

**PUBLIC COMMENT TO THE AFRICAN GROWTH AND OPPORTUNITY ACT
IMPLEMENTATION SUBCOMMITTEE OF THE OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

**CONCERNING THE FAILURE OF THE GOVERNMENT OF MAURITANIA TO
COMPLY WITH SECTION 104 OF THE AFRICAN GROWTH AND OPPORTUNITY
ACT**

Submitted by:

**THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS (AFL-CIO)**

August 1, 2018

REQUEST TO PRESENT ORAL TESTIMONY

The AFL-CIO requests to present oral testimony at the August 16, 2018 hearing regarding the 2018 Annual Review of country eligibility for benefits under the African Growth and Opportunity Act (AGOA) docket number USTR-2018-0022. The AFL-CIO will likely be represented by Cassandra Waters. In the event that Ms. Waters is unable to attend, we request that Celeste Drake be allowed to appear in her place. The contact information for both individuals is listed below.

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PRE-HEARING BRIEF

I. Introduction

The Government of Mauritania has failed to establish or make continual progress towards establishing internationally recognized worker rights as required by 19 USC § 3703(1)(F). This document supplements and incorporates by reference the information in our submission to review the country's eligibility for AGOA filed on June 16, 2017 and all subsequent filings. The 2017 petition details serious violations of the prohibition on forced labor, including hereditary slavery, and violations of the right to freedom of association and collective bargaining. The Government of Mauritania has done little to address these concerns since, nor has it signaled any credible intention to do so in the future.

In the past year the executive branch of the government has moved to consolidate power. On August 5, 2017, Mauritania held a referendum to abolish the Senate. Previously there was a bicameral legislature. President Aziz, who took power following a coup in 2008, promoted the change, claiming that the Senate was “useless and too costly.”¹ This motivation appears dubious. In March 2017, the Senate rejected an amendment to amend the Constitution that would have let Aziz serve an additional term. Political opponents advocated a boycott of the referendum, fearing it would consolidate too much power in the hands of the president. Thousands participated in protests against the referendum that were met with violence by state security forces. On August 3, security forces deployed tear gas and batons against protesters. The spokesperson for the United Nations Office of the High Commissioner for Human Rights found that authorities did not respond to requests for demonstration permits and “actively dispersed gatherings. Protest leaders were reportedly beaten up and a number of them were arrested.”²

¹ Amnesty International, ‘A Sword Hanging Over Our Heads’: The Repression of Activists Speaking Out Against Discrimination and Slavery in Mauritania (2018) available at https://www.amnesty.ch/de/laender/afrika/mauretaniens/dok/2018/menschenrechtsverteidiger-zunehmend-unterdrueckt/report_mauritania_-a-sword-hanging-over-our-heads.pdf

² UN News, Mauritania: UN rights office voices concern about unrest ahead of constitutional referendum (August 3, 2017) Available at <https://news.un.org/en/story/2017/08/562742-mauritania-un-rights-office-voices-concern-about-unrest-ahead-constitutional>

At the same time, the Government has increased restrictions on civil society and trade unions. Human rights activists are arrested and subjected to intimidation. The leaders of the two largest trade unions in Mauritania, Samory Ould Beye of the Free Confederation of Mauritanian Workers (Confédération Libre des Travailleurs de Mauritanie - CLTM) and Mohamed Abdallahi of the General Confederation of Workers of Mauritania (Confédération Générale des Travailleurs de Mauritanie - CGTM), are currently under judicial supervision.

Section II of this petition discusses ongoing forced labor in Mauritania and Section III addresses violations of the right to freedom of association and collective bargaining. The lack of meaningful progress in these areas, including recent crackdowns on trade union leaders and democratic participation more broadly, is not consistent with the requirement that countries establish or make progress towards establishing internationally recognized worker rights (19 USC § 3703(a)(1)(F)). As such and given that the United States should not give preferential trade status to any country that permits chattel slavery, we urge the USTR to remove Mauritania from the list of AGOA beneficiary countries.

II. Mauritania Has Failed to Establish Freedom from Forced Labor

Estimates vary as to the number of people currently living in slavery in Mauritania, though one organization, the Walk Free Foundation, puts the number at roughly 90,000.³ The Haratine community, which represents about 40% of the Mauritanian population, is the main group subjected to slavery, though others such as the Pulars, Soninke and Wolofs are also victimized. In addition to the general inaction of the judicial system, the problem is highlighted by the stigmatizing speeches of President Aziz towards the Haratine community.⁴ The creation of an official day of commemoration to address the aftermath of slavery on March 6 is not accompanied by official recognition of the existence and persistence of this practice.

a. New Legislation on Discrimination Further Stigmatizes Haratine

On January 18, 2018, the government adopted a new law on the repression of discrimination. While the law was intended to advance the elimination of all forms of racial discrimination, UN experts have found that it could actually further stigmatize the Haratine community.

While we welcome the initiative taken by the Government of Mauritania to criminalize discrimination, we have concerns regarding the unintelligibility, inaccuracy, and insufficient legal protections that characterize several provisions of this law. Overall, it fails to comply with a number of international treaties ratified by the country. Several provisions, including the very definition of discrimination, are inaccurate and confusing, which could lead to an exaggerated

³ This figure includes those in “modern-day” slavery. With a population of 4.5 million, this means that 2% of the entire population is a victim of forced labor or slavery. The Walk Free Foundation considers Mauritania to be among the 10 worst countries for modern day slavery, at #6. *See*, Walk Free, *The Global Slavery Index*, 29 (2018)

Available at https://cdn.globalslaveryindex.org/2018-content/uploads/2018/07/19074032/GSI-2018_FNL_180628_Digital-small_p.pdf.

