

report

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The application of the 2015 anti-slavery law in Mauritania

Aliou Moussa Sall





A Haratine woman outside her house in Tarhil, Nouakchott, Mauritania.

Credit: Seif Kousmate.

Partners



About the Author

Aliou Moussa Sall is a Retired Magistrate and Lawyer at the Nouakchott Bar

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I Introduction

The purpose of this report is to analyse the application of the anti-slavery law. However, before getting into the heart of the matter, we will explain the status of slavery in Mauritania. Slavery indeed exists in all Mauritanian communities, albeit to different degrees. First of all, it affects Haratins, some of whom continue to work as slaves for White Moors or Beidanes (especially in the Nema region, Bassiknou, Adel Bagrou, Barkeol and others). They are subjected to abuse and ill-treatment in total ignorance of legislative developments in this area. Alongside the Haratins, the Black Mauritians (Fulani, Soninkes and Wolofs) have also traditionally maintained slavery-like systems among themselves. This is the case with the Soninkes of Guidimakha, especially in Sélibaby and the surrounding areas, where slavery is more marked than among the Halpulaarens, the Soninkes of Kaédi and the Wolofs, where this phenomenon is much less common. It can even go unnoticed due to the lack of complaints from these communities.

The Global Slavery Index estimates that slavery in Mauritania affects around 90,000 people, i.e. 2.1 per cent of the Mauritanian population in 2018,¹ while other organizations speak of 62 per cent of the population being ‘exposed’ according to a recent article from the BBC.² The chair of the IRA (Initiative for the Resurgence of the Abolitionist Movement), Biram Ould Abeid, estimates this figure at 20 per cent of the population. To date, there has been no internal or external official inquiry or study making it possible to know an exact or even approximate

figure for the number of people still subjected to slavery. What is certain is that there are still many people in this situation, many of whom are in a situation of slavery by descent, sometimes known as ‘traditional slavery’.

It should be noted that victims and survivors of slavery have difficult access to protection, justice and redress, namely because these people are unable to afford such costs. Also, civil society is organising to support legal aid activities for victims. Those who escape their situation of servitude remain in extreme poverty, as they do not benefit from any support measures or adequate rehabilitation from the State. These persons face major difficulties in obtaining identity cards, preventing them from accessing State services, which are already limited. This also makes them vulnerable to returning to their masters or farms. Judicial recognition and remediation are an integral part of a successful reintegration.

However, while the racial dimension is part of the phenomenon, it is also linked to the caste system and the economy. Slavery was abolished in 1980 after a long struggle, through the adoption of an order by Mauritania. However, for 26 years, no criminal law was enacted to enforce this order.

In this report, we will attempt to explain how the legal system in Mauritania is structured to combat slavery and attempt to analyze the effectiveness of this system through the implementation of Law 2015-031 on the Criminalization of Slavery and the Punishment of Slavery Practices.

II Legal background

The Universal Declaration of Human Rights of 1948 condemns the practice of slavery and guarantees a set of individual freedoms according to the principles of universality and inalienability.³ ‘All human beings are born free and equal in dignity and rights.’⁴

In its Constitution, the Islamic Republic of Mauritania declares its adherence to this universal document and proclaims that the crimes of slavery or other forms of human servitude constitute crimes against humanity.⁵

The forerunner of the UN, the League of Nations, had already established, in 1926, a Convention to Suppress Slavery, which required signatory States to pursue the abolition of this practice.⁶

In it, slavery was defined in an international agreement for the first time, as ‘the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised’.⁷

In 1956, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of the Economic and Social Council,⁸ required State parties to abolish, in addition to slavery, practices commonly referred to as a ‘servile status’.

These include debt bondage, serfdom, certain forms of forced marriage for women, the transfer or assignment of women or the handover of a child.⁹

The prohibition of slavery and similar practices is now a well-established principle in international law, with the status of customary international law and *‘jus cogens’*, i.e. it cannot give rise to any derogations or reservations (with mandatory rules considered supreme).

