Alternative Report submitted to the UN Committee on Economic, Social and Cultural Rights for the consideration of the Initial Report of Mauritania during the 47th Pre-Sessional Working Group

JOINTLY SUBMITTED BY:

Unrepresented Nations and Peoples Organization

IN COLLABORATION WITH:

Initiative de Résurgence du Mouvement Abolitionniste en Mauritanie
CONTENTS OF THIS REPORT

Section A: Introduction to the Report ................................................................. 3

Section B: Introduction to the Haratin ............................................................. 4

Section C: Compliance with ICESCR ................................................................. 5

   Article 6 – Right to work ............................................................................. 5
   Article 7 – Right to just and favorable conditions of work ............................ 5
   Acts of Commission .................................................................................... 8

   Article 10 – Special measures for protection of the rights of children and families . 10

Section D: Recommendations ........................................................................... 11

Appendix 1: Text of Act No. 2007-048 ................................................................. 12

Contact Information

Unrepresented Nations and Peoples Organization
International Secretariat
Laan van Meerdervoort 70
2517AN The Hague
the Netherlands
www.unpo.org
unpo@unpo.org
Section A: Introduction to the Report

This alternative report submitted by the Unrepresented Nations and Peoples Organization (UNPO) in collaboration with the Initiative de Résurgence du Mouvement Abolitionniste en Mauritanie on the occasion of the 47th Pre-Sessional Working Group of the United Nations Committee on the Social, Economic and Cultural Rights (henceforth, “the Committee”) during which the Initial Report of Mauritania will be considered.

The framework of this report will comment upon relevant articles of the International Covenant on Economic, Social and Cultural Rights sequentially. The final section of the report raises questions that should be posed and recommendations regarding concerns which are intended to inform the discussions taking place within the International Covenant on Economic, Social and Cultural Rights (henceforth, “ICESCR” or “the Covenant”) and between the Committee and the Mauritanian delegation at the 47th Pre-Session.

This alternative report will focus on the situation of the Haratin population in Mauritania and the Mauritanian government’s compliance with and implementation of the provisions in the International Covenant as it affects this particular group. The major issue dealt with in this report is the continued existence and widespread practice of slavery in Mauritania.

The Hague, October 2011
Section B: Introduction to the Haratin

The Haratin are a minority group of Black African origin known as “Black Moors” whose culture, language and identity are Arab as a result of centuries of enslavement by Beydan or “White Moor” masters. The Beydan remain dominant in Mauritania’s political, economic, military administrative and security spheres. Despite repeated attempts to abolish slavery in Mauritania in 1905, 1981 and the criminalization of slavery in 2007, the practice is still commonplace and particularly affects the Haratin.

Mauritania has a history of slavery going back hundreds of years. It is deeply entrenched as part of a hierarchical social structure in all ethnic communities in Mauritania. Although the Haratin’s origin is not clear, it is believed that they are the descendants of sedentary black ethnic groups along the Senegal River who were invaded, enslaved and assimilated during raids by Berber Arabs (White Moors).

After the colonial period, increasing urbanisation and migration appeared which, to a certain extent, reduced the slave system somewhat. Nouakchott, the capital of Mauritania, became to some degree a safe haven for escaped or freed slaves. In 1974, an emancipation movement known as El Hor was spawn out of this small community of freed or escaped slaves. Regrettably, the movement’s focus on redress of social issues and justice brought it in direct confrontation with the government. This confrontation culminated in widespread arrests and torture as well as the expulsion of many Haratin from the country.

At the beginning of 1980 Mohamad Khouna Ould Haidallah came into power through a military coup. While the new government appeared at first to sympathise with the situation of the Haratin and other minority groups, a 1981 law abolishing slavery proved to be completely ineffective. Slavery was not a criminal offense in Mauritania until 2007, and the authors of this report believe that the total lack of enforcement of the 2007 law criminalizing slavery indicates that slavery is not in reality criminalized in Mauritania.

Due to the profoundly conservative nature of Mauritanian society, strict hierarchical social systems are prevalent, especially in the dominant Berber or White Moor classes which have traditionally dominated positions of power, politics and wealth. As a result, Mauritania’s caste-system is deeply engrained within society; slaves within this system are categorized on three levels: the ‘total subject’, the ‘part slave’, and the ‘true Haratin’.
Section C: Compliance with ICESCR

Article 6 – Right to work

Article 7 – Right to just and favorable conditions of work

Article 6.1 states that “[t]he States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.”

