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# MAURITANIA

## A future free from slavery?

### 1 Introduction

Despite the legal abolition of slavery in Mauritania in 1981 there is no evidence to suggest that practical steps have been taken to ensure its abolition in practice. Human rights abuses related to slavery persist in Mauritania, although the government denies their existence. Mauritania's own laws and its international human rights obligations prohibit slavery, but anyone escaping slavery has no legal protection, there is considerable discrimination against those who have ceased to be enslaved and there is no official will to take the necessary remedial action to fully eradicate this socially divisive system.

No definition of slavery adequately conveys the full extent of the damage it causes. Even though extreme violence is no longer needed to preserve the deeply ingrained practice of slavery within Mauritanian society, slavery and slavery-like practices are an abominable attack on human dignity and freedom since they negate the very idea of human rights. Article 1 of the Universal Declaration of Human Rights states: "All human beings are born free and equal in dignity and rights". No man, woman or child is a slave. Slavery, in all its forms, is a gross abuse of fundamental human rights and is prohibited in all circumstances. Slavery is a grave abuse of the right to physical and mental integrity and, frequently, a grave abuse of the right to be free from discrimination. In many circumstances slavery-like practices also amount to grave abuses of these rights. In addition, many who have been held in slavery or their descendants are subjected to grave abuses of their right to be free from discrimination. Governments everywhere have an obligation to provide effective protection from all human rights abuses, including slavery, discrimination and associated human rights abuses. Amnesty International believes that victims of slavery, like victims of other serious human rights abuses, have a right to reparation.

The Mauritanian government has on occasions flatly denied the existence of slavery and related human rights abuses. In September 2001, a representative told the UN Committee on the Rights of the Child that:

*“Mauritanian society had never known servitude, exclusion or discrimination, either in the pre-colonial or colonial period or since independence, and so no vestiges of such practices could thus persist.”<sup>1</sup>*

More often the government claims that since slavery was abolished by law in 1981, all that remains are its economic, social and cultural after-effects, a statement which effectively contradicts the sweeping nature of the first assertion.

The lack of action by the authorities when faced with evidence of the persistence of slavery is shown by the case of M'Bareck ould Bilal ould Braïkat, a young man aged around 17 who escaped from alleged slavery in April 2001. With the support of *SOS Esclaves*, SOS Slaves, an unauthorized non-governmental organization (NGO), he approached the Regional Governor of Kaédi. He sought protection for himself and help to secure the release of his younger brothers, sister and mother. The Regional Governor reportedly called in the regional Gendarmerie chief and asked him to investigate the young man's situation. However, the only reported action was to question the young man himself and a person who had offered him shelter about contacts with *SOS Esclaves*. His mother, sister and brothers reportedly remain in slavery.

While no official steps are taken to ensure that slavery is eradicated in practice, people working to combat slavery and its effects have been refused official recognition and have faced arrest and imprisonment. In 1998, five human rights defenders were sentenced to 13 months' imprisonment for running unauthorized human rights organizations which have campaigned against slavery. Their arrests followed a television program on slavery which was broadcast on a French-language television channel and which featured an interview with Boubacar Messaoud, President of *SOS Esclaves*.

In 1997, President ould Taya stated that those who discussed the question of slavery were only aiming to damage the country's reputation, and also that they were part of a group which had previously been involved in an attempted coup.<sup>2</sup> Such statements indicate an attitude of denial at the highest level. This denial disguises the real situation. It also results in protection for those who profit from slavery and punishment for those who speak out about the practice and resulting human rights abuses.

Action against continuing human rights abuses based on slavery in Mauritania is long overdue. It is time for the government to approach the problem pro-actively, rather

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<sup>1</sup> United Nations Committee on the Rights of the Child, *Summary Record of the 724<sup>th</sup> Meeting*, 25 September 2001, CRC/C/SR.724.

<sup>2</sup> *Mauritanie Nouvelles*, 12-19 January 1997.

than denying its importance and hoping that a focus on education, literacy, and agrarian reforms will eradicate the vestiges of slavery and address its consequences. The government's December 2000 Poverty Reduction Strategy Paper, agreed with the World Bank and International Monetary Fund, makes no mention of slavery or its impact on economic development in Mauritania. To overcome slavery and social discrimination, their existence needs to be clearly articulated and all aspects freely and constructively discussed.

Without a comprehensive approach, exploitation, discrimination and lack of dignity will persist in Mauritania. While AI acknowledges that the government faces pressing issues of poverty, concrete measures to tackle these wider issues should not be neglected. Anyone who perpetrates slavery and slavery-like practices must be held legally accountable where they violate the rights of others. The state has an obligation to provide effective protection from all human rights abuses. Inadequate action by the state to eradicate abuses is indicative of state responsibility for those abuses.

The state has a responsibility to bring anyone who commits or has committed human rights abuses in the context of slavery, for example those who practice slavery and who continue to restrict the rights of those whom they previously held in slavery, to justice. It is the responsibility of the government not only to respect human rights but also to ensure respect for those rights, including holding third parties responsible for violating citizen's rights. This should be done in line with international standards of fairness and without recourse to the death penalty.

This report aims to explore the extensive human rights concerns in Mauritania which arise from slavery, including the closely related area of discrimination on the basis of social status. Even people who have been freed from slavery in Mauritania continue to suffer discrimination before the law, in the work place and in their social lives as a result of the fact they were previously held in slavery. This report documents cases where people have recently escaped from slavery and the inadequate response of officials at all levels to their plight. It describes the measures the government should have taken to accompany the 1981 abolition and which are still necessary to eradicate slavery and to combat discrimination against those formerly held in slavery and their descendants.

If the recommendations of this report were fully implemented, it would help to eradicate discrimination before the law and would benefit those currently living in slavery

in Mauritania and those who feel themselves enslaved or discriminated against because of their inherited social status.

The government has so far rejected the opportunity to enter into a dialogue with Amnesty International and has refused the organization's representatives access to the country. This report is therefore based largely on information collected and produced by other individuals and organizations both inside and outside the country. Amnesty International is deeply grateful to those who assisted the organization, especially those inside Mauritania who face risks for speaking out and testifying to what is happening in the context of slavery. The analysis and conclusions of this report are purely those made by Amnesty International.

## **1.1 Terminology**

In this report the terms "slavery" and "slavery-like practices" are used as defined by international human rights standards. Believing that all human beings are born with equal rights and dignity, Amnesty International does not consider anyone is born a "slave" even if the social structure attributes this status to an individual or a family. However, Amnesty International's position is in no way intended to ignore the diversity of terms and identities, nor to deny the historical and cultural connotations attached to these terms.

Too often the debate about slavery does not go beyond trying to find a definition which most agree approaches adequacy. The Mauritanian government manipulates the word in an apparent effort to disguise a devastating system of discrimination and inequality in July 2000, a government representative told the UN Working Group on Contemporary Forms of Slavery that "although slavery had existed, it had never had a racial element".<sup>3</sup>

International human rights standards specify ownership as a vital element defining slavery and refer to other similar practices as "slavery-like practices". Some Mauritians consider themselves "slaves", because although they are not themselves "owned" by another person, they have inherited the social status imputed to their parent who was enslaved and feel still under the control of another. As one activist wrote: "In reality, it is

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<sup>3</sup> Report of the UN Working Group on Contemporary Forms of Slavery on its twenty-fifth session, E/CN.4/Sub.2/2000/23, 21 July 2000.

difficult to distinguish between the status of a slave and a freed slave as the alienation each feels is the same.”<sup>4</sup>

Across the world, the nature of slavery is changing from one of long-term ownership to one where the exploited person is perceived to become a disposable asset. In the new style of slavery, someone is perceived to become the property of another person who exploits their labour until such time as it no longer suits the owner. This may be in the context of domestic work, agricultural work, the sex industry or elsewhere. The old style of slavery where one person becomes the property of another person and their children inherit that same status is diminishing. However, both types are to be found today in Mauritania and both are grave abuses of basic human rights.<sup>5</sup>

## **2 The socio-political and legal context in Mauritania**

### **2.1 Slavery as a political issue**

The issue of slavery in 21<sup>st</sup> century Mauritania is contentious. As shown below, the government claims that its establishment of the Commission on Human Rights, the Fight Against Poverty and Social Inclusion (a governmental human rights commission referred to in this report as the Mauritanian Commission on Human Rights) signals its political will to end what it calls vestiges of slavery remaining from its abolition in law in 1981.<sup>6</sup> However, this Commission has only a promotional role and despite being informed of cases of slavery and related issues, is not known to have taken action.

In 1981 slavery was legally abolished by the government of President Mohamed Khouna Ould Haidalla, following widespread public protests against the public sale of a woman. A period of optimism and relative openness towards dealing with the problem followed. The government of President Haidalla accepted a visit by Marc Bossuyt, an expert appointed by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, in January 1984. The UN expert concluded that “slavery as an

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<sup>4</sup> From unpublished thesis entitled: *Le Paradoxe de l'abolition de l'esclavage et l'enjeu politique de la question haratine en Mauritanie*, El-Arby Ould Saleck, Paris, October 1999.

<sup>5</sup> For a fuller exploration, see Bales, K., *Disposable People, New Slavery in the Global Economy*, University of California Press, 1999.

<sup>6</sup> Statement by the representative of Mauritania to the UN Working Group on Contemporary Forms of Slavery, E/CN.4/Sub/2/2000/23, 21 July 2000.

institution protected by law has been genuinely abolished in Mauritania ... Nevertheless – and this has not been denied by the highest Mauritanian authorities – it could not rule out that in certain remote corners of the country over which the administration has little control certain situations of *de facto* slavery may still persist.” In hindsight, this assessment appears over-optimistic.

President Haidalla was overthrown by the current head of state, President Ould Taya, in a bloodless coup in December 1984. The current head of state was Prime Minister at the time of abolition. Since then, obstruction and complacency have characterized the administration’s approach to making the ban effective. There has been no major initiative to raise awareness about the problem and to reach agreement about how to address it.

The 1994 US State Department report on human rights practices in Mauritania stated that while the number living under conditions of “involuntary servitude” were difficult to quantify, “estimates from various sources range from a low of a few thousand to as many as 90,000.” Since then, the US State Department annual reports have changed in tone, and the 2001 report asserts:

*“[...] there continued to be unconfirmed reports that slavery in the form of forced and involuntary servitude may persist in some isolated areas. Unofficial voluntary servitude persists, with some former slaves continuing to work for former masters in exchange for monetary or non-monetary benefits such as lodging, food or medical care.”*

The 2001 report section on Prohibition of forced or Compulsory Labor opened with:

*“The law prohibits forced or compulsory labor; however, the law only applies to the relations between employers and workers and there were reports that such practices occurred. The ILO Committee of Experts has requested that the Government take measures to extend the prohibition to any form of forced labor and vestiges. “*

Slavery has been a long-standing social issue within all the ethnic communities of Mauritania. Among those who acknowledge that slavery persists in Mauritania today, there are many shades of opinion. Often people deny that their own community practises slavery or discrimination, but believe that these problems exist in other communities. Some say that the practice of holding people in slavery in the politically dominant Moorish community is no different from that practised in other communities, including

black ethnic groups such as the Peul and the Soninké. Others allege that slavery is practised only within the Moorish community, while in other parts of society there is a social hierarchy resembling a caste system.

*SOS Esclaves* believes slavery is a problem across all of Mauritanian society. This report focuses on the Moorish community because the current human rights abuses are more apparent among this group. It is also this community that retains a substantial hold on political power<sup>7</sup> which could be used to change the situation. However, instead, it is used to retain the status quo largely with a view to protecting their vested interests in the discriminatory system.

These contradictory views indicate in part how sensitive the issue of slavery is within Mauritania. The government's lack of response to Amnesty International's numerous letters requesting dialogue and seeking permission to visit Mauritania in both 1998 and 2001 is a further indication of this. It also fits the government's continued refusal to legalize non-governmental human rights groups, whose activities include demanding an end to impunity for massive human rights violations committed against the black Mauritanian population in 1989/1990 and campaigning against slavery and slavery-like practices. The government has also banned opposition parties and sentenced their leaders to terms of imprisonment after unfair trials.<sup>8</sup>

## **2.2 Legal status of slavery in Mauritania**

In 1981 "slavery in all its forms" was legally abolished by the government of President Haidalla. Slavery had already been legally abolished in Mauritania twice before: first as a consequence of French colonization<sup>9</sup> and again in 1961, when the Universal Declaration of Human Rights was incorporated into Mauritania's constitution.

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<sup>7</sup> See Section 2.3 of this report.