The International Court of Justice, with its seat in The Hague, has made slavery one of the two universal

examples called *‘erga omnes’*, applicable to all states. The practice of slavery is universally considered a crime against humanity.¹⁰ And ‘all Nations are required to denounce states violating it before the Court of Justice.’¹¹ This article provides: ‘Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.’⁷

International human rights law is made up of international agreements and specific conventions, to which optional protocols are added. Mauritania has ratified all international treaties and agreements to which it has acceded, and enshrines, in article 80 of its Constitution, their primacy over domestic legislation. These international treaties and agreements, after being duly ratified, take precedence over national laws and are applied compulsorily by magistrates over and instead of opposing national laws. However, Mauritania has not signed the optional or complaint protocols which allow for individual complaints, except for the optional protocol relating to the Convention on the Rights of Persons with Disabilities).¹² This largely limits the use of UN mechanisms.

Other relevant instruments on the matter of the fight against slavery exist at the regional level, in particular the African Charter on Human and Peoples’ Rights of 1981, ratified by Mauritania in 1986, which expressly prohibits slavery in article 5. Mauritania has also ratified the Protocol to the African Charter on Human and Peoples’ Rights relating to the Rights of Women in Africa as well as the African Charter on the Rights and Welfare of the Child.

III Measures taken by Mauritania to combat slavery

Slavery was formally abolished for the first time in Mauritania in 1905, through a decree of the French authorities, but its practice persists, despite everything. In 1980, following a controversy related to the sale of a slave at the Atar market, the Military Committee for National Salvation issued Order no. 81-234 of 9 November 1981, on the Abolition of Slavery in Mauritania, albeit without defining measures to address the causes or imposing criminal penalties for the perpetrators of such practices. At that time, Mauritania became the last country to abolish slavery.

Law 2007-048 (hereafter '2007 Law'), adopted on 3 September 2007, which came almost three decades later, was announced as a 'turning point in Mauritania, aimed at harmonising Mauritanian legislation with international conventions, as the authorities recognized that the legislative efforts made against slavery until that time had not achieved their goal'.¹³ We will come back to the application of this law in more detail in the report.

In 2010, the mission of the Special Rapporteur on contemporary forms of slavery, Ms Gulnara Shahinian, in Mauritania, resulted in a detailed assessment on the mixed effectiveness of the measures taken by the government to combat slavery. Among other things, she recommended for Mauritanian authorities to revise the 2007 law to include a clearer definition of slavery and to develop an exhaustive and holistic strategy to combat this practice.¹⁴

Following these recommendations, the authorities took significant measures over the next few years. Working together the Office of the United Nations High Commissioner for Human Rights and the Office of the United Nations High Commissioner for Refugees, they adopted, in 2014, a roadmap including different measures, in particular the eradication of the after effects and contemporary forms of slavery. This strategic document included measures to be implemented within a 2-year period.¹⁵

The State involved public institutions already in place and created special institutions for implementation, such as the national agency TADAMOUN, created by Decree no. 48-2013 of 28 March 2013, which, as part of the fight against poverty, was required to implement a programme aimed at eradicating poverty and fighting the consequences of slavery, becoming TAAZOUR (General Delegation of National Solidarity and the Fight Against

Exclusion, created by Decree no. 385-2019 of 20 November 2019), the main duties of which consist in the fight against exclusion and poverty to the benefit of poor and vulnerable populations and to promote access to landed property by the target population.

It should be noted that the fight against slavery and the consequences of slavery are not included in the main duties of the TAAZOUR Delegation, which represents a step back from the missions of the TADAMOUN agency.

Parliament thus adopted Law 2015-031 (hereafter '2015 Law') on 10 September 2015, on the Criminalization of Slavery and the Punishment of Slavery Practices, repealing and replacing Law 2007, one of the measures recommended in the roadmap.

Origin of Law 2015-031 on the Criminalization of Slavery and the Punishment of Slavery Practices

The United Nations Human Rights Council and its Special Rapporteurs played a key role in the adoption of anti-slavery laws in Mauritania.

First of all, the 2007 Law made progress by offering a broad definition of the crime and offence of slavery (including similar practices) and the applicable penalties. This first law also established a dual penalty (imprisonment and fine) and provides for assistance and monetary compensation to victims of slavery and similar practices.

However, the text has significant shortcomings: it is limited to the matter of individual criminal liability for slaveholders and can only be applied as part of criminal prosecution. It does not provide the possibility for victims' human rights organizations to bring civil action, giving them the right to apply directly to the courts instead of relying on the police or other authorities to initiate criminal prosecution. Furthermore, the 2007 Law does not take into account discrimination based on the social situation of former slaves and their descendants or the phenomenon of serfdom.

