

# report



## Enforcing Mauritania's Anti-Slavery Legislation: The Continued Failure of the Justice System to Prevent, Protect and Punish



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# Enforcing Mauritania's Anti-Slavery Legislation: The Continued Failure of the Justice System to Prevent, Protect and Punish

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# Key findings

## Key findings

- Despite an anti-slavery law passed in 2007, slavery remains widespread in Mauritania. People living in slavery are regularly beaten, intimidated, forcibly separated from their families and subjected to a range of other human rights violations, including sexual assault. Slavery in Mauritania is more prevalent than in any other country in the world, and represents a human rights crisis which requires great attention and dedicated work from the government of Mauritania.
- The Mauritanian government, instead of supporting former slaves and those fighting against slavery in civil society, has been actively repressing protests against slavery. In November 2014, three anti-slavery activists were arrested on anti-terrorism charges and subsequently sentenced in January 2015 to two years' imprisonment. Protesters in July 2015 who had gathered to demand release of the activists were tear-gassed and arrested by police, and in August 2015 the appeal against the sentences was dismissed. The arrest and prosecution of activists by the Mauritanian government does not instil confidence in current and former slaves or their advocates that the government is serious about ending the practice of slavery in Mauritania, especially in light of the failure to prosecute slave-owners.
- Implementation of the 2007 law criminalizing slavery has been obstructed by the continued failure of police and administrative authorities to follow up instances of slavery brought to their attention, of prosecutors to adequately investigate reported cases and of judges at every stage of court proceedings to enforce proper procedure or sentence slave-owners in compliance with the law. Since the law's creation, only one slave-owner has been convicted, and was given a sentence lower than that required by the law. The result of this failure to implement the law and prosecute public officials who fail to comply with its provisions has allowed for continued abuse of people living in slavery.
- A revised anti-slavery law was approved in the National Assembly in August 2015. The new law allows for slightly harsher sentences for officials who do not investigate cases of slavery and establishes aggravated penalties for public officers who commit acts of slavery. It also allows human rights organizations that have been legally registered for five years to bring cases on behalf of victims. Though this enhanced anti-slavery law represents a promising step forward, the government of Mauritania must commit to its thorough implementation and enforcement to ensure that slavery is eradicated in Mauritania.

# 1 Introduction

## 1.1 An epidemic of slavery in Mauritania

Though in 1981 Mauritania became the last country in the world to abolish slavery,<sup>1</sup> the practice has persisted to this day. Slavery based on descent remains widespread in the West African country, where it predominantly affects the Haratine group.<sup>2</sup> Haratines are people known to be the descendants of slaves; the status is passed down from mother to child. Many remain in slavery today, treated as the property of their masters, living under their direct control and receiving 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 former United Nations (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>3</sup> 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.

This report will examine current legal approaches to eradicating slavery within the Mauritanian criminal justice system, specifically the efficacy of a law passed in 2007 which aimed to eradicate slavery and the recent approval in August 2015 of a new anti-slavery law which aims to strengthen the previous provisions against slavery. A previously published survey of 26 case studies reported by two Mauritanian human rights organizations, SOS-Esclaves and the Initiative de la Resurgence du Mouvement Abolitionniste (IRA),<sup>4</sup> demonstrated a total failure of the criminal justice system in implementing and enforcing the

2007 law. This report, drawing on a number of these case studies and several other more recent examples, examines exactly where such failures are occurring at various stages of the criminal justice process, from initial police investigation and prosecution to conviction and sentencing. The cases 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 – a situation that, without adequate political will and implementation, could continue regardless of the recent adoption of a new slavery law replacing the 2007 legislation.

## 1.2 Mauritania's failed attempts to eradicate the practice of 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'.<sup>5</sup> 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).

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 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; and 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.

At the national level, Mauritania passed its 2007 anti-slavery law, aimed at allowing for the prosecution and conviction of slave-owners.<sup>6</sup> Though the 2007 law has now been replaced by new anti-slavery legislation approved in August 2015, all the case studies under consideration in this report were brought under the 2007 law and it is the non-enforcement of that law which provides the main focus of this report. In 17 articles, the law covered a basic definition of slavery and forbids discrimination on the basis of status as a slave. It established a penalty of 5 to 10 years' imprisonment and a fine of 500,000 to 1,000,000 ouguiyas – between US\$1,600 and \$3,200<sup>7</sup> - for the crime of slavery. It created several other offences related to slavery, such as the offence of depriving a child who is a slave from access to education, the offence of forcing a slave woman to marry or preventing her from marrying, the offence of producing a cultural or artistic production defending slavery, and the offence of violating the physical integrity of a person who is a slave. Perhaps most importantly, the law created an offence for any public official who 'does not investigate denunciations of the practices of slavery that are brought to his attention'.<sup>8</sup>

Despite these international and national legal instruments intended to eradicate slavery, practices within the country by state and local officials have continued to impede efforts to aid current and former slaves. Local organizations report reluctance to enforce the 2007 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 widespread existence of slavery and suggested that, where exploitation exists, it is because people choose to remain slaves: *'en Mauritanie n'est esclave que celui qui veut l'être'*<sup>9</sup>

Regarding the 2007 anti-slavery law, the cases referenced in this report show a complete failure of the administrative, police, prosecutorial and judicial systems to enforce the law. On the level of the administrative authorities and police, there have been very limited efforts to seek out known victims of slavery, investigate cases of

slavery that are brought to their attention, or refer cases to prosecutors. On the prosecutorial level, prosecutors have failed to conduct thorough criminal investigations, often re-filing slavery complaints under other charges unrelated to slavery or arranging informal settlements of slavery cases against the interests of the victim. On the judicial level, judges have failed to enforce proper procedure and have often delayed cases. Only one case has led to conviction, and the convicted slave-owner was given a jail sentence much lower than that required by the law.

Following passage of the law in 2007, 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, 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 finances 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 the Agence Nationale de Lutte contre les Séquelles de l'Esclavage, de l'Insertion et de Lutte contre la Pauvreté, also known as Tadamoun, to address the vestiges of slavery, poverty and the integration of freed slaves. But it seems a similar approach to that of PESE has been taken so far, with little information on the agency's plans available and insufficient efforts made to consult or collaborate with civil society organizations working to end slavery.

Despite the Mauritanian government having ratified the international and regional human rights conventions listed above, this report demonstrates the deliberate and systematic failure of the government to protect its citizens from slavery, thereby gravely and egregiously violating both its own law and regional and international human rights law. Boubacar Messaoud, President of SOS-Esclaves, has stated that 'more popular pressure is needed to follow up on these cases and make sure justice is served'.<sup>10</sup> This report therefore hopes to equip anti-slavery advocates and human rights defenders with an understanding of the Mauritanian criminal justice system and its failings to support them in their advocacy efforts.