<sup>8</sup> See Amnesty International, *Mauritania: 1986 – 1989 Background to a crisis: three years of political imprisonment, torture and unfair trials*, November 1989, AI Index: AFR 38/13/89; *Mauritania: Serious attack on freedoms of expression and association*, AI Index AFR 38/005/1998; *Mauritania: serious attack on freedoms of expression and association: five human rights defenders convicted and at least five others restricted without charge*, AI Index AFR 38/006/1998; *Mauritania: Prisoners of conscience sentenced to five years in prison*, AI Index: AFR 38/005/2001.

<sup>9</sup> A colonial decree of 1905 implemented the French law of 1848 which abolished slavery in all its colonial territories

A statement issued by President Haidalla on 5 July 1980 announcing the abolition of slavery was translated into law on 9 November 1981 by Decree No. 81.234. There was no specific definition of what actually constituted “slavery” according to the law. The decree stated that in conformity with Shari’a (Islamic law), the measure of abolition would give rise to compensation for those entitled to it and that the details of a compensation scheme would be decided by a national commission comprising of *ulemas* (Islamic scholars), economists and administrators. Such compensation had been discussed prior to the 1980 announcement and there was disagreement around whether freeing someone from slavery should be simply obligatory or whether it should be accompanied by some form of compensation for the person responsible for slavery. There appears to have been no proposal that those subjected to slavery should be compensated, and there is no evidence that the commission was ever set up.

The abolition decree simply stated that slavery was illegal, but did not criminalize slavery. It was never followed up by implementing legislation making slavery and associated practices a specific criminal offence. No-one is known to have been prosecuted for retaining someone in slavery, or buying or selling someone into slavery.

The move to abolish slavery followed a public outcry over the sale in 1980 of M’Barka, a woman held in slavery, in the market in Atar. *El Hor*, a group working for the emancipation of black Moors, organized demonstrations in several towns. Protestors were arrested, tried and convicted on charges of creating and participating in an illegal association, distributing tracts and participating in an unauthorized demonstration, but no action was taken against those who sold M’Barka and others. However, the protests appeared to facilitate the introduction of a decree abolishing slavery.

In 1980, a circular issued by the Minister of the Interior reminded all local officials that any member of the administration or security forces who used their official position to help “so-called ‘masters’” to ill-treat or restrict the movement of “so-called ‘slaves’” would be subject to punishment under the penal code.<sup>10</sup> The same circular made it clear that those held in slavery should only be helped in response to a request and that officials should not in any way “disturb the peace of the home”. This non-interventionist attitude has persisted to this day.

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<sup>10</sup> Circular No 0003 of 3 June 1980, quoted in Report of the mission to Mauritania by Marc Bossuyt, expert of the Sub-Commission, presented to the UN Commission on Human Rights, 2 July 1984, E/CN.4/Sub.2/1984/23.

The 1981 decree followed extensive consultation within Islamic circles, and an announcement by the government that as all Muslims were equal before Allah, there could be no justification for perpetuating slavery.

In 1999 the Minister of Justice told the UN Committee for the Elimination of All Forms of Racial Discrimination that abolition in 1981 “had been important less as a legal measure – since slavery no longer existed in practice – than as a symbol of the religious authorities’ commitment to the fight against social inequality and an attempt to change the outdated attitudes which still persisted in some remote rural areas.” However, in 1983, the Commander of the Gendarmerie told his staff that: “slavery is still practised in areas under your jurisdiction, especially the rural areas”. He suggested they “make citizens aware that this important decision and the spirit of the decree which gives it legal force are irreversible.”<sup>11</sup>

### **2.3 The social structure of Mauritania and slavery**

The main communities in Mauritania are the two Moorish communities – the politically dominant white Moors and the black Moors, widely considered, including by themselves as former “slaves” and known as Haratines – and the black African communities from the south. White Moors are known also as Beidanes (a name derived from an Arabic word meaning “white”). They are of Arab and Berber origin and speak Hassaniya, a dialect of Arabic.

The Haratines are almost exclusively of black origin, but are closely associated with the Moorish population in terms of language and culture. In the words of Samuel Cotton: “[they] have lost virtually every aspect of their African origins except their skin color.”<sup>12</sup> Their Moorish culture and their language are the result of generations of enslavement by the Moors. They are also referred to as “black Moors” to differentiate them from the “white Moors” who enslaved them, and from black Mauritians who have not been enslaved by the Moors.

The black or African population from the south consists of several separate ethnic groups, such as the Soninké, Wolof, Bambara and Halpulaar (speakers of the Peul

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<sup>11</sup> Note de Service No 50/2 du 27 avril 1983, quoted in *L'idéologie du Silence*, Boubacar Messaoud, in *Journal des Africanistes* Tome 70 – Fascicules 1-2, pp 291-337.

<sup>12</sup> Cotton, Samuel, *Silent Terror – A Journey Into Contemporary African Slavery*, Harlem River Press (1998).

language – Pulaar or Ffulfulde – although some are also referred to as Toucouleur), who each speak different languages. Of these groups, Peul are by far the largest, followed by the Soninké. Bambara and Wolof form a small percentage of the Mauritanian population.

Political power in Mauritania is concentrated in the white Moor community. In 2001, the 27-member Cabinet of Ministers comprised 20 white Moors or people of mixed white Moor/Haratine ethnicity, three Haratines, three Halpulaars and one Soninké. Of the 56-member Senate, 46 were of either white Moor or white Moor/Haratine heritage. Of the 81-member National Assembly, 60 were white Moors or white Moor/Haratine heritage.<sup>13</sup>

Statistics on the relative size of each population group are sparse or non-existent and highly sensitive. Figures dating back to 1960 indicate that at that time the black Mauritanian group formed approximately 20 per cent of the population.<sup>14</sup> The last official population survey which distinguished between the components of the Moorish community, in 1965, found that 60 to 70 per cent were of white Moorish background and 30 to 40 per cent were black Moors.<sup>15</sup> Since then, the growth of non-white communities has reportedly outstripped that of the white Moor community.

The results of a 1977 census were never made public. An opposition group called the *Forces de libération africaine de Mauritanie* (FLAM), African Liberation Forces of Mauritania, claimed in a manifesto issued in 1986 that the results were kept secret because the government wanted to hide the fact that Mauritians of black African origin were in the majority, and that within the Moorish community, people of white Moorish heritage were in the minority. Twenty-one people were arrested and sentenced after unfair trials to terms of imprisonment in 1986 for writing and circulating the manifesto, on charges of publishing “propaganda” of a “racial or ethnic character”.<sup>16</sup>

The World Conference against Racism<sup>17</sup> Programme of Action emphasizes the importance of reliable and disaggregated data collection. Paragraph 92 urges states to “collect, compile, analyse, disseminate and publish reliable statistical data at the national

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<sup>13</sup> Country Reports on Human Rights Practices – 2001, Mauritania. US Department of State.

<sup>14</sup> Quoted in Ruf, Urs Peter, *Ending Slavery: Hierarchy, Dependency and Gender in Central Mauritania*, Bielefeld, 1999, p126.

<sup>15</sup> See Amnesty International, *Mauritania: 1986 – 1989: Background to a crisis. Three years of political imprisonment, torture and unfair trials*, November 1989, AI Index: AFR 38/13/89.

<sup>16</sup> *idem*.

<sup>17</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance Declaration, held in Durban, South Africa between 31 August and 8 September 2001

and local levels, and undertake all other related measures which are necessary to assess regularly the situation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance". In the subsequent sub-racial discrimination, xenophobia and related intolerance". In the subsequent sub-paragraphs, proposals are made as to how this information should be collected.<sup>18</sup> Sub-paragraph (b) states:

*"The statistical data and information should be collected with the objective of monitoring the situation of marginalized groups, and the development and evaluation of legislation, policies, practices and other measures aimed at preventing and combating racism, racial discrimination, xenophobia and related intolerance, as well as for the purpose of determining whether any measures have an unintentional disparate impact on victims. To that end, it recommends the development of voluntary, consensual and participatory strategies in the process of collecting, designing and using information;"*

The UN Committee on the Elimination of Racial Discrimination recommended in August 1999 that the Mauritanian government provide information on legislative measures and practices it has introduced "especially with a view to promoting the struggle against discrimination affecting the most vulnerable groups of the population, in particular the black communities, and to eradicating vestiges of practices of slavery and involuntary servitude."<sup>19</sup> Given the sensitivity of the issue in Mauritania, such an analysis would benefit from a full discussion of and prior agreement on which social and ethnic criteria would be used. People should be afforded adequate opportunity to determine their own identity rather than be classified by others.

### **2.3.1 The Moorish community**

Moorish society, which developed in the context of a desert environment and a nomadic way of life, is based on the family as the basic unit of production. Several families, usually with blood links, are grouped together into *tribus* (tribes), which provide a name, identity and social structure to support the individual members. For example, the President's tribe, the Smassid, is particularly powerful. Others include the Idaouali, Laghlal and the Oulad Bousba. Within this structure, individuals fit into one of several

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<sup>18</sup> Full text was issued on 3 January 2002 and is available on [www.unhchr.ch](http://www.unhchr.ch).

<sup>19</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination: Mauritania, 19 August 1999, A/54/18, Para 332, (Concluding Observations/Comments).

status categories. The *marabouts* (religious leaders), and *guerriers*, (warriors), are at the top of the social hierarchy and dominate all other groups. There are other professional categories, known as “castes” including artisans (usually blacksmiths and leather workers) and *griots* (minstrels). Then there are the *haratine* (those freed from slavery) and *abid* (those held in slavery). Alongside this categorization are the *znaga*, or “tributaries”, who must, according to custom, pay tribute and cannot carry arms. These are individuals or groups who have been defeated in battle by the dominant tribe. They specialize in livestock-raising. Designating someone as being of *znaga* status can be seen as more offensive than claiming someone is held in slavery, even though the *znaga* are free in their movements.<sup>20</sup>

One authority, quoting the 1964/5 survey, stated that Moorish society was divided as follows: 36 per cent *marabouts*, 29 per cent were those previously held in slavery and their descendants, 15 per cent warriors, 13 per cent were held in slavery, 5 per cent blacksmiths and 2 per cent *griots*.<sup>21</sup>

The circumstances which lead to people being held in slavery in Moorish society seem to be various – clearly some were bought and others were kidnapped during various Moorish raids – but all were taken from black ethnic groups. Slavery has been perpetuated by the customary practice according to which children “inherit” the status from their mother.

The *haratine* and *abid* are often referred to as one group, the Haratine. The Haratine community defines itself as comprising *khadharas* (people whose ancestors were in slavery but who were liberated generations ago), *haratine* (those recently released from slavery within their own or their parent’s lifetime) and *abid* who are still in slavery. *El Hor*, a group working for Haratine liberation, uses an inclusive definition of Haratine groups, arguing that the social attitudes and behaviour towards all these categories are the same, making the distinctions of limited significance.

The Haratine have always formed part of the tribal structure, but *El Hor* has done much to define a separate Haratine identity in recent years; previously, identity was defined by links with the different tribes. For the purposes of this report, Haratine will refer to black Moors who were in slavery and their descendants because in the context of

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<sup>20</sup> Ruf, U.P.,op.cit, p. 42.

<sup>21</sup> De Chasse, F. quoted in Ruf, U.P.,op.cit, p.126.

specific human rights abuses, the distinction between this group and those still in slavery is a useful one.

There has been considerable progress in recent decades towards reducing the number of black Moors who remain in slavery in Mauritania, but this has not generally been as a result of direct government initiatives towards eradication. In the late 1970s, many fought for Mauritania in a war against Morocco in Western Sahara. Serving in the army increased awareness within the enslaved population and so managed to free themselves from slavery. In addition, in the 1970s and 1980s, a series of droughts decimated the herds of many nomadic peoples, reducing the need for those in slavery and the means to support them. The proportion of rural nomads in the population as a whole is estimated to have fallen from 72 per cent in 1970 to 11.4 per cent in 1988.<sup>22</sup> Some of those in slavery were effectively released as they moved away from the encampments of those who had owned them or as the latter became sedentary. However, the substantial power exercised over those formerly in slavery remained. For example, they could be recalled to work, or their possessions could be claimed by those who had owned them when they died. While the increasing percentage of people living in towns has reduced the number of people living in slavery, many continue to work in an unwaged capacity or are subjected to other slavery-like practices.