Former freed slaves must leave the homes of their masters and settle elsewhere. This new situation must allow them to find a place to live, income to feed

themselves and their families and to have land. In the absence of conditions making them autonomous in this new situation, the risk is that they will return to their former masters. It is for these reasons that it is necessary to revitalize the integration and reintegration programmes envisaged by the TADAMOUN agency but never effectively implemented.

In the absence of specific measures, the implementation of the 2007 Law is based entirely on the good will of the police and/or the Public Prosecutor's Office.

In 2010, three years after its adoption, the Special Rapporteur found that no prosecution has been initiated under this law and highlighted several obstacles to the completion of judicial proceedings in slavery cases: the police and the courts were allegedly 'reluctant to follow up on allegations of practices similar to slavery brought to their attention, either because of sufficient knowledge of the law or because of pressure from certain communities or groups'.¹³ Certain cases of slavery reported to the authorities were renamed or reclassified as lesser offences, others were not prosecuted due to a lack of sufficient evidence. Finally, in certain cases, the alleged victims withdrew their complaints under pressure from their families, their masters or the local authorities.¹⁶

However, it should be acknowledged that some cases of slavery were indeed prosecuted and tried under Law 2007-048 but only one case of slavery passed all jurisdictions and was fully tried and enforced under the 2007 Law. In order to present an index of cases received under Law 2007-048 and to analyse representative cases, we will mention a case that went through all jurisdictional levels and was fully enforced, i.e. case no. 501-2011 relating to brothers Yard and Saïd Salem.

Acknowledging the need for additional measures on the matter of the fight against slavery, the Mauritanian Parliament adopted Law 2015-031 in September 2015, on the Criminalization of Slavery and the Punishment of Slavery Practices. This law introduced innovations and clarifications at different levels: the definition of the phenomenon, the criminalization and the increase of penalties relating to slavery, the lack of a time bar on slavery as a crime against humanity, the guarantees offered to victims while giving certain NGOs the right to become civil parties.

Contents of Law 2015-031 on Slavery

The 2016 Law on the Criminalization of Slavery and the Punishment of Slavery Practices is made up of twenty-seven articles divided into three chapters. Slavery and similar practices are defined in the preamble (articles 1–3). Chapter 1 (articles 4–6) relates to general provisions. Offences and

penalties are defined in chapter 2 (articles 7–19). Chapter 3 refers to the procedure to be followed in the case of crimes or offences relating to slavery (articles 20–17).

Slavery was first classified as a crime against humanity in Mauritania as part of the 2012 constitutional review. This classification of crime against humanity is reiterated in Law 2015-031 and also entails that there is no time bar to bring criminal action.¹⁷

In the 2007 Law, the crime of slavery would be time-barred after 10 years and related practices constituting offences became time-barred after 3 years. The 2015 Law has a broader scope than the 2007 Law: it encompasses both traditional slavery and certain similar practices, such as debt bondage, serfdom, the slave trade, forced labour and delivery (including forced marriage, the delivery of children and the transfer of a woman to a third party).

The new law takes the definition of slavery verbatim from that given by the United Nations Convention of 1926.¹⁸

In Law 2015-031, the penalties against perpetrators and accomplices were increased: while Law 2007-048 provided, for the crime of slavery, a prison sentence of 5 to 10 years and a fine of 500,000 to 1 million MRU (i.e. 1,191 to 2,382 euros), Law 2015-031 doubles the prison sentence (imprisonment, this time, of 10 to 20 years) and establishes a fine of 250,000 to 5 million MRU (i.e. 595 to 11,904 euros). Practices similar to slavery are also punished with a higher penalty and fine than they were under the old law. If the perpetrator of the crime is a civil servant, public official or a member of the authorities, this constitutes an aggravating circumstance. Articles 18, 21 and 25 of the 2015 Law require these representatives of the State to act when a case of slavery comes to their attention.

Thanks to the 2015 Law, a complaint of slavery may be brought not only by the victim or with the assistance of a lawyer but also by an association or institution that meets the requirements provided in article 23, which provides: 'Any institution of public utility and any association for the defence of human rights and the fight against slavery and slavery practices which has held legal personality for at least five years on the date of the events may bring legal proceedings and become a civil party without this status conferring to them a monetary advantage...'