### 1.3 Mauritania's repression of anti-slavery human rights defenders

Aside from its legal failures to honour its commitment to the eradication of slavery, the Mauritanian government has failed to positively engage with civil society on the issue of slavery. Instead the government has been actively suppressing the voices of former slaves, anti-slavery advocates and human rights defenders. Two human rights organizations which have been affected by the government's attempts to suppress anti-slavery advocates are SOS-Esclaves and the IRA, the groups that provided the cases used in this report. These associations have long been at the forefront of the fight against slavery in Mauritania. They seek to expose the realities of the practice, challenge its widespread acceptance and defend the rights of those seeking to escape slavery. They also work to end discrimination faced by people of slave descent.

SOS-Esclaves was created in 1995, then declared illegal in 1998 before achieving official recognition in 2005 thanks to the pressure of the international community. In 2009 Boubacar Messaoud, the President of SOS-Esclaves, received the Anti-Slavery International Award and in December 2010 SOS-Esclaves received the French Republic's Human Rights Prize for its involvement in the fight against slavery. The IRA, on the other hand, has been trying without success to be officially registered since its creation in 2008. To this day it has faced a systematic and ungrounded refusal by the authorities: this is despite Biram Ould Dah Ould Abeid, the President of the IRA, winning the German Weimar Human Rights Award in 2011 for his work against slavery, as well as the 2013 UN Human Rights Prize and the 2013 Front Line Award for Human Rights Defenders at Risk.

In November 2014, Ould Abeid was arrested along with Brahim Bilal Ramdane, the Vice-President of IRA, and Djiby Sow, President of the civic association Kawtal Ngam Yellitaare, on anti-terrorism charges of 'belonging to an illegal organization, leading an unauthorized rally, and violence against the police'.<sup>11</sup> The activists had organized an anti-slavery convoy and were travelling through the country holding workshops on anti-slavery efforts and land rights and discussing exploitative practices such as deportations and land grabs.<sup>12</sup> All three were subsequently sentenced to two years' imprisonment in January 2015. IRA released a press release condemning the conviction, stating that the verdict 'was rather political than legal'.<sup>13</sup>

The conviction was also met with outrage from international human rights organizations. Fatimata Mbaye, President of the Association Mauritanienne des Droits de l'Homme (AMDH) and former Vice-President

of the International Federation for Human Rights (FIDH), stated that:

*'this verdict shows once again that the political will to deal with land disputes, slavery and the legacy of human rights violations is biased, to say the least, and indicates a lack of courage to resolve once and for all the issue of slavery, which is regarded as a crime against humanity in the Mauritanian constitution.'*<sup>14</sup>

The verdict also provoked outrage within the Mauritanian anti-slavery community. In June 2015, more than 100 members of the IRA gathered in a peaceful demonstration to demand release of the activists. Police arrived with large amounts of tear gas and used batons to beat protesters and stop the protest. Twenty-three protesters were arrested.<sup>15</sup> The convictions were subsequently upheld by a Mauritanian court in August 2015.<sup>16</sup>

The government of Mauritania has declared its intention to repress the practice of slavery and has been a signatory to several international treaties to the same effect. Recent events, however, reflect a worsening crisis and abusive efforts by the government to silence those who denounce slavery. In most slavery cases, it is organizations like SOS-Esclaves and IRA who seek out victims of slavery and assist them in bringing suits under the 2007 law. These recent arrests and convictions of leaders of the anti-slavery movement, followed by violent suppression of peaceful protests, work in conjunction with failings in the criminal justice system to allow slavery to endure in Mauritania.

### 1.4 Mauritania's 2015 anti-slavery law

In 2010, the Special Rapporteur on contemporary forms of slavery from 2008 to 2014, Gulnara Shahinian, published a set of recommendations urging the Mauritanian government to adopt a national strategy to combat slavery and to modify the 2007 anti-slavery law.<sup>17</sup> In response, in March 2014 the Mauritanian government published a roadmap outlining a series of concrete steps to be taken to comply with the recommendations of the Special Rapporteur.<sup>18</sup> In April 2015, a proposed bill modifying the 2007 law was introduced by the Prime Minister which incorporated certain elements of the 2010 recommendations and the roadmap. The bill was adopted in August 2015<sup>19</sup> and replaces the 2007 law.

The new law is a positive step. In its 26 articles, it declares slavery a crime against humanity<sup>20</sup> and raises the act of slavery from an 'offence' to a 'crime', enhancing sentences of imprisonment to between 10 and 20 years as a reflection of the new status as 'crime'. It gives more

precise definitions of slavery, including ‘placement’, which includes situations where a woman is promised in marriage to another or given to another upon the death of her husband, ‘servitude’ and ‘indentured servitude’. The 2015 law creates special tribunals in each region to address issues related to slavery, though the exact implementation of this system has not yet been discussed. The role of judges is clarified in greater detail, requiring that all rights of victims are preserved, even in cases of opposition to the judgment or appeal. Perhaps most importantly, the new law allows for third party human rights organizations that have been legally registered in Mauritania for five years to bring cases on behalf of victims.<sup>21</sup> This provision is especially important in instances where victims may be reluctant themselves to file charges due to psychological or economic dependence on their masters, though the requirement of legal registration prohibits groups like IRA from bringing cases.

Though the provisions of the 2015 law are positive, there are still many provisions not included that would have strengthened the law and provided greater rights and assistance to victims of slavery. The Special Rapporteur had called for inclusion of a civil cause of action, which would allow victims to bring suits without the involvement of police and prosecutors. She had also advocated the inclusion of a ban on slavery based on ethnicity or caste, as well as greater inclusion of all forms of modern slavery, a more exhaustive list than that defined in the new legislation. She had also called for greater aid to victims, including specific plans for compensation and reintegration into society, as well as medical, psychological and material support.<sup>22</sup> Further concerns beyond those raised by the Special Rapporteur

include the lack of a retroactivity amendment, making it unclear how current cases brought under the 2007 law will be prosecuted.

In addition, the Special Rapporteur urged for a stronger role for the independent Tadamoun agency to oversee the enforcement and implementation of the anti-slavery law.<sup>23</sup> The role of the Tadamoun agency should be to conduct nationwide training for police and administrative and judicial authorities on the new law to ensure that they pursue the cases of slavery brought to their attention efficiently and effectively; to 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; and to 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).

While the Mauritanian government has taken positive steps in publishing the roadmap and passing new legislation, the failure to include some of the enumerated provisions is unsettling. Anti-slavery activists and the international human rights community had hoped that amendments to the 2007 law would involve sweeping changes that addressed the systematic failures of police, prosecutors and judges involved in the criminal process, as well as provide for specific measures to care for victims of slavery as they reintegrate into society. Though some new positive measures are included in the law, the failure to implement previous anti-slavery legislation has left many activists highly sceptical about the government’s commitment to enforcing these new provisions.



