

# MAURITANIA'S CULTURE OF IMPUNITY FOR SLAVERY:

**FAILURES OF THE ADMINISTRATIVE,  
POLICE AND JUSTICE SYSTEMS**

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**Report by Anti-Slavery International,  
Unrepresented Nations and  
Peoples Organization and  
Society for Threatened Peoples**

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September 2013



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**For human rights. Worldwide.**

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# MAURITANIA

## Political Map



ATLANTIC OCEAN



ALGERIA

WESTERN SAHARA

TIRIS ZEMMOUR

Bir Moghreïn

Zouerat

Fiderik

MALI

Nouadhibou  
DAKHLET NOUADHIBOU

Choum

Atar

Ouadane

ADRAR

Chinguetti

Akjoujt

NOUAKCHOTT

TRARZA

Boutilimit

Mederdra

Rosso

SENEGAL

BRAKNA

Aleg

Bogue

Kaedi

GORGOL

Mbout

ASSABA

Kifa

Kankossa

GUIDIMAKA

Selibaby

Tidjikdja

TAGANT

Tichit

HODH ECH CHARGUI

Qualata

HODH ELGHARBI

Ayounel Atrous

Nema

MALI

### LEGEND

- - - - International Boundary
- - - - Province Boundary
- National Capital
- Province Capital
- Other Cities

0 50 100 Km

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(Updated on 10th May, 2012)

# **Mauritania's culture of impunity for slavery -**

## **Failures of the administrative, police and justice systems**

<b>1. Introduction: Slavery in International Law and in Mauritania</b>	<b>6</b>
<b>2. Slavery cases reported to the authorities without follow up</b>	<b>10</b>
2.1. Failure of the administrative and police authorities: insufficient preliminary measures and lack of referral to the prosecution	11
2.1.1 Case of Mabrouka and her family (October 2010)	11
2.1.2 Case of Hanna S. and her two children (November 2007)	11
2.1.3 Case of Mbarka L. (September 2011)	12
2.1.4 Case of Selama and Maimouna (November 2011)	12
2.2. Failure of the prosecution system: insufficient criminal investigations	13
2.2.1. Case of Deybala (September 2011)	13
2.2.2 Case of Hanna M. (April 2009)	14
2.2.3 Case of Fatimetou (June 2009)	15
2.2.4 Case of Oueichetou (August 2011)	16
2.2.5 Case of Mbarik (August 2007)	16
2.2.6 Case of Tslim (September 2011)	17
<b>3. Re-filing of slavery cases under other charges and informal settlements</b>	<b>18</b>
3.1 Re-filing of slavery complaints under other charges	18
3.1.1 Case of Oum Elkhair (July 2007)	18
3.1.2 Case of Salem (September 2011)	18
3.1.3 Case of Salma and Oum El Issa (December 2010)	19
3.2 Informal Settlements of Slavery Cases	19
3.2.1 Case of Brake (August 2007)	19
3.2.2 Case of Hajjara (September 2011)	20
3.2.3 Case of Mbarka M. (July 2007)	20
3.2.4 Case of Mbarka K. (2008)	20
<b>4. Failure of the justice system: slavery cases blocked at the prosecution or trial stages</b>	<b>21</b>
4.1 Cases blocked before the Prosecutor/ investigating judge	21
4.1.1 Case of Oumelkheir and her daughter Selekha (December 2007)	21
4.1.2 Case of Mbarka E. (March 2011)	22

4.1.3. Case of Khedeije (May 2010)	22
4.1.4 Case of Moctar (January 2012)	22
4.1.5 Case Mohamed Lemine and his family (January 2012)	23
4.2 Cases blocked before a court (trial and appeals stages, Supreme Court)	23
4.2.1 Case of Aza (July 2010)	23
4.2.2 Case of Rabi'a and her six siblings	24
4.2.3 Case of Moima, Houeija and Salka (March 2011)	24
4.2.4 Case of Said and Yarg (November 2011)	25
<b>5. Conclusion and Recommendations</b>	<b>25</b>
<b>6. Appendices</b>	<b>29</b>
6.1 Summary of the 26 reported slavery cases	29
6.2 Slavery Act N°. 2007-048 of 3 September 2007 criminalizing slavery and repressing slavery practices (French)	32

# 1. Introduction: Slavery in International Law and in Mauritania

## What is slavery?

Slavery is defined in international law as the “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” (Slavery Convention of 1926, art. 1(1)).

This definition has been upheld by many other international conventions, notably the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956). The International Labour Organization (ILO) Conventions developed to end forced labour reinforced the framework against slavery-like practices (29 and 105). Later conventions were developed to cover emerging forms of slavery, including ILO Convention 182 (1999) on the worst forms of child labour and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000).

The West African country of Mauritania is party to all of the above international human rights conventions that expressly prohibit slavery as well as practices analogous to slavery. It has also ratified the following conventions, which are also relevant in the context of this report: the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel Inhuman, Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

However, Mauritania has submitted reservations based on Islamic Sharia law to the Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child. Mauritania has also ratified the following regional instruments: the African Charter on Human and Peoples' Rights (which prohibits slavery), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; and the African Charter on the Rights and Welfare of the Child.

Slavery based on descent remains widespread in the West African country of Mauritania, where it predominantly affects the Haratine group.<sup>1</sup> The Haratine are people known to be the descendants of slaves; the status is passed down from mother to child. Many remain in slavery today, and these people live under the direct control of their masters, are treated as property, and receive no payment for their work. Men primarily herd cattle or work on their masters' farmland, while women are mostly engaged in domestic work, carrying and nursing the master's children and often shepherding animals.

Girls and boys start work for their masters at a very young age. Their domestic duties include drawing water from wells, collecting firewood, cooking, washing clothes, cleaning, caring for the children of their master, and setting up and moving tents. People in slavery typically face verbal and physical abuse. Girls and women are often sexually abused and raped by their masters. The children of slaves are also considered the masters' property and, like other slaves, can be rented out, loaned, given as gifts in marriage or inherited by the masters' children. After a visit to Mauritania in November 2009, the UN Special Rapporteur on Contemporary Forms of Slavery Gulnara Shahinian described slavery in Mauritania as a *"slow, invisible process which results in the social death of many thousands of women and men"*<sup>2</sup>.

### **How many people still live in slavery in Mauritania?**

It is very difficult to know how many people live in slavery today. The last population census dates from the 1960s, and slavery practices are usually shrouded in secrecy and taboo. Yet Mauritanian anti-slavery organizations estimate that around 500,000 Haratine are enslaved or live in slavery-like situations<sup>3</sup>.

It is however commonly held by the Mauritanian authorities that slavery no longer exists in their country because it was outlawed by the government<sup>4</sup>. The Slavery Act was adopted on 3 September 2007 under the presidency of Sidi Ould Cheick Abdallah and

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<sup>1</sup> The Haratine, or Black Moors, are descended from sedentary black ethnic groups along the Senegal river who were historically raided, enslaved and assimilated by the Berber Arabs, also known as Beidan or White Moors. Haratines make up approximately 40% of the population, and a smaller proportion of this group still live in slavery. The White Moors form the ethnic elite in Mauritania and control the economy, government, military and police. Slavery is practised on a lesser scale by other ethnic groups in the country.

<sup>2</sup> See Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, on her mission to Mauritania (24 October-4 November 2009), 24 August 2010, A/HRC/15/20/Add.2, summary.

<sup>3</sup> Estimate of the Initiative pour la Résurgence du Mouvement Abolitionniste de Mauritanie (IRA).