⁴ *See, e.g.*, RFI, *Mauritanie: les Haratines en colère contre le discours du président* (May 13, 2016) Available at <http://www.rfi.fr/afrique/20160513-mauritanie-discours-presidentiel-polemique-haratines-esclaves>

*application, undue restrictions on human rights and the persistence of inhuman discriminatory practices, including slavery.*⁵

Four UN Special Rapporteurs, on contemporary forms of racism, on the situation of human rights defenders, on freedom of opinion and expression and on contemporary forms of slavery authored a detailed letter to the government including an article by article legal analysis of the law, finding numerous conflicts with international law.⁶ They concluded that “the law requires a thorough review to ensure that it complies with international human rights law, and with the obligations of Mauritania in this regard.”⁷ Human Rights Watch took particular note of Article 10, which provides that “[w]hoever encourages an incendiary discourse against the official rite of Islamic Republic of Mauritania shall be punished by one to five years in prison.” Echoing the views of the UN, HRW explained that “[s]uch a vague standard could be applied to persons who peacefully criticize Islam as it is practiced in Mauritania, something that some activists opposing slavery and discrimination have done.”⁸

b. New Apostasy Law Could Mean Death for Anti-Slavery Activists

On April 27, 2018, the Government of Mauritania passed a law on blasphemy. Those found guilty under this law face a mandatory death penalty sentence. Twenty-one NGOs issued a joint statement condemning the law, explaining:

The National Assembly passed a law on April 27, 2018 that replaces article 306 of the Criminal Code and makes death penalty mandatory for anyone convicted of “blasphemous speech” and acts deemed “sacrilegious”. The new law eliminates the possibility under article 306 of substituting prison terms for the death penalty for certain apostasy-related crimes if the offender promptly repents. The law also extends the scope of application of the death penalty to “renegade acts.”⁹

The law was passed as the African Commission on Human and Peoples Rights held its regular session in Nouakchatt. Soyata Maiga, head of the African Commission on Human and Peoples’ Rights, issued a statement criticizing the law, stressing “[t]he African commission uses the occasion of its current session in Mauritania to urge the highest authorities to review this legislation. This review must be done in accordance with the

⁵ UN Press Release, *Mauritania: UN rights experts urge immediate reform of “flawed” anti-discrimination law* (January 31, 2018) Available at

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22618&LangID=E>

⁶ The letter from the four UN Special Rapporteurs to the Government of Mauritania is available online (in French) at <https://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL-MRT-5-2017.pdf>

⁷ *Id.* (translation ours)

⁸ Human Rights Watch, *Ethnicity, Discrimination, and Other Red Lines: Repression of Human Rights Defenders in Mauritania*, 4 (2018) Available at <https://www.hrw.org/report/2018/02/12/ethnicity-discrimination-and-other-red-lines/repression-human-rights-defenders>

⁹ International Humanist and Ethical Union, *NGOs protest as Mauritania creates “mandatory” death sentence for apostasy and blasphemy* (May 16, 2018) Available at <https://iheu.org/ngos-protest-mauritania-creates-mandatory-death-sentence-apostasy-blasphemy/>

guidelines and efforts of the African commission's working group on the death penalty and extrajudicial killings in Africa."¹⁰

The passage of the law appears to be a reaction to the case of Mohammed Ould Mkhaitir, a Mauritanian blogger and anti-slavery activist. Arrested in 2014, he was charged with blasphemy over a post which denounced the use of religion to support caste discrimination, which itself is used to justify slavery. Last November, the court, applying the old law, did not apply the death penalty and sentenced him to 2 years on the basis of his repentance.¹¹ However, Mkhaitir remains detained in an unknown location. Today, activists like Mkhaitir would face certain death for such statements.

c. The Government of Mauritania fails to consistently conduct investigations, prosecute cases or otherwise take action to punish slaveholders and provide remedy for victims

The Government has not taken meaningful action to investigate, prosecute or remedy cases of slavery, and the situation for perpetrators remains one of near-total impunity. Police and judicial authorities rarely address cases of slavery brought to their attention. The 2017 Department of State's Trafficking in Persons Report found that "NGOs documented over 7,100 cases of child domestic workers with indicators of forced labor and police identified more than 649 child slavery and forced begging victims in 2016, [but] the government did not investigate any of those cases or remove the victims from their situations of exploitation."¹² As described in our 2017 petition, prosecutors do not conduct appropriate investigations and fail to prevent masters and traffickers from intimidating victims into withdrawing their complaints, and judges fail to hand down sentences that comply with the law, let alone reflect the gravity of the crime.

In January 2018, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) reviewed Mauritanian authorities' handling of the case of Said and Yarg Salem, who had been enslaved since birth and deprived of education and other rights. ACERWC concluded the Government failed to take adequate steps to prevent, investigate, prosecute, punish and remedy the widespread practice of slavery which particularly affects the state's ethnic Haratine community, resulting in a situation of impunity.¹³ As noted by Minority Rights Group International (MRG) and Anti-Slavery International, "Mauritania was ordered to ensure the perpetrators were brought to justice and to provide the two child victims with compensation, psychosocial support and education. The court also ordered the Government to take wider steps to eradicate child slavery in Mauritania, including providing special measures for child victims and making the elimination of slavery a priority."¹⁴ Unfortunately, the effect of this ruling on Government actors appears to

¹⁰ Africa Times, Rights Groups Speak Out on Mauritanian Blogger, Blasphemy Law (May 12, 2018) Available at <https://africetimes.com/2018/05/12/rights-groups-speak-out-on-mauritanian-blogger-blasphemy-law/>

¹¹ Human Rights Watch, Mauritania: New 'Apostasy' Draft Law Death Sentence Would Be Mandatory in Some Cases (December 5, 2017) Available at <https://www.hrw.org/news/2017/12/05/mauritania-new-apostasy-draft-law>

¹² U.S. State Department, Trafficking in Persons Report – Mauritania (2017) Available at <https://www.state.gov/documents/organization/271343.pdf>

¹³ African Committee of Experts on the Rights and Welfare of the Child, The Committee issues a decision on the Communication against Mauritania (January 26, 2018) Available at <http://www.acerwc.org/the-committee-has-ruled-on-the-communication-against-mauritania/>

¹⁴ Minority Rights, Ruling by the African Union's children's rights committee represents major step forward in fight to eradicate slavery in Mauritania, rights groups say, (January 26, 2018) Available at

be extremely limited. In May 2018, the Mauritanian Supreme Court upheld the decision of the Court of Appeal which validated the lenient sentences imposed under the 2007 anti-slavery law. This decision was in direct contradiction to ACERWC's conclusions. The ruling risks legitimizing not only the inadequate sentence imposed by the Court of Appeal, but the broader failings of the justice system to respond to cases of child slavery. The Government's failure to respond effectively to clear slavery cases like this indicate that it is not making continual progress toward establishing internationally recognized worker rights, including the right to be free from any kind of forced or compulsory labor, as required by 19 USC § 3703.