At the procedural level, the 2015 Law innovated in that it establishes, in article 20, 'Courts of collegiate formation to try cases of slavery and slavery practices'. On the basis of this article, three Specialized Criminal Courts have been implemented, with their seats and districts established by Decree 2016-002, which refers to the Code of Criminal Procedure for the procedural implementation of the three Specialized Criminal Courts.

In terms of victims of slavery, the 2015 Law grants them assistance, as specified in Law 2015-030, on legal

aid, and requires a judge notified of a case of slavery to preserve victims' rights to reparations. Likewise, a circular signed by the Ministers of Justice, Defence and the Interior, recommends all members of the Public Prosecutor's Office to pay attention to what is required to ensure the prosecution of any offences relating to slavery (Circular no. 104/2021 of 26/11/2021).

To discourage laxness among the prosecuting authorities, article 18 of the 2015 Law provides that all officers or agents of the judicial police not following up on claims of slavery practices made known to them shall be punished with imprisonment of two to five years and a fine of 500,000 (approximately 1,300 euros) to 1 million MRU (approximately 2,600 euros). This means that it is possible to file a complaint against these officers or agents before the Public Prosecutor, who orders their prosecution.

Insufficiency of Law 2015-031 on Slavery

While the new law meets the international standards and the recommendations of the Special Rapporteur, it has shortcomings in terms of its implementation:

- 1 The protective measures to guarantee victims' rights are left to the sole discretion of the judge (release of defendants, placement of victims to ensure their protection). Without protection, victims may be subject to verbal or physical threats, as well as acts aimed at making them withdraw their complaints or even return to the family of their former masters.
- 2 The law does not provide a scale or criteria to calculate compensation. This calculation is also left to the sole discretion of the judge, unlike with certain offences

(murders or victims of terrorism, for which the law establishes compensation). When it comes to the potential insolvency of perpetrators, no solution is provided, such as a national compensation fund or the State subsidising the defendants, even if this means bringing action against the latter through a recourse action. For instance, in two of the cases tried, the judges of the Court of Appeal increased the compensation granted to victims without the judge of first instance or the judge of the Court of Appeal justifying such compensation on the basis of legal provisions. In certain cases (see chapter IV), judges do not even pronounce themselves on the compensation to be awarded to victims.

- 3 The law does not compensate human rights associations that establish themselves as civil parties and incur costs at their own expense. Article 24 of the 2015 Law provides that victims of the crime of slavery must benefit from legal aid. This law makes no pronouncements whatsoever relating to supporting human rights associations establishing themselves as civil parties or the reimbursement of costs incurred by them in supporting victims, let alone the compensation of the latter.
- 4 The law does not provide for a special procedure for its application. The procedure followed is that provided by the Code of Criminal Procedure, which does not take into account the seriousness of the offence. An Inter-Ministerial Circular recommends that prosecutors, police and administrative authorities pay attention and deal with any complaints relating to slavery appropriately. The Code of Criminal Procedure does not prevent prosecutors from dismissing slavery cases, investigating judges from ordering dismissals or judges from granting compulsory compensation to victims.

IV Index of slavery cases referred to the courts under laws 2007-048 and 2015-031