# 2 Understanding Mauritania's administrative and criminal justice systems

## 2.1 Administrative system

A brief overview of Mauritania's administrative organization is necessary in order to understand the scope of the 2007 Slavery Act and its successor, the 2015 anti-slavery law. Mauritania is divided into 13 regions, called *wilaya*. Each *wilaya* is under the authority of a governor, called a *wali*. The *wali* is a representative of the central government and agent of the state, responsible to the Minister of the Interior. The role of the *wali* is to oversee implementation of the orders of the central government in the region, to inform the central government of developments within the region, and to manage areas of education, health and the provision of services.<sup>24</sup>

The 13 *wilaya* are divided into departments called *moughataa*, run by a prefect called the *hakem*. There are currently 54 *moughataa* in Mauritania.<sup>25</sup> The *hakem* is a representative of the central government as well, responsible for carrying out the orders of the *wali* of the region. The *hakem* is mainly responsible for security in the department and the provision of general departmental services. Some departments are further divided into districts called *arrondissements*, each run by a district chief. Though the districts have existed since colonial times, an ordinance in 1990 had the goal of suppressing the districts, but the ordinance has not been put into effect and the districts, now numbering 31, continue to exist, where district chiefs are responsible for managing affairs on a very local level.<sup>26</sup>

In the 1980s, Mauritania began a process of decentralization which included a provision in the 1991 Constitution creating 'territorial collectivities' known as communes, which were to be run by elected councils.<sup>27</sup> There are now 216 such communes.<sup>28</sup> The communes manage affairs on a local level as well, and run parallel to the administrative system of the regions, departments, and districts. There is a lack of clarity about the responsibilities for each system and 'no framework of reference detailing the qualifications and responsibilities of local government staff.'<sup>29</sup>

## 2.2 Criminal justice system

### 2.2.1 Actors

#### *Judicial police*

The primary actors in the criminal justice system are the judicial police, who first receive notice of slavery accusations. Article 19 of the Code of Criminal Procedure details the members of the judicial police, which include *walis*, *hakems*, chiefs, police officers, the gendarmerie, the national guard and mobile units of the national army. The judicial police are mainly charged with proceeding with the earliest stages of an investigation: receiving complaints and denunciations, recording infractions, assembling evidence and pursuing criminal actors. The judicial police have the obligation of informing the state prosecutor (*le procureur de la République* – the state prosecutor at the *wilaya* level) of crimes and offences of which they have knowledge, and must turn over all evidence and provide a statement of the facts.

#### *State prosecutors*

State prosecutors exist on three levels: the *procureur de la République* works with the courts of first instance at the *wilaya* level, the *procureur général près la cour d'appel* represents the state before the Court of Appeal, and the *procureur général près la cour suprême* represents the state before the Supreme Court. The role of the state prosecutor at the *wilaya* level is the most relevant as victims of slavery are most likely to interact with this prosecutor. Article 36 of the Code of Criminal Procedure explains that the state prosecutor receives denunciations, complaints and statements, often from the judicial police. The state prosecutor reports denunciations and statements to the investigating authorities, requests the opening of an investigation and directs the activities of the judicial police in carrying out such investigations.<sup>30</sup> The state prosecutor can decide that a case should not be pursued, in which case they must inform the civil party within eight days of his or her decision and inform the civil party of the right to open a civil case.<sup>31</sup>

#### *Examining magistrates*

The examining magistrate is based at the *wilaya* headquarters and serves a very specific role in the criminal justice process. Before a slavery case can go to trial, the

examining magistrate conducts his or her own investigation to determine whether the facts support a charge of an infraction of the criminal law.<sup>32</sup> The examining magistrate can be asked to investigate a case by a state prosecutor or civil party,<sup>33</sup> or can begin an investigation on his own determination if a state prosecutor is not immediately available.<sup>34</sup> If the examining magistrate determines that the facts do not support a charge, the suspect is released.<sup>35</sup> If the examining magistrate determines that the facts do support an infraction of the criminal law, the state prosecutor will take the case to the Criminal Court for trial.<sup>36</sup> The decision of the examining magistrate can be appealed by the state prosecutor, the prosecutor of the appeals court, the civil party or the person charged with a crime.<sup>37</sup>

### *Civil parties*

Any person who claims he or she is the victim of a criminal infraction can become a civil party by declaration either to an officer of the judicial police<sup>38</sup> or before an examining magistrate. Once before an examining magistrate, the civil party has the right to a lawyer,<sup>40</sup> and can ask for witnesses, experts and additional evidence to be included in the investigation. The civil party must be notified of any decision which they may appeal within 24 hours of the decision.<sup>41</sup> Before the Criminal Court, the civil party has the right to copies of all evidence,<sup>42</sup> and can question the accused and witness,<sup>43</sup> as well as give a concluding statement.<sup>44</sup>

### *Defendants*

The defendant in a criminal case is initially a suspect investigated by the judicial police. The judicial police can hold a suspect in detention for up to 48 hours, but must justify the detention before a judge.<sup>45</sup> If the examining magistrate feels it is necessary, he or she can put the defendant under judicial control for up to two months, renewable five times.<sup>46</sup> The examining magistrate may also place the defendant in preventative detention if necessary

for six months, renewable once.<sup>47</sup> This can be requested by the state prosecutor as well.<sup>48</sup> The defendant may also be released on bail, but will still be required to appear at all proceedings.<sup>49</sup>

## 2.2.2 Court system

Mauritania's court system is governed by the Code of Criminal Procedure and by Ordinance No. 2007-012 of 8 February 2007, which creates first-instance courts, Courts of Appeal, and one Supreme Court.<sup>50</sup>

### *Criminal Court (based within the wilaya courts)*

There are *wilaya* courts based in each of the 13 regions, covering civil, administrative, commercial and penal matters.<sup>51</sup> The Criminal Courts are based within the *wilaya* courts and are composed of three judges and two jurors.<sup>52</sup> Cases are submitted to the Criminal Court by the examining magistrate or by the state prosecutor for lower-level infractions.<sup>53</sup>

### *The Courts of Appeal*

There are currently three courts of appeal based in Kiffa, Nouadhibou and Nouakchott, each of which has a jurisdiction covering several *wilaya*. Courts of Appeal have panels of five judges for criminal cases.<sup>54</sup>

### *The Supreme Court*

The Supreme Court is the highest court in the land and 'is competent to hear appeals from decisions of Courts of Appeal or decisions in first and last resort of courts of first instance'.<sup>55</sup>

The President of the Supreme Court is appointed by the President of the Republic for a renewable term lasting five years. The Supreme Court is divided into five chambers, one of which is dedicated to penal cases. Criminal cases are heard by five judges, and Article 28 of Ordinance 2007-012 requires that all the decisions be published in periodic bulletins.<sup>56</sup>

# 3 Failure of responsible authorities to enforce anti-slavery legislation

Considering the vastness of the Mauritanian territory, especially certain regions, 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. This means 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 recording and registration of the complaint, and the conduct of preliminary investigations.<sup>57</sup> It is also the role of the police to inform the public prosecutor of the region.<sup>58</sup>

Article 20 of the Mauritanian Code of Criminal Procedure states:

*‘The officers of the judicial police are charged with recording the infractions of the criminal law, with collecting evidence and with searching for the parties involved; they receive complaints and denunciations; they proceed with preliminary investigations into the conditions described by Articles 67 to 70 as long as an investigation is not open.’<sup>59</sup>*

Article 22 of the Code continues to detail the responsibilities of the judicial police:

*‘The officers of the judicial police are bound to inform without delay the prosecutor of the Republic of crimes, offences and contraventions of which they have knowledge. Upon the closure of their operations, they must present to them directly the original as well as a certified copy of the statements that they have made and all documents obtained; anything seized must be handed over to the prosecutor. The statements must declare that the author is qualified as an officer of the judicial police.’<sup>60</sup>*

Article 19 of the Code specifies exactly who is considered to qualify as an officer of the ‘judicial police’, which includes *walis*, *bakems* and district chiefs.<sup>61</sup> Thus, administrative authorities share the responsibility of fully investigating any crimes which are brought to their attention and are obligated to report them to the prosecutor. This point is made concrete in Article 12 of the 2007 law, which states:

*‘Any wali, hakem, district chief, officer or agent of the judicial police who does not investigate denunciations of the practices of slavery that are brought to their attention is punished by imprisonment of two to five years and a fine of two hundred thousand ouguiyas (200,000 UM) to five hundred thousand ouguiyas (500,000 UM).’<sup>62</sup>*

A nearly equivalent disposition appears in the 2015 law, which raises the fine to 500,000 to 1 million UM.<sup>63</sup>

Nevertheless, a major contributing factor in the persistence of slavery and slave-like practices in Mauritania is the continued failure of police, prosecutors and the judiciary to respond adequately to reported cases of exploitation, from identifying and investigating victims to prosecuting and punishing perpetrators. The following section briefly outlines some of the recurrent shortcomings in the official response, drawing on case studies provided by SOS-Esclaves and IRA in their work with victims. These have featured previously in a report published by Anti-Slavery International (ASI), the Society for Threatened Peoples (STP) and the Unrepresented Nations and Peoples Organization (UNPO).<sup>64</sup> While serving as illustrative examples of the barriers in Mauritania’s justice system, they represent only a fraction of cases. Many other cases not included here are also characterized by the same challenges and obstructions.

## 3.1 Police and administrative authorities

One of the first steps in addressing the practice of slavery is the identification of victims by administrative authorities and police, as these authorities are first in line to respond to claims of slavery. However, it is typically the case that slavery cases are first identified by human rights defenders rather than officials, often only being taken up by officials after sustained pressure on the authorities to respond. Despite the threat of imprisonment and fine, *wali*, *hakem*, district chiefs, and judicial police often do not investigate instances of slavery that are brought to their attention, and in many cases intimidate victims into silence.

- **Hanna S. and her two children (November 2007):**  
*This case was reported by the victim with the assistance of SOS-Esclaves. According to her testimony to police, the*

*victim was born into slavery and held by her master's family to take care of their camels before she eventually managed to escape, but without her two children. Instead of taking preliminary investigating measures, however, the hakem and wilaya police threatened the victim and intimidated her into withdrawing her allegations. The actions of both the hakem and the wilaya police are in clear violation of their obligations as administrative authorities under Article 12 of the 2007 law.<sup>65</sup>*

As well as failing to seek out victims, police and administrative authorities are frequently reluctant to progress reported cases of slavery through further investigations or to notify prosecutors. A number of documented cases have demonstrated situations where multiple police and administrative authorities, despite being alerted to suspected cases of slavery, chose not to pursue investigations or inform prosecutors.

- **Mbarka L. (September 2011):** *Mbarka L., aged 20 when her case was filed, was enslaved to a family in the Touabir tribe while her two younger brothers were enslaved to a relative of the family. Having escaped, she filed a claim against her former masters with the help of IRA. However, both the police and the prosecutor of Kaedi denied they had jurisdiction over the case because Mbidane, the place where Mbarka had been enslaved, was under the authority of the Brakna region. However, when IRA activists subsequently approached the deputy governor of Brakna, he 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.*

*During this period, Mbarka was intimidated by relatives of her masters to withdraw her allegations and, when she refused, was sexually assaulted and then denounced to the authorities for fornication and filial disobedience: crimes punishable by flagellation, stoning or imprisonment under Sharia law. She was subsequently arrested and both charges were filed by officials. 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 and although one of her brothers managed to escape, the youngest remains in slavery. The authorities did not take any action on this case either.<sup>66</sup>*

- **Mohamed Lemine and his family (January 2012):** *Mohamed Lemine was aged around 15 when he reported the case of his family to police in the Hodh El Gharbi region following his escape. According to his testimony, his*

*alleged masters still held his seven siblings and mother in slavery, with the children unable to attend school. This was confirmed by their father, who claimed that the master's family had only allowed him to 'marry' his wife if she and their children would remain under their control.*

*The father also lodged a complaint against the alleged masters for the exploitation of his family. However, the police rejected his claim and IRA members attempting to help the boy were reportedly arrested and tortured. The case was apparently referred on to the examining magistrate. The master's family were subsequently placed under judicial supervision and Mbarek's children transferred to his care, but neither claim progressed.<sup>67</sup>*

These examples reflect a systematic reluctance among police and administrative authorities to identify, recognize or respond to instances of slavery, meaning that a large proportion of reported instances never proceed to court. As the previous case studies show, slavery victims and their supporters may in fact themselves be intimidated or abused by police officials to force them to withdraw their accusations.

## 3.2 Prosecutors

Article 36 of the Mauritanian Code of Criminal Procedure establishes the principle of discretionary prosecution. This means that the public prosecutor is free to decide whether or not to follow up on a slavery complaint. However, the public prosecutor is required to determine whether the complaint is founded, and such a decision requires investigations. Yet the non-enforcement of the 2007 Slavery Act is not only due to resistance to investigating slavery allegations on the part of the administrative authorities and police, but because the prosecution authorities are unwilling to prosecute alleged slaveholders.

A number of documented cases demonstrate that the prosecution will often simply reject the claim or close the file without reasonable grounds. 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 frequently report that the word of White Moors is afforded greater credibility than those of people living in slavery. Few investigations seek to identify witnesses or corroborating evidence. This means that powerful or well-placed slave-owning families can manipulate legal proceedings and allow their own testimony to override credible allegations, particularly



when victims themselves are vulnerable and under the control of their masters.