The AFL-CIO is aware of only one new slavery case adjudicated under the updated 2015 Anti-Slavery Law in the last year, bringing the total number of cases to two. As discussed in the AFL-CIO's 2017 petition, a Special Court in Nema ruled against two slave owners in April 2016, but the court imposed a very lenient sentence well below the minimum of 10-20 years in prison required in the 2015 Law. It also imposed a fine of 100,000 New Ouguiyas (US\$2,800) and compensation of 5 million New Ouguiyas (US\$14,600) to the victims. In March 2018, a Special Court in Nouadhibou issued a ruling against two perpetrators of slavery, sentencing one to 10 years and the other to 20 years imprisonment. While this is a welcome development, the accused have appealed the sentence and one was released on bail without notification to the victim's lawyers.

The International Trade Union Confederation has provided information on several cases where former slaves escaped and tried to access justice but authorities failed to respond by conducting investigations or opening cases despite repeated requests for prompt action. For example, three women filed charges against the Hel Kwatte family on January 2, 2017 with the Special Court in Nema. Marieme mint Blal, age 60, Mestoure mint Blal, age 57, and M'barke mint Moulkhère, age 49, had all been enslaved since birth and had been subjected to mistreatment and abuse. The women tended livestock, performed housework and prepared meals without payment. The women recount working long hours and suffering physical abuse, including sexual abuse. To date, no action has been taken by the authorities. They sent a follow-up appeal to the court a year later, on January 2, 2018, but no action has been taken.

According to Anti-Slavery International, the Government has particularly failed to address the physical and psychological impact of slavery on women and girls, which is often heightened by sexual abuse, a lack of reproductive autonomy and the seizure of their children.¹⁵ Despite existing legislation criminalizing the sexual exploitation of female slaves, there is a lack of concrete measures to ensure that women can effectively access financial and psychological support. Their status as slaves prevents women and girls from reporting the sexual violence they endure or otherwise seeking help.¹⁶ Children born to enslaved women and girls are regarded as property and are often offered as gifts or sold to other families. Women who flee slavery usually have very limited financial resources and few options for employment. Many become domestic workers, where they face a high risk of exploitation. A study by the Ministry of Social Affairs and Family

<http://minorityrights.org/2018/01/26/ruling-african-unions-childrens-rights-committee-represents-major-step-forward-fight-eradicate-slavery-mauritania-rights-groups-say/>

¹⁵ Anti-Slavery International, Feature: Mauritanian women against slavery Available at <https://www.antislavery.org/mauritanian-women-slavery-feature/>

¹⁶ In addition, women and girls victims of rape may be prosecuted for extramarital sex, which is a crime in the Sharia legal system. This discourages women victims of slavery to file a complaint against their masters.

reported that one in five female domestic workers in Mauritania are sexually abused.¹⁷ The lack of specific resources to protect women and their children perpetuates their dependence and prevents them from escaping slavery.

The Government's repeated failure to conduct investigations, reliably arrest and prosecute suspects, or assist victims demonstrate that it is not making continual progress toward establishing the internationally recognized worker rights to be free from any kind of forced or compulsory labor, as required by 19 USC § 3703.

b. The Government of Mauritania Continues to Harass and Intimidate Anti-Slavery Activists and Other Human Rights Defenders

The Government of Mauritania has continued to harass and intimidate anti-slavery activists. Amnesty International has reported over 168 cases of arbitrary arrest of human rights defenders, at least 17 of which were subjected to torture and other ill-treatment. In addition to reflecting the failure to establish or make continual progress toward establishing any effective prohibition on forced labor, this also is a violation of the right of association. Amnesty International and Human Rights Watch issued detailed reports on harassment and intimidation against human rights defenders in 2018.¹⁸ Several critical cases from these reports are summarized below.

Abdallahi Maatalla Seck and Moussa Ould Bilal, members of the Initiative de Résurgence du Mouvement Abolitionniste (IRA), were arrested in connection with their anti-slavery activities in 2016 and held in the remote Bir Moghreïn prison more than 1000 kilometers away from their homes. As described in our 2017 petition, the arrests took place shortly after they met with the UN Special Rapporteur on extreme poverty and human rights, on charges including rebellion and membership in an authorized organization, following protests they did not even attend. The two were released on July 12, 2018, after serving two years in prison.¹⁹ Courts have refused to examine allegations of torture and other ill-treatment made by the accused.²⁰

On 8 September 2017, a delegation of 12 anti-slavery activists organized by the Abolition Institute were denied entry into Mauritania. The organization had worked with the U.S. Embassy, Anti-Slavery International and SOS Esclaves to organize the visit. Mauritanian authorities claimed that the government had not been informed, a claim that lacks credibility given that members of the government had been invited to meet with the delegation.²¹

A delegation from Amnesty International was also denied entry on November 20, 2017. Three members of the delegation were intercepted by government authorities at the Nouakchott airport, questioned about the mission and forced to stay overnight in the Airport Special Police office

¹⁷ MASEF, *Études sur les pires formes du travail des enfants en Mauritanie*, 10 (2009).

¹⁸ Amnesty International, *A Sword Hanging Over Our Heads*, 8.