<sup>4</sup> See Report of the Special Rapporteur on contemporary forms of slavery, 24 August 2010, A/HRC/15/20/Add.2, § 33 ; see also the interviews of government's officials in the CNN digital documentary on Mauritania, March 2012, <http://thecnnfreedomproject.blogs.cnn.com/category/mauritania-slaverys-last-stronghold>.

criminalized slavery and slavery-like practices for the first time<sup>5</sup>. Yet although victims of slavery may be assisted by human rights organizations to file a slavery claim, they are entirely reliant on administrative, police and prosecution authorities to bring criminal charges against their masters. These authorities have so far failed to support this process.

### **Are slave-owners prosecuted?**

Only one slave-owner has been prosecuted under the 2007 Slavery Act, in November 2011, for holding two young boys in slavery. However, he was given a sentence of just two years (well below the recommended sentence of 5-10 years). He appealed the sentence and was released on bail by the Mauritanian Supreme Court just four months after his conviction, while waiting for his appeal<sup>6</sup>. At the time of writing, the appeal has not yet taken place and the convicted slave-owner remains at liberty.

### **Child slavery**

Many of the cases addressed in this report involve children. A 'child' is defined in the 1989 UN Convention on the Rights of the Child (CRC) as referring to: "every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier." The CRC emphasizes that "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection"; this principle of special protection is reflected in other international laws pertaining to children.

However, as is clear throughout this report, the Mauritanian authorities fail to take appropriate actions to protect children from slavery, as well as to provide safeguards and redress for child victims whose cases are brought before them.

### **What other responses does the Mauritanian government offer?**

Local organizations report reluctance to enforce the Slavery Act or facilitate its implementation at every level of the Mauritanian state, as well as widespread denial and concealment of slavery. Mohamed Ould Abdel Aziz, the President of Mauritania, has publicly denied the existence of slavery several times, stating that only vestiges of slavery remain, as a result of poverty<sup>7</sup>. He also suggested that if slavery exists it is because people choose to remain slaves ("*En Mauritanie n'est esclave que celui qui veut l'être*")<sup>8</sup>.

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<sup>5</sup> Slavery Act N°. 2007-048 of 3 September 2007 criminalizing slavery and repressing slavery practices.

<sup>6</sup> See *Toujours l'impunité en Mauritanie*, SOS Esclaves, 22 Avril 2012, <http://www.sosesclaves.org/Pagecentrale.htm>

<sup>7</sup> See *L'IRA condamne les propos du président Ould Abdel Aziz relatifs à l'esclavage*, Kassataya, 8 August 2012, <http://kassataya.com/mauritanie/l-ira-condamne-les-propos-du-president-ould-abdel-aziz-relatifs-a->

A Programme for the Eradication of the Vestiges of Slavery (PESE) was established by the government in 2009, which reportedly engaged in efforts to address poverty among communities of slave descent. However, no details on how funds were allocated or spent appear to have been published. SOS-Esclaves is aware of several survivors of slavery who received small sums of money from the Programme, either in the form of a one-off payment or an ongoing small monthly payment. But the financial assistance to survivors has been wholly insufficient in meeting the full range of their needs. Survivors were not systematically supported long-term, and the programme did not provide other forms of assistance that they typically require, such as psychosocial interventions, vocational training or legal assistance. The programme was not equipped with the necessary financial or resources to address slavery adequately, and had little capacity for outreach to monitor and identify victims in a systematic and widespread manner. Moreover, the programme referred to the 'vestiges' of slavery rather than slavery itself.

In March 2013, the PESE was disbanded and replaced by an Agency (Agence Taghadoum) to address the vestiges of slavery, poverty and the integration of returnees. But it seems a similar approach has been taken so far, with little information on the Agency's plans available and no efforts made to consult or collaborate with civil society organizations working to end slavery.

Despite having ratified the international and regional human rights conventions listed above, this compilation of cases demonstrates the deliberate and systematic failure of the Mauritanian government to protect its citizens from slavery, thereby gravely and egregiously violating both its own law, as well as regional and international human rights law).

### **Failures of the administrative, police and justice systems**

This report focuses on the failures of the administrative, police and justice systems to enforce the Slavery Act. It is based on 26 slavery cases reported by two Mauritanian human rights organizations that are internationally recognized for their work to end slavery: SOS-Esclaves and the Initiative de la Résurgence du mouvement abolitionniste (IRA). These associations have long been at the forefront of the fight against slavery in Mauritania<sup>9</sup>. They seek to expose the realities of the practice, challenge its widespread

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*l-esclavage; Trop □ c'est trop, Monsieur le Président, Communiqué de SOS Esclave, 8 August 2011, <http://info2larue.wordpress.com/2011/08/09/sos-esclaves-trop-cest-trop-monsieur-le-president>*

<sup>8</sup> See interview of Mohamed Ould Abeld Aziz, Kassataya, 21 September 2011, <http://kassataya.com/actu/ould-abdel-aziz-sur-kassataya-nest-esclave-que-celui-qui-veut-l-tre>.

<sup>9</sup> SOS Esclaves was created in 1995. The association was declared illegal in 1998 and officially recognized in 2005 thanks to the pressure of the international community. On December 2010 SOS Esclaves received the French Republic's Human Rights Prize for its involvement in the fight against slavery. The IRA was created in 2008 and has been trying without success to get officially registered since then. To this day it has faced a

acceptance and defend the rights of those seeking to escape slavery. They also work to end discrimination faced by people of slave descent.

The cases reported below demonstrate a widespread lack of will to punish the practice of slavery and highlight the common strategies of the various authorities to prevent effective enforcement of the 2007 Slavery Act.

## 2. Slavery cases are reported to the authorities without follow up

According to Article 12 of the 2007 Slavery Act, administrative authorities as well as police officers and police agents are under the obligation to follow up complaints about slavery cases of which they are made aware. The administrative authorities concerned by Article 12 are the regional governors (*Walis*) and prefects (*Hakems*), as well as district chiefs (*Chefs d'arrondissements*).

A brief overview of Mauritania's administrative division is necessary in order to understand the scope of Article 12 of the 2007 Slavery Act. Mauritania is divided into 13 regions, each of which constitutes a decentralized administrative area. The 13 regions are divided into 53 departments and the departments into 31 districts. Each region is placed under the authority of a governor who represents the Executive; each of the 53 departments is placed under a prefect and each of the 31 districts under a district chief<sup>10</sup>. Considering the vastness of the Mauritanian territory (especially certain regions)<sup>11</sup>, and the fact that many slavery cases are in remote rural areas, local police forces are much more likely to be aware or informed of slavery cases than the few governors, prefects or district chiefs.

It does mean that the enforcement of the 2007 Slavery Act depends largely, at least initially, on the police. In most cases it is up to the police to respond first to slavery or slavery-like situations, such as the release and protection of the victim, the record and registration of the complaint, and the conduct of preliminary investigations<sup>12</sup>. It is also the police's role to inform the public prosecutor of the region<sup>13</sup>. As judicial police

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systematic and ungrounded refusal by the authorities. Biram Dah Abeid, the president of the IRA won the German Weimar Human Rights Award in 2011 for its work against slavery.

<sup>10</sup> See *Livre Blanc de la Décentralisation en Mauritanie*, MIDEA-AECID-IEJI. Décembre 2009, p. 32-33.

<sup>11</sup> See Mauritania map in Appendices below.