- **Fatimetou (June 2009):** *SOS-Eslaves was contacted about Fatimetou by neighbours who reported that the girl was regularly beaten, denied access to school and forced to undertake domestic work for her mistress. Following pressure from representatives of SOS-Eslaves on the Toujounine prefect to order her release, the girl – dressed in rags and unable to read or write – was brought in by the mistress and her niece. The case was then referred to the police ‘juveniles’ department, where the niece admitted that Fatimetou had been given to the family as a ‘present’, with the mistress reiterating that the girl was her property.*

*As a result, the case was referred to the prosecution, the mistress taken into custody and Fatimetou was taken into the care of a human rights activist. However, at the hearing four days later, a black woman in rags – accompanied by four White Moors who were friends of the mistress’ family – testified that she was the girl’s grandmother, claiming that the identity of the father was unknown and that the girl’s mother was unable to be present at the hearing. On the basis of this evidence the deputy prosecutor decided to close the case and hand Fatimetou over to her alleged grandmother, despite Fatimetou claiming not to know the woman and stating that she did in fact 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 forbade them from undertaking any further investigations into the case.<sup>68</sup>*

The lack of rigorous investigations is only one of the ways in which prosecution authorities fail to enforce the 2007 Slavery Act. A common practice for prosecutors is to reclassify slavery cases under other charges, such as work-related conflict or exploitation of minors – definitions that fail to capture the extent of the coercion and human rights abuses involved – meaning that judicially they do not exist as slavery cases. In many cases, victims are encouraged to reach an informal settlement.

- **Salma and Oum El Issa (December 2010):** *IRA representatives alerted police and administrative authorities in Arafat, a department in Nouakchott, of the alleged enslavement of two girls (aged 9 and 15) 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 on the same charges 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.*

*However, the mistress was released nine days later, as the Appeals Chamber ruled that her detention warrant was invalid. She, together with the two mothers, was subsequently acquitted by the Court of Appeal of Nouakchott on 21 March 2011. Activists involved in the case reported multiple legal violations and accused authorities of attempting to cover up the reality of slavery.<sup>69</sup>*

Finally, prosecutors may block cases from reaching the examining magistrate. 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 their right to file a civil suit with the examining magistrate. Yet documented case studies demonstrate that prosecutors fail to take necessary steps to ensure that credible allegations are investigated.

- **Mbarka E. (March 2011):** *The victim reported her case to the police with the help of IRA. According to her testimony, she was subjected to abuse and rape by the master and his son. She had two daughters as a result, who were also considered slaves of the family. Mbarka’s mother was also enslaved. Alongside IRA, Mbarka went to the administrative authorities of Toujounine (Nouakchott) on 6 March 2011 and filed a complaint against her master before the ‘juveniles’ department. A report was then sent to the prosecutor. In late October 2011, despite multiple enquiries on the status of her case and correspondence from IRA members to the prosecutor, no further action was taken.<sup>70</sup>*

The reluctance of prosecutors to investigate and process slavery claims creates a further hurdle for victims in securing protection and redress, meaning that a large proportion of the cases that are successfully registered with police and administrative authorities never reach the court.

### 3.3 The judiciary

It should be emphasized that it is extremely rare for a slavery claim to reach the courts. As demonstrated above, the majority of cases are dismissed without proper investigations by the police or are blocked at the investigative stage by the prosecutor. However, if



exceptionally a slavery claim does reach the courts, procedures and deadlines are typically not respected. Once more, unexplained delays in the procedures indicate an unwillingness to expose slaveholders to criminal liability.

While Mauritanian procedural law does not impose a specific time limit on the examining magistrate to conduct investigations, it does require that the latter take all necessary action to determine the truth.<sup>71</sup> Furthermore, Article 15 of the 2007 law states that '[a]s soon as information is brought to their attention and under penalty of being sanctioned, any competent judge must take urgently and without prejudice, all appropriate protective measures against the infractions proscribed by the present law'. A similar provision exists in Article 21 of the 2015 law. 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. Yet there are frequently extended delays with no sign of justice to come.

In some cases, examining judges may not follow up on cases referred to them by the prosecutor, refusing to investigate a case without offering an adequate explanation despite there being sufficient evidence for the prosecutor to file the case. Many human rights defenders believe that such unexplained case closures are often on account of the master's family enjoying political connections or close ties with those occupying judicial office.

- **Oueichetou (August 2011):** *Oueichetou was just 10 years old when IRA members were alerted by neighbours about her situation after witnessing the mistress beating the girl. The allegations of mistreatment and exploitation were supported by her testimony and appearance, prompting IRA to file a complaint to the police 'juveniles' department on 1 August 2011. However, by the time the police were dispatched to the mistress' home, Oueichetou could not be found. According to IRA members, the mistress had received prior warning from her cousin, a policeman, enabling her to hide the girl ahead of their arrival.*

*Though the mistress denied all knowledge of the girl, she was taken into custody and charged with the crime of slavery. On 4 August, however, the examining magistrate ordered her immediate release. No explanation was provided to justify this decision, though activists believe he was pressured to close the case as a cousin of the mistress with powerful political connections allegedly attempted to release her by force. No further investigations were undertaken to locate Oueichetou and the case was closed. Furthermore, 10 IRA members protesting the decision were reportedly arrested, detained and tortured.<sup>72</sup>*

Another extremely common problem is the failure of judges to observe proper procedure, meaning that plaintiffs are not afforded a full opportunity to present their case due to inadequate timeframes, disruptions and other violations.

- **Moima, Houeija and Salka (March 2011):** *The case of Moima, Houeija and Salka, then aged 17, 14 and 10 respectively, was reported by several human rights organizations to police in Nouakchott on 23 March 2011. Following pressure from these groups, without which the case would likely have not progressed, six people were charged with the crime of slavery and the case referred to the Criminal Court of Nouakchott - the first occasion the 2007 Slavery Act was directly invoked by a tribunal.*

*However, the case was characterized by numerous irregularities, with the trial held only three days after the defendants appeared in court to enter their pleas: as a result, neither the prosecution lawyers nor the lawyers of the civil party had enough time to prepare. Clan members of the accused reportedly filled the court room and continuously disrupted proceedings. The subsequent ruling, acquitting all of the accused, was delivered in the afternoon in the absence of the civil party – violating Articles 263 and 513 of the Mauritanian Code of Criminal Procedure. AFCF appealed the decision and the case has been pending before the Appeals Chamber since then.<sup>73</sup>*

In those rare instances where the examining magistrate does bring the charges against the slave master or mistress and duly refers the matter to the Criminal Courts, the case can be held up indefinitely at the trial stage. Often this is because of the alleged inability to locate the slave master or mistress, following, as is often the case, their being released on bail after their initial arrest.

- **Rabi'a and her six siblings (August 2011):** *This case involves seven siblings aged between 11 and 26 together with their mother, herself a slave, although only three of the siblings proceeded with the criminal complaint. According to SOS-Eslaves, the children were enslaved to two different families, with one mistress admitted 'owning' the children in the presence of the prosecutor. Having been sent to the examining magistrate, the charges were retained and referred to the Criminal Court on 15 September 2011. However, the decision of the examining magistrate was appealed by the mistress first to the Appeal Court and then the Supreme Court, where in both cases the decision was upheld.*

*Nevertheless, since being referred back to the Criminal Court of Nouadhibou, the case has been awaiting trial*

since August 2013. Furthermore, while the victims were originally informed that the mistress was arrested and placed in jail while the outcome of the court case was determined, subsequent investigations revealed that the mistress had in fact been released on bail.<sup>74</sup> Since her release, the accused has disappeared and it is the inability to locate her that has been given as one of the reasons for the lack of trial hearing.