A. By virtue of Law 2007-048

Table 1: Cases tried by the Ordinary Criminal Court of Nouakchott

Case no.	Defendants	Charges (specified)	Articles infringed	No. and date of judgment	Decision
363/2011	Fatimétou M/ Cheikh Sidi	Flagrante delicto of incitement to renounce freedom and honour to enslave	Law 048-2007	75/2011 of 13/04/2011	Acquittal of the defendant and rejection of the claims of the civil party. The Court of Appeal, in the last resort and with all parties present, declares the appeal admissible in form, rejects the merits and confirms judgment no. 75/2011 of the Criminal Court (hereinafter 'CC') of Nouakchott, with court costs to the benefit of the public treasury. Pending before the Supreme Court.
364/2011	Khadijétou M/ Mbareck Salka M/Hamed	Flagrante delicto of incitement to renounce freedom and honour to enslave	Law 048-2007	76/2011 of 13/04/2011	Acquittal of the defendant and rejection of the claims of the civil party. The Court of Appeal took the case out of the deliberations at the hearing of 10/10/2018. Pending before the Court of Appeal.
365/2011	Aminetou M/ Abdellahi Ahmed O/ Zeid	Flagrante delicto of incitement to renounce freedom and honour to enslave	Law 048-2007	77/2011 of 13/04/2011	Acquittal of the defendant and rejection of the claims of the civil party. The Court of Appeal, through judgment no. 62/2018 of 10/10/2018 declares the appeal admissible in form, rejects it on the merits. Confirms the judgment of 1st instance. Following the appeal in cassation of the Prosecutor General before the Court of Appeal of West Nouakchott: the criminal chamber of the Supreme Court declares cassation admissible in form and rejects it on the merits.
501/2011	Aminetou M/ Abdellahi Ahmed O/ Zeid Ahmed O/ Housseyn Salka M/ Elemine Mohamed O/ Housseyn	Enslaving a minor and depriving him of schooling, intentional blows affecting the physical integrity of a person, incitement to the renunciation of freedom. Non-denunciation of the crime	Law 048-2007	330/2011 of 20/11/2011	The Court found: – Ahmed O/Housseyn guilty of a crime of slavery, imposing a mandatory prison sentence of 2 years and a fine of 500,000 MRU. – Salka M/ Elemine guilty of a crime of slavery, imposing a suspended prison sentence of 2 years and a fine of 500,000 MRU. – Mohamed O/ Housseyn, Tijani O/

Table 1: Cases tried by the Ordinary Criminal Court of Nouakchott (...continued...)

Case no.	Defendants (anonymous)	Charges (specified)	Articles infringed	No. and date of judgment	Decision
	Tijani O/ Housseyn Nadhirou O/ Housseyn Cheikh O/ Housseyn Oumoukelsoum M/ Housseyn Mohamed O/ Sidi Ahmed				<p>Housseyn, Nadhirou O/ Housseyn, Cheikh O/ Housseyn, guilty of the offence of refusal to inform, imposing a suspended prison sentence of 2 years and a fine of 100,000 MRU each.</p> <p>Ordered the convicted parties to compensate the victims, jointly and severally, in the amount of 840,000 MRU for the child Saïd and 240,000 MRU for the child Yarg.</p> <p>Pronounced the acquittal of Oumou Kelsoum M/Housseyn and refused to prosecute Mohamed O/ Sidi Ahmed at the time. Court costs to the benefit of the public treasury.</p> <p>The Court of Appeal, as a last resort and with all parties present, through judgment no. 109/2016), declares the appeal admissible in form and, on the merits, modifies judgment no. 330/2011 of 20/11/2011 of the CC of Nouakchott as follows: Awards damages in the amount of 2,120,000 MRU to the child Saïd and 1,040,000 MRU in damages to the child Yarg.</p> <p>Confirms the rest of the judgment.</p> <p>Following the appeal in cassation of the Prosecutor General before the Court of Appeal of West Nouakchott and the defendants: the Criminal Chamber of the Supreme Court, through judgment no. 30/2017 of 29/05/2017, declares the appeal in cassation admissible in form and dismisses it on the merits.</p>
374/2013	Mohamed Salem O/ Abdellahi	Enslavement of an individual	Law 048-2007	Articles 2 and 4	Case taken out of the hearing of 23/04/2018 and referred to the Indictment Chamber for it to pronounce itself on referral order no. 129/2018 of 22/02/2018 of the 6th Investigating Chamber.
179/2013	Rahmata Cheikh	Enslavement of an individual	Law 048-2007	Articles 2 and 4	Disqualification by the Indictment Chamber following the judgment of 18/02/2019 declaring civil litigation.