### **2.3.2 The black Mauritanian communities**

The different ethnic groups which comprise the black (or African) Mauritanian community also have a very hierarchical structure, including those considered to be nobles, caste groups, and those held in slavery. For example, in the Peul community, the highest, noble groups comprise the *Toorobé* (*marabouts*), *Sebbé* (warriors), *Jaawambé* (advisors), and *Subalbé* (fishermen). These are followed by the groups defined by their professions, also known as *castés*, such as *griots*, blacksmiths and leather-workers. The third category are the *maccubé*, those in slavery or born of someone in slavery. The word *maccubé* means “those who have lost their way” and originates from having been captured in war. The role of the *maccubé* traditionally included forced labour. It is now

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<sup>22</sup> Statistics provided in para 16 of Mauritania’s report to the UN Committee on the Elimination of Racial Discrimination, CERD/C/330/Add.1, 26 October 1998.

largely limited to ceremonial duties, such as running the celebrations for weddings and baptisms and some ritual functions of the marriage ceremony.<sup>23</sup>

There are no recent statistics available on the proportions of each group. According to official statistics from 1958, the Peul community comprised 71 per cent of people considered to be nobles (10 per cent warriors, 45 per cent *marabouts* and 16 per cent fishermen), 7.5 per cent belonged to the various castes and 21.5 per cent were either in slavery or had been.<sup>24</sup>

A recent dispute between two Peul family groups has revealed some of the divisions which persist as a result of social discrimination and slavery. Since 1998 the *Hormankobé* families and *Toorobé* families in Djowol Peul have been in disagreement over political rights. The origins of the *Hormankobé* are unclear, either never enslaved or formerly held in slavery, while the *Toorobé* are considered to be of noble origin. Since the advent of a multi-party system in 1991, the *Hormankobé* have sought a larger political voice and in December 1998 demanded the right to have an election candidate. The *Toorobé*, who traditionally would present a candidate from their ranks reflecting accustomed leadership role, responded with a form of embargo which included preventing the *Hormankobé* from attending marriage and funeral ceremonies, denying them access to wells belonging to the *Toorobé* and withdrawing farming rights on land recently rented to the *Hormankobé*.

The Soninké black community is similarly hierarchical. Those considered nobles are known as *Hooro*, there are *Nixamala*, artisans, who are sub-divided into their different professional groups or castes, such as blacksmiths and griots, and there are *Komo* (those held in slavery).

The stratification of Mauritanian communities has persisted in some Soninké families who have moved to live in France, where it is still the case that only descendants of those who were enslaved will prepare food, and restrictions on marriage continue. For example, a Soninké named Omar T. who had reportedly been born to those who had been in slavery was dating a Soninké girl, Aminata M. Her father, reportedly armed with a hunting gun, went to see the Soninké chief in the Paris suburb of Montreuil. He wanted help in stopping Omar T. from seeing his daughter, because of Omar T's family heritage,

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<sup>23</sup> *Les divisions statutaires des descendants d'esclaves au Fuuta Tooro mauritanien*, Ousmane Kamara, *Journal des africanistes*, Tome 70 – Fascicules 1-2, p. 265-289.

<sup>24</sup> INSEE inquiry, 1958, quoted in F. de Chassey, *L'étrier, la houe, et le Libre*, Anthropos, 1997, pp. 189-193, quoted in Philippe Marchesin, *Tribus, ethnies et pouvoir en Mauritanie*, Karthala, 1992, p.292.

and apparently threatened to kill him. The Soninké chief in Paris tried to convene a meeting to discuss the problem, but failed to bring the parties together. The leaders of the “noble” families then agreed among themselves to exclude Omar T. and his paternal uncles from a communal savings scheme in Paris. Omar T’s family in Mauritania was excluded from village affairs and banned from attending the main mosque for Friday prayers. When a group of Soninké in Paris who had studied together in Egypt called a meeting of nobles to raise their concerns about the punishment being extended to Omar T’s family, on the grounds that it was against Islamic teaching, they were fined 4,000 French francs each by the chief. When they refused to pay, they were also excluded from the savings scheme in Paris. In a connected case in early 2000 when the body of a Soninké immigrant in France was returned to his home village, another Soninké born of a family which had been enslaved, who was visiting Mauritania at the time, was reportedly prevented from attending final prayers because he had apparently sided with the “rebel group” in France.<sup>25</sup>

## **2.4 The impact of colonialism on slavery**

In 1848, a law abolished slavery in all France’s colonial territories and in 1905 a decree was passed implementing the French law in the area which later became Mauritania. Between 1856 and 1908, a French anti-slavery organization established five villages of freedom (*villages de liberté*)<sup>26</sup> for those liberated from slavery in the southern part of what is now Mauritania, an area which was predominantly inhabited by black communities. However, in the face of opposition from traditional leaders, this policy was then stopped. It seems that some of those who escaped from slavery became similarly exploited by their colonial rulers in these villages.

The impact of the French anti-slavery law was less in what is today Mauritania than in other parts of French West Africa, apparently because the French relied on the Moorish elite to maintain their own power and so remained complicit with their practices. Colonial records recount a meeting between the Smassid tribe of Atar and Colonel Gouraud of the French army in January 1909 where the Smassid explained the importance

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<sup>25</sup> See *L’esclavage chez les Soninkés: du village à Paris*, Yaya Sy, *Journal des africanistes*, Tome 70 fascicules 1-2 pp 43-69.

<sup>26</sup>The five villages of freedom were the administrative centres of Njaago (1856), Selibaby (1905), Boghe (1905), Kaédi (1906), Guray (1908).

of their sheep, donkeys and workforce to their survival. A letter from the Lieutenant-Governor said:

“The servants will remain with their master’s family where they form the workforce. When the Smasids from Atar met Colonel Gouraud in January 1909, they made it clear that their sole fortune lay in their sheep, donkeys, and the crops and that without their main resource, the work force, their crops would disappear. It is well understood that their servants will remain.”<sup>27</sup>

## 2.5 The durability of the relationship which defines slavery

It is clear from interviews with activists and analysts inside and outside Mauritania that the relationship between the enslaved person and the person who enslaves another varies enormously between ethnic groups and between individuals. Given that the status of being enslaved has been part of the social structure among Moors and the different black ethnic groups for generations, extreme violence is not required to preserve it.

Within the black ethnic groups, those known as “slaves” usually live in their own homes and so have increased independence but, nevertheless, their civil and political rights remain curtailed and their status involves a loss of human dignity.

Within the Moorish community, some of those in slavery remain with those who have enslaved them or their ancestors and have been punished for trying to leave, while others have sought freedom which has been granted, usually in exchange for money or goods given by the enslaved person to compensate for the fact that they intend to leave and/or work for themselves. Others have been allowed or even encouraged to leave in times of economic hardship, but the family which has enslaved the person has still been able to demand services of the person who was enslaved at a later date when necessary or to appropriate their goods when they die.

One style of relationship, where there are signs of both the continuing perception of ownership and mutual support, was highlighted by Imam El Hassen ould Benyamine in an interview with *Al Akhbar* in May 1996 in which he defended slavery:

*“Today, none of them is with me, but they are still my slaves. It is only when they have problems that they seek my help and accept my tutelage. When I go*

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<sup>27</sup> *Archives nationales de Mauritanie* (ANM), National Archives of Mauritania, Dossier E-33-1, Within Adrar Dossier, 1921.

*to see them, I am proud to be with people I own and whose possessions I also own.”*

Some people were released from slavery as a direct result of the 1981 abolition decree. Brahim, a Haratine, spoke to a researcher about his release following a national radio broadcast on 5 July 1983, in which President Haidalla condemned slavery:

*“After the announcement, I went to the master too. I ...told him that there has been an announcement, that there are no more slaves in Mauritania, and that everybody has heard of this message on the radio. You have slaves, I told him, but you know very well that they won’t be of any use to you, that they won’t work for you. ...At that point he accepted [my argument]. First he liberated me, and later he made a written manumission for the whole family. There were two copies of the manumission act. One for the master and one for the family... Today we are like brothers, if one sees us together, he would think we are father and son.”*

His mother, Zeyneb, also recalled their release (manumission) and spoke of their relationship with the person who had enslaved them after release:

*“It was us who asked him for manumission after the presidential decree. We asked either for paid or unpaid manumission. We sent Brahim to go and speak with him about our manumission. The master then manumitted us for free, we didn’t have to pay. He made us an official document on a paper... Today, the master’s son (their original “master” has since died) comes to us when he is in need of something, but we have stopped working for him. But if he is in need of millet, he will receive something from us.”<sup>28</sup>*

Brahim and Zeyneb were reportedly the last people held in slavery by that particular person. Before their release, they had not been working for him because the drought meant he had no animals and therefore no means to sustain them. However, they still had to seek their own freedom. The public announcement by the President was important in stimulating Brahim to clarify his own situation. Despite the fact he had not worked for the person who had enslaved him for years and they had got on well, Brahim felt it important to formalize his freedom. There was also no question of the person responsible for the slavery being punished.

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<sup>28</sup> Ruf, U.P.,op.cit.p.64.

Many other people still in slavery or who have left slavery have not been so fortunate, and have not had their full rights and freedoms restored.

### **2.5.1 Payment for freedom**

It is common practice for the enslaved person to pay the person who enslaved them for his or her own freedom. In March 1999, Dah ould Maouloud, a Haratine who was formerly enslaved, testified to *SOS Esclaves* that he had given 10 date trees to the person who had enslaved him in payment for his freedom. He said that although he had been earning money from his own activities and so had acquired some autonomy from the person who had enslaved him, he had wanted to formalize the situation by buying his freedom. Dah ould Maouloud also provided details of the goods or money exchanged between 1996 and 1998 by 11 other people in the same region of Aïne Ejemoul (Department of Moudjéria) to buy their freedom. One had given three date trees and a cow, while another had given 10 date trees and two tonnes of millet.<sup>29</sup>

### **2.5.2 Continuing subordination**

The fact that those who have been enslaved feel the need to buy their freedom, even when they have established themselves in independent occupations, shows that the strong links which have been formed over generations do not simply disappear with economic development. All too often, the power the person who has held people in slavery retains over the formerly enslaved person can be exerted at some later date.

There have been numerous cases where those who formerly held others in slavery have attempted to claim the belongings of those they had enslaved when they died. For example, M'Boïrik ould Maouloud died in July 1995. As his family was returning from his burial in Nouakchott, the person who had enslaved him reportedly arrived to claim most of his possessions – some money, a donkey cart and the deeds for his land and two-roomed house. This case was publicized in the press and by *SOS Esclaves*. The person who had held him in slavery withdrew his claim and the widow was able to keep the possessions. One remarkable aspect of this case was that M'Boïrik ould Maouloud had been in neighbouring Senegal for 30 years before he was expelled and returned to Mauritania in 1989. Even after that long period of separation, the person who had enslaved M'Boïrik ould Maouloud felt he still had a legitimate claim to his possessions.

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<sup>29</sup> Fourth Annual Report of *SOS Esclaves*, Nouakchott, 2000.

In 2000, an intervention by *SOS Esclaves* was successful in a similar case. When Bilal Ould Abeid died in June 2000, two women presented themselves at his home claiming that Bilal Ould Abeid had been their “slave” and so they were entitled to inherit his land and few possessions. Relatives of the dead man refused and the two women, accompanied by a relative in military uniform, ordered the relatives to present themselves before the *Cadi* (Islamic magistrate). The *Cadi* asked all parties to explain their interest in the belongings of Bilal Ould Abeid. One woman who claimed to have owned him in slavery told the *Cadi*: “I am the person with rights over the possessions left by Bilal who was born my slave and whom I had never released”. The *Cadi* told those present to leave his office, saying: “no-one speaks of slavery in front of me”. He told them to refer the matter to the government. When *SOS Esclaves* were informed, they accompanied the dead man’s relatives to the police. As a result the police were there when the women who had enslaved him arrived to collect the goods. These women were taken to the police station and warned not to return to Bilal’s home. His possessions were then divided between his own family members.



Aichana mint Abeid Boilil ©AI

In 1996 statements by senior judicial officials on the case of Aïchana mint Abeid Boïlil, who had escaped from alleged slavery in 1995 but was struggling to be reunited with her children, seemed to indicate a positive change of policy. However, it has not been followed up by new practice. In 1996 Aïchana mint Abeid Boïlil appealed against a ruling by a magistrate in Brakna, which gave custody of her two children to a man who had enslaved her and who claimed to be their father. The Minister of Justice, Ethmane Sid’Ahmed Yessa, instructed the *Procureur général auprès la Cour Suprême*, Chief Prosecutor at the Supreme Court, who on 11 February 1996 wrote the following message to the Prosecutor in Rosso:

*“We enclose herewith the request from Aïchana mint Abeïd Boïlil and we ask you to intervene with force in order to re-unite the children with their mother,*

*who believes they have been kidnapped by [...], under threat of sanction as provided by Articles 323, 332 and 335 of the Mauritanian Penal Code.”<sup>30</sup>*

The person who had formerly enslaved her was called to the Gendarmerie where he made a statement claiming that he had been secretly married to Aïchana mint Abeid Boïlil and that two of her children were his. He said the marriage was kept secret to avoid upsetting his first wife and children. Aïchana mint Abeid Boïlil categorically denied this. Both Aïchana mint Abeid Boïlil, who had been passed from one brother to another, and her mother had been enslaved in the same household. It seems that after generations of slavery, the person who had enslaved them was trying to perpetuate his ownership by claiming two children as his own. The court ruled in favour of Aïchana mint Abeid Boïlil yet did nothing to bring the man who had enslaved her to justice. By January 1997, Aïchana mint Abeid Boïlil was reunited with all five of her children.