Finally, even where there has been a conviction at the Criminal Court for the crime of slavery (as has happened in only one case under the 2007 law), there has not been adequate sentencing or enforcement of the term and a complete failure to deal effectively with the appeal against the unduly lenient sentence.

- **Said and Yarg (November 2011):** *In the first and only successful prosecution using the 2007 anti-slavery law, Ahmed Ould Hassine was found guilty of enslaving two young brothers, Said and Yarg. The master was sentenced to two years' imprisonment and ordered to pay compensation of MRO 1.35 million, amounting to around USD 4,700 – well below the tariff of 5 to 10 years' imprisonment provided for in the 2007 anti-slavery law.*

*However, the state prosecutor did not appeal the unduly lenient sentence immediately; he only filed an appeal after the lawyer representing Said and Yarg intervened. Furthermore, less than four months after lodging his own appeal against his conviction, on 26 March 2012, the convicted slave-owner was released on bail by the Criminal Chamber of the Supreme Court for the sum of MRO 200,000 (US\$680). At no point was the children's lawyer informed of the request for bail, despite the potential risks to the boys and in breach of the requirements of the Code of Criminal Procedure.<sup>75</sup> As in the previous example, since his release on bail, the slave master has purportedly disappeared and it is this inability to locate him that is being given as a reason for the fact that the appeal has still not been heard since it was lodged in December 2011.*

The appeal in the case of Said and Yarg is of significance in Mauritania, as the eventual outcome could potentially change the legal landscape for victims and advocates bringing anti-slavery cases. In an interview with MRG, Maitre Elid Mohameden, the Mauritanian lawyer representing Said and Yarg, discussed the potential effects of a positive or negative outcome for his clients. Should the appeal be decided in favour of the boys, he says:

*'it would be a significant advancement; it would show that the judiciary has changed its mentality. This will*

*give those people subjected to slavery the hope and confidence to go and take action against their masters. It would also be encouragement for those who are fighting for human rights.'*<sup>76</sup>

If the appeal is decided in favour of the master, particularly following the recent adoption of what is meant to be a strengthened anti-slavery law, 'it would be disastrous for the slaves. It would be like telling them: you will not be received well before a judge and you will not be given your rights if and when you try to escape your master.' This would not only undermine the work of activists but also reinforce the environment of impunity for the perpetrators of slavery.<sup>77</sup>

The fact that the case of Said and Yarg resulted in conviction, notwithstanding the unduly lenient sentence and the delay in hearing the appeal against the sentence, provides a small glimmer of hope that, in future, with sufficient commitment from authorities, judiciary and other actors, the current barriers to justice for victims of slavery described above could be overcome. The proper handling of the appeal, not least the prompt location of the slave master, the scheduling of a hearing that is adhered to and a sentence that is in line with the tariff set down in the 2007 law, represents an opportunity for the Mauritanian authorities to show its people and the international human rights community that it is serious about ending the practice of slavery in Mauritania.

At present, however, as the case studies featured in this report demonstrate, reported slavery cases are routinely obstructed at every stage of the justice system by police, prosecutors and the judiciary, with many cases not even investigated or subsequently closed by the prosecution due to an unwillingness to convict. Many are reclassified as lesser crimes such as work-related conflict, resulting in a small fine or acquittal, while others have been blocked at the prosecution or appeal stage so that in practice the cases remain unresolved.

These shortcomings have persisted and are evident in more recent slavery-related proceedings, such as the case of Issa Ould Hamada, a 10-year-old boy who had spent his childhood enslaved in a hamlet near Bassikounou before managing to escape and seek help in March 2015. The police subsequently arrested his master and held him for several months. Then, without informing the lawyer or the guardian of the child, the Criminal Court proceeded to hold a hearing. The slavery charge, which is supposed to carry sentences of 5 to 10 years, was reclassified as 'obtaining the services of an unpaid child' and the slave-owner was given a 3 month sentence: this he was said to have already served through the time he had been in detention. As a result, he was immediately released from prison.<sup>78</sup>

Other recent examples illustrate similar problems of delayed procedures and a reluctance to punish perpetrators of slavery. These include a case reported to authorities in Zouerat by a relative on behalf of Mint M'boirik Choueida and her eight children, all of whom were apparently enslaved. Due to security concerns, the military were brought in to apprehend the slave-owners and rescue the victims. However, after the accused were sent to prison pending the trial and their initial request for provisional freedom denied by the judge, their lawyers referred the case to the Court of Appeal and were able to secure their release until the trial. This decision was then referred by the prosecutor to the Supreme Court and is awaiting a decision before the actual criminal trial can proceed.<sup>79</sup> Another case, also reported in March 2013 and involving a 23-year-old named Seh Ould Moussé, has experienced similar problems as the accused, having

initially been placed in prison, were able to secure release ahead of the trial. This decision has also been referred to the Supreme Court to be decided before further the trial can proceed.<sup>80</sup> Both cases demonstrate the apparent ability of the accused to evade justice indefinitely due to delays in proceedings.

These and other cases mentioned in the report are by no means an exhaustive list of recent slavery cases, but they do illustrate recurring issues and obstructions within Mauritania's justice system that have repeatedly ensured that reported slavery cases are either not dismissed without investigation or are subsequently undermined at some stage of prosecution. Consequently, until these systematic failures of the justice system are addressed, it is unlikely that the new slavery law alone will bring substantive change for victims without the willingness among authorities to effectively implement its conditions.

## 4 Conclusion

The previous Mauritanian government demonstrated some willingness to eradicate slavery when it adopted the Slavery Act, criminalizing and punishing slavery and slavery-like practices on 3 September 2007. Since then, however, the current Mauritanian government has shown little, or indeed any political will to implement the law, and, as demonstrated by this report, there is a strong reluctance on the part of the administrative, judicial, prosecutorial and police authorities 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 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 examining magistrate for months or years without explanation.

Since its passing in 2007, charges brought under the Slavery Act have reached the Criminal Courts on only two occasions. In the first case the trial date was set just 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.

It should be recalled that, according to the 2007 Slavery Act, an investigation cannot be pursued unless a slave files a complaint. The reluctance and resistance of the authorities to enforcing the law makes it less likely that a victim will want to come forward. Indeed, in most cases known to human rights organizations, 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 their rights, shame and

stigmatization, as well as the deeply rooted legacy of indoctrinated submission to their masters, 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 report 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 2007 Slavery Act, there are often active attempts to prevent slavery cases from being reported.

While the recent approval of new anti-slavery legislation is welcome, the introduction of stronger penalties for perpetrators of slavery and others, including judicial officials who fail to protect victims, is insufficient on its own to bring slavery in Mauritania to an end without the full commitment of authorities at both a national and local level, including police, prosecutors and judicial representatives. To realize the potential of the 2015 anti-slavery law, then, the authorities must ensure that a range of reforms and supportive mechanisms are put in place so that its provisions are fully and effectively enforced.