¹⁹ Reuters, *Freed Mauritanian anti-slavery activists vow to keep fighting* (July 19, 2018) Available at <https://www.reuters.com/article/us-mauritania-slavery/freed-mauritanian-anti-slavery-activists-vow-to-keep-fighting-idUSKBN1K91S9>

²⁰ Amnesty International, *A Sword Hanging Over Our Heads*, 9-40; Human Rights Watch, *Ethnicity, Discrimination, and Other Red Lines*, 30-31

²¹ Human Rights Watch, *Ethnicity, Discrimination, and Other Red Lines*, 16-17; Amnesty International, *A Sword Hanging Over Our Heads*, 34

before being sent out of the country. A fourth member of the delegation, who had arrived earlier and been let into the country, was visited by police at his hotel at nighttime. The police officers briefly took his passport and warned him against engaging in political activities while he was in Mauritania. A receptionist of the hotel who had initially refused to allow police into his room was detained for approximately an hour. Clear reasons were never provided as to why the delegation was denied entry.

In November 2017, SOS Esclaves was prevented from hosting a launch event for an anti-slavery project jointly funded by the European Union. The event was scheduled for November 7, 2017, but the organization was informed on November 3 by the prefect in West Nouakchott that the event was banned. On November 11, regional government authorities informed SOS Esclaves the organization could not continue to conduct activities in Nema and Bassiknou. The reason offered was that the government had not been provided with sufficient information on the organization's planned activities, which included awareness-raising, victim support and economic and literary activities and classes. NGOs should not be required to clear their programming with government officials in advance, but it should also be noted that SOS Esclaves has regularly informed Mauritanian authorities of all the activities it conducts and invited government officials to attend events.²²

On November 28, 2017, Maimouna Alpha Sy, Secretary General of the Collectif des Veuves du Passif Humanitaire, and fifteen other human rights defenders were arrested in Kaédi during the Independence Day celebrations. As Sy explained to Human Rights Watch, “[t]he president decided to go to Kaédi for Independence Day this year. So, we decided to go there too, to say, “We are still here.” We unfurled our banners – the usual ones about memory, truth, compensation, no pardon without justice – as the president’s motorcade drove by. That’s when plainclothesmen came and grabbed us.”²³ The activists were arrested by individuals who identified themselves as members of the Battalion of Presidential Security. Several were beaten at the time of their arrest. They were taken to a military base and questioned. Ten were released without charge the same day and five were transferred to a police station on charges of “disturbance of public order.” They were detained for six days, without access to a lawyer, before being released on 3 December.²⁴

On March 20, 2018, Seif Kousmate, a Moroccan photojournalist, was arrested and detained for conducting research on slavery. He was held in police headquarters in Nouakchott, and police confiscated his phone and laptop. These were eventually returned, but memory cards containing photos were not. He was questioned on his alleged links with Biram Dah Abeid, a leader of the anti-slavery organization Initiative pour la Résurgence du Mouvement Abolitionniste. Kousmate was eventually deported on March 24 after holding a hunger strike. Kousmate reported that he had been “suspected of terrorism.”²⁵

²² Amnesty International, *A Sword Hanging Over Our Heads*, p. 33

²³ Human Rights Watch, *Ethnicity, Discrimination, and Other Red Lines*, p 47

²⁴ Amnesty International, *A Sword Hanging Over Our Heads*, p. 26.

²⁵ Press Release, Reporters Without Borders, *Mauritania expels freelance photographer for investigating slavery* (March 27, 2018) Available at <https://rsf.org/en/news/mauritania-expels-freelance-photographer-investigating-slavery>

In addition, Amnesty International reports that over 43 associations promoting human rights, including anti-slavery associations, have applied for registration and the authorities have failed to respond. As unregistered NGOs, they can be treated as unlawful associations and their activities repressed.²⁶ Current law requires the prior authorization of the authorities before any association may undertake activities lawfully – in contravention of international norms.²⁷

Harassment and intimidation of anti-slavery activists and human rights defenders is a violation of human rights and is not consistent with establishing freedom from forced labor or freedom of association.²⁸

c. UN Committee on the Elimination of Racial Discrimination Found Efforts to Address Slavery and Discrimination Inadequate

The UN Committee on the Elimination of Racial Discrimination issued a report on Mauritania in May 30, 2018 which found the Government's efforts to address slavery and discrimination were inadequate. We note particularly the following paragraphs, and urge USTR to review the entire report.²⁹

13. The Committee notes the measures taken by the State party to combat slavery and slavery-like practices and their consequences, in particular the adoption of Act No. 2015/031 criminalizing slavery and penalizing slavery-like practices, and the establishment of the national agency Tadamoun for the purpose, inter alia, of eradicating the legacy of slavery. The Committee nonetheless remains concerned about: (a) the persistence of situations of slavery and of prejudices in this regard that are deeply rooted in certain traditions; (b) the lack of data with which to gauge the full extent of this practice; and (c) the difficulties that persons subjected to slavery encounter in becoming reintegrated into society because they do not have identity papers or access to employment, education or landownership, including ownership of their parents' land, and are thus at risk of having no choice but to return to situations of slavery (arts. 2 and 5).

²⁶ Amnesty International, *A Sword Hanging Over Our Heads*, p. 28.

²⁷ For example, the International Labor Organization's Committee on Freedom of Association has written, in accord with this principle, that "the right of occupational organizations to hold meetings in their premises to discuss occupational questions, *without prior authorization and interference by the authorities*, is an essential element of freedom of association and the *public authorities should refrain from any interference which would restrict this right or impede its exercise*, unless public order is disturbed thereby or its maintenance seriously and imminently endangered." (emphasis added) *Freedom of Association: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, Fifth (revised) edition, 2006 (hereinafter *Digest of Decisions*), ¶ 130 Available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_090632.pdf.

²⁸ Here, the principal that "[a]cts of harassment and intimidation carried out against workers by reason of trade union membership or legitimate trade union activities . . . may discourage them from joining organizations of their own choosing, thereby violating their right to organize," would apply equally to harassment and intimidation of those fighting forced labor and slavery. *Digest of Decisions* ¶ 786.