Article 6.2 states that “[t]he steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.”

Article 7 states that “[t]he States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular: (a) Remuneration which provides all workers, as a minimum, with: (i) Fair wages and equal remuneration for work of equal value without distinction of any kind... with equal pay for equal work; (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant; (b) Safe and healthy working conditions... (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”

The conditions of slavery that continue to exist in Mauritania are a clear violation of article 6.1 of the Covenant. The State Party is largely responsible for the continued existence of slavery in Mauritania, particularly the lack of crackdown on the practice of slavery, forced labour and domestic servitude, and the dearth of policies and programs aimed at aiding victims of slavery in reintegrating into society.

In 1981, Mauritania passed a law abolishing the practice of slavery, though this law was widely ignored and slavery continued unchecked for the next decades. The law also included provisions to provide compensation for masters who would lose their slaves, thus illustrating the societal perception of slaves as property rather than victims. A 2007 law criminalized the practice of slavery in Mauritania.¹ However, despite these legal measures, the practice of slavery continues to be widespread in Mauritania.² In the report on her visit to Mauritania in 2010, the Special Rapporteur on contemporary forms of slavery noted that slavery in Mauritania “continues to be

¹ See Appendix 1 for the full text of the 2007 law (French).
² Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences: Mission to Mauritania (A/HRC/15/20/Add.2), 24 August 2010, states that “[d]espite laws, programmes and difference of opinion with regard to the existence of slavery in Mauritania, the Special Rapporteur concluded that de facto slavery continues to exist in Mauritania.” p 1.
a slow, invisible process which results in the ‘social death’ of many thousands of men and women.” ³

The vast majority of Haratin continue to live as slaves. Even when freed, slaves often continue to work for their former ‘masters’ due to psychological and economic dependence that has been established through years of enslavement. One of the major obstacles in alleviating slavery in Mauritania is the strong tradition regarding slavery which is embedded in Mauritanian culture. An old Mauritanian saying is thus: ‘Paradise is under your master’s foot.’ Many are taught that if they obey their master, they will go to heaven. The precedence of Islamic law as enshrined in the Mauritanian constitution is connected to the continued practice of slavery in the country.

Economic emancipation of the Haratin in Mauritanian society is hampered by a systemic destitution enforced by barring access to property. The land Haratin have been cultivating for generations under feudalistic conditions is subject to land grabbing and can be leased at any time to national and foreign investors. In addition to large-scale land grabbing for lease to foreign investors, the Haratin frequently see their land rights violated in favour of White Moors, who have been allowed to expropriate land owned by former slaves and to obstruct their access to water and pastures.⁴ Former slaves involved in land disputes have been attacked with impunity.⁵

Most Haratin are illiterate and uneducated, a fact that significantly limits their opportunities upon their freedom. As a result, many are forced to return to their former masters and work for little to no compensation. The 2007 Act lacks any measures to provide rehabilitation and aid programmes for former slaves – such measures would prevent slaves from being forced into ‘voluntary’ servitude out of economic necessity. The practice of slavery is so widely spread among housekeeping personnel that the state party passed a decree in May 2001 aimed at regulating the sector, establishing a minimum standard (minimum wage; duly signed contract; health insurance) thereby recognizing the scale of this problem. The Haratin continue to be extremely marginalized economically; even if they are free, their freedom entails working subaltern jobs and living in extreme poverty.⁶

The 2007 Act criminalizing slavery does not account for the inextricable link between discrimination and slavery in Mauritania; Haratin in particular continue to experience legal and social discrimination, which acts as an unofficial barrier to their escape from slavery. Discrimination is a significant factor in the difficulties facing freed Haratin in finding work; the

---

few who are able to secure employment have been limited to providing manual labour in markets, airports and water ports.\(^7\)

Many Haratin are unaware of their rights. Illiteracy and limited access to information about rights prevents most Haratin from understanding or even knowing about the existence of the 2007 law criminalizing slavery. The Act does not contain any supporting measures to aid in publicizing it among the general population.