This case shows how timely and appropriate action by the government can produce results. It also shows that even without the legislation required to criminalize slavery explicitly, there are legal provisions concerning abduction of children which could be applied to rescue children held in slavery.

A more recent case reportedly indicates another vital role for the state in defying slavery habits which still exist. Teslim Mint Soueilim, a married woman with seven children living in Nouadhibou, was reportedly taken into slavery in August 2001, apparently because she had been previously “given” into slavery to a religious leader based in Atar. The deal had apparently been made in 1984 when a soldier who was one of the religious leader’s followers promised to give him the person who had formerly served him in slavery if he survived injuries received in the war in Western Sahara. In 1992, the religious leader sent an emissary to Teslim Mint Soueilim to ask her to come, but she did not. However, after visiting her mother in Zouerate and her brother near Atar, she became “imprisoned” in the religious leader’s compound. It is not clear how this happened, but her family became suspicious when her mother received a request to send all Teslim Mint Soueilim’s children to Atar.

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<sup>30</sup> Note Reference 099/96 from Chief Prosecutor, 11 February 1996.

The mother arrived with all but her eldest grandchild and the religious leader reportedly informed the mother that Teslim Mint Soueilim had been his slave since the Saharan War. He insisted that the mother return to collect the missing child, which she did, but she also returned with Teslim Mint Soueilim's husband and brothers. Eventually the religious leader agreed to meet the other family members and explained that Teslim Mint Soueilim and her children were indeed his property as they had been given to him by the man who had enslaved Teslim Mint Soueilim. He also claimed that the woman's marriage as well as that of her daughters were illegal, because they had been carried out without his consent.

The family made a complaint to the State Prosecutor on 30 September 2001 and the Prosecutor's representatives along with security officials reportedly entered the compound and managed to secure the release of Teslim Mint Soueilim. The following day, the State Prosecutor and the Regional Security Director tried to persuade Teslim Mint Soueilim and her family to drop the complaint as the religious leader had claimed that it was not a matter of slavery, but that the woman and her children had come to his compound like numerous other followers. The case was resolved out of court and no judicial or other disciplinary measures were taken against the religious leader who had reportedly detained Teslim Mint Soueilim and her children against their will.

### **3 Slavery and slavery-like practices as human rights abuses**

Slavery is explicitly banned by four major international human rights agreements – the 1926 Slavery Convention of the League of the Nations; the 1948 Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery; and the 1966 International Covenant on Civil and Political Rights.

Freedom from slavery and servitude is a fundamental human right, which may not be violated in any circumstances. In addition, slavery and slavery-like practices result in composite and cumulative abuses of other fundamental human rights established in international law. These include the right to be free from discrimination. Discrimination, in its various forms, is defined in a number of international human rights instruments. The International Convention on the Elimination of All Forms of Racial Discrimination defines racial discrimination as “any distinction, exclusion, restriction or preference based

on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life.” Similarly, the Convention on the Elimination of All Forms of Discrimination against Women defines discrimination against women as “any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” The right to enjoy human rights without discrimination is one of the most fundamental principles underlying international human rights law. This principle appears in virtually every major human rights instrument as well as in the United Nations Charter.

Other basic rights which can be denied by slavery and slavery-like practices include the right to mental and physical integrity, including the right to be free from torture and cruel, inhuman or degrading treatment or punishment, the right to freedom of movement, the right to liberty and security of the person and the right to recognition before the law.

In addition to Article 1 which states that all human beings are born free and equal, the Universal Declaration of Human Rights<sup>31</sup> states in Article 4 that: “No-one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”. It also provides that “everyone has the right to life, liberty and security of person”, a right incompatible with slavery and slave-like practices. The fundamental values of dignity and equality espoused in the preamble of the Declaration, from which human rights law flows, are clearly antithetical to slavery and slavery-like practices: “...recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”. By virtue of Article 2, the right to dignity, equality, and freedom of the person are to be guaranteed to all “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” In addition, Article 23 provides for freedom of choice in the context of employment by stating that “everyone has the right to work, to free choice of employment, to just and favourable conditions of work...” Many modern constitutions have drawn from

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<sup>31</sup> Available on-line at [www.unhcr.ch/udhr/lang/eng.htm](http://www.unhcr.ch/udhr/lang/eng.htm)

the Universal Declaration of Human Rights, and its anti-slavery provisions have found expression in modern constitutional texts.<sup>32</sup>

### **3.1 Definitions in international law**

The original definition of slavery in the 1926 Slavery Convention has remained largely unchanged. It was reiterated in the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956 Supplementary Convention). However, international law has progressively expanded to address slavery-like practices.

#### **3.1.1 Slavery**

Although slavery and the slave trade had both been addressed by international law long before, it was only in 1926 that the Slavery Convention provided the first definitions of the terms slavery and slave trade in a binding international instrument.

Article 1 of the 1926 Slavery Convention defines slavery as:

*“[...] the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”*

The 1956 Supplementary Convention reiterates the definition of slavery contained in the 1926 Convention, but additionally defines a number of institutions and practices similar to slavery. Article 1 prohibits debt bondage, serfdom, the forcible betrothal of women for some gain, the sale, purchase, exchange and transfer of wives, the practice whereby a woman can be inherited upon the death of her husband, and the transfer of children with a view to exploiting their labour. In addition, the 1956 Supplementary Convention defines servile status as “the condition or status resulting from” debt bondage, serfdom and the other prohibited practices relating to women and children.

Mauritania acceded to the 1956 Supplementary Convention on 6 June 1986.

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<sup>32</sup> By way of illustration see: the Constitutions of Barbados, Colombia, Congo, El Salvador, Ethiopia, Georgia, Greece, India, Malaysia, Malawi, Mongolia, Nigeria, Pakistan, Rwanda, the Russian Federation, South Africa, Suriname, Turkey, the United States, and Ukraine.

### **3.1.2 Enslavement**

The term enslavement is used exclusively as a crime against humanity. The Draft Codes of Crimes Against the Peace and Security of Mankind of the UN International Law Commission (ILC) contain a number of definitions.<sup>33</sup> The Commentary to Article 18 of the 1996 Draft Code defines the crime against humanity of enslavement to include: “servitude or forced labour contrary to well-established and widely recognized standards of international law, including inter alia, the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples’ Rights.”<sup>34</sup>

The most recent codification in international law of enslavement appears in the Rome Statute of the International Criminal Court (ICC).<sup>35</sup> Article 7(1)(c) characterizes enslavement as a crime against humanity, while Article 7(2)(c) states that ‘enslavement’ means the exercise of any or all of the powers attaching to the right of ownership over a person.

With respect to contemporary practices associated with slavery, control and ownership, at times together with coercion, violence and threats, international instruments provide indicative criteria in identifying slavery-like practices. These include *de jure* or *de facto* ownership; restrictions on freedom of movement; restrictions on freedom to choose work; restrictions on access to, and right of disposal of, personal belongings; inadequate living conditions; exaction of forced labour, whether remunerated or not.

## **3.2 The legal framework for Mauritania’s obligations**

Human rights abuses associated with slavery are prohibited in international human rights instruments and within Mauritania’s own Constitution and national legislation. While the government claimed it has abolished slavery, it has failed to implement constitutional provisions and international human rights standards. Mauritania has already ratified and acceded to several treaties including the 1926 Slavery Convention, the 1956

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<sup>33</sup> The ILC Draft Code of Crimes Against the Peace and Security of Mankind, 1996. Text adopted by the International Law Commission at its forty-eighth session in 1996 and submitted to the UN General Assembly as a part of the Commission’s report covering the work of that session. The report (UN Doc. A/48/10), which also contains commentaries on the draft articles, is published in the Yearbook of the International Law Commission, 1996, vol. II(2). See, para. 10 of the Commentary to draft Article 18.

<sup>34</sup> The 1991 Draft Code defines the crime against humanity of enslavement as “establishing or maintaining over persons a status of slavery, servitude or forced labour”.

<sup>35</sup> See the Rome Statute of the ICC, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, UN Doc. A/CONF.183/9.

Supplementary Convention on the Abolition of Slavery, the African Charter on Human and Peoples' Rights in 1986, the Convention on the Rights of the Child (CRC) in May 1991; the Convention on the Elimination of all Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women (the Women's Convention) in May 2001.

Article 1 of the **African Charter on Human and Peoples' Rights (African Charter)**, obliges member states to recognize the rights, duties and freedoms enshrined in the Charter and "to adopt legislative or other measures to give effect to them." The African Commission has thus stated that state parties must recognize and protect the rights in the Charter and that negligence to ensure these rights constitutes a violation of Charter obligations, even if the state or its agents are not the immediate cause of the violation. Article 5 guarantees:

*"[...] the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. In addition, it prohibits all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment"*

Similarly, both Article 3 and Article 19 guarantee every individual equality before the law and prohibit the domination of a people by another. Article 26 requires states to guarantee the independence of the courts and to allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the Charter. Finally, Article 28 prohibits discrimination and asserts "mutual respect and tolerance".

In May 2000 an African Commission meeting in Algiers, which followed a visit by the African Commission to Mauritania in June 1996, stated that:

*"[...] unremunerated work is tantamount to an abuse of the right for the dignity inherent in the human being. It (the Commission) furthermore considers that the conditions to which the descendants of slaves are subjected clearly constitute exploitation and degradation of man; both practices condemned by the African Charter."*<sup>36</sup>

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<sup>36</sup> Document reference AHG/222 (XXXVI Add.).

In addition to the African Charter, Mauritania has also ratified the **International Convention on the Elimination of All Forms of Racial Discrimination (CERD)**. It did so 1 December 1988. As a state party to the CERD, Mauritania is obliged to:

*“condemn racial discrimination and [to] undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races”.*<sup>37</sup>

In fact the Convention imposes specific obligations on state parties to end racial discrimination. Each state party undertakes not to engage in any act or practice of racial discrimination against persons, groups of persons or institutions and ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation. Parties further undertake not to sponsor, defend or support racial discrimination by any persons or organizations; and to take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.

Similarly, the Convention mandates state parties to prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization.

To satisfy these obligations, States parties have not only to enact appropriate legislation but also to ensure that it is effectively enforced. The Committee on the Elimination of Racial Discrimination has stated that the fulfilment of these obligations very much depends upon national law enforcement officials who exercise police powers, especially the powers of detention or arrest, and upon whether they are properly informed about the obligations their State has entered into under the Convention. In addition, law enforcement officials should receive intensive training to ensure that in the performance of their duties they respect as well as protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin.

According to the Committee, non-discrimination, together with equality before the law and equal protection of the law without any discrimination, constitutes a basic principle in the protection of human rights. Thus, the Convention places an obligation

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<sup>37</sup> Article 2(1) of the International Covenant on the Elimination of All Forms of Racial Discrimination.

upon state parties to nullify any law or practice which has the effect of creating or perpetuating racial discrimination.

However, a differentiation of treatment will not constitute discrimination if the criteria for such differentiation, judged against the objectives and purposes of the Convention, are legitimate. Accordingly, the Committee will acknowledge that particular actions may have varied purposes. In seeking to determine whether an action has an effect contrary to the Convention, the Committee will consider inter alia whether that action has an unjustifiable disparate impact upon a group distinguished by race, colour, descent, or national or ethnic origin.

The Committee has also noted that racial discrimination may have consequences that affect primarily or only women. For example, women may be hindered by a lack of access to remedies and complaint mechanisms for racial discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life. Thus, the Committee has stated that state parties must describe, as far as possible in quantitative and qualitative terms, factors affecting and difficulties experienced in ensuring the equal enjoyment by women, free from racial discrimination, of rights under the Convention. The Committee believes this will help it and state parties to identify, compare and take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed.

Thus, it is the obligation of the state parties, including Mauritania to ensure the effective implementation of the Convention and to submit reports on the measures that they have adopted to give effect to the provisions of the Convention. However, it was not until 1998 that Mauritania submitted its first periodic report, which was due in 1990, to the Committee on the Elimination of Racial Discrimination.