<sup>12</sup> See Code de procédure pénale, Art. 19-26

<sup>13</sup> There is one Criminal Court for each Mauritanian Region. The prosecution is represented in this court by the public Prosecutor attached to the Wilaya Court of the Region, See Ordonnance n° 2007/012 portant organisation judiciaire, 8 février 2007, Art. 50 and 52 and Code de procédure pénale, Art. 35.

officers, governors, prefects and district chiefs must also take preliminary protective and investigative measures when they are aware of a slavery situation and must promptly notify the public prosecutor<sup>14</sup>.

In practice, however, neither the administrative authorities nor the police routinely follow up cases of slavery or slavery situations reported by victims or human rights associations.

### **2.1. Failure of the administrative and police authorities: insufficient preliminary measures and lack of referral for prosecution**

It should first be noted that none of the slavery cases reported in this paper were identified by the administrative or police authorities, but by human rights defenders, who often had to spend several days protesting outside police stations before the authorities would respond. In many cases the authorities merely release the victims of slavery without conducting any investigations or notifying the prosecution. The case of Mabrouka and her family is an illustration of this.

#### **2.1.1. Case of Mabrouka and her family (October 2010)**

Mabrouka, aged 16, is one of eight children who, along with their mother Aichetou (34), were allegedly held in slavery by a prominent family in the Trarza region. In October 2010 one of Mabrouka managed to escape and find representatives of the anti-slavery organizations SOS-Esclaves and IRA. With the help of the human rights defenders Mabrouka went to the police and filed a claim against her masters. The police and anti-slavery activists went to the slaveholders and released Aichetou and her other children. According to SOS-Esclaves, the master claimed that the family was working for his family and that the case was a work-related conflict. The case was closed by the police without any investigations, despite the fact that the master's family are well-known in the region for owning slaves.

#### **2.1.2 Case of Hanna S. and her two children (November 2007)**

Hanna S. reported her case with the help of SOS-Esclaves in November 2007. She explained to the *Hakem* and the Trarza police that she was born into slavery and held by her masters' family to take care of their camels. She managed to escape but could not take her two children Bilal and Salem (8 and 2 years old) with her. Instead of taking preliminary investigating measures, the *Hakem* and police threatened her, pressuring her to drop her complaint. Her case was never referred to the prosecution authorities.

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<sup>14</sup> See Code de procédure pénale Art. 19, 20 and 22.

### **2.1.3 Case of Mbarka L. (September 2011)**

Mbarka L. (aged 20) was allegedly enslaved to a family in the Touabir tribe. Her two younger brothers, Brahim and Ethmane, were also enslaved to another relative of the family. Mbarka escaped in September 2011 and filed a claim against her former masters with the help of IRA. However, the police and the Prosecutor of Kaedi claimed that they had no jurisdiction over the case because Mbidane, the place where she was enslaved, was under the authority of the Brakna Region. IRA activists therefore went to the deputy governor of Brakna, who also claimed not to have jurisdiction over the case and referred them to the prefect of Aleg, one of the regional departments. The prefect of Aleg finally ordered the district chief of Male (a commune of Aleg) to send the police to the master's family in Mbidane.

In the meantime Mbarka was subjected to serious pressure from relatives enslaved by the same masters, sent by the family, to withdraw her claim. When she refused, she was first assaulted and then denounced to the authorities for fornication and filial disobedience (two crimes punishable by flagellation, stoning or imprisonment under Sharia law). Interestingly, the same authorities that had claimed not to have jurisdiction over her slavery complaint now intervened. They arrested her and confirmed the charges of fornication and filial disobedience. Mbarka was eventually released as a result of pressure from IRA and SOS-Esclaves, but the charges against her are still pending. Her slavery claim did not proceed. The police went to see her masters but did not conduct an investigation. Brahim, the elder of the brothers, managed to escape, but Ethmane, the youngest, remains enslaved. The authorities have not taken any action on this case either. It is worth noting here that, notwithstanding rules around jurisdiction, any authorities informed of a slavery situation are legally obliged to take necessary measures for the protection of victims and to arrest suspects.

### **2.1.4 Case of Selama and Maimouna (November 2011)**

In this case the police again did not notify the public prosecution, nor did they take any measures to release victims. Selama (14) and Maimouna (10) come from an enslaved family. Their mother (who has now passed away) and two brothers Lagdav (8) and Hamid (6) all 'belonged' to one slave-owner. Their aunt and three cousins are also enslaved. Selama and Maimouna were separated from their mother at an early age and rented to other persons by their master. They used to take care of livestock and performed domestic work without pay. They escaped in November 2011 after a particularly bad beating by the last person to whom they were rented. They finally met a policeman who was related to a representative of SOS-Esclaves; he recorded their story and told them they were free. The girls were then passed into the care of the branch of SOS-Esclaves in the Hodh El Chargui region. With the help of SOS-Esclaves, the two victims filed a claim against their former master. SOS-Esclaves also managed to inform the Prime Minister,

who ordered the search and arrest of the different masters. Since then however no investigation has been undertaken, and there has been no action to release the two young brothers who remain in slavery.

In all of the aforementioned cases, the police and administrative authorities clearly failed to follow up the slavery cases brought to their attention by human rights defenders. Although they knew the identity and whereabouts of the alleged slaveholders, the police and administrative authorities did not conduct any serious preliminary investigations. In two cases they did not take any steps to release the enslaved persons reported to them, nor did they notify the prosecution authorities. This failure to act constitutes a clear violation of Article 12 of the 2007 Slavery Act. It also indicates a lack of will from the authorities to expose slave-owners to criminal liability. SOS-Eslaves reported that in some cases, the authorities, in particular the police, did not react at all to denunciations of slavery practices brought to their attention, claiming that the site of the slavery situation was inaccessible or too far away. Police agents sometimes justified their inaction by claiming a lack of petrol for their vehicles<sup>15</sup>. According to Article 12 of the Slavery Act, those who fail to respond to a denunciation of any slavery or slavery-like practices shall be liable to a prison sentence and a fine. Until now however, there have been no prosecutions for violations of the obligation set out in Article 12. This is unsurprising since prosecutions under this article lie with the same authorities responsible for responding to slavery complaints. This reluctance to investigate slavery cases is not confined to the administrative and police authorities. The prosecution authorities also demonstrate an unwillingness to take action against slaveholders.

## **2.2. Failure of the prosecution system: insufficient criminal investigations**

Article 36 of the Mauritanian Code of Criminal Procedure establishes the principle of discretionary prosecution. It means that the public prosecutor is free to decide whether or not to follow up a slavery complaint. As an actor of the law's enforcement, the public prosecutor is required to determine whether the complaint is founded. Such a decision requires investigations. The following reported slavery cases demonstrate that in a number of cases, the prosecution simply rejects the claim or closes the file without sufficient investigations or reasonable grounds.

### **2.2.1 Case of Deybala (September 2011)**

Deybala was a 12 year old girl, enslaved in domestic servitude to a woman in the Ideychili tribe. Local members of IRA found out about her case and reported it to the police on 5 September 2011. The mistress was arrested and the child was separated from her. On 6 September however, the Prosecutor decided to release the mistress and

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<sup>15</sup> See Rapport sur cas d'esclavage, mémorandum sur cas estés en justice et loi 048/2007. Coordinatrice nationale de SOS Esclaves, 31 March 2012, p. 4.

sent Deybala home with her. He told the press that the girl was not a slave but a domestic worker receiving a monthly salary of 10 000 MRO (25 EUR).

Mauritanian labour law authorizes the employment of children of 12 under certain conditions, despite an overall minimum age set at 14. Their employment first requires a specific authorization from the Ministry of Labour. Then, 12 year-old children can only be employed if their work does not affect their health, exceed two hours per day, or occur during school hours or holidays<sup>16</sup>. In this case, Deybala was working daily, from morning to night. Moreover, even if she had reached the minimum legal age to work such hours, her monthly salary would still be less than half the minimum wage<sup>17</sup>. The case of Deybala clearly indicates the unwillingness of the prosecution to take action on a slavery claim.