²⁹ United Nations Committee on the Elimination of Racial Discrimination, *Concluding Observations on the combined eighth to fourteenth periodic reports of Mauritania (May 30, 2018)* Available at <https://undocs.org/CERD/C/MRT/CO/8-14>

15. *The Committee is concerned about the difficulties that victims of slavery encounter in filing complaints with the police and judicial authorities in order to enforce their rights. It is concerned as well about the persistent challenges that hinder efforts to investigate such cases, gather evidence, prosecute the perpetrators effectively and expeditiously and impose appropriate penalties. Also troubling is the lack of adequate resources for the proper functioning of the three specialized courts in Nouakchott, Nouadhibou and Néma and the fact that the sentences imposed thus far in cases involving slavery are not always commensurate with the gravity of the offence (arts. 2, 5 and 6).*

19. *The Committee is concerned to note that some ethnic groups still have harmful customary practices that prevent women from fully exercising their rights under [the UN Convention on Elimination of Racial Discrimination], in particular the right to own and inherit land. The Committee is also concerned about the fact that illiteracy and school dropout rates are very high among girls who are descended from persons subjected to slavery or black Africans and that such girls face difficulties in gaining access to higher education and are often marginalized (arts. 2 and 5).*

d. ILO Direct Contacts Mission in April 2018 Also Confirms Continued Failure to Address Slavery

An ILO Direct Contacts Mission visited Mauritania from April 1-6, 2018. Independent Mauritanian trade unions affiliated with the International Trade Union Confederation (ITUC) submitted a detailed report to the Mission, which referred to the issues raised by the Committee on the Application of Standards. It is attached as Appendix 1, in the original French. Unfortunately, the ILO mission did not meet with the ITUC affiliates alone to discuss the specifics of their report but instead held a single general meeting with all registered unions in the country. It is important to note that a number of these unions are government dominated and have publicly denied the existence of slavery. As such, it is impossible to expect the discussion at the meeting accurately reflects the true extent of slavery in Mauritania. Here, we note below the conclusions and recommendations of the mission (translation from the French is ours).

1. Support for the effective implementation of the 2015 law through a strengthened role and of the presence of the state. *The Mission recalls in this regard that slavery is a crime and that the responsibility to identify situations of slavery and release the victims is above all the responsibility of the State. The Mission welcomes the fact that cases are pending before the various courts. It notes that 8 cases are pending before the Special Criminal Courts and so far only 2 judgments were handed down. It is therefore essential to continue to strengthen the capacity of law enforcement and prosecution services to identify situations slavery and the capabilities of other key government actors and civil society. In addition, magistrates must continue to be trained on the law of 2015. In particular, the Presidents of the Criminal Courts Special Forces must have the means and the stability necessary to carry out their functions and share the experience gained within their jurisdictions. In this regard, the Mission notes that many of its interlocutors referred to the complexity of accessing and*

identifying victims of slavery. The mission therefore encourages the different actors involved to share their experience and to work together in the preparation of a practical guide to strengthen the capacities of all stakeholders to identify situations of slavery. It concerns the elements that suggest that a person is in a situation slavery, even though it is not always in noticeable way.

In this context, it is essential to take into account the particular situation of women and girls. The Mission also considers it important to develop more cooperation between the administrative authorities and the different actors of the criminal justice system, on the one hand, and the organizations that have the experience of combating slavery, on the other hand, in order to strengthen the trust of the victims and the population to denounce the cases.

2. Awareness-raising: *All interlocutors met by the Mission held that awareness-raising needed to be continued and better targeted. The mission recommends the establishment of a multi-annual intervention plan to institutionalize and coordinate awareness-raising actions over time and over the whole of the country, paying particular attention to women, mayors and local actors, as well as at risk areas and sectors. More visibility could also be given to March 6 through the organization of events throughout the country which allow local authorities to relay the firm position of the state on the issue of combating slavery and its aftermath, including notably discrimination.*

3. Identification, care and protection of victims. *The victim must be at the center of concern and action. Many interlocutors of the Mission pointed out deficiencies with regard to the care and protection of the victims. The Mission considers it essential to put in place one or more structures that can accommodate victims and provide them with complete assistance so that they can be assert their rights and rebuild their lives without any pressure. In this matter, special attention should be paid to the situation of women. The mission also recommends that measures continue to be adopted with the aim of empowering victims, particularly through programs led by Tadamoun, the pursuit of land reform and the creation of a public fund for the compensation of victims.*

4. Promoting an inclusive approach and better understanding Collective Action: *The Mission strongly encourages the Government to communicate and regularly share information on the action taken. The Mission noted a strong demand for systematic participation of social partners and civil society actors in the implementation of activities. The mission therefore recommends the adoption of an inclusive and cooperative approach with social partners and civil society organizations that are fighting against slavery and its aftermath, including discrimination, which accompany victims. The social partners could thus be represented within Tadamoun and on the coordination mechanism put in place to guide the action in this domain. The inclusive and cooperative approach should be adopted with the development of the national policy against*

slavery and its aftermath, and also in the context of the implementation of its various components (identification and accompaniment of the victims, awareness-raising, etc.). The goal is to build bridges and partnerships to reduce polarization, facilitate dialogue, and promote a more inclusive society. In this regard, the Mission is convinced that the qualitative study by the Bridge Project will enable all stakeholders to have reliable data to guide their actions. It is essential that the government promotes this process to conduct the study as soon as possible.

Preventing the practice of slavery is essential to the establishment of the internationally recognized worker right to be free from forced labor. The Government of Mauritania has repeatedly failed to address egregious violations, as required under 19 USC § 3703(1)(F).

III. Mauritania Has Failed to Establish the Rights to Freedom of Association and Collective Bargaining

As detailed in our 2017 petition, Mauritania's labor laws do not protect the right to freedom of association or the right to bargain collectively, and the Government actively interferes with these rights by suppressing worker organizing, harassing and intimidating labor activists and excluding independent unions from consultative processes and international fora. In the past year, the Government has not addressed any of the concerns described in our 2017 petition.