The report claimed that: “[..] integration and harmony among the country’s various socio-cultural communities have never suffered from racial discrimination.” It however stated that: “the social relationships inherent in conventional tribal traditions and in the traditional stratification of society according to the principle activities of its categories composing it have given rise to anachronistic manifestations.”<sup>38</sup>

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<sup>38</sup> Paragraphs 195 and 196 of Fifth periodic reports of States parties due in 1998 : Mauritania. 26/10/98. CERD/C/330/Add1. (State party report).

In its comments on the report, the Committee specifically requested the Mauritanian government to provide information on steps towards “promoting the struggle against discrimination affecting the most vulnerable groups of the population, in particular the black communities, and... eradicating vestiges of practices of slavery and involuntary servitude.”<sup>39</sup>

Another international standard which Mauritania has ratified is the **UN Convention on the Rights of the Child**. According to Article 20 (1) of the Convention:

*“A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.”*

Similarly Article 32 (1) restricts the type of work which can be expected of a child and, if implemented, would greatly improve the situation of many children in Mauritania. This provision prohibits economic exploitation of the child and any work that is:

*“[...] likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.”*

Article 39 of the Convention imposes obligations on state parties:

*“[...] to take all appropriate measures to inter-alia promote the physical and psychological recovery and social reintegration of a child victim who has suffered from any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts.”*

In January 2000, Mauritania finally submitted its report to the Committee on the Rights of the Child which had been due since 1993. The government’s long overdue report makes no special mention of the situation of children who have suffered slavery, slavery-like practices or associated abuses or discrimination.

Mauritania’s periodic report was considered by the Committee on the Rights of the Child in September 2001. The Mauritanian delegation denied there were cases of unremunerated work in Mauritania. The delegation claimed that:

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<sup>39</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination : Mauritania, 19/08/99, A/54/18, Para 332, (Concluding Observations/Comments).

*“Mauritanian society has never known servitude, exclusion or discrimination, and that forced labour and servitude had not been tolerated, in either the country’s legal tradition or in practice.”<sup>40</sup>*

This claim presented to an international human rights committee, is completely contradicted by colonial records admitting the existence of slavery, the 1981 initiative to abolish slavery. The information gathered by Amnesty International also shows that slavery, slavery-like practices and related abuses and discrimination persist.

## **4 Government inaction in face of reported cases of slavery**

The following cases give an insight into a range of human rights concerns resulting from slavery in Mauritania today. They provide examples of the government’s failure to take sufficient action to address individual cases, and to ensure that such abuses do not continue.

### **4.1 The escape of M’Bareck ould Bilal ould**

#### ***Braïkatt***

In April 2001, a young man, M’Bareck ould Bilal ould Braïkatt, aged around 17, allegedly escaped from slavery in Kaédi.<sup>41</sup> He tells how he left behind three younger brothers, Brahim, Boilil and Laghdaf, a younger sister, Sleima, and his mother, Kroumania, who has been deaf mute since birth. The whole family apparently worked in slavery for four nomadic brothers.

M’Bareck ould Bilal ould Braïkatt ©private

M’Bareck seems to have had no access to any form of education. In the course of an interview with *SOS Esclaves*, his alienation became apparent as it emerged that he had no concept of different days of the week and did not know his own age or that of his siblings. By contrast, the children of those who enslaved them were reported to have attended an Islamic school and learnt the *Qu’ran*.

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<sup>40</sup> Initial report of Mauritania to the Committee on the Rights of the Child, CRC/C/8/Add.42.

<sup>41</sup> Case reported by *SOS Esclaves*.

According to M'Bareck, he had spent his life caring for animals belonging to one of the four brothers. His mother cared for the sheep and goats, but also collected water and pounded millet. The men who enslaved them were only involved in this work insofar as ensuring that stray animals were brought back, selling some when necessary and monitoring the work of those held in slavery at the beginning and end of each day.

M'Bareck, his mother and his sister all reportedly worked for one man of the Kunta tribe, Zaghora branch. M'Bareck's brothers worked for other members of the family. M'Bareck said that he eventually fled because of the constant verbal insults he received, and the relentless work, rather than the physical ill-treatment, although in the past he had been frequently beaten with a stick. The day before he escaped, a goat had run away and he said he feared the punishment he might receive from the man who had enslaved him.

According to M'Bareck's information, those who were enslaved were inadequately fed. Millet cooked with milk, which M'Bareck's mother prepared each evening for those who enslaved them, was their only daily meal. It seems that during the day while the enslaved people were away working, the four brothers' wives would prepare rice for themselves. M'Bareck said that if he was hungry during the day, he might suckle some milk from the animals in his care. They were apparently denied contact with people outside their family. When any vehicles arrived, he and the others held in slavery were told to hide themselves. They were reportedly forbidden to go into town and were told that if they did, people there would kill them and black Mauritians would cast spells on them. The family's camels and cows were cared for by Haratine, but because of M'Bareck's status as enslaved workers, he and his family were not allowed to mix with them.

*SOS Esclaves* went with the young man to meet the Governor of Kaédi, the central government's local representative, to demand that he be protected against possible attempts by the man who had enslaved him to recapture and punish him and to seek help in securing the release of his mother and siblings. The Governor reportedly refused to meet the young man himself, but promised *SOS Esclaves* that he would send the Gendarmerie to speak to the family which had enslaved him. However, after the departure of the President of *SOS Esclaves*, the Gendarmerie apparently interrogated the young man, asking him whether he had allowed *SOS Esclaves* to take his photograph, and searched the place where he was staying. The man who had sheltered him was also questioned. It is believed that the other members of his family remain in slavery. In an informal meeting

with the Governor, *SOS Esclaves* was told that the Gendarmerie investigation revealed it was not a problem of slavery, implying that no action would be taken. Indeed, *SOS Esclaves* has been given no indication that any investigation has been carried out.

#### **4.2 Free but without his family – the predicament of Soueïlemould Ely**

Soueïlemould Ely, aged 30, escaped from the person who had enslaved him living in Louteïdatt in Hodh Echarghi, near the Malian border, in November 1997.<sup>42</sup> Although Soueïlemould Ely is seeking the release of his mother, Zaïda mint M'Bareck, and sister, Vatma mint Zaïda, they reportedly remain enslaved. The Mauritanian Human Rights Commission was informed of this case in June 1998, but has apparently taken no action.

Soueïlemould Ely recounts how he was born and grew up among the tents of the brothers and sisters of the man who enslaved him. He was reportedly responsible for tending herds – some 40 sheep and goats - belonging to the person who enslaved him, as well as collecting wood, fetching water, pounding millet and preparing meals, working constantly with only a few hours to rest. He was allowed to eat only what remained at the bottom of the cooking vessel, had no milk and rarely had a glass of tea. Every five months he was given a small thin boubou (man's full-length over-garment) which might be new or used, and once a year he was given some second-hand trousers. He had neither shoes nor any blankets to keep him warm. When he was ill, he received no treatment and was accused of malingering. He slept under a tree, as he had no tent, hut or mat, although when it rained he would seek shelter with some neighbours of the man who enslaved him. As a child he states he was often beaten, but this stopped once he had grown up. However he was closely watched by those enslaving him to ensure he was working correctly.

He appears to have received no education and the man who enslaved him was reportedly against his getting married. He felt he had no alternative but to flee. His mother does housework for the same person. His sister also does housework, but additionally cares for camels, sheep and goats.

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<sup>42</sup> Case reported by *SOS Esclaves*.

## **5 Facing an oblivious state**

While the first case was brought to the attention of the Governor of Kaédi and the second to the attention of the Mauritanian Human Rights Commission, in both instances the response was wholly inadequate. In line with the its human rights commitments the government should ensure that adequate mechanisms are in place to facilitate an appropriate response to any such cases brought to its attention or to the attention of other official bodies.

Such a response should include:

- ◆ A prompt, independent and impartial investigation into allegations of slavery and into any allegations of related abuses;
- ◆ Ensuring that the person who escapes slavery is protected against recapture and other human rights abuses including forms of punishment by the person who enslaved them;
- ◆ Seeking the release of others held with them in slavery;
- ◆ Ensuring that the rights of victims of slavery, like victims of other serious human rights abuses, are respected, including their right to reparation;
- ◆ Approaching those who have enslaved others to explain their responsibilities to abide by the law which makes it illegal to hold people in slavery; and
- ◆ Bringing those suspected to be responsible for inhuman treatment and other human rights abuses to justice in accordance with international standards for fair trial and without recourse to the death penalty.

## **6 Discrimination against those who were formerly enslaved**

Discrimination against people who were held in slavery and their descendants is widespread and the dynamic of power and subordination is deep-rooted. Human rights abuses based on such discrimination, whether in the form of slavery-like practices or the denial of basic freedoms, are committed with impunity.

### **6.1 Inadequate investigation into death of Taherould Sidna, aged 14, who was abducted in the context of slavery relations**

Taherould Sidna, aged 14, died after he was allegedly abducted by the man who had previously enslaved his deceased father.<sup>43</sup> In August 1999, Taherould Sidna, aged 14, was taken from his home town of Kaédi in southern Mauritania, allegedly by the man who had enslaved his deceased father. This person had insisted the boy come to work for him on previous occasions at the end of the school term, which he did. Whenever Taherould Sidna's mother, a grain seller from Kaédi, complained to him about this abusive use of her son, the man who had enslaved her late husband attempted to justify it by saying it was because of "family ties" This phrase "family ties" is often used to refer to relationships between those who are enslaved and those who enslave them now that openly acknowledging the existence of slavery has become illegal. The person who had reportedly enslaved the boy's father is a well-known figure in Mauritania as he has held many important offices, including various posts in the police, before finishing his career as a senior government official.

In August 1999, the boy's mother returned from the fields to find that her son, the only child remaining at home, had been taken to the home of the person who had enslaved her husband in Monguel. She sent word through intermediaries demanding his return. The boy's mother did not, at this stage, report the incident to the police. On a previous occasion, in response to questions, the man allegedly told the mother: "This is my slave, and I will do with him what I want!"

It was not until October 1999, when the mother saw the man who had enslaved her late husband in Kaédi, that she learned her son was dead. No further information was made available to her. Despite making inquiries among other local people, the mother was not able to locate anyone who had seen the body prior to burial and who might be able to give her information about how he had died. There were rumours that he had died as a result of witchcraft, fever, being poisoned, a snake-bite or injuries sustained during a fight with the man's own son. At about the time of the death the man had apparently come to town to seek medical treatment for his own son who had received an injury to his leg.

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<sup>43</sup> Amnesty International was able to document this case from first-hand sources as well as from written materials prepared by *SOS Esclaves*.

With the help of her twin brother, the mother lodged a formal complaint, accusing the man of taking the child without permission and being responsible for his disappearance. The complaint was registered with the police on 10 December 1999. The mother and her brother, along with a representative of *SOS Esclaves*, met the Minister of Justice in January 2000. He reportedly confirmed that her son had indeed been taken by the man they had suspected, but stated that he did not yet have sufficient information to reach a conclusion about the circumstances in which he had been taken. During this exchange, no mention is believed to have been made about the death. The Minister did not indicate whether or not an investigation into the case had been initiated on receipt of the initial complaint in December. However, he apparently promised to ask the local police to open an investigation into the case.

On 10 February 2000 the Minister told Taher ould Sidna's mother and brother that her son had died on 12 October 1999 as a result of cerebral malaria. The Chief Prosecutor, whom they saw shortly afterwards, told them that he had claimed that he had "family ties" with the boy and had financed his education. This the mother vehemently denies. The Chief Prosecutor also handed them a letter dated 4 February 2000, at least three months after the boy's death, signed by the chief nurse at Monguel Medical Centre which stated the cause of death as cerebral malaria. This letter is the only indication of a cause of death. The Chief Prosecutor refused to hand over a copy of the report of the investigations carried out by the Prosecutor from Kaédi, saying it was confidential, nor would he tell them the result of the investigations. The mother was given no indication that an autopsy had been carried out, and the letter was not accompanied by relevant medical records.

The mother has not dropped the case against the man, whom she accuses of kidnapping and killing her son. However, there is no evidence that the police are investigating the case. The suspect has not been arrested, questioned by the police or called to testify.

This case raises two important issues. First, the boy seems to have been abducted by another citizen, and the government has failed to investigate this since it has been brought to their attention. Second, there is the question of the boy's death in unknown circumstances, apparently while he was with the man who had enslaved his late father. The government has a responsibility to carry out a thorough, independent and impartial investigation into the cause of death – the investigations which have been carried out are incomplete and were not open to independent scrutiny. While these abuses of criminal

procedures are common, they further compound the situation when slavery and slavery-like practices are investigated and potentially conceal cases of discrimination linked to those circumstances.