Table 2: Cases referred to the Criminal Chamber of Nouadhibou tried after the adoption of Law 2015-031 by the Specialized Criminal Court of the North for Slavery Cases with its seat in Nouadhibou

Case no.	Defendants	Charges	Articles	Judgment no.	Decision
252/2011	Rifae M/ M'hamad	Characterizations of Slavery	Law 2007-048 on Slavery and 2005/15 on the Criminal Protection of Children	01/2018 of 28/03/2018	The Court declares the defendant, in the 1st instance and with all parties present, guilty of the crime of slavery practices, sentencing him to 10 years in prison and a fine of 25,000 MRU, court costs estimated at 10,000 MRU, to the benefit of the State. Judgment appealed by the defendant. Pending before the Court of Appeal.
21/2013	Salka M/ Hamed Mohamed Salem O/ M'hamed	Characterizations of Slavery	2, 3, 4, 7, 9 of the Law on Slavery	Pending judgment	Defendant on provisional release: referred to the CC on 13/03/2013. Pending judgment.
18/2014	Mohamed O/ Mawloud O/ Cheikh Mbareck Saleck O/ Mawloud O/ Cheikh Mbareck	Characterizations of Slavery	2, 4, 6, 7 of the Law on Slavery		Defendant on provisional release: referred to the CC on 09/02/2015. Pending judgment.
72/2015	Hamoudi O/ Saleck Samick O/ Amar	Characterizations of Slavery	Article 4 of Law 2007-048 on Slavery and 2005/15 on the Criminal Protection Of Children	Pending judgment	The Court, in the 1st instance and in absentia, declares the defendants guilty of the crime of slavery, imposing a mandatory prison sentence of 20 years and a fine of 500,000 MRU, court costs to the benefit of the public treasury. Pending before the Court of Appeal.
266/2013	Zeynatou M/ Baba Madou O/ Ebeybakar	Characterizations of Slavery	5 and 11 of Law 2007-048 on Slavery	02/2018 of 28/03/2018	Following Order no. 147/2018 of 01/03/2018, the investigating judge ordered a partial dismissal in favour of the 2 defendants. Confirmation by the Indictment Chamber of the Court of Appeal of Nouadhibou. The Public Prosecutor's Office did not appeal to the Court of Cassation.

Table 3: Cases referred to the Criminal Court of the Wilayah of Nema tried after the adoption of Law 2015-031 by the Specialized Criminal Court on Slavery Matters

Case no.	Defendants	Charges	Articles	Judgment no.	Decision
09/2011	Cheikh Oum Ben Bilal	Characterizations of Slavery	6 and 8 of the Code of Criminal Procedure and 6 of Law 2007-048 on Slavery	01/2018 of 26/11/2018	The Court, in the 1st instance and with all parties present, declares the time-bar for proceedings against the defendant in accordance with articles 6 and 8 of the Code of Criminal Procedure and article 6 of Law 2007-048. Confirmed by the Court of Appeal of Kiffa at the hearing of 18/11/2020.
98/2011	Cheikh Ahmed O/ Siyane O/ Nenni	Characterizations of Slavery	6 and 8 of the Code of Criminal Procedure and 6 of Law 2007-048 on Slavery	–	The Court, in the 1st instance and in absentia, sentences the defendant to 10 years in prison and 4 million MRU in compensation to the victim following judgment no. 002/2019 of 25/11/2019. Confirmed by the Court of Appeal of Kiffa at the hearing of 18/11/2020. In accordance with article 4 of Law 2007-048, ordered the return of the victims to their families.
25/2011	Mohamed Mahfoudh Ehel Ahmed	Characterizations of Slavery	6 and 8 of the Code of Criminal Procedure and 6 of Law 2007-048 on Slavery	02/2018 of 26/11/2018	The Court, in the 1st instance and with all parties present, declares the time-bar for proceedings against the defendant in accordance with articles 6 and 8 of the Code of Criminal Procedure and article 6 of Law 2007-048. Confirmed on 18/11/2020 by the Court of Appeal of Kiffa. Confirmed by the Court of Appeal of Kiffa at the hearing of 18/11/2020.
42/2012	Ahmed Ben El Bellouty	Characterizations of Slavery	6 of Law 2015-031 on Slavery	03/2018 of 26/11/2018	The Court, in the 1st instance and with all parties present, declares the defendant guilty of the crimes of slavery practices and confiscation of the wages of a minor and imposes a suspended prison sentence of 6 months and a fine of 5,000 MRU, in accordance with article 6 of Law 2015-031. The Court of Appeal, following judgment no. 57/2020 of 18/11/2020, sentenced the defendant to 2 years in prison, with 6 months being mandatory, and issues a committal order.
01/2013	Ahmed O/ Gowat	Characterizations of Slavery	6 and 8 of the Code of Criminal Procedure and 6 of Law 2007/048 on Slavery	04/2018 of 28/03/2018	The Court, in the 1st instance and in absentia, declares the time-bar for proceedings against the defendant in accordance with articles 6 and 8 of the Code of Criminal Procedure and article 6 of Law 2007/048. Confirmed on 18/11/2020 by the Court of Appeal of Kiffa.