Since our last submission was filed, trade union members and leaders have continued to be subjected to violence, arrests and intimidation for engaging in peaceful union activities. On August 25, 2017, police interrogated several trade union leaders, including Abfallahi Ould Mohamed Naha, Secretary General of the CGTM, and Samoury Ould Beye, Secretary General of the CLTM, subsequently ordering their house arrest and the confiscation of their passports. In addition, the Public Prosecutor initiated an investigation into corruption on the mere basis that the union allegedly received foreign funding, a move which undermines the establishment of the right of association.³⁰

By restricting the rights of association and collective bargaining in both law and practice, the Government of Mauritania has failed to establish or make continual progress towards establishing internationally recognized worker rights, as required by 19 USC § 3703(1)(F).

IV. Conclusion

The Government of Mauritania has failed to establish or make progress towards establishing internationally recognized worker rights, as required by 19 USC § 3703(1)(F). To remain eligible for AGOA benefits, the Government must take meaningful, systematic action to enforce and uphold the rights to be free from forced labor, to freely associate and collectively bargain.

³⁰ Trade unions should not be required to obtain prior authorization to receive international financial assistance in their trade union activities. Digest of Decisions ¶ 743.

APPENDIX 1

RAPPORT SYNDICAL POUR LA MISSION DE HAUT NIVEAU DE L'OIT SUR L'APPLICATION DE LA C29 EN MAURITANIE

2-6 AVRIL 2018

Manque de volonté dans la poursuite des cas de travail forcé et d'esclavage en justice

Durant la période 2016-2017 et selon les informations recueillies, les cas suivants d'esclavage ont été enregistrés par Sos Esclaves et portés devant les autorités judiciaires compétentes : **Néma** : Les victimes suivantes ont déposé leurs plaintes :

- 1- Fatma Mint Hamedi dite Boutta (45 ans), mère de six enfants âgés de 01, 08, 10, 12, 21 et 23 ans ayant tous vécu sous le calvaire de l'esclavage ;
- 2- Fatma Mint Med El Abd(22 ans), mère de deux enfants âgés de 06 et 08 ans ;
- 3- Settra Mint Blal(50 ans), mère d'un enfant de 10 ans ;
- 4- Marieme dite Khoueidim Mint Bilal(45), mère de deux enfants de 18 et 20 ans ;
- 5- Mbarka Mint Oumou Elkheir(55 ans), sans enfant ;

Atar : une victime a porté une plainte, il s'agit de :

- 1- El Id Ould Mboirick(26 ans) et sa grande famille(son père, sa mère, trois frères et deux sœurs)

Nouakchott :

- Les cas des travailleuses domestiques défendues par la CLTM depuis 2015 sont restés lettre morte et les responsables des bureaux fictifs d'emploi non poursuivis par la justice ;
- 25 travailleuses domestiques ont porté plainte par l'intermédiaire de l'association des femmes chefs de famille(AFCE), les dossiers ont été classés sans suite à ce jour.

A ce jour et selon les informations disponibles, les cas suivants sont en instance de jugement :

- 03 dossiers (environ 18 victimes) devant la cour spéciale de Nouadhibou ;
- 04 dossiers (environ 05 victimes) devant la cour spéciale de Nouakchott ;
- 16 dossiers (plus de 50 victimes) devant la cour spéciale de Néma.

Au total et depuis 2015, 45 cas d'esclavage et travail forcé (114 victimes) ont été signalés aux autorités compétentes par SOS ESCLAVES et autres OSC.

Parmi les cas signalés aux autorités, seul le cas de Fatma Mint Hamedi dite Boutta et ses enfants fit traité le 16 Mai 2016 par la cour spéciale de Néma condamnant l'accusé (esclavagiste) à cinq ans d'emprisonnement dont une année ferme et accordant à la victime un dédommagement d'un million d'ouguiyas.

L'avocat des victimes a déposé appel contre cette décision devant la cour d'appel de Kiffa qui a confirmé la peine et modifié la somme accordée à la victime à titre de réparation à six millions d'ouguiyas au lieu d'un million précédemment. Malgré cette nouvelle décision la victime n'a perçu à ce jour qu'un million d'ouguiyas.

Depuis l'adoption de la loi 031-2015, une seule condamnation a été prononcée, en l'occurrence le jugement 01-2016 rendu en date du 16 Mai 2016 par le tribunal spécial dans l'affaire 110/2015.

Ce seul cas traité et dont l'avocat a porté appel n'a pas reçu le recours adéquat conformément à la loi 2015-031.

Le tribunal compétent a jugé «coupables, les prévenus des crimes de l'esclavage conformément aux articles 2, 3, 7 et 8 de la loi N°2015-031 portant incrimination de l'esclavage et réprimant les pratiques esclavagistes ».

Ainsi les prévenus ont été condamnés à 05 ans d'emprisonnement dont une année ferme, ce qui est inférieure à la peine minimale prévue par la loi. Cette peine prévoit la réclusion de 10 à 20 ans en plus d'une amende de 250.000 Ouguiyas à 5.000.000 Ouguiyas (art 7 de la loi 2015-031).

Récemment, en Février 2018, le comité des experts sur les droits et le bien-être de l'enfant au sein de l'Union Africaine a adopté une décision historique qui oblige le gouvernement mauritanien à dédommager deux enfants esclaves évadés et à punir leur ancien maître. Il s'agit du cas de Said et Yarg Salem, deux enfants nés esclaves ayant pris fuite en 2011. Il s'agit aussi de la première et jusqu'à présent, la seule poursuite avec succès réalisée sur la base de la législation anti-esclavagiste de 2007 en Mauritanie.

Malgré cette décision positive, nous reconnaissons qu'il existe un problème structurel en ce qui concerne la mise en œuvre de la loi de 2015 et l'accès à la justice à travers des tribunaux spéciaux. La programmation des dossiers devant être jugés pose un réel problème puisque le parquet refuse de programmer les dossiers d'esclavage.