These failures are possibly linked to the considerable influence wielded by the man who had previously enslaved the boy's father. They may also arise from a reluctance to challenge his claim to "family ties", which would mean admitting the existence of practices linked to slavery. Amnesty International believes that the government's abject failure to fulfil its obligation to ensure access to justice in this case, and to ensure that serious allegations are investigated, is based on discrimination arising from Taherould Sidna's status as the son of someone who had been enslaved.

If the vestiges of slavery are to be eradicated clear and controllable procedures of criminal investigation, charges and fair trial must be established and followed to ensure that through any judicial process elements conducive to discrimination, including complicity with the residual control exercised by those who used to hold others in slavery or hold power over the enslaved people's children, are identified and avoided.

## **6.2 The injury and eviction of Saleck Vallould Baba**

Saleck Vallould Baba belongs to an ethnic group which considers itself to be Haratine and which belongs to the same tribe (Z'Beirat) as the local chief of Aoueinat village in Guidimaka region, whose family used to hold Saleck Vall's family in slavery.<sup>44</sup> During national elections in 1996, the ruling *Parti républicain démocratique et social* (PRDS), Republican Social Democratic Party, split in two. The faction Saleck Vallould Baba supported won, beating the rival faction which was supported by the local chief. After the elections, the local chief and his brother, who was Prefect of Boutilimit, reportedly issued an order banishing Saleck Vall. This terminated any working relations he had with local people and denied him access to water from the village well. The precise status of this banishment is not clear, but it seems to have been issued for political motives and law enforcement officials seemed unwilling or powerless to contradict it.

One person supported his defiance of the banishment. Zeinould Meyat, who is also considered a Haratine, agreed to help Saleck Vall harvest his crop of henna. Zeinould Meyat was then attacked at night, allegedly by the chief's brother and at least two

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<sup>44</sup> See SOS Esclaves Rapport 1997 sur l'esclavage en Mauritanie.

others. They beat him, tied him up and suspended him from a tree before delivering him to the Gendarmerie, alleging that he had been caught stealing. Zein ould Meyat was sentenced to two years' imprisonment on theft charges, although Saleck Vall ould Baba alleged that no mention was made of what he had stolen. He was released from prison in Selibaby after serving part of his sentence.

Saleck Vall moved away, obtained water from a more distant location and lodged a complaint with the Prefect, the civilian administrator, and the Gendarmerie Chief in Ould Yengé against the banishment. After four months, in February 1997, as there had been no reaction, he returned to live nearer to the well and his date palms in El Karmousse.

In an open letter Saleck Vall wrote to the President of the Republic, he explained that the local chief told him he could not return so close to Aoueinat because his defiance of the banishment could incite people still held in slavery to transgress their boundaries and join him in his protest. However, Saleck Vall decided to ignore this. On 18 February 1997, he was summoned to appear before the Prefect and was taken into custody by seven gendarmes. He was held for three days and finally received a verbal warning from the Prefect that he had "no right to move without the permission of the administrative authorities." He was then forcibly taken by the gendarmes to Leklebia, five kilometres from his plantation. Since then there has been little or no progress in his case, despite his interventions with the Prefect and the Gendarmerie and the assistance of his local member of parliament.

Saleck Vall stated in his letter to the President of the Republic that he approached the *Cadi* who had said he could not do anything and that he feared getting involved.

A member of Saleck Vall's family took over the property in El Karmousse, but he too was threatened with eviction by the village chief. The chief's brother became angry and reportedly stated: "Slaves are not going to dictate the law to us."<sup>45</sup>

In late October 1997 a new Prefect sought to mediate and asked each side to provide documentation about the land, in an apparent attempt to deal with the land issue which had only arisen as a result of the banishment. The village chief produced a document which the Prefect considered false and people apparently loyal to the chief started to threaten women and destroy young palm trees. Saleck Vall was attacked and

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<sup>45</sup> See *L'esclavage en Mauritanie : de l'idéologie du silence à la mise en question*, Journal des africanistes, Tome 70 – Fascicules 1-2 p 332.

some women who tried to prevent the attackers setting fire to their possessions, including their tents, were reportedly tied up and beaten with thorny branches. About eight people were reportedly seriously beaten and Saleck Vall was taken to a health centre for medical treatment. About 12 people were then taken to Selibaby for questioning in connection with this incident. Only one person remained held, apparently on charges of throwing a stone which hit the local chief, and of insulting his family in court.

The conflict was finally resolved after a magistrate and state prosecutor from Selibaby intervened, and the contested land remained with the Saleck Vall and his family. However, no-one has been charged with assaulting and harassing them.

This case illustrates varying levels of legal protection in accordance with social status. Attacks on Zein oud Meyat, Saleck Vall and other people considered part of the Haratine group were committed with impunity. The person who had previously enslaved his family was able to punitively banish Saleck Vall, without recourse to the law, which Saleck Vall was unable to challenge because of the persistence of the power imbalance due to their former relationship. The state has a responsibility to protect all citizens and ensure they have equal access to justice when they are attacked or their rights are infringed by another citizen.

In a letter to the President, Saleck Vall said:

*“They (the authorities) behave towards Haratines as if they are not human beings. They humiliate them all day long... Every day, Haratines are dispossessed of their goods and denied their rights by the actions of these authorities; they are also the ones who spend time in prison, are beaten up and tortured, just to make them understand that they are nothing and always will be.”*

### **6.3 Denial of justice: M’Barka mint Bilal and S’Haba mint Bilal**

In 1996, two sisters, M’Barka mint Bilal and S’Haba mint Bilal, managed to gain a hearing before the Governor of Brakna in an effort to be reunited with their children.<sup>46</sup> The two women escaped from slavery in 1979 and 1984 respectively, and had left their young children with their grandmother (who was also enslaved). The grandmother had recently died.

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<sup>46</sup> Case featured in various *SOS Enslaves* annual reports.

At the time of the hearing, the two children who remained in slavery, Bilal ould S'Haba, a 14-year old boy, and Mahjouba Zeid El Maal, a 17-year old girl, saw their respective mothers for the first time since their escape. The man who had enslaved them was also there and he claimed he was their father.

This meant that the complaint became a custody dispute between parents and so it was transferred to a tribunal in Aleg which sat on 7 February 1996. Despite statements by the two sisters that they had never married the man who had enslaved them nor had sexual relations with him, the court gave custody of both children to the man and they returned to live with him apparently in servitude. During the court hearing, initially only the man was called to testify and there were reportedly no witnesses called to corroborate what he claimed. The women sought permission to testify and at first the magistrate was reluctant. However, he eventually agreed they could speak. It seems that because of their status and their gender, they were not afforded the same opportunity to present their case as the man who had enslaved them.

According to observers, the fact that Bilal ould S'Haba had not been circumcised meant that he could not be the son of the man who had enslaved them, because he would not have neglected this important religious ceremony for his own son. An appeal was lodged shortly afterwards by M'Barka mint Bilal and S'Haba mint Bilal, but the appeal court in Nouakchott has never reached a decision.

Bilal ould S'Haba managed to escape in February 1999 and walked all day and all night along the Nouakchott to Nema road before being given a lift. When he arrived in Boutilimit, he was recognized by a relative of the man who had enslaved them, who seized him with a view to taking him back. However, the Prefect was alerted and intervened to protect the child who was later reunited with his mother. In June 1999 Mahjouba Zeid El Maal also escaped. She was reunited with her mother on 12 July 1999.

The status of the children remains unclear. According to the court decision, the man who had enslaved them is their rightful parent, yet in the case of the boy, an official protected him to prevent him being returned to his "father". Pending the outcome of the appeal, the children remain at risk of being taken back into what appears to be slavery by the man who had enslaved them.

In order to protect children from slavery steps must be taken to ensure that claims of parenthood in cases of disputed custody are thoroughly examined; that all parties to

such cases are treated equally before the law, and that the possibility of a false claim of parenthood being made in order to keep a child in slavery is taken fully into account.

## **7 Obstacles to the full eradication of slavery in Mauritania**

Sustained action in a variety of fields is essential to eradicate the deep-rooted discrimination in Mauritania which prevents part of the population from exercising their full human rights, whether they be held in slavery, used to be in slavery or are descendants of those who were enslaved.

Action is required to remove remaining legal obstacles to eradication: the law abolishing slavery was not followed up by the necessary implementing legislation which should have explicitly and unequivocally criminalized slavery. The inadequacy of the law abolishing slavery is shown in the fact that there are no known cases where anyone has been prosecuted for holding someone in slavery, or buying or selling such a person. The legal cases concerning custody of children or land ownership, where slavery or a slavery-like relationship is involved, reveal discrimination against those held in slavery or those who were so held. Such cases do little to address the underlying issues of the power relationship between the enslaved person and the person who enslaves them. Moreover Amnesty International does not know of any successful prosecutions where a person holding others in slavery has been held accountable for physically assaulting the enslaved person.

Despite the inadequacies of the law, there are legal provisions which could be used to combat slavery. In reality, these provisions are not enforced in relation to slavery and slavery-like practices. The authorities have failed to demonstrate the will to prosecute all those in breach of the law, which means that serious abuses of human rights have not been challenged in the courts.

Amnesty International insists that those responsible for human rights abuses, including slavery, are brought to justice in procedures that accord fully with international standards of fair trial and without recourse to the death penalty to which the organization is unconditionally opposed in all cases, seeing it as the ultimate cruel, inhuman and degrading punishment.

To overcome the gap between theory and practice, reforms of law-enforcement institutions and the criminal justice system are necessary. These reforms must ensure that

domestic legislation conforms to Mauritania's international obligations in all areas, especially equal access to justice for all citizens, including children.

There is a clear lack of political will to embrace the reforms necessary to eradicate slavery. Instead of tackling the problem, officials deny that it exists. When confronted with undeniable cases, there is little or no response.

Official complicity in the persistence of human rights abuses based on slavery and slavery-like practices is further indicated by the persecution of civil society groups. The government should allow human rights groups the freedom and political space to raise awareness of slavery and related abuses and to campaign against them. It should also lift the effective ban on visits by international human rights organizations, in recognition of the role of civil society internationally.

## 7.1 Legal obstacles

The 1991 Constitution provides for equality and dignity for all citizens, but this has not resulted in those rights being respected. In its preamble it states:

*“Considering that freedom, equality and human dignity can only be assured in a society where the rule of law prevails, watchful of creating lasting condition for an harmonious social evolution, respectful of the concepts of Islam, as the sole source of law and open to the demands of the modern world, the Mauritanian people claim, in particular, the intangible guarantee of the following rights and principles:*

*The right to equality;*

*Basic human rights and freedoms;*

*The right to ownership;*

*The right to public and trade union freedoms*

*Social and economic rights*

*Rights associated with the family, the basic element of Islamic society.”*

The 1981 abolition of slavery raised expectations that a legal framework for eradication would follow. However, although the decree gave official legal force to the Government's earlier declaration, it has remained little more than a declaration of intent, as implementing legislation was never passed.

Despite the absence of any provisions that specifically criminalize slavery, there are provisions in the penal code which would allow for criminal proceedings in some circumstances, against those involved in slavery or slavery-like practices. For example, in relation to children, the government reported to the Committee on the Rights of the Child in January 2000 that:

*“Article 332 of the Criminal Code stipulates a penalty of imprisonment for any person who uses fraud or violence to abduct minors or to have them abducted or kidnapped. Articles 333 and 334 classify the abduction or corruption of minors as crimes, and distinguish between an act committed with fraud or violence and an act in which such means are not employed.”*<sup>47</sup>

The government also told the Committee on the Rights of the Child that a new penal code and code of penal procedure for minors were about to be finalized, although these seem unlikely to be operational in the near future.

Article 449 of the penal code states that any matters not prescribed by the code are subject to Islamic law. The Mauritanian judicial system is dual: franco-roman law, inherited from the French and subsequently modified, and Islamic law, as interpreted in the light of the Maliki school of thought. These two systems do not necessarily take an identical approach to issues related to slavery, a point which must be clarified in the light of Mauritania’s international human rights obligations.

In 1983 Mohamed Lemine Ahmed, later to become Minister of Justice, wrote as a student about the failings of the judicial system in dealing with slavery issues.<sup>48</sup> At that time the system of Islamic law was administered solely by *Cadis* and flawed, according to Mohamed Lemine Ahmed, by *“The recruitment of Cadis who have no training and whose personal interpretation takes precedence over a strict application of the law and Islamic orthodox teaching”*

He further stated that those *Cadis* were often unable to deliver proper judgements as: *“Their interpretation is always approximate, often false and varies according to which school the Cadi follows“* and it would be *“the Cadi alone [who] passes judgement...”* In addition to this their perception of issues brought before them may be biased as: *“most*

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<sup>47</sup> Initial report of Mauritania to the Committee on the Rights of the Child, CRC/C/8/Add.42.