Enforcement of the 2007 law is severely lacking. The State Party has yet to successfully prosecute a single case of slavery under the Act.\(^8\) The Special Rapporteur on contemporary forms of slavery has reported numerous issues with enforcement of this Act, including: cases being re-filed as inheritance or land disputes; pressure on claimants from family, masters and local authorities to retract the claim; reluctance from police and courts in following up on allegations of slavery-like practices; difficulties of enforcement in rural areas and among nomadic communities due to movement, porous borders and lack of systematic registration of children; reluctance of judges to act; and the effectiveness of those practicing slavery at keeping the practice hidden.\(^9\) The Special Rapporteur also criticized the vagueness of the law, noting that “many master-servant dependencies—often encompassing former slavery bonds—fell short of inclusion in the antislavery policy.”\(^10\)

The limitation of the 2007 Act to the \textit{criminal} responsibility of slave-owners also does not provide for the possibility of civil cases seeking reparation or compensation for victims of slavery. The application of the law requires victims to personally report the violation of the law and to provide evidence proving their enslavement. Third parties can not trigger prosecution, as the 2007 law bars NGOs from filing complaints on behalf of slaves.\(^11\) As a result, victims are easily intimidated. As many slaves are illiterate, they are also unable to complete the paperwork necessary for filing a complaint. The government has not supported any programs in systematically assisting victims in filing complaints on slavery.\(^12\) The few complaints that are brought to the attention of the judicial system are dismissed, with frequent retaliation against the victims. The very few cases of arrests of slave owners that are investigated, thanks to pressure by organisations such as IRA, are then handled by the judicial system in a way intended to avoid any precedent, which results in acquittals, unenforced sentences, and repressive

actions against the victims who have turned to the justice system to seek protection from their abusive masters.

Women in Mauritania face particular difficulties in escaping from slavery in Mauritania. Female slavery victims making official complaints are scrutinized closely by the courts, and often face intimidation from officials and their former masters. Unmarried female slaves with children, often the result of rape, can be threatened with prosecution for adultery.

Acts of Commission

The State party has demonstrated on numerous occasions in the past year its complicity with the practice and the administration of slavery, ensuring the perpetuation of the social and economic structure that acts as a total barrier to change. The legislative body fails to deliver the political process required for reforms that can address the issue through the effective domestication of international commitments.

General comment No. 18 of the Committee states the following obligation of state parties with regard to civil society:

*States parties should respect and protect the work of human rights defenders and other members of civil society, in particular the trade unions, who assist disadvantaged and marginalized individuals and groups in the realization of their right to work*¹³

This document also recommends the enactment of specific legislative measures for the implementation of the right to work, including measures that provide for the involvement of civil society.¹⁴ The state party has failed to fulfill this obligation, particularly in its overt actions to prevent the involvement of human rights defenders and civil society in combating forced labor and assisting victims of forced labor in escaping these conditions and seeking justice and protection from the state. The U.S. Department of State called the State party’s efforts to protect victims of slavery “negligible.”¹⁵

In December 2010 eight human rights activists were arrested and beaten at a police station in the capital city of Nouakchott after exposing the case of two young girls forced to work as servants. After being brought to the police station, the girls were separated from the activists for questioning. The group’s leader, Biram Dah Ould, petitioned the officials to allow him to be present with the girls during the questioning. When he was denied, the activists staged a protest outside of the police station, prompting police to beat and arrest them. Those detained were charged with “assaulting agents” and “obstructing public order” as well as being members of an unrecognized organization – despite repeated attempts to register, the Initiative pour la

---


Résurgence du Mouvement Abolitionniste en Mauritanie (IRA) continues to be unrecognized by the government.\(^{16}\) Three of the men, Biram Dah Ould Abeid, Cheikh Ould Abidine and Aliyine Ould Mbareck Fall, were sentenced to one year in jail (six months suspended) in January 2011. Amnesty International considered the eight detainees to be prisoners of conscience.\(^{17}\) A case against the alleged slave owner, an employee of a prominent government institution, was only pursued after extreme pressure from NGOs – she was not charged with slavery, but with a lesser crime of “child exploitation”. She spent only 12 days in prison before being released, and in March 2011 she was acquitted by a court of appeals.\(^{18}\)

---


Article 10 – Special measures for protection of the rights of children and families

Article 10.3 states that “[s]pecial measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.”

Slavery in Mauritania affects children as well as adults. The Committee on the Rights of the Child has expressed serious concerns about “reports indicating the continued existence of caste-based slavery” as well as about the absence of services to both free child victims of slavery and reintegrate them into society. The Committee also expressed concerns about discrimination against certain groups of children, particularly those living in slavery or descended from slaves.

