. MRG and its partners are also concerned that the languages of the Pular, Wolof and Soninke are not recognized as official languages and are not included in the educational curriculum causing further marginalization and exclusion of those ethnic minorities.

## Recommendations:

### 47. We urge the government of Mauritania:

- a. To adopt special measures to address the substantive inequality between slaves and people of slave descent and other citizens in Mauritanian society. These should include, but are not limited to, ensuring full enrolment and sustained attendance of Haratine children at school and programmes aimed at socio-economic empowerment and integration. The government needs to ensure that such special measures are pursued until *de facto* equality has been realised;
- b. To develop and implement public awareness-raising campaigns on equality, non-discrimination and the anti-slavery law. Nationwide training for police as well as administrative and judicial authorities is also necessary. The government of Mauritania and its officials must refrain from any discriminatory practice towards the Haratine community, and conduct the current census in a manner which does not exclude Haratine, or Black Mauritians, from registration;
- c. To address the intersection of race and gender in the design and implementation of gender-oriented programmes or policies in order, for example, to support Haratine women's representation in Parliament and public administration;
- d. To increase the number of seats reserved to women in the Parliament to put it in line with the quotas of 20% of women in decision making level positions in public administration established in 2005 and adapt it going forward to the increase in the number of seats in Parliament;
- e. To take all possible measures to eradicate the practice of slavery including by ensuring enforcement of the law criminalizing slavery. These should include, but are not limited to, the establishment of a monitoring committee consisting of several representatives of the government and civil society to monitor the implementation of the law, and the adoption and publication of the road map to ending slavery, prepared in cooperation with the OHCHR. An integrated approach to slavery should be developed in order to address and tackle the cultural, institutional, economic and political factors underlying the perpetuation of the practice;

- f. To provide statistical data on slavery disaggregated by gender, age, region, caste and/or ethnicity and income.
- g. To make appropriate amendments to the law criminalising slavery and slavery-like practices (Law No. 048-2007), so that the once evidence of a prima facie case of slavery is put forward, the burden should move to the alleged perpetrator to show that the victim was not being held in slavery. Anti-slavery organizations should be granted *locus standi* to enable them to pursue cases on behalf of victims;
- h. To ensure that proper and effective investigations over the cases on slavery take place and result in the punishment of the convicted perpetrators.
- i. To domesticate the Convention on the Elimination of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women, as these would strengthen the legal and policy framework against all forms of discrimination;
- j. To acknowledge that women's experience of slavery differs from men's and to implement gender-sensitive programmes that take into account the particular situation and experiences of women affected by slavery. Gender-sensitive measures should be taken and include, for example, the establishment of government run rehabilitation shelters to accommodate and to provide food, clothing and psychological support to women and their children who have escaped from their master;
- k. To disseminate regular reports on the overall functioning of the National Agency Tadamoun and clarify its specific programmes and objectives in terms of the eradication of the vestiges of slavery in relation to the two other mandates of the agency. Sufficient financial and human resources should be clearly allocated to each one of the Agency's mandates;
- l. To ensure that people of slave descent are free to marry with their full consent. Practices prohibiting a person of slave descent marrying outside of their social group should be abolished;

- m. To complement the codification of the age of marriage in the Personal Status Code (2001) by the design of programmes aimed at addressing and tackling the root causes of early marriage and to explore the interactions between the practice of slavery, caste and descent-based discrimination and that of early marriage. The issue of early marriage should be integrated into a global strategy aimed at eradicating slavery and caste-based discrimination. Overall, the emphasis should be put on improving the educational and economic opportunities for young girls including the implementation of programs to improve literacy skills;
- n. To organize awareness raising campaigns and public health advocacy programmes aimed at eliminating harmful cultural practices including FGM as well as supporting efforts to change stereotypical conceptions of women's roles and sexuality. Trainings for health providers should also be provided in order to sensitize them to the health implications of the practice. Medical support and assistance should also be provided to those subjected to FGM;
- o. To provide legal aid services and to adopt temporary special measures including quotas and reserved seats to improve women and minorities' access to justice as well as their representation and visibility in the judiciary. Information on how to use legal remedies to bring a claim of discrimination should also be widely disseminated.
- p. Recognize the Wolof, Soninke and Pular as official languages to improve the integration and increase the visibility of Black African ethnic groups in the Mauritanian society as well as to allow them to enjoy effective access to culturally-sensitive public services in education, policing, health care, and social services;