<sup>48</sup> Mohamed Lemine Ahmed, *l’abolition de l’esclavage en Mauritanie*, 4<sup>th</sup> year masters student, Faculty of Legal and Economic Sciences, University of Dakar, Senegal, 1982-3, p 46.

*Cadis are slave-owners. They are therefore both judge and interested party. But if the Cadi allows the continuation of slavery, it is because he can be certain of support from the state apparatus.”*

This shows how issues of discrimination can be compounded by factors which are related to the training of judges, the legal system and unclear guidance by the state on matters of criminal procedure.

Little has been done to change this situation, either during his time in office or since. In 1999, new legislation reforming the judiciary was adopted which makes no reference to the role of *Cadis*.<sup>54</sup> This requires that any matter regulated by Islamic law is now referred to judges trained in both modern and Islamic law. However, it appears that judges trained only in Islamic law continue to practise in rural Mauritania, hearing cases in departmental courts.

During the 1998 trial of Boubacar Messaoud, President of *SOS Esclaves*, and four other human rights defenders, there was some discussion in court about whether the two women whose experiences of slavery had featured in the television broadcast should be allowed to testify. The President of the *Chambre Mixte*, General Chamber, decided they should not discuss slavery, saying:

*“For me, slavery no longer exists because that is what the law says. There is no point discussing it... We Magistrates have a duty to sanction anyone sent before us who is accused of slavery. But outside of that eventuality, we Magistrates do not have the right to speak of slavery, because it no longer exists, according to the law... It is legally forbidden to speak of slavery as a current practice...”<sup>49</sup>*

It is contrary to international standards for a fair trial for a court to forbid acknowledgement of the practice of slavery before the courts. In this particular case, this denial of slavery’s existence made it impossible for the defence to present its case and the reference to the magistrates’ duty to punish those accused of slavery was misleading as there is no specific law criminalizing slavery.

The fact that judges deny the existence of slavery means that some disputes between a person holding someone in slavery and an enslaved person are classified as “domestic affairs”. These then come under the jurisdiction of a departmental court or a

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<sup>49</sup> Quoted in report by *Fédération internationale des Ligues des Droits de l’Homme* (FIDH), entitled: *Mauritanie: Les militants des droits de l’homme en danger*, 1998.

conciliation body, where officials have traditional Islamic legal training. As the court would focus on the domestic issue alone, there would be no possibility of introducing evidence to show that the victim's status relating to slavery denies him or her basic human rights.

In addition to the lack of legal provision there are other reasons why those formerly held in slavery and those currently so held have diminished access to justice. They are inhibited by their social status and by a lack of awareness of their own human rights. They are also disadvantaged by the concentration of power in the hands of white Moors, especially the Smassid (the President's tribe), and related Moor tribes. The executive branch of government also exercises significant pressure on the judiciary through its ability to appoint judges. The US State Department report on Mauritania for 2001 clearly states: "The Constitution provides for an independent judiciary; however, the judiciary is subject to significant pressure from the executive through its ability to influence judges."

Poorly educated and poorly trained judges who are susceptible to social, financial, tribal and personal pressures limit the judicial system's fairness.<sup>50</sup> Mauritanian jurisprudence and culture is heavily influenced by the historic acceptance of slavery relationships, so major reform and re-training of those in the judicial system is required. Such training must include the applicability of international human rights law in Mauritanian courts.

## **7.2 Obstacles in the sphere of religion**

The role of slavery in Islam remains a controversial issue. The fact that the *Qu'ran* demands that those held in slavery are treated well and recommends manumission, but does not fundamentally question slavery, leads to ambiguity. A clear message from Islamic leaders in Mauritania concerning slavery could help to ensure respect for Mauritania's international human rights obligations.

The abolition of slavery in Mauritania in 1981 followed extensive consultation within Islamic circles. An editorial in the state-controlled newspaper *Chaab* in 1980, two days after the decision to abolish slavery was announced, explained:

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<sup>50</sup> *Country Reports on Human Rights Practices – 2000, Mauritania*, US Department of State.

*“The existence of slavery is a contradiction of the sacred principles of our holy religion which only allow for those taken as prisoners in holy wars to be held as slaves. And, as Mauritanian society is 100% Muslim, the pretext can no longer hold. As all Muslims are equal before Allah, there is no reason that some should be reduced to slavery by others.”*<sup>51</sup>

Similarly, the declaration of 5 July 1980 issued by the ruling *Comité militaire de salut national* (CMSN), Military Committee for National Salvation, explained:

*“After taking cognisance of the various replies given by them on the basis of the *Qu’ran*, the *Sunna* and the fundamental rules of Islamic law, the CMSN has acquired the firm conviction that the overwhelming majority of our eminent ulema, while recognising the legitimacy of slavery in the form in which it is set forth in Islam, have reservations with regard to the origins of slavery in Mauritania and the conditions in which it is practised in our country.”*<sup>52</sup>

His declaration also appeared to challenge a claim made by some that those held in slavery had been had inherited from their parents. Without specifying the nature of the contravention, it said that as those held in slavery had not been treated in conformity with Islam, the masters had no further rights to them. It also explained that the *ulemas* held that the state could release someone from slavery, normally the role of the individual holding someone in slavery, and likened this decision to the state’s prerogative to expropriate personal property in the public interest.

In 1983, Mohamed Lemine Ahmed, who later became Minister of Justice, wrote in his thesis that slavery was a “travesty of Islam”. He said that Islam was founded on the basic principles of personal freedom and equality before God, but that, as slavery existed before the *Qu’ran*, Islam tried to soften some of the worst aspects by legal reform until society would accept its total abolition. He said that the *Qu’ran* welcomes freeing people from slavery and stated:

*“As all Muslims are brothers and equal in its eyes, it is difficult to see how the *Qu’ran* could encourage enslavement of a Muslim by his brother: that would be a great paradox.”*

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<sup>51</sup> *Chaab*, 7 July 1980.

<sup>52</sup> Declaration of the Military Committee for National Salvation, dated 5 July 1980, annexed to Marc Bossuyt’s Report to the UN, *op.cit.*

He wrote that the *Qu'ran* insists that the person who holds someone in slavery must not ill-treat that person, and if he does, the enslaved person must be released, if the latter does not himself escape:

*“And so the master must feed his slave, clothe him, educate him and care for him as he does his own children. It must be noted, that no slave-owner in Mauritania respects these rules.”*<sup>53</sup>

However, in May 1996, El Hassen ould Benyamine, a prominent Imam of the mosque in Teyarett, a district of the capital Nouakchott, defended slavery in an interview with a journalist from *Al Akhbar*. He stated it was clearly justified in the *Qu'ran* and any debate on slavery was therefore blasphemous. In response to the journalist's reminder that the state had abolished it, he stated:

*“Yes, I've heard of this... This 'abolition' is not only illegal because it is contrary to the fundamental text of Islamic law, but it is also of no interest/... Abolition would result in expropriating from Muslims, goods which have been legally acquired. And the State, if it is Muslim, has no right to take away my home, my wife or my slave.”*

He said that when he sought the help of the *Cadis* to retrieve his rebellious “slaves”, the *Cadis* had told him that: “you are fundamentally right, but in practice, the State cannot help me [El Hassen ould Benyamine] to retrieve them”.

While in June 2001 a new *Code du statut personnel*, Personal status code, was adopted, Islamic law continues to play a significant part in legal custom and practice in Mauritania. The new code remains rooted in the Maliki school of Islamic jurisprudence and in Article 311 it stipulates that any disagreements over interpretation must be referred to Maliki teachings:

*“In the event of difficulties of interpretation, reference is to be made to the teachings of the dominant thinking within the Maliki school;*

*To fill any gaps left by this law, reference is to be made to the teachings of the dominant thinking within the Maliki school.”*

Some of the provisions in this new code seem to contradict Mauritania's own Constitution which clearly states that all citizens are guaranteed their civil and individual

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<sup>53</sup> Mohamed Lemine Ahmed, *L'abolition de l'esclavage en Mauritanie*, 4<sup>th</sup> year student, Faculty of Legal and Economic Sciences, University of Dakar, Senegal, 1982-3 pp. 26 and 29.

rights, including the right to free association, freedom of movement, the right to own and inherit.<sup>54</sup>

### **7.3 Political obstacles**

The current Mauritanian government has repeatedly neglected essential steps to eradicate slavery. Many of the recommendations made by the UN Sub-Commission expert, Marc Bossuyt, as long ago as 1984, remain unimplemented and just as vital today. The government's denial that slavery persists remains an obstacle to progress. A full debate, which includes the social, legal and religious aspects of a problem which has existed for generations, would at least identify what remains to be done to tackle it.

The Mauritanian Commission on Human Rights is portrayed by the government as evidence of its political will to end what it refers to as the vestiges of slavery, yet the body concentrates solely on human rights promotion work. When questioned by Human Rights Watch in 1999, the Commission's Human Rights Director, Ba Mariem Koïta, stated that protection was the responsibility of the judicial system, and not the Commission.<sup>55</sup> Human rights commissions can make a major contribution to the promotion and protection of human rights. Amnesty International has developed a series of recommendations which it believes such bodies should follow, based on its observations of the work of national human rights institutions and their impact throughout the world.<sup>56</sup>

The inadequacy of the government's response and its complacency can be considered as complicity in slavery and discriminatory practices which deny the human rights of a considerable proportion of the Mauritanian population.

### **7.4 Socio-ethnic aspects**

Another obstacle to the eradication of slavery lies in the complex interconnections between social stratification and ethnic division in Mauritanian society. Not only those considered as nobles but also those associated with artisan castes in all the different

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<sup>54</sup> Articles 10 and 15 of the 1991 Constitution.

<sup>55</sup> *Protectors or Pretenders? Government Human Rights Commissions in Africa*. Human Rights Watch (New York) 2001.

<sup>56</sup> Amnesty International, *National Human Rights Institutions: Amnesty International's recommendations for effective protection and promotion of human right*, October 2001, AI Index: IOR 20/07/2001.

communities – whether Moorish or black Mauritanian – may hold others in slavery. Holding people in slavery is therefore seen as socially acceptable in a wide range of socio-ethnic groups.

The political role of the Haratine community has increased, but growing political alliances between the Haratine and the black Mauritanian communities were severely curtailed in 1989, when the government used Haratine militia to arrest, torture and kill unarmed black Mauritians.<sup>57</sup> It seems the government exploited the subordination ties between those who had held others in slavery and Haratine to enrol Haratine into militia. These were then used not only to defend themselves against attack, but also to take part in punitive expeditions against unarmed villagers. These human rights abuses were carried out without fear of any disciplinary action or legal proceedings and they remain unpunished to this day.

The white Moors are a minority group, albeit a very powerful one, controlling the vast majority of the country's wealth, and their influence is strengthened considerably by the support of the black Moors. The white Moor community therefore has an interest in maintaining the status quo in which the black Moors are almost entirely dependent on them for their economic and political well-being. It is important to note that even after freedom has been gained, it is often very beneficial for the social and economic well-being of the formerly enslaved people to retain contact with the tribe which had power over them. This can help secure work, protection against administrative or judicial difficulties and support in times of need.

Discrimination has led to some people hiding their real identity in an attempt to avoid the stigma of slave status. Some people claiming to belong to Peul communities were revealed as being of Haratine background during the 1989 massacres when being Peul represented a threat to their safety. This development led others in the Peul community, in particular the Fulbe Aynaabe, a group of pastoralists, to align themselves more closely with the Moors. In 1995, an association called *l'Association nationale de l'amitié et du retour aux origines*, National Association for Friendship and a Return to the Origins, was founded with the aim of re-establishing links with their Arab origins.<sup>58</sup>

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<sup>57</sup> See Amnesty International, *Mauritania: Human Rights Violations in the Senegal River Valley*, October 1990, AI Index: AFR 38/10/90.

<sup>58</sup> See *Crise identitaire ou stratégie de positionnement politique en Mauritanie : le cas des Fulbe Anaabe*, Ibrahima Abou Sall, 1999.

## 7.5 Attacks on civil society

When President Ould Taya stated in 1997 that those discussing slavery were aiming to damage the country's reputation, and that they were part of a group previously involved in an attempted coup, public debate on slavery was silenced.<sup>59</sup> Before that speech, there had been a debate in the Mauritanian press about slavery. However, newspapers require the authorization of the Ministry of Interior before they can be distributed and there is no independent broadcast media. Newspaper editions are regularly seized and some titles have had to close down.