### **2.2.2 Case of Hanna M. (April 2009)**

The case of Hanna M. offers another example of reluctance to investigate alleged child slavery. Hanna, 11 years old, told SOS-Eslaves that she was a domestic slave to a woman and that her mother, aunt and cousins were enslaved to the same family. SOS-Eslaves, who had been informed by a person of slave descent, reported her case in April 2009 to the prefect of Teyarett (Nouakchott). The prefect immediately summoned Hanna, as well as the alleged mistress and her husband for a hearing, and referred the case to the prosecution afterwards. The mistress told the prosecution authorities that she was a friend of Hanna's mother. She claimed that Hanna was staying with her at the request of her mother in order to be properly fed and get an education. However, as Hanna told SOS-Eslaves, she was not going to school or receiving any kind of education but doing domestic work and taking care of the mistress's youngest children when the eldest were at school. Hanna also told SOS-Eslaves that her mother was the slave of her mistress's mother.

Given this information, the human rights defenders requested that Hanna be separated from her mistress and from her mother until the confirmation hearing (set four days later). The anti-slavery activists expressed their fear that the mistress and mother would pressure the child to withdraw her claim. The authorities promised alternative measures but eventually did send Hanna back to the family. At the confirmation hearing, Hanna, her alleged mistress and the latter's husband were first heard by the Prosecutor behind closed doors and without lawyers present. During the public hearing the Prosecutor asked Hanna's mother if Hanna was placed in the woman's care at her request. The

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<sup>16</sup> See Articles 153-154 Loi n° 2004-017 portant Code du travail, 6 juillet 2004. It must also be noted that under Mauritanian law, education is obligatory for boys and girls until the age of 14. See article 1 of Loi no. 2001-054 portant obligation de l'enseignement fundamental, 19 July 2001.

<sup>17</sup> See *Country Reports on Human Rights Practices for 2011, Mauritania*, United States Department of State, Bureau of Democracy, Human Rights and Labor, p. 28  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dld=186219>.

mother said that this was true. The Prosecutor also asked Hanna if she was fed and educated by the family. The girl answered in the affirmative. The Prosecutor then decided to close the case because of insufficient evidence.

It is here important to underscore that the prosecution authorities did not properly look for evidence. The investigations were limited to two hearings with the girl, her mother and the alleged slave-owners. The investigators did not go to the family's home or attempt to question other witnesses. No measures were taken to protect the child from the influence of her mistress, and the inconsistencies between the statements she made to SOS-Eslaves and to the Prosecutor were not questioned. Altogether it would suggest that the lack of evidence that justified the claim's dismissal was primarily the result of insufficient investigations.

### **2.2.3 Case of Fatimetou (June 2009)**

As in other cases, no serious attempts to conduct investigations were made in the case of Fatimetou. Neighbours of the girl brought the case to the attention of SOS-Eslaves in June 2009. According to them, the child was routinely abused and beaten. She did not attend school and was forced to perform domestic work. Representatives of SOS-Eslaves went to the Toujounine prefect (Nouakchott) to request the release of the girl.

The same day, Fatimetou (dressed in rags and without shoes) was brought to the prefect, accompanied by two women: the alleged mistress, and her niece. The prefect observed that the girl couldn't read or write although the mistress claimed she was attending school. He then referred the case to the police 'juveniles' department of the Ksar police station. At the police station the niece admitted that Fatimetou was a 'present' from the wife of a General to her aunt. The mistress then claimed to have done nothing wrong; Fatimetou had been given to her and was therefore her property. Given this statement, the case was referred to the Prosecutor of Nouakchott and the mistress was taken into custody. Fatimetou was entrusted to the care of a human rights defender.

A hearing was held four days later under the direction of one Deputy Prosecutor. A black woman in rags came to the hearing accompanied by four well-dressed White Moors, friends of the mistress' family. The black woman claimed to be the grandmother of Fatimetou. She told the prosecution authorities that Fatimetou's father was unknown and that her mother couldn't attend the hearing because she had recently given birth in Kaedi. This was considered sufficient grounds for the Deputy Prosecutor to close the case and hand Fatimetou over to her alleged grandmother. No attempt was made to verify the identity of the alleged grandmother although Fatimetou claimed not to know her and said that she did know her father. The mistress was eventually released and Fatimetou was taken by one of the White Moors. According to SOS-Eslaves, the Deputy

Prosecutor banned the human rights defenders from conducting further investigations into this case.

In this case, the suspect was released without any kind of investigation into the allegations, despite the fact that the accused admitted that the girl 'belonged' to her.

#### **2.2.4 Case of Oueichetou (August 2011)**

Oueichetou, a 10 year old girl, was allegedly held in slavery in the Arafat neighborhood of Nouakchott by a woman. Neighbours brought the case to the attention of the IRA after they saw the mistress beating the child. Two members of IRA-Arafat managed to talk to Oueichetou when she was working outside her mistress's home. Her testimony and clothing supported the neighbours' claims of mistreatment, deprivation and exploitation.

IRA members filed a complaint by the police 'juveniles' department on 1 August 2011. Police went to the mistress' home but couldn't find the girl. According to IRA members, who were holding a sit-in in front of the police station, the mistress' cousin, a policeman, had sent prior warning, allowing her to hide Oueichetou before the police came to her house. The mistress denied all knowledge of the girl, but was nonetheless taken into custody and charged by the Prosecutor and the investigating judge with the crime of slavery.

On the 4 August however, the investigating judge ordered the immediate release of the mistress. No further investigations have been conducted to find Oueichetou and the case was closed. The investigating judge did not provide any explanations for this decision. Human rights defenders suspect that he was pressured to close the case, as a cousin of the mistress with political links to the Mauritanian President, allegedly led violent attempts to release her. In any case, the authorities were once more not willing to prosecute. Further, IRA members of the association protesting outside the juveniles department apparently faced police violence. IRA also reports that 10 of its members were arrested, detained and tortured as a result of the protests.

#### **2.2.5 Case of Mbarik (August 2007)**

The case of Mbarik Ould Sghaiyra was reported several weeks before the entry into force of the 2007 Slavery Act. It does nevertheless offer another example of the failure of the authorities to follow up allegations of slavery. Mbarik brought charges of slavery-like exploitation (*exploitation esclavagiste*) against his former master on 17 August 2007<sup>18</sup>. The alleged master did not attend the hearing in front of the correctional chamber. The reason given was that he lives in Mali, 25km from the Mauritanian border. The Prosecutor then requested an international warrant. The alleged master finally came to

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<sup>18</sup> See Article 1 Loi n° 025/2003 portant répression de la traite des personnes, 17 juillet 2003.

court but was released by the investigating judge without explanation. The case was eventually closed without further investigations.

### **2.2.6 Case of Tslim (September 2011)**

Tslim's case falls within the scope of Article 6 of the 2007 Slavery Act, which includes the criminalisation of the appropriation of the goods and property of a slavery victim. In September 2011 IRA reported to the Boutilimit authorities that Tslim (aged 60) had been missing since 15 August 2011 when out with her herd of cattle. They informed the police that the herd had been found at the residence of her master's brother and was now in possession of her master. Although Tslim has not been declared dead, the master claimed to the Prosecutor in Rosso that the herd belonged to him, as he was the legitimate heir of his slave. He was arrested and charged but was released on bail two weeks later. Since then no investigation has been conducted on the disappearance of Tslim and no further action has been taken against her master.