Table 3: Cases referred to the Criminal Court of the Wilayah of Nema tried after the adoption of Law 2015-031 by the Specialized Criminal Court on Slavery Matters

Case no.	Defendants	Charges	Articles	Judgment no.	Decision
02/2013	Fatimetou M/ Nana	Characterizations of Slavery	6 and 8 of the Code of Criminal Procedure and 6 of Law 2007-048 on Slavery	05/2018 of 26/11/2018	The Court, in the 1st instance and with all parties present, declares the time-bar for proceedings against the defendant in accordance with articles 6 and 8 of the Code of Criminal Procedure and article 6 of Law 2007-048. Confirmed on 18/11/2020 by the Court of Appeal of Kiffa.
56/2013	Sidi O/ Mamou	Characterizations: human exploitation as part of slavery	6 and 8 of the Code of Criminal Procedure and 6 of Law 2007-048 on Slavery	06/2018 of 26/11/2018	The Court, in the 1st instance and with all parties present, declares the time-bar for proceedings against the defendant in accordance with articles 6 and 8 of the Code of Criminal Procedure and article 6 of Law 2007-048. Confirmed on 18/11/2020 by the Court of Appeal of Kiffa.
04/2014	Bou Ben Mohamed	Characterizations of Slavery	6 and 8 of the Code of Criminal Procedure and 6 of Law 2007-048 on Slavery	07/2018 of 26/11/2018	The Court, in the 1st instance and with all parties present, declares the time-bar for proceedings against the defendant in accordance with articles 6 and 8 of the Code of Criminal Procedure and article 6 of Law 2007-048. Confirmed by the Court of Appeal of Kiffa at the hearing of 18/11/2020.
62/2007	Fatimétou M/ Cheikh Sidi	Characterizations of Slavery	1 and 5 of Law no. 2003/25	Order no. 346/2019 of 12/11/2019	Order declaring the proceedings over in favour of the defendant. Orders the closure of the case for investigation. Appeal of the Public Prosecutor against the order. Pending judgment at the indictment chamber of Kiffa.
–	Mahfoudh O/ Hebibi	Characterizations of Slavery	Law 2007-048 on Slavery	Pending	Referred to the Criminal Chamber on 19/07/2010. Pending judgment at the Specialized Criminal Court.
77/2012	Boubacar O/ Nekhtirou	Characterizations of Slavery	Law 2007-048 on Slavery	Pending	The Criminal Chamber of Nema, following judgment no. 10/2012, sentences the defendant to 6 months in prison, 3 months being mandatory. The Court of Appeal of Kiffa confirmed the decision following judgment no. 49/2020 of 18/11/2020.
60/2014	Mteitou M/ Bouna	Characterizations of Slavery	Law 2007-048 on Slavery	Pending	Referred to the Special Criminal Court on 19/02/2018. Pending judgment.

Table 3: Cases referred to the Criminal Court of the Wilayah of Nema tried after the adoption of Law 2015-031 by the Specialized Criminal Court on Slavery Matters (...continued...)

Case no.	Defendants	Charges	Articles	Judgment No.	Decision
99/2014	Hanana O/Nana Dhawol Oumrou O/Nana	Characterizations of Slavery	Law 2007-048 on Slavery	Pending	By judgment no. 03/2019 of 25/11/2019, the Court imposes a suspended prison sentence of 5 years in accordance with article 4 of Law 2007-048 after disqualification.
35/2015	Neh O/ Nouroudine	Characterizations of Slavery	Law 2007-048 on Slavery	Pending	Referred to the CC on 08/06/2015. Pending judgment.
33/2015	Dhawol Oumrou O/ Eida	Characterizations of Slavery	Law 2007-048 on Slavery	Pending	In absentia, the Court sentences the defendant, following Order no. 01/2019 of 25/11/2019, to a mandatory prison sentence of 15 years and 5 million MRU in damages and orders the issue of civil status papers for the victim, in accordance with article 54 of Law 2005/15 on the Criminal Protection of Children.
110/2015	Khaleina O/ Haimad Haleina O/ Sidi Mohamed	Characterizations of Slavery	Law 2007-048 on Slavery	Pending	By judgment no. 01/2016 of 16/05/2016 and with all parties present, the Court sentences the defendant to 5 years in prison, 1 year being mandatory, and 1 million MRU in damages.
34/2013	Boiba O/ Ahmed Vall	Characterizations of Slavery	Law 2007-048 on Slavery	Pending	Time-bar judgment at the hearing of 26/11/2018 of the CC East, a decision confirmed by the Court of Appeal of Nema on 18/11/2020.
28/2008	Sidi Ahmed O/ Ahmed Aida	Characterizations of Slavery	Law 2007-048 on Slavery	Pending	Pending judgment at the Specialized Criminal Court.