*SOS Esclaves* is the sole human rights NGO to make slavery its main focus, but others, such as the *Association Mauritanienne des Droits de l'Homme* (AMDH), Mauritanian Human Rights Association, are also active in this area. Although recognized by the African Commission on Human and Peoples' Rights and other international human rights bodies, these two organizations, plus several others, remain illegal as the government has failed to grant them official recognition. *SOS Esclaves* produces annual reports of its activities. It has intervened many times on behalf of former slaves who are seeking to be reunited with their children or other members of their families, to have access to land, or to inherit the belongings of their own relatives. Other governmental or quasi-governmental human rights organizations have been set up, legalized and operate without persecution but take no action against slavery.

The conviction in early 1998 of five human rights defenders, including Boubacar Messaoud, President of *SOS Esclaves*, and Professor Cheikh Saad Bouh Kamara and Maître Fatimata M'Baye, respectively President and Vice-President of the AMDH, effectively stifled debate within the legal profession about the necessary measures to eradicate slavery.

Although these human rights defenders were granted presidential clemency in March 1998, on the very day that the Appeal Court rejected their appeals and confirmed their 13-month prison sentences, their organizations still remain without official recognition by the Ministry of the Interior. They were all considered prisoners of conscience by AI. The defenders continue their activities to promote and protect human rights, but their lack of official recognition is a constant threat to their organizations' survival as well as their personal safety. In May 2002, Boubacar Ould Messouad was arrested by Mauritanian security forces and briefly detained after the publication of a

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<sup>59</sup> [E/CN.4/Sub.2/1984/23](#)

statement by *SOS Esclaves* in which it was alleged that a detainee was tortured by the police. He was accused of defamation and the Direction of the Nouakchott regional police director announced its intention to take him to court on this ground.

## **8 Conclusion**

Amnesty International has been able to gather information sufficient in scale and consistency to support the conclusion that in Mauritania today, extensive human rights abuses connected to slavery are committed with impunity and that those formerly held in slavery suffer continuing discrimination. Although the government has not itself seen fit to elaborate on its own position, it is clear that government initiatives to eradicate slavery and discrimination are woefully inadequate. Such an ingrained social, economic, and political problem can only be eradicated by confronting all its aspects. Otherwise it will persist, especially when those who speak out against slavery are arrested and imprisoned, their organizations remain unauthorized and newspapers are seized to prevent discussion.

The formal abolition of slavery in 1981 has not led to real and effective abolition for various reasons, including a lack of legislation to ensure its implementation. The eradication of slavery, slavery-like practices and discrimination linked to slavery also requires extensive retraining of the judiciary and a human rights education and general public information program, especially in rural areas, and among the under-privileged, including those held in slavery, those who used to be held in slavery, women and children,

It is against this backdrop that Amnesty International presents these recommendations in order to strengthen existing campaigning against slavery and related human rights abuses in Mauritania and to increase awareness outside that country of the realities of this most fundamental of human rights abuses.

## **9 Towards real and effective abolition**

The government must acknowledge that slavery remains a problem in Mauritania if it is to be successfully eradicated. While the effects on slavery of government efforts to eradicate poverty are to be welcomed, they are not enough. In 2002, the full range of recommendations made in 1984 by an expert appointed by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities has not yet been implemented

as they lacked and still lack the political backing of the government. Taking into account relevant developments since their original publication they need to be implemented immediately and backed up with reforms of the judiciary and legislation. Slavery has to be confronted directly.

In the following, Amnesty International therefore details key recommendations for the Mauritanian government and the international community to the address the serious human rights concerns associated with slavery and slavery like practices in Mauritania. Special emphasis is given to factors such as raising awareness, supporting NGO and civil society working on the issue, ensuring legal change and developing means of redress.

## **9.1 Recommendations to the Mauritanian government**

### ***9.1.1 Establish an independent and impartial inquiry in co-operation with civil society***

One of the priorities for the government is to establish an independent and impartial enquiry into progress over the past 20 years and to consider steps to take towards complete eradication of slavery, slavery-like practices and related abuses and discrimination in Mauritania.

The inquiry should involve religious leaders, traditional leaders, law enforcement officials and judicial officials as well as members of civil society including NGOs working against slavery, slavery-like practices and related abuses and discrimination. For this purpose, it is essential that non-governmental human rights organizations campaigning against human rights abuses including slavery, slavery-like practices and related abuses and discrimination must be given authorisation to do so. Their freedom of association, assembly and expression must be ensured and fully respected, in line with the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. It is further crucial that every effort is made to ensure that representatives of the most vulnerable in society are fully involved in this process.

The terms of reference and recommendations of such an inquiry should be publicised and immediate action taken towards the eradication of slavery, slavery-like practices and related abuses and discrimination including passing legislation which would explicitly make the holding of someone in slavery a criminal offence.

The independent and impartial inquiry could start with a workshop to establish the terms of reference of the inquiry to be held with the major interest groups also involving above mentioned NGOs. The inquiry might consider, for example, issues including:

- access to education and health care according to age, gender, ethnic group and social status;
- an analysis of slavery, slavery-like practices and related abuses and discrimination and the impact on the rights of women, children and minorities, equal access to justice and discrimination;
- a survey of discrimination within the judicial system against those held in slavery and those who have been so held and their descendants. Cases concerning land ownership and child abductions and some cases of child custody disputes would be important as social relations resulting from slavery, either past or present, appear to effect such cases;
- a study of existing legal provisions that could be applied to stop slavery with a view to proposing modifications and/or new legislation which would provide effective legal protection for slaves and former slaves and end impunity for those responsible for slavery;
- a review of the response of the authorities – national and local – to people fleeing slavery, slavery-like practices and related abuses and a plan of action for future good practice to ensure protection of all citizens.

### **9.1.2 *Adjust the judicial and legal framework with an emphasis to protect the most vulnerable***

Freedom from slavery, slavery-like practices and related abuses and discrimination further requires a review and adjustments in the judicial framework, judicial practice and the law. Special attention should be given to the protection of the most vulnerable in society, including women and children. Action must be taken to ensure adequate mechanisms are in place for carrying out investigations into alleged cases and patterns of human rights abuse and related discrimination. Anyone who commits or has committed human rights abuses in the context of slavery, for example those who practice slavery and who continue to restrict the rights of those whom they previously held in slavery, must be brought to justice. This should be done in line with international standards of fairness and

without recourse to the death penalty. The International Convention on the Elimination of All Forms of Racial Discrimination must be fully implemented and an invitation extended to the UN Special Rapporteur on racism to investigate discrimination in Mauritania. Further measures would include

- ensuring respect in all circumstances for the fundamental principle that everyone is and all parties in a judicial process are equal before the law;
- issuing guidance to all judicial officials that evidence concerning slavery, slavery-like practices and related abuses and discrimination that is relevant to a case must not be excluded as inadmissible purely on the grounds that it concerns itself with allegations of slavery, slavery-like practices and related abuses and discrimination. Such evidence may be of particular relevance in cases concerning land issues or disagreements over custody of children.
- Taking practical measures to ensure respect, without discrimination, for Article 23 of the Universal Declaration of Human Rights, in particular the right to just and favourable conditions of work, the right to equal pay for equal work and the right to just and favourable remuneration, and for International Labour Organization Convention (No 29) concerning Forced or Compulsory Labour. Such measures could include the adoption, after full and open consultation, of a Labour Code protecting such rights.
- developing mechanisms and agreed indicators for full and fair reparations for victims of slavery, slavery-like practices and associated human rights abuses and discrimination, including compensation and rehabilitation. This should be done in consultation with civil society. In developing rehabilitation packages the government should give consideration to measures that allow victims to enjoy the full range of civil, political, economic, social and cultural rights. Guarantees of non-repetition should also form part of reparations. Such reparations should be available to individual victims of slavery, slavery-like practices and associated human rights abuses, and where appropriate should comply with Article 14 of the Convention against Torture. A set of indicators and a mechanism to monitor progress in the provision of reparations should be agreed with civil society,
- ensure that a new measure making primary education obligatory, and which was announced on 13 June 2001, is applied without discrimination and includes children currently in slavery;

- give wide publicity to legislation which is currently under discussion, namely the new penal code and code of penal procedure for minors. Also following the recommendations of a joint UNICEF/Ministry of Economic Affairs and Development report, there should be public consultation with interest groups including lawyers, those involved in all aspects of child development (including education, health and juvenile justice) and human rights defenders, before the draft legislation becomes law in order to ensure that the legislation contains adequate protection, without discrimination, of the human rights of children. This could include examining the possibility of establishing a centre (*centre d'accueil*) for women and children escaping from slavery, as well as those in need of protection from other human rights abuses.

### **9.1.3 Review the role and tasks of the Mauritanian Human Rights Commission**

The government needs to ensure that the Mauritanian Human Rights Commission fully implements its mandate to promote human rights, including the right not to be held in slavery, and is given the necessary means and powers to do so. Steps towards this include reviewing

- the mandate and working methods of the Mauritanian Human Rights Commission to ensure that it protects all citizens from human rights abuses as well as actively promotes human rights. Guidelines on the role and function of National Human Rights Institutions can be found in a report, which Amnesty International has published separately<sup>60</sup>, finally
- the tasks of the Mauritanian Human Rights Commission to ensure its ability to receive and investigate human rights complaints and to take independent and effective action. Complaints within its remit. They should include those related to slavery and discrimination. The Commission should also be able to provide advice to relevant bodies on issues of rehabilitation for those being released from slavery.

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<sup>60</sup> See *National Human Rights Institutions: Amnesty International's recommendations for effective protection and promotion of human rights*, October 2001, AI Index: IOR 40/07/2001.

#### **9.1.4 Raise awareness and train law enforcement officials and administrative personnel on human rights and legal changes**

The Mauritanian government also needs to implement special measures regarding awareness and training of law enforcement officials including

- Implementation of a public sensitisation program to inform all administrative authorities and members of the public about the unlawful nature of slavery,
- Raising awareness with administrative authorities concerning their obligation to report to the judicial authorities any incidents which contravene international standards of human rights, and making police aware of their duty to investigate human rights abuses and related crimes.
- Issuing instructions to all those involved in law enforcement that all citizens have equal rights to protection before the law and that any evidence of discrimination on whatever basis, including social status, will be seriously investigated and punished if the allegations are found to be based on fact;
- Encouraging discussion within the law enforcement bodies about how the hierarchical nature of Mauritanian society impinges on law enforcement and how to draw up targets for the eradication of discrimination;
- Developing and implementing thorough training programmes for all law enforcement personnel to accompany legislative changes that make slavery and related practices a criminal offence.

## **9.2 Recommendations to the international community**

### **9.2.1 Take action at the level of international and regional inter-governmental Organizations**

The international community should encourage the government of Mauritania to confront the issue of slavery openly for instance through all inter-governmental bodies, including those involved in development and in human rights., examining the full impact of slavery on Mauritanian society.

This includes in particular that the African Commission takes all measures at its disposal to follow up on its May 2000 recommendation to the Mauritanian government

calling for an assessment of the status of slavery related practices and a strategy for their definitive eradication<sup>61</sup>

### **9.2.2 Co-operate with and support the work of NGO working against slavery**

Further on the work of human rights organisations in Mauritania needs to be further supported and encouraged by the international community. In co-operation with Mauritanian civil society, it must actively look for ways to eradicate slavery, slavery-like practices and related abuses and discrimination and help with the development of mechanisms for full and fair reparations, including compensation and rehabilitation. This could include the following measures:

- Carrying out a survey into the number of children who are working either in some form of exploitative employment or subjected to slavery or slavery-type practices. Such information is key not only to establishing the extent and nature of the problem, but also to determining ways of dealing with it. The aim should be to ensure respect for Article 32 of the Convention on the Rights of the Child which protects children against exploitation;
- Observing the implementation of the newly adopted Family Code, *Code de la Famille* to ensure that it reinforces the rights of children and women, especially in cases where issues of slavery or slave status are pertinent.

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<sup>61</sup> Recommendation made in May 2000 African Commission meeting in Algiers which followed a visit by the African Commission to Mauritania in June 1996 which concluded that “it was still possible to find people considered as slaves in certain parts of the country”. It asked the Mauritanian government further: “As regards the victims of degrading practices,[to] carry out an assessment of the status of such practices in the country with a view to identify with precision the deep-rooted causes for their persistence and to put in place a strategy aimed at their total and definitive eradication. [and] take appropriate administrative measures for the effective enforcement of Decree no 81-234 of 9 November 1981, on the abolition of slavery in Mauritania.

It added: “Though Edict No 81-234 of 9 November had officially abolished slavery in Mauritania, it was not followed by effective measures aimed at the eradication of the practice... From the Commission’s point of view, the State has the responsibility to ensure the effective application of the Edict and thus ensure the freedom of its citizens, to carry out inquiries and initiate judicial action against the perpetrators of violations of national legislation.”