These different cases reveal that the non-enforcement of the 2007 Slavery Act is not only due to resistance to investigating slavery allegations from the administrative and police authorities, but because the prosecution authorities (the Prosecutor or investigating judge) are unwilling to prosecute alleged slaveholders. This is evident from the cursory nature of most investigations, which are usually limited to interviewing the victims and alleged masters, (often bringing the two together). This places enormous pressure on victims, who are extremely vulnerable, to change their testimonies. Furthermore, human rights defenders and their legal representatives report that the word of White Moors is challenged less often than that of Haratines. Few investigations seek to identify witnesses or corroborating evidence.

The lack of rigorous investigations is only one of the ways in which the prosecution authorities fail to enforce the Slavery Act. Slavery claims are often reclassified and prosecuted under other charges, and some cases are even settled informally. This means that they do not judicially exist as slavery cases.

### 3. Re-filing of slavery cases under other charges and informal settlements

SOS-Esclaves report that several of the slavery cases they brought to the authorities were reclassified as cases of work-related conflict or exploitation of minors<sup>19</sup>. The Special Rapporteur on Contemporary Forms of Slavery also noted this phenomenon, indicating situations where cases of slavery were filed as 'inheritance or land disputes'<sup>20</sup>. Another way to avoid enforcement of the Slavery Act is to close the case with a material or financial settlement instead of pursuing charges.

#### 3.1 Re-filing of slavery complaints under other charges

The following two cases illustrate the phenomenon of reclassification of slavery cases as well as their informal settlement.

##### 3.1.1 Case of Oum Elkhair (July 2007)

With the help of SOS-Esclaves, Oum Elkhair brought charges of trafficking in persons against a man in July 2007, shortly before the adoption of the 2007 Slavery Act. She stated that the man had rented her from her master and did not pay her for her work. She also reported that he beat her and subjected her to all kinds of abuse. Her case was first dismissed but appealed by the Prosecutor in May 2010. Since the Slavery Act had come into force, one might have expected that her case would be considered a crime of slavery. However, when her claim came back to court, the judge assessed it as a work-related conflict. According to him, the accused had simply paid the wrong person for the labour. The case was settled with a financial arrangement (150 000 MRO, around 370 EUR) and Oum Elkhair went to live with her father. In this case the judge clearly wished to avoid ruling on a slavery situation.

##### 3.1.2 Case of Salem (September 2011)

Salem, a 50 year-old man, reported his case to the police of Boutilimitt in September 2011. He went to the police after his master severely beat and injured him because he refused to force some cattle to work. His master was later arrested and charged by the Prosecutor. He was however merely charged with battery (*coups et blessures*), not with the crime of slavery.

IRA human rights activists reported that Salem was subjected to strong pressure from members of the Taguilalet tribe (relatives of the master) and received an envelope

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<sup>19</sup> *Rapport sur cas d'esclavage, mémorandum sur cas estés en justice et loi 048/2007*, Coordinatrice nationale de SOS Esclaves, 31 March 2012, p. 2.

<sup>20</sup> See Report of the Special Rapporteur on contemporary forms of slavery, 24 August 2010, A/HRC/15/20/Add.2, § 91.

containing 60 000 MRO (around 150 EUR). Despite the support of IRA, Salem ended up retracting his claim. The case was thus closed.

### 3.1.3 Case of Salma and Oum El Issa (December 2010)

The case of Salma (aged 9) and Oum El Issa (aged 15) was identified by members of IRA in December 2010. They reported to the police and administrative authorities of Arafat (Nouakchott) that the two girls were held in slavery by a female government employee. The latter was arrested following sustained pressure from human rights defenders and solely prosecuted on charges of child exploitation, a lesser crime than slavery. The mothers of the two girls were also prosecuted for child exploitation as they had received payment for their daughters' work as domestic servants. The three women were convicted on 16 January 2011. The mistress was sentenced to six months imprisonment and the girls' mothers received a six month suspended sentence. The mistress was however released nine days later, as the Appeals Chamber ruled that her detention warrant was invalid. The Court of Appeals of Nouakchott finally acquitted her, as well as the two mothers, on 21 March 2011. Members of the well-known organization 'Association des Femmes Chefs de Famille' (AFCF), which acted as civil plaintiff in this case<sup>21</sup>, reported that the Mauritanian procedural law was violated at every stage of the process<sup>22</sup>. As for the reclassification of the slavery claim as a charge of child exploitation, AFCF claimed that it was a classic attempt by the authorities to hide the persistence of slavery in Mauritania<sup>23</sup>.

## 3.2 Informal Settlements of Slavery Cases

### 3.2.1 Case of Brake (August 2007)

The case of Brake (aged 14) was reported in August 2007, three weeks before the adoption of the Slavery Act. With the help of SOS-Esclaves, he brought charges of slavery-like exploitation (*exploitation esclavagiste*) against his master<sup>24</sup>. The claim was first dismissed and then appealed by the Prosecutor in May 2010 at the Appeal Court of

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21 According to article 109 of the Mauritanian Code of criminal Procedure for children, associations are entitled to act on behalf of children as civil party/plaintiff (*partie civile*). See Ordonnance n°2005-015 portant protection pénale de l'enfant, 5 décembre 2005. While the Prosecution is acting on behalf of the state and demands sentencing according to the law, the *partie civile* acts in the interests of the victim and advocates among others that damages be paid.

22 Among others : the Criminal Court did not rule on damages for the two girls as requested by article 424 of the Mauritanian Code of Criminal Procedure and did first not issue any detention warrant for the mistress (violation of article 425). The Prosecutor did not notify the appeal to the civil party (violation of articles 263, 513 and 472) and the Court of Appeal did not clearly motivate her judgement (violation of article 545). For more details see *Rapport judiciaire de l'Association des Femmes Chefs de Famille*, 25 avril 2011, <http://www.afcf-mr.org/spip.php?article153>

23 *Ibidem*.

24 See Article 1 Loi n° 025/2003 portant répression de la traite des personnes, 17 juillet 2003.

Kiffa. However, there was no judicial ruling, only a financial agreement amounting to 260 000 MRO (approximately 650 EUR). The case was finally settled with damages being paid in kind – a cow and a calf instead of the money – and the boy was taken in by his brother.

### **3.2.3 Case of Hajjara (September 2011)**

IRA members reported in September 2011 that a woman from the Chourfat Nouagour tribe was holding Hajjara in slavery in Rosso. With the consent of Hajjara, they filed a complaint against her alleged mistress. The Prosecutor dismissed the complaint and came to an informal agreement with the mistress. The case is now closed but Hajjara remained with her mistress.

### **3.2.4 Case of Mbarka M. (July 2007)**

Mbarka M. and her sister brought charges against their master in July 2007 for slavery-like exploitation (*exploitation esclavagiste*)<sup>25</sup>. The alleged master was initially detained and then released on the condition of a bail payment of 600,000 MRO (around 1490 EUR). His relatives acted as guarantors for this sum while he was released, to allow him to find the funds and pay. But he never returned and no sanctions were ever imposed on his relatives. The master reportedly lives near the Malian border and it is claimed he resides in Mauritania in winter and in Mali in summer. According to local activists, it would be easy to locate and arrest him, but no one is prepared to do so. Until 2012, Mbarka was willing to pursue the case. However, she then refused to come from Rosso to Nouakchott to allow her lawyer to act on her behalf and said she didn't want her lawyer to come to her. The lawyer and SOS-Eslaves members believe that she and her sister have been subjected to pressure not to pursue the case.