Parfois, il a été constaté que les forces de l'ordre s'adonnent timidement avec les cas avérés et montrent une réticence d'instruire les plaintes déposées par les victimes (dossier d'Oum Elkheir, plainte déposée depuis 2010 devant le procureur de ATAR, sans suite) et le dossier de M'barka et sa sœur (une plainte déposée depuis 2017 devant la gendarmerie de Bassiknou et aucune suite n'a été donnée).

Il n'ya pas de mécanisme qui protège les victimes durant tout le processus de la soumission du cas. Les autorités ne séparent pas la victime du bourreau exposant la victime aux menaces et autres chantages pour revenir sur sa décision d'aller au jugement. L'idée était de créer des polices et gendarmeries spécialisées dans la prise en charge des cas d'esclavage et protéger les victimes lors des auditions. Il n'ya pas de structures d'accueil pour les victimes de l'esclavage à part les organisations des droits de l'homme (ODH) et de rares organisations syndicales qui se portent volontiers pour assister les victimes. Cela revient à dire que les dossiers relatifs à l'esclavage restent

pendants, en témoigne le nombre très réduit de cas d'esclavage traités par les tribunaux spécialisés (1 seul cas depuis la création des dits tribunaux).

Une mini- enquête menée par l'OIT concernant des représentants de la police judiciaire, des magistrats, des maires et des représentants de l'administration publique dans l'ensemble des moughataas de la wilaya de la cour criminelle spécialisée Sud de Nouakchott, montre que la majorité des autorités administratives, judiciaires et sécuritaires -soit au total 112 personnes représentant 80% des 140 acteurs initialement visés - qui sont chargés de l'application de la loi de 2015 ne connaissent que partiellement la loi pour pouvoir l'appliquer correctement et efficacement.

A cet effet, nous pensons que la création de juridiction de jugement spécialisé ne peut être réelle et efficace que si l'approche est totale prenant en considération la nécessité de créer un régime juridique approprié pour ces juridictions avec une police judiciaire et un parquet, en passant par des juges d'instruction pour arriver enfin à la juridiction spécialisée à l'instar des affaires relatives au terrorisme, criminalité économique et affaires des mineurs.

Les tribunaux spéciaux ne disposent aucunement de ressources suffisantes dans la mesure qu'ils ont un déficit visible en ressources humaines et matérielles.

Le budget alloué pour leur fonctionnement et entretien est le plus souvent insuffisant pour l'achat des consommables. Ces tribunaux ne sont pas équipés de voitures pour couvrir leurs compétences territoriales (pour un pays aussi étendu que la Mauritanie, plus d'un million de km²). Ils n'ont pas assez de moyens pour prendre des mesures appropriées afin d'assurer l'indemnisation des victimes de l'esclavage car les biens des maîtres esclavagistes sont souvent constitués de cheptels qui se déplacent en transhumance, une fois qu'on les prend, il faut assurer leur gardiennage et leur alimentation.

Pour ce qui est de l'assistance des cas d'esclavage, l'article 24 de la loi 2015-031 stipule que « *Les victimes des infractions prévues par la présente loi bénéficient de l'assistance judiciaire gratuite* », dans la pratique, toutes les victimes de travail forcé et esclavage identifiées par SOS esclaves, n'ont pas bénéficié de l'assistance juridique prévue par la loi. Si ce n'était pas l'assistance de SOS esclaves, elles n'auraient pas pu porter plainte et accéder aux mécanismes de justice.

L'agence Tadamoun ne cible pas les victimes du travail forcé et de l'esclavage

Les actions de Tadamoun dans le cadre de la lutte contre la pauvreté dans les milieux ex esclaves sont malheureusement faibles du moins leur impact et cela résulte de l'approche elle-même.

En effet, l'agence construit des écoles pour lesquelles il n'y a pas d'enseignants disponibles ou construit un centre médical qui n'est pas doté du personnel requis ou construit d'autres infrastructures intéressantes où les priorités ne sont pas toujours pertinentes.

Le plan national d'action de cette agence n'est pas au préalable issu de la concertation avec les autres acteurs concernés ou intéressés ce qui contribue entre autre à l'absence de visibilité de ses programmes.

L'absence de l'implication en amont et en aval des groupes cibles limite l'appropriation de ces projets par ces populations et pose le problème de transparence des projets.

La concertation avec les organisations syndicales a été constamment réclamée par ces organisations mais le gouvernement traîne les pieds sur cette question.

Les organisations syndicales ont toujours posé le statut de l'agence et son mode de gouvernance sachant qu'elle ne doit pas être un Etablissement Public à caractère Administratif où l'état désigne unilatéralement les administrateurs et les gestionnaires à la fois.

De plus, les syndicats n'ont jamais été impliqués dans les activités de TADAMOUN, ni assistés aux différents bilans de celle-ci, et ce malgré de multiples sollicitations. Le secrétaire général de la CLTM a adressé une lettre officielle pour avoir le rapport des activités des dernières années, mais en vain. La mission de la CSI qui a séjourné en Mauritanie en 2016 a demandé aux ministres et responsables de TADAMOUN rencontrés d'agir afin d'impliquer les syndicats au sein du conseil d'administration de l'agence, ce qui tarde à se réaliser.

Pour les autorités, l'Agence Tadamoun joue un rôle important en faveur des anciens esclaves et leur insertion, ayant achevé en 2017 un programme de construction de 706 logements décentes au profit des habitants des quartiers pauvres de la banlieue de Nouadhibou

Par ailleurs et selon les sources officielles, les programmes de l'Agence Tadamoun destinés aux couches déshéritées ont permis entre autre en 2017 la construction et l'équipement de :

- 39 écoles fondamentales ;
- 5 collèges ;
- 66 salles de classes ;
- 2 cantines scolaires,

Alors que 12 écoles complètes et 3 collèges sont en cours d'achèvement

Dans le cadre du programme « Takavoul » relevant de l'Agence, 61.526.684,8 N-UM ont été distribués au profit de 15.000 ménages à Mbout, Kankossa et Sélibaby.