B Cases referred to and tried by the Specialized Criminal Courts in Charge of Slavery by virtue of Law 2015-031

Table 1: Cases referred to the Special Criminal Court of the South with its seat in Nouakchott

Case no.	Defendants	Charges	Articles	Judgment no.	Decision
110/2018	Ibrahima Hamadou Niang	Characterisation of a person as a slave	Article 19 of Law 2015-031	01/2018 of 23/04/2018	The Court declares the defendant Ibrahima Hamadou Niang, in the 1st instance and in absentia, guilty of the crimes of slavery and sentences him to 1 year in prison and a fine of 25,000 MRU in favour of the public treasury. Appeal of the Public Prosecutor.
174/2018	Housseynou Abdoulahi Koulibaly	Characterisation of a person as a slave	Article 19 of Law 2015-031	02/2018 of 23/04/2018	The Court declares the defendant Housseynou Abdoulahi Koulibaly, in the 1st instance and in absentia, guilty of the crimes of slavery and sentences him to 1 year in prison and a fine of 25,000 MRU in favour of the public treasury and rejects the IRA organization as a civil party due to not meeting the requirements. Appeal by the Public Prosecutor and the defendant's lawyer. The Court, in the last resort and with all parties present, declares the appeals of the prosecutor and the defendant admissible in form and, on the merits, modifies judgment 002/2018 of the Specialized Criminal Court of the South in Nouakchott in charge of Slavery Crimes, as follows: – Imposes a suspended prison sentence of 2 years and a fine of 25,000 MRU on Housseynou Abdellahi Koulibaly, in accordance with article 19 of Law 2015-031 on the Criminalization of Slavery. Orders the defendant to compensate the victims, Saïdou Djiby and Harouna Sangaré, with 100,000 MRU between them. – Confirms the rest of the judgment.

Table 2: Cases pending before the courts of the competent Wilayahs: Court of the Wilayah of South Nouakchott

Case no.	Defendants	Charges	Articles	Remarks
459/2019	Lala Jidou Mohamed Salem Mahmoud Lala Sidi	Characterizations of Slavery	3, 4, 8 of Law 031-2015 on Slavery and 8 of Order 015-2015 on the Criminal Protection of Children.	Under investigation by the 2nd Chamber.
474/2018	Zakaria Mamadou Soumaré	Characterizations of Slavery	Law 031-2015 on Slavery	Under investigation by the 2nd Chamber.
455/2016	Mariam Sghir Khadi El Hadj Aminetou Sidi Moctar	Characterizations of Slavery	19 of Law 031-/2015 on Slavery	Under investigation by the 1st Chamber.

Court of the Wilayah of West Nouakchott: Criminal Chamber

1059/2019	Fousseynou Camara	Slavery insults	19 to 23 of Law 2015-031	After disqualification by the Indictment Chamber, referral of the case to the Criminal Chamber. Imposes, on the defendant, a mandatory prison sentence of 6 months and a fine of 20,000 MRU, issuing a committal order. Appeal by the defendants' lawyer. Case pending before the Court of Appeal. Imposes, on him, a mandatory prison sentence of one year and a fine of 20,000 MRU, issuing a committal order against him.
1144/2019	Sidi Saidou Diamas, Boye Demba, Boubacar Camara and Hamet Talebi Camara	Slavery insults	Law 2015-031	Imposes a suspended sentence of one year and a fine of 25,000 MRU on Boubacar Camara and Hamet Talebi Camara, for complicity. Appeal by the defendants' lawyer. Case pending