The December 2010 arrest of Mr. Biram Dah Abeid, chairman of the Initiative de Résurgence du Mouvement Abolitionniste en Mauritanie (IRA), along with several other human rights defenders is of particular concern. The arrest of Mr. Abeid while he attempted to help two young girls, aged seven and thirteen, escape slavery demonstrates unwillingness within at least some official sectors of the State party to genuinely end the practice of forced labor in Mauritania, even for children. The IRA has denounced numerous other cases in order to prompt judicial implementation of the 2007 law, but to no avail as most of the cases are not even allowed to reach the Court and be heard.

In its response to the List of Issues presented by the Committee on the Rights of the Child, the State party stated that

Criminal proceedings can be instituted by the victims themselves, who may be assisted by human rights NGOs, public authorities (police, gendarmes, magistrates, prefects, governors, administrators) or any other person with knowledge of the facts.

For cases of slavery in which children may be the victims, NGOs working in the field of child protection may act as civil plaintiff and institute criminal proceedings themselves, as provided in Order No. 2005.015 of 5 December 2005 on the judicial protection of children.

However, as evidenced in the previous section of this report, the state party has blocked attempts by victims to make official complaints of slavery in Mauritanian courts and has blocked NGOs from assisting and supporting child victims during their complaints. This is particularly true when the allegations involve public officials or others in positions of power.
Section D: Recommendations

1. Amend the 2007 Slavery Act to contain a clearer definition of slavery and to allow civil society organizations to file complaints on behalf of slaves.

2. Provide aid to judicial enforcement of the 2007 Slavery Act, as well as victim assistance programs to aid in victims’ reintegration into society.

3. Develop and implement, in association with independent experts, a comprehensive and holistic national strategy combating slavery.

4. Allow the Initiative pour la Résurgence du Mouvement Abolitionniste en Mauritanie the right to register and engage in consensus building social dialogue with other organizations representing slaves and former slaves.

5. Ensure that all citizens are registered with the local authorities.

6. Include “Haratin” among the ethnic groups listed in the census.

7. Allow Haratin access to property and, specifically, allow them legal ownership of the land they cultivate.
Appendix 1: Text of Act No. 2007-048

Loi portant incrimination et répression de toutes les pratiques esclavagistes en Mauritanie


L'Assemblée Nationale et le Senat ont délibéré et adopté; Le Président de la République, chef de l'Etat, promulgue la loi dont la teneur suit :

Chapitre premier : Dispositions générales Article premier : Fort des valeurs de l'islam et de leurs objectifs destinés à libérer l'homme et lui garantir sa dignité, et conformément aux principes constitutionnel prescrits dans la constitution et aux conventions internationales y afférentes et, en vue d'incarner la liberté de l'homme de sa naissance à sa mort, la présente loi a pour objet de définir, incriminer et réprimer les pratiques esclavagistes.

Article 2 : L'esclavage est l'exercice des pouvoirs de propriété ou certains d'entre eux sur une ou plusieurs personnes.

L'esclave est la personne, homme ou femme, mineur ou majeur, sur laquelle s'exercent les pouvoirs définis à l'alinéa précédant.

Article 3 : Est interdite toute discrimination, sous quelque forme que ce soit, à l'encontre d'une personne prétendue esclave.

Chapitre deuxième: Du crime et délits d'esclavage

Section première : Du crime d'esclavage

Article 4 : Quiconque réduit autrui en esclavage ou incite à aliéner sa liberté ou sa dignité ou celle d'une personne à sa charge ou sous sa tutelle, pour être réduite en esclave, est puni d'une peine d'emprisonnement de cinq à dix ans et d'une amende de cinq cent mille ouguiyas (500.000 UM) à un million d'ouguiyas (1 000 000 UM).

Les dispositions de l'article 54 de l'ordonnance n° 2005-015 portant protection pénale de l'enfant, sont applicable à quiconque enlève un enfant en vu de l'exploiter comme esclave.

La tentative du crime d'esclavage est punie de la moitié de la peine applicable à l'infraction commise.