Dans le domaine de la santé, l'Agence a achevé la construction de 50 postes de santé alors que 12 autres sont en cours de construction.

Malgré tous ces efforts, l'impact de ces différentes réalisations se fait très peu ressentir par les populations ciblées et l'agence reste largement décriée par ses méthodes de gestion obscures et sa planification qui se fait entre quatre murs loin des besoins et préoccupations des principales victimes.

En somme, de toutes les victimes identifiées par SOS esclaves et les centrale syndicales (45 cas), 42 ont eu accès aux services socio-économiques et à l'assistance sociale fournie par SOS esclaves et organisations syndicales, et pas par l'agence TADAMOUN.

Le cas connus ayant profité d'appui public sont :

- ✓ Une ancienne victime et sa famille venant d'Atar à Nouakchott et qui a bénéficié d'une subvention de 100.000 UM offerte par TADAMOUN.
- ✓ 03 Victimes ont bénéficié de lots de terrain à Nouakchott par le biais de SOS à travers la commission nationale des droits de l'homme(CNDH).

Représailles contre les militants anti-esclavagistes

Les représailles ont notamment touché le secrétaire général de la confédération libre des travailleurs de Mauritanie (CLTM) qui affirme avoir été exclu du conseil économique et social, du conseil d'administration de la CNSS et de la délégation de Genève pour les trois dernières années. La confédération libre des travailleurs de Mauritanie (CLTM) a été exclue de la commission nationale des droits de l'homme et ses militants intimidés pour les décourager d'appartenir à l'organisation. D'autres activistes anti-esclavagistes ont subi la prison pour « actions subversives non autorisées et organisations non reconnues » avec des peines assez exagérées. Nous pourrions citer les cas des leaders d'IRA (Biram Dah Abeid et Brahim O/ Bilal) qui pour avoir assisté à une campagne de sensibilisation pour dénoncer l'esclavage foncier sont restés seize mois derrière les barreaux à partir du 20 août 2015 suite à un procès calamiteux.

L'accusation pénale retenue est celle-ci : « *appartenance à une organisation non reconnue, rassemblement non autorisé, appel à rassemblement non autorisé et violence contre la force publique* ».

Récemment, le 15 Janvier 2018, une marche pacifique organisée par IRA-Mauritanie pour protester contre l'impunité dans la poursuite des cas des victimes de travail forcé et l'arrestation arbitraire des activistes anti-esclavagistes, a été réprimée avec une violence policière disproportionnée et indicible.

En outre, des activités de sensibilisation programmées par certaines organisations syndicales et de droits humains ont été interdites (pour la CLTM à Nouakchott en 2015/2016, pour SOS à Atar et Néma en 2016/2017).

En ce qui concerne la sensibilisation du public, des campagnes de sensibilisation ont été menées ces dernières années par l'Etat et ses différentes structures à l'instar des campagnes menées par le commissariat aux droits de l'homme, le ministère des affaires islamiques, l'association des oulémas et imams de Mauritanie et quelques organisations de la société civile.

Egalement, une fetwa sur la pratique a été timidement vulgarisée en 2015/2016, une journée nationale a été instaurée pour le 6 Mars et l'association des maires de Mauritanie s'est prononcée pour des communes ayant mis fin définitivement à l'esclavage.

Malgré toutes ces mesures, les caravanes de Tadamoun ne sont pas efficaces car ne sont pas accompagnées par l'ensemble des acteurs impliqués (certaines ONGs et les syndicats), et s'arrêtent seulement devant les institutions officielles. De plus, les caravanes de Tadamoun prédisent que l'esclavage n'existe pas.

Conclusions/Recommandations

A l'occasion de la mission de haut niveau du BIT, et à la lumière des considérations apportées dans ce rapport, les centrales syndicales mauritaniennes affiliées à la CSI (Union des Travailleurs de Mauritanie (UTM), Confédération Générale des Travailleurs de Mauritanie (CGTM), Confédération Libre des Travailleurs de Mauritanie (CLTM) et Confédération Nationale des Travailleurs de Mauritanie (CNTM)) demandent :

1. L'implication des syndicats dans le conseil d'administration de Tadamoun:

Le gouvernement devra convoquer une réunion entre le Comité Technique Syndical(CTS) et Tadamoun avant la conférence de l'OIT en Juin, pour valider l'intégration du Comité Technique Syndical(CTS) au conseil d'administration de Tadamoun, étant une institution inclusive.

Des termes de référence où les rôles et responsabilités partagés clairs et formels seront adoptés, y compris un plan d'action pour la formation professionnelle des victimes d'esclavage et travail forcé, en mettant l'accent sur l'entrepreneuriat social;

2. La création d'un comité tripartite de suivi de la feuille de route avec la participation du Comité technique de Suivi (UTM, CGTM, CLTM, CNTM) :

La feuille de route préconisée comporte un certain nombre de points pertinents qui méritent un suivi conséquent pour leur mise en œuvre.

Le gouvernement devra convoquer une réunion de ce comité tripartite et le charger d'évaluer ce qui a été fait, de réviser la feuille de route avant la conférence de l'OIT de Juin, et adopter un plan d'action avec un échéancier déterminé dans le temps pour son application.

En outre, les organisations syndicales précitées recommandent :

- 1- L'Adoption d'un plan de réinsertion professionnelle largement concerté et avec l'implication réelle et effective des principaux concernés ;**
- 2- L'allégement des procédures de création des Coopératives ;**
- 3- La facilité de création des GIE et coopérative de production et de distribution en les soumettant à un régime déclaratif ;**
- 4- La création de structures de proximités locales (coopératives féminines et antennes régionales syndicales)**

Date :

Lieu :

Signature

Union des Travailleurs de Mauritanie(UTM)

Confédération Générale des Travailleurs de Mauritanie(CGTM)

Confédération Libre des Travailleurs de Mauritanie(CLTM)

Confédération Nationale des Travailleurs de Mauritanie(CNTM)