Finally, in her 2010 report on Mauritania, the then 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 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>81</sup> Given the clear failings of the criminal justice system exposed in this report to bring slave-owners to justice and to provide redress to their victims, such a measure is regarded as absolutely necessary and would constitute a minimum first step towards the long overdue eradication of slavery in Mauritania.

# 5 Recommendations

## **ASI, MRG, STP and UNPO urge the Government of Mauritania to:**

- Formally acknowledge the existence of slavery in Mauritania and make every effort to raise public awareness of slavery practices and the laws against them.
- Amend Article 23 of the 2015 anti-slavery law to ensure that Mauritanian human rights organizations, whether or not they are registered and irrespective of how long they have been in existence, cannot only denounce violations of the law and assist victims but can also act as civil party in criminal proceedings.
- Remove the immunity enjoyed by public officials from prosecution or from being sued for the purposes of ensuring effective enforcement of Articles 18 and 21 of the 2015 anti-slavery law.
- Set up, as soon as possible, and provide sufficient financial and human resources for the special tribunals established under Article 20 of the 2015 law to deal with slavery cases.
- Enact legislation to enable victims of slavery and slavery-like practices or human rights organizations acting on their behalf to bring a civil cause of action.
- Issue orders to the police and prosecuting authorities on the enforcement of national legislation prohibiting slavery to ensure that those responsible for the practice are effectively investigated and prosecuted.
- Issue an official circular to the judiciary on the importance of the proper enforcement of national legislation prohibiting slavery, including timely trials and that slave-owners receive and serve sentences that are commensurate with the crime.
- 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 the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- Equip the new Tadamoun Agency, which has an anti-slavery mandate, with the resources and powers necessary to lead the actions recommended here.

## **ASI, MRG, STP and UNPO recommend that the Tadamoun Agency should:**

- 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 2015 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 victims of slavery with access to emergency assistance, including shelter specifically for women and girls with a safe, gender-sensitive environment and tailored psycho-social support.
- 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.

## **ASI, MRG, STP and UNPO urge the international community to:**

- Assist the Government of Mauritania in its efforts to eradicate slavery, including assistance with human rights training, funding for programmes to combat slavery and technical expertise.
- Ensure adequate procedures are in place for monitoring and evaluating implementation of international and national efforts to end slavery in Mauritania.
- Work with civil society to further assist the Government of Mauritania in combatting slavery and providing support to those affected by the practice.



## 6 Appendix: Selected slavery cases

The table below presents a selection of 29 slavery cases and their current status in the Mauritanian justice system. While these examples are by no means exhaustive, they do

illustrate the ways that cases of slavery are routinely obstructed at different stages of reporting, investigation and prosecution.

Name of complainant	Date and location reported	Current status
Mabrouka and family	<i>October 2010 Trarza Region</i>	Case closed by the police without investigation.
Hanna S. and her two children	<i>November 2007 Trarza Region</i>	Case closed by the police without investigation.
Mbarka L.	<i>September 2011 Gorgol Region</i>	Case closed by the police without investigation.
Selama and Maimouna	<i>November 2011 Hodh El Charqui Region</i>	Case closed by the police without investigation.
Deybala	<i>September 2011 Assaba Region</i>	Case closed by the prosecution – unwillingness to prosecute
Hanna M.	<i>April 2009 Teyarett - Nouakchott</i>	Case closed by the prosecution – unwillingness to prosecute.
Fatimetou	<i>June 2009 Toujounine - Nouakchott</i>	Case closed by the prosecution – unwillingness to prosecute.
Oueichetou	<i>August 2011 Arafat - Nouakchott</i>	Case closed by the prosecution – unwillingness to prosecute.
Mbarik	<i>August 2007</i>	Case closed by the prosecution – unwillingness to prosecute.
Tslim	<i>September 2011 Trarza Region</i>	Case closed by the prosecution – unwillingness to prosecute.
Oum Elkhair	<i>July 2007 Assaba Region</i>	Case reclassified as a work-related conflict – solved with a financial arrangement.
Salem	<i>September 2011 Trarza Region</i>	Prosecution only on charges of battery, not on slavery. Plaintiff retracted his complaint because of pressure from masters.
Salma and Oum El Issa	<i>December 2010 Arafat - Nouakchott</i>	Prosecution on charges of child exploitation instead of slavery. Acquittal of the alleged masters in January 2011.

Name of complainant	Date and location reported	Current status
Brake	<i>August 2007 Assaba Region</i>	Charges of slave trade; case settled with an informal arrangement: a cow and a calf.
Hajjara	<i>September 2011 Trarza Region</i>	Case solved with an informal arrangement with the alleged mistress.
Mbarka M.	<i>July 2007 Trarza Region</i>	Master was never arrested; possible pressure on the plaintiff to stop pursuing her claim.
Mbarka K.	<i>2008 Hodh El Chargui Region</i>	Cases resolved with the payment of a fine.
Oumelkheir and her daughter Selekh	<i>December 2007 then April 2012, Adrar Region</i>	Case blocked at the prosecution stage since April 2012.
Mbarka E.	<i>March 2011 Toujounine - Nouackchott</i>	Case blocked at the prosecution stage since March 2011.
Khedeije	<i>May 2010</i>	Case pending before the investigating judge since May 2010.
Moctar	<i>January 2012 Toujounine - Nouakchott</i>	Case blocked at the prosecution stage since January 2012.
Mohamed Lemine and his family	<i>January 2012 Hodh El Gharbi Region</i>	Case pending before the investigating judge since January 2012.
Aza	<i>July 2010</i>	Case pending before the Criminal Court since July 2010.
Rabi'a and her six siblings	<i>August 2011 Nouhadibou Region</i>	Case pending before the Criminal Court since August 2013.
Moima, Houeija and Salka	<i>March 2011 Nouakchott</i>	Alleged masters acquitted in April 2011. Case is at the Appeals stage since then.
Said and Yarg	<i>April 2011 Brakna Region</i>	Master convicted of slavery in November 2011 and sentenced to two years imprisonment but released on bail on March 2012. Case pending before Appeals Court of Nouakchott since appeals lodged by all parties in December 2011.
Mint M'boirik Choueida and eight children	<i>March 2013 Zouerat</i>	Having initially been refused provisional release by the instructing magistrate pending their trial, the accused were released on appeal to the Court of Appeal. This decision has in turn been appealed by the prosecutor to the Supreme Court where a decision is still awaited before the substantive case can proceed to trial before the criminal court.
Seh Ould Moussé	<i>March 2013 Nouakchott</i>	Accused able to secure provisional release from the Court of Appeal ahead of trial but this decision has been sent to the Supreme Court to rule on before the actual criminal trial can proceed.

Name of complainant	Date and location reported	Current status
Issa Ould Hamada	<i>March 2015 Hodh Ech Chargui Region</i>	Case reclassified from one of slavery to the lesser offence of obtaining the services of an unpaid child and the accused convicted and sentenced to just 3 months. Master released immediately as this sentence was said to have already been served by his time spent in detention.