### **3.2.5 Case of Mbarka K. (2008)**

Mbarka is one of 16 fugitive slaves who arrived in Bassiknou between 2006 and 2010, all escaping the same master. Since her arrival in Bassiknou in 2008, Mbarka had filed many complaints to the local police, along with other former slaves, requesting that they locate and release family members who were still enslaved. In 2012, she saw her former master in a camp for Malian refugees and informed the police. Rather than following procedure, the police took the man directly to see the *Hakem*. He was released immediately after he told the *Hakem* that he did not know Mbarka. Anti-slavery activists took Mbarka to Nouakchott where she had a meeting with the Prime Minister and the Minister of Justice. The Prime Minister ordered regional officials to locate and arrest the man, and after a lengthy delay he was arrested in September 2012. However, his trial took place without Mbarka and her lawyer being informed or involved, and he was released after being ordered to pay a fine of 50,000 MRO (around 125 EUR) to Mbarka.

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<sup>25</sup> See Article 1 Loi n° 025/2003 portant répression de la traite des personnes, 17 juillet 2003.

As already mentioned, reclassifying slavery cases under other charges or resolving slavery cases with informal settlements has the effect of denying their legal existence. This also constitutes a clear failure to enforce the 2007 Slavery Act and demonstrates once more an unwillingness to expose slaveholders to criminal liability. Such unwillingness is also manifest in the number of slavery cases that do not move forward at the prosecution stage or before the courts without any reasonable explanation.

## **4. Failure of the justice system: slavery cases blocked at the prosecution or trial stages**

### **4.1 Cases blocked before the Prosecutor/ investigating judge**

According to Article 36 of the Mauritanian Code of Criminal Procedure, the Prosecutor is under the obligation to inform the claimant about the decision whether or not to prosecute within eight days. In cases where it is determined that there is not sufficient evidence to proceed, article 36 also obliges the Prosecutor to inform the plaintiff of his or her right to file a civil suit with the investigating judge. However, in the cases reported below, the slavery claims have been filed for months or even years without any clear response from the Prosecutor or any information on the right to file civil suits.

Furthermore, while Mauritanian procedural law does not impose a specific time limit on the investigating judge to conduct investigations, it does however require that the latter take all necessary action to determine the truth (Article 73). In almost all reported slavery cases, the claimants specifically identified the alleged slave-owners as well as their whereabouts, so the very long time taken for investigations cannot be explained by difficulties in the search for incriminating or exculpatory evidence.

#### **4.1.1 Case of Oumelkheir and her daughter Selekha (December 2007)**

Oumelkheir (aged 47) was born into slavery and has been enslaved to several masters. SOS-Esclaves first reported her case in December 2007. At that time she was enslaved to a family in the Adrar region. Although the Prosecutor was informed, no action was taken.

Oumelkheir reports her baby daughter was left out under the sun to die by these masters, after they forbade her from taking the child with her to look after their herd of animals. In February 2010, Oumelkheir ran away from her last master, a former colonel of the gendarmerie, who had subjected Oumelkheir and her daughters to brutal physical abuse and rape. She managed to take her younger children and sought help from her brother, who reported her situation to SOS-Esclaves and filed a claim on her behalf on

12 April 2010. Oumelkheir's daughter Selekha (aged 15) also managed to escape some time later with the help of SOS-Eslaves members.

In early 2012, the claim was still pending with the Prosecution. After pursuing enquiries, SOS-Eslaves discovered that Oumelkheir's brother, who had filed the complaint on her behalf, was now working for the family of her latest master. Members of SOS-Eslaves believe that a financial agreement was made between the Prosecutor, Oumelkheir's brother and the former colonel. Oumelkheir then decided to file a claim herself for the crime of slavery as well as the murder of her daughter and instructed a lawyer to act on her behalf. Her lawyer went to Atar in June 2012 to meet the Prosecutor in order to submit a further request for a response to the complaint. Since June 2012, no further action has been taken. Oumelkheir's lawyer and SOS-Eslaves suspect that the authorities are not willing to investigate or prosecute a former colonel of the gendarmerie. First reported in December 2007, the case has been blocked from proceeding to prosecution since April 2010.

#### **4.1.2 Case of Mbarka E. (March 2011)**

Mbarka E. reported her case to the police in March 2011 with the help of IRA. She explained that she had been enslaved to members of the El Bouh tribe. According to Mbarka, she was subjected to abuse and rape by the master and his son. She had two daughters as a result, Douda (7) and Oueichita (9), who were also considered slaves of the family. Mbarka's mother was also enslaved to the El Bouh. Alongside IRA, Mbarka went to the administrative authorities of Toujounine (Nouakchott) on 6 March 2011 and filed a complaint against her master before the juvenile department. A report was then sent to the Prosecutor. In late October 2011, although Mbarka had been to the juvenile department several times to enquire after her case and IRA members had written to the Prosecutor, no investigations had been conducted. IRA report that no further action has been taken by the authorities since October 2011.

#### **4.1.3 Case of Khedeije (May 2010)**

As in Mbarka E.'s case, Khedeije's case was blocked at the prosecution stage for a long period. Khedeije brought charges of trafficking in persons against her master on 24 May 2010. But as of 2013 the case was still pending before the investigating judge, awaiting hearings of the witnesses.

#### **4.1.4 Case of Moctar (January 2012)**

Moctar, aged 14, reported his situation to IRA in January 2012. With the help of human rights defenders, he brought slavery charges against his alleged masters, as well as against his parents for complicity in the crime. Moctar explained that he tried twice to escape his masters, but that his parents sent him back to them each time. He therefore

went to the local branch of IRA in Toujounine the last time he escaped. The case was first handled by the 'juveniles' department, and then referred to the Prosecutor, who decided to arrest four suspects. The suspects were released shortly after, and no further investigations have been conducted since then.

#### **4.1.5 Case Mohamed Lemine and his family (January 2012)**

Mohamed Lemine (aged around 15) reported the case of his family in January 2012 to the police in the Hodh El Gharbi region. He managed to escape his alleged masters and filed a complaint of slavery against them. According to Mohamed Lemine, the masters hold in slavery his seven siblings (three boys: Taleb Jiddou, Mohamed El Moktar, Cheikh Oumar and four girls: Zeinebou, Ainna, Lveive, Aichatta) as well as his mother Salka. All were engaged in domestic work or taking care of the livestock without pay. The children do not attend school. Mbarek, the children's father, confirmed this and explained that the masters' family had only allowed him to 'marry' Salka on the condition that she and their family would remain with them.

Mbarek also lodged a complaint against the alleged masters for the exploitation of his family. However, the police apparently rejected Mohamed Lemine's claim, calling him a liar. IRA members attempting to help the boy were also allegedly arrested and tortured. It seems however that the case has been referred to the investigating judge, who placed the masters' family under judicial supervision. Since then Mbarek's children have been transferred to his care but the two claims have not moved forward.

#### **4.2 Cases blocked before a court (trial and appeals stages, Supreme Court)**

It should first be emphasized that it is extremely rare for a slavery claim to go to trial. As demonstrated above, the majority of cases are dismissed without proper investigations or are blocked at the investigation stage. When a slavery claim exceptionally proceeds to trial, the cases reported below demonstrate that procedures and deadlines are not respected. Once more, unexplained delays in the procedures indicate an unwillingness to expose slaveholders to criminal liability.

##### **4.2.1 Case of Aza (July 2010)**

The case of Aza, who brought charges of slavery-like exploitation (*exploitation exclavagiste*) against her master, was sent to the Criminal Court in July 2010. Since then however, no proceedings have taken place.