Section deuxième : Des délits d'esclavage
Article 5 : Quiconque porte atteinte à l'intégrité physique d'une personne prétendue esclave est puni d'un emprisonnement de six mois à trois ans et d'une amende de cinquante mille (50.000 UM) à deux cent mille ouguiyas (200.000 UM).
Article 6 : Quiconque s'approprie les biens, les fruits et les revenus résultant du travail de toute personne prétendue esclave ou extorque ses fonds est puni d'un emprisonnement de six mois à deux ans et d'une amende de cinquante mille (50.000 UM) à deux cent mille ouguiyas (200.000 UM).

Article 7 : Toute personne qui prive un enfant prétendu esclave de l'accès à l'éducation est punie d'un emprisonnement de six mois à deux ans et d'une amende de cinquante mille (50.000 UM) à deux cent mille ouguiyas (200.000 UM).

Article 8 : Quiconque prive frauduleusement d'héritage toute personne prétendue esclave est puni d'un emprisonnement de six mois à deux ans et d'une amende de cinquante mille (50.000 UM) à deux cent mille ouguiyas (200.000 UM) ou de l'une de ces deux peines.

Article 9 : Quiconque épouse, fait marier ou empêche de se marier, une femme prétendue esclave contre son gré est puni d'un emprisonnement d'un an à trois ans et d'une amende de cent mille (100.000 UM) à deux cinq cents mille ouguiyas (500.000 UM) ou l'une de ces deux peines.

Si le mariage est consommé, l'épouse a droit à la dot d'usage doublée et peut demander la dissolution du mariage. La filiation des enfants est établie à l'égard du mari. Les dispositions de l'article 309 du Code Pénal sont applicable à toute personne qui viole une femme prétendue esclave.

Article 10 : L'auteur de production culturelle ou artistique faisant l'apologie de l'esclavage est puni d'un emprisonnement de six mois à deux ans et d'une amende de cinquante mille (50.000 UM) à deux cent mille ouguiyas (200.000 UM) ou de l'une de ces deux peines. La production est confisquée et détruite et l'amende est portée à cinq millions d'ouguiyas (5 000 000 UM) si la production est réalisée ou diffusée par une personne morale.

La reproduction ou la diffusion de ladite production sont sanctionnées par la même peine.

Article 11. - Toute personne physique coupable d'actes discriminatoires envers une personne prétendue esclave est punie d'une amende de cent (100.000 UM) à trois cent milles ouguiyas (300.000 UM).

Toute personne morale coupable d'actes discriminatoires envers une personne prétendue esclave est punie d'une amende de cinq cent milles (500.000 UM) à deux millions d'ouguiyas (2.000.000 UM).

Article 12 : Tout wali, hakem, chef d'arrondissement, officier ou agent de police judiciaire qui ne donne pas suite aux dénonciations de pratiques esclavagistes qui sont portées à sa connaissance est puni d'un emprisonnement de deux à cinq ans et d'une amende de deux cent mille ouguiyas (200.000 UM) à cinq cent mille ouguiyas (500.000 UM).

Article 13 : Quiconque profère en public des propos injurieux envers une personne prétendue
esclave est puni d'un emprisonnement de onze jours à un mois et d'une amende de cinq mille (5.000 UM) à cent mille ouguiyas à (100.000 UM) ou de l'une de ces deux peines.

Chapitre troisième : Dispositions communes

Article 14 : La complicité et la récidive des infractions prévues à la présente loi sont punies conformément aux dispositions du code pénal.

Article 15 : Toute association des droits de l'homme légalement reconnue est habilitée à dénoncer les infractions à la présente loi et à assister les victimes de celles-ci. Dès que l'information est portée à sa connaissance et sous peine d'être pris à partie, tout juge compétant doit prendre d'urgence, sans préjudicier au fond, toutes les mesures conservatoires appropriées à l'encontre des infractions prévues par la présente loi.

Chapitre quatrième : Dispositions finales

Article 16: Les dispositions antérieures contraires avec la présente loi sont abrogées et notamment les dispositions de l'article 2 de l'ordonnance n° 81-234 du 9 novembre 1981.

Article 17 : La présente loi sera publiée suivant la procédure d'urgence et exécutée comme loi de l'Etat.

Nouakchott

Sidi Mohamed Ould Cheikh Abdallahi

Le Premier Ministre Zeine Ould Zidane

Le Ministre des Affaires Islamique et de l'Enseignement Original

Ministre de la Justice par intérim Ahmed Vall Ould Saleh