# Notes

- 1 Government of Mauritania, Ordonnance No. 81-234 du 9 Novembre 1981 portant Abolition de l'Esclavage [Ordonnance no. 81-234, of 9 Nov. 1981, on the Abolition of Slavery], *Journal Officiel* 496 (25 Nov. 1981).
- 2 Haratines, 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. The White Moors form the ethnic elite in Mauritania and control the economy, government, military and police.
- 3 See UN Human Rights Council (UNHRC), Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, 24 August 2010, A/HRC/15/20/Add.2, summary.
- 4 Vettrano, F. and Mathewson, S., *Mauritania's Culture of Impunity for Slavery: Failures of the Administrative, Police and Justice Systems*, Göttingen, ASI, UNPO and STPI, September 2013.
- 5 League of Nations, Convention to Suppress the Slave Trade and Slavery, 1926, Art. 1(1).
- 6 Government of Mauritania, Loi No. 2007-048 du 3 Septembre 2007 Portant Incrimination de l'Esclavage et Réprimant les Pratiques Esclavagistes, approved 13 December 2007.
- 7 Based on August 2015 conversion rates.
- 8 Slavery Act No. 2007-048 of 3 September 2007 criminalizing slavery and repressing slavery practices.
- 9 Kassataya, interview with Mohamed Ould Abdel Aziz, 14 September 2011.
- 10 IRIN, 'Mauritania: anti-slavery law still tough to enforce', 11 December 2012.
- 11 Mark, M., 'Mauritanian activists jailed as police quash resurgent anti-slavery protests', *The Guardian*, 17 January 2015.
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- 14 FIDH, 'Mauritania: Anti-slavery activists sentenced to two years' imprisonment', 30 June 2015.
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- 17 UNHRC, 24 August 2010, *op. cit.*, § 105.
- 18 Office of the High Commissioner for Human Rights, "'A turning point in the fight against slavery" – UN experts greets adoption of road map', 10 March 2014.
- 19 Government of Mauritania, Projet de loi abrogeant et remplaçant la loi n° 2007-048 du 3 septembre 2007 portant incrimination de l'esclavage et réprimant les pratiques esclavagistes, approved August 2015. While the finalized text of the law was not available at the time of writing, the draft law has been approved without amendments and so the provisions in the draft text are assumed to remain unaltered.
- 20 This reflects the earlier 2012 amendment to the 1991 Constitution. UNHRC, Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian: Follow-up on mission to Mauritania, 26 August 2014, A/HRC/27/53/Add.1.
- 21 *Ibid.*
- 22 UNHRC, 26 August 2014, *op. cit.*
- 23 *Ibid.*
- 24 Goedert, N., *Le Livre blanc de la décentralisation en Mauritanie*, MIDECA-AECID-IEJI, November 2009.
- 25 Sahel Research Group, Trans-Saharan Elections Project, 'The electoral system: Mauritania', retrieved 24 August 2015, <http://sahelresearch.africa.ufl.edu/tsep/themesissues/the-electoral-system/mauritania>.
- 26 Goedert, *op. cit.*, p. 33.
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- 29 UCLG Africa and Cities Alliance, *Assessing the Institutional Environment of Local Governments in Africa*, Morocco, UCLG, September 2013, p. 76.
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- 33 *Ibid.*, Art. 43.
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- 35 *Ibid.*, Art. 177.
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- 37 *Ibid.*, Arts 185–6.
- 38 *Ibid.*, Art. 56.
- 39 *Ibid.*, Art. 75.
- 40 *Ibid.*, Art. 101.
- 41 *Ibid.*, Art. 183.
- 42 *Ibid.*, Art. 262.
- 43 *Ibid.*, Art. 282.
- 44 *Ibid.*, Art. 285.
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- 48 *Ibid.*, Art. 142.
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- 52 *Ibid.*, [http://www.nyulawglobal.org/globalex/Mauritania.htm#\\_ednref](http://www.nyulawglobal.org/globalex/Mauritania.htm#_ednref)
- 53 Government of Mauritania, 17 April 2007, *op. cit.*, Art. 223.
- 54 Nguimatsa Serge, *op. cit.*
- 55 *Ibid.*
- 56 Government of Mauritania, 8 February 2007, *op. cit.*, Art. 28.
- 57 Government of Mauritania, 17 April 2007, *op. cit.*, Arts 19–26.
- 58 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. Government of Mauritania, 8 February 2007, *op. cit.*, Arts 50 and 52; Government of Mauritania, 17 April 2007, *op. cit.*, Art. 35.

- 59 Government of Mauritania, 17 April 2007, *op. cit.*, Art. 20.  
60 *Ibid.*, Art. 22.  
61 *Ibid.*, Art. 19.  
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Art. 12.  
63 Government of Mauritania, 2015.  
64 Vettraino and Mathewson, *op. cit.*  
65 *Ibid.*, p.11.  
66 *Ibid.*, p.12.  
67 *Ibid.*, p.23.  
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69 *Ibid.*, p.19.  
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# working to secure the rights of minorities and indigenous peoples



## Enforcing Mauritania's Anti-Slavery Legislation: The Continued Failure of the Justice System to Prevent, Protect and Punish

Despite the passing of an anti-slavery law in 2007, slavery remains widespread in Mauritania, particularly among the country's large Haratine population. Those living in slavery are regularly beaten, intimidated, forcibly separated from their families and subjected to a range of other human rights violations, including sexual assault. *Enforcing Mauritania's Anti-Slavery Legislation: The Continued Failure of the Justice System to Prevent, Protect and Punish*, a joint publication by Anti-Slavery International (ASI), Minority Rights Group International (MRG), Society for Threatened Peoples (STP) and the Unrepresented Nations and Peoples Organization (UNPO), outlines the systematic failures of Mauritania's justice system to provide redress to slavery victims.

While the 2007 legislation contained a range of provisions criminalizing slavery, with specified penalties for its perpetrators, its implementation has in practice been obstructed by a persistent failure to identify or prosecute incidents of slavery. Drawing on a number of documented case studies, the report highlights how anti-slavery

provisions are routinely violated at every stage of legal proceedings, with police, prosecutors and judicial representatives frequently refusing to process reported cases of slavery or take adequate legal action against those guilty of the practice. As a result, this abusive practice continues to flourish in a climate of impunity.

Consequently, the approval in August 2015 of a new anti-slavery law strengthening the provisions of the previous legislation and expanding its definitions, though a welcome step forward, is unlikely to address the root causes of the practice without sustained commitment from Mauritanian authorities at every level. In addition, many of its provisions fall short of those recommended by the UN and human rights activists. The report therefore outlines a series of recommendations to realize Mauritania's commitment to eradicate slavery, with an emphasis on further legal reform, increased capacity for anti-slavery enforcement, training of officials, greater empowerment of civil society organizations and a comprehensive system of support for slavery victims.

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