#### **4.2.2 Case of Rabi'a and her six siblings**

SOS-Esclaves reported this case in August 2011. It involves seven siblings aged between 8 and 23 and their mother Doueyda, herself a slave<sup>26</sup>. According to SOS-Esclaves, the children were enslaved to two different families. One mistress acknowledged 'owning' the children in front of the Prosecutor. The case was then sent to the investigating judge in Nouhadibou, who retained the charges of slavery against the mistress. Initially sent by the investigating judge to the Criminal Court, the decision was first appealed by the defence but then confirmed by the Appeal Court. In August 2012 the case went before the Supreme Court (Penal Chamber) as part of an 'urgent procedure' undertaken by the lawyers of the accused in an attempt to have the charges dropped. Yet the case has been at the Supreme Court since then, which appears incompatible with the 'urgent' nature of the procedure. Furthermore, the victims were originally told that the mistress was arrested and placed in jail pending the outcome of the court case. However, investigations by SOS-Esclaves and the lawyer revealed that there were no prisons for women in the region and that the mistress had in fact been released on bail. The case was sent to the Criminal Court of Nouadhibou in January 2013 and is awaiting judgement at the time of writing.

#### **4.2.3 Case of Moima, Houeija and Salka (March 2011)**

The case of Moima (17 years old), Houeija (14 years old) and Salka (10 years old) was reported by several Mauritanian human rights organisations (IRA, SOS-Esclaves and AFCF) to the police 'juveniles' department of Nouakchott on 23 March 2011. As all the other slavery cases, this one would not have been prosecuted without significant pressure from human rights defenders. The Prosecutor charged six persons with the crime of slavery and referred the case to the criminal court of Nouakchott. It was the first time that the 2007 Slavery Act (Article 4) was specifically invoked by a tribunal in Mauritania. The trial was held just three days after the defendants appeared in court to enter their pleas with respect to the charges brought against them. Neither the prosecution lawyers nor the lawyers of the civil party had sufficient time to prepare their cases. AFCF was the only human rights organization that allowed to act as civil plaintiffs in this case. According to AFCF and SOS-Esclaves, the courtroom was almost exclusively composed of members of the same clan as the accused, who constantly interrupted the oral arguments of the prosecution and civil party<sup>27</sup>. The ruling was delivered in the afternoon in the absence of the civil party (violating Articles 263 and 513 of the

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<sup>26</sup> The seven brothers and sisters are Rabi'a (girl) born 1989, enslaved in Nouadhibou; Mohamed born in 1991, enslaved in Nouakchott; Aminetou (girl) born in 1993, enslaved in Nouadhibou, mother of a girl named Rivaa; Hindou born in 1995, enslaved in Nouakchott; Nanna (girl) born in 1997, enslaved in Nouadhibou; Bouha born in 1999, enslaved in Nouakchott; Mettou born in 2004, enslaved in Nouakchott.

<sup>27</sup> See SOS-Esclaves, *Note d'alerte*, 22 April 2011, [www.sosesclaves.org](http://www.sosesclaves.org) and *Rapport judiciaire de l'Association des Femmes Chefs de Famille*, 25 April 2011, <http://www.afcf-mr.org/spip.php?article153>.

Mauritanian Code of Procedural Law). All the accused were acquitted. AFCF appealed the decision and the case has been pending before the Appeals Chamber since then.

#### **4.2.4 Case of Said and Yarg (November 2011)**

In November 2011, the first successful prosecution under the 2007 anti-slavery legislation took place. Ahmed Ould Hassine was found guilty of enslaving two young brothers, Said and Yarg<sup>28</sup>. The master was sentenced to two years imprisonment and ordered to pay compensation (1,350,000 MRO, approx. 4100 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, the recommended sentences for the crime of slavery are 5-10 years. However, the State Prosecutor did not appeal the lenient ruling immediately; he only filed an appeal after the lawyer representing Said and Yarg intervened. Less than four months later, on 26 March 2012, the convicted slave-owner was released on bail by the Criminal Chamber of the Supreme Court for the sum of 200 000 MRO (approx. 537 Euros). At no point was the children's lawyer informed of the request for bail, despite the potential risks to the boys. The decision of the Supreme Court only became known to the boys' lawyer on 2 April 2012, which is inconsistent with the fact that the civil party must be informed at all stages of the process. The civil party appealed the release on bail. Since then however, no appeal hearings have taken place.

## **5. Conclusion and Recommendations**

The Mauritanian authorities did demonstrate willingness to eradicate slavery when they adopted the Slavery Act criminalizing and punishing slavery and slavery-like practices on 3 September 2007. Since then however, the Slavery Act has had yet to be fully enforced. As demonstrated by this sample of reported cases, there is a strong reluctance on the part of the administrative and police authorities as well as on the part of Prosecutors and judges to enforce the law.

Most cases are closed without proper investigation, violating Article 12 of the Slavery Act, according to which those who do not follow up or investigate a report of slavery

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<sup>28</sup> It should be noted that the judge also found Said and Yarg's mother Salka guilty; she 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. The mother displayed what might be called a 'slave' mentality: in her mind, the boys' slavery was normal and right and she was not in a position to challenge their treatment at the hands of the master. The prosecution of the boys' mother and her conviction show a disturbing lack of understanding of the affect of slavery on individuals and their capacity to separate themselves from their master or mistress's interests.

brought to their attention are liable to a prison sentence and a fine. However, as prosecutions under this provision rest with the same authorities responsible for acting on slavery complaints, this provision has never been implemented. In cases where a slavery claim is referred to the Prosecutor, it is common for the latter to file it under other less serious charges or propose an informal settlement, circumventing the application of the Slavery Act. In other cases claims are left pending before the Prosecutor or the investigating judge for months or years without explanation.

Since 2007, the Slavery Act has only been invoked before a court twice. In the first case the trial date was set only three days after the defendants' first appearance in court to enter their pleas on the charges brought against them, so neither the prosecution nor the civil party lawyers had enough time to prepare their case. In contrast, the appeal brought against the acquittal of the accused has been pending since April 2011. In the second case, the slave-owner was found guilty but released on bail less than four months after his conviction. The appeal filed against the release decision has also been pending until the time of writing.

It should be recalled that according to the Slavery Act, an investigation cannot be pursued unless a slave files a complaint. The reluctance and resistance of the authorities to enforce the law makes it less likely that a victim will want to come forward. Indeed, in most cases known to human rights organisations, victims of slavery do not want to report crimes committed against them by their masters to the authorities. Fears of retribution, lack of awareness of rights, shame and stigmatisation, as well as the deeply rooted legacy of submission to masters<sup>29</sup> mean it is unlikely that victims will speak out. Overall, people of slave descent are well aware that the police and judicial system are not in their favour and they cannot rely on those institutions for assistance. None of the slavery claims presented in this paper would have been filed without the help and constant pressure of Mauritanian human rights organizations. In this regard it should be noted that in several of the reported cases, human rights defenders faced acts of intimidation such as police violence and arbitrary arrests when trying to denounce slavery situations. Not only have the Mauritanian authorities failed to enforce the Slavery Act, there are often active attempts to prevent slavery cases from being reported.

In her 2010 Report on Mauritania, the Special Rapporteur on contemporary forms of Slavery urged the Minister of Justice to consider incorporating a civil cause of action for victims into the 2007 Slavery Act. According to Ms Shahinian, this would give victims of slavery and human rights organizations acting in their interests the right to appeal

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<sup>29</sup> The nature of descent-based slavery in Mauritania is such that victims have been indoctrinated over generations into accepting their status as possessions of their masters.

directly to the courts against an act of slavery rather than relying on police or other authorities to bring criminal charges in such cases<sup>30</sup>. Such a measure is regarded as absolutely necessary and would constitute a first step towards a real enforcement of the Slavery Act. However, as long as the Mauritanian President continues to deny the existence of slavery in his country, the Slavery Act will remain meaningless.

**Anti-Slavery International, the Society for Threatened Peoples (STP), and the Unrepresented Nations and Peoples Organization (UNPO) urge the Government of Mauritania to:**

- Amend the 2007 Slavery Act to ensure that the burden of proof is on the alleged perpetrator rather than the person deemed the 'alleged slave';
- Amend article 15 of the 2007 Slavery Act to ensure that Mauritanian human rights organizations can not only denounce violations of the law and assist victims but can also act as civil party. On account of the psychological state of most victims and the nature of descent-based slavery in Mauritania, human rights organizations should be granted a *locus standi* to enable them to bring charges and pursue cases on behalf of victims;
- Formally acknowledge the existence of slavery in Mauritania and make every effort to raise public awareness of slavery practices and the laws against them;
- Issue orders to the police and judiciary on the enforcement of national legislation prohibiting slavery, ensuring that those responsible for the practice are effectively investigated and prosecuted, receiving and serving sentences that are commensurate with the crime. Crimes of gender-based violence must also be investigated and prosecuted;
- Adopt policies to facilitate equal access to education and employment opportunities;
- Take steps to promote a higher representation of Haratine in the government, parliament and other public institutions;
- Allow the Initiative de Résurgence du Mouvement Abolitionniste en Mauritanie to register its legal status as an NGO;
- Ratify international human rights conventions without reservations, including CEDAW.
- Equip the new Taghadoum Agency, which has an anti-slavery mandate, with the resources and powers necessary to lead the actions recommended here.

**Anti-Slavery International, the Society for Threatened Peoples (STP), and the Unrepresented Nations and Peoples Organization (UNPO) recommend that the Taghadoum Agency should:**

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<sup>30</sup> See Report of the Special Rapporteur on contemporary forms of slavery, 24 August 2010, A/HRC/15/20/Add.2, § 105.

- Collect detailed data on the nature and incidence of slavery in Mauritania to allow monitoring of efforts to eradicate slavery;
- Conduct nationwide training for police and administrative and judicial authorities on the 2007 law to ensure that they pursue the cases of slavery brought to their attention efficiently and effectively.
- Train police, prosecutors, and judicial authorities in the handling of victims of slavery practices, especially on how to create a safe, supportive, and gender-sensitive environment for victims to seek legal services;
- Create a fund specific to slaves and former slaves to facilitate access to justice, legal empowerment and humanitarian relief (including emergency shelter and provisions for people escaping slavery);
- Provide adequate compensation and reintegration support for victims of slavery practices, including through training and micro-credit;
- Combat discrimination based on descent or ethnicity in the education system, the media and government institutions, including through legal means and by establishing awareness raising campaigns to combat racist stereotypes.

**Anti-Slavery International, the Society for Threatened Peoples (STP), and the Unrepresented Nations and Peoples Organization (UNPO) urge the international community to:**

- Support the vital work of anti-slavery organizations (notably assisting victims, lobbying for legal reform and implementation and holding the government of Mauritania to account) by providing them with adequate funding, resources and platforms;
- Ensure procedures for monitoring and evaluating implementation of international efforts to end slavery in Mauritania;
- Make partnerships with the Government of Mauritania conditional on the attainment of agreed milestones towards the eradication of slavery.

## 6. Appendices

### 6.1 Summary of the 26 reported slavery cases

Reported cases	Name	Date of the cases report - Location	State of case
Case 1	Mabrouka and family	October 2010 Trarza Region	Case closed by the police without investigation.
Case 2	Hanna S. and her two children	November 2007 Trarza Region	Case closed by the police without investigation.
Case 3	Mbarka L.	September 2011 Gorgol Region	Case closed by the police without investigation.
Case 4	Selama and Maimouna	November 2011 Hodh El Charqui Region	Case closed by the police without investigation.
Case 5	Deybala	September 2011 Assaba Region	Case closed by the prosecution – unwillingness to prosecute
Case 6	Hanna M.	April 2009 Teyarett- Nouakchott	Case closed by the prosecution – unwillingness to prosecute.
Case 7	Fatimetou	June 2009 Toujounine- Nouakchott	Case closed by the prosecution – unwillingness to prosecute.
Case 8	Oueichetou	August 2011 Arafat- Nouakchott	Case closed by the prosecution – unwillingness to prosecute.
Case 9	Mbarik	August 2007	Case closed by the prosecution – unwillingness to prosecute.
Case 10	Tslim	September 2011	Case closed by the

## Mauritania's culture of impunity for slavery

		Trarza Region	prosecution – unwillingness to prosecute.
Case 11	Oum Elkhair	July 2007 Assaba Region	Case reclassified as a work-related conflict – solved with a financial arrangement.
Case 12	Salem	September 2011 Trarza Region	Prosecution only on charges of battery, not on slavery. Plaintiff retracted his complaint because of pressure from masters.
Case 13	Salma and Oum El Issa	December 2010 Arafat- Nouakchott	Prosecution on charges of child exploitation instead of slavery. Acquittal of the alleged masters in January 2011.
Case 14	Brake	August 2007 Assaba Region	Charges of slave trade; case settled with an informal arrangement: a cow and a calf.
Case 15	Hajjara	September 2011 Trarza Region	Case solved with an informal arrangement with the alleged mistress.
Case 16	Mbarka M.	July 2007 Trarza Region	Master was never arrested; possible pressure on the plaintiff to stop pursuing her claim.
Case 17	Mbarka K.	2008, Hodh El Chargui Region	Cases resolved with the payment of a fine.
Case 18	Oumelkheir and her daughter Selekha	December 2007 then April 2012 Adrar Region	Case blocked at the prosecution stage since April 2012.
Case 19	Mbarka E.	March 2011 Toujounine-	Case blocked at the prosecution stage since

## Mauritania's culture of impunity for slavery

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		Nouackchott	March 2011.
Case 20	Khedeije	May 2010	Case pending before the investigating judge since May 2010.
Case 21	Moctar	January 2012 Toujounine- Nouakchott	Case blocked at the prosecution stage since January 2012.
Case 22	Mohamed Lemine and his family	January 2012 Hodh El Gharbi Region	Case pending before the investigating judge since January 2012.
Case 23	Aza	July 2010	Case pending before the Criminal Court since July 2010.
Case 24	Rabi'a and her six siblings	August 2011 Nouhadibou Region	Case pending before the Supreme Court since August 2012.
Case 25	Moima, Houeija and Salka	March 2011 Nouakchott	Alleged masters acquitted in April 2011. Case is at the Appeals stage since then.
Case 26	Said and Yarg	April 2011 Brakna Region	Master convicted with slavery in November 2011 and sentenced to two years of imprisonment but released on bail on March 2012. Case pending before Appeals Court of Nouakchott since April 2012

## **6.2 Slavery Act N°. 2007-048 of 3 September 2007 criminalizing slavery and repressing slavery practices (French)**

### **Loi n° 2007 – 048 du 3 septembre 2007 portant incrimination de l'esclavage et réprimant les pratiques esclavagistes**

L'Assemblée Nationale et le Sénat 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 punie 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 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) 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 cent mille ouguiyas (200.000 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 applicables 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 mille ouguiyas (300.000 UM).

Toute personne morale coupable d'actes discriminatoires envers une personne prétendue esclave est punie d'une amende de cinq cent mille (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 (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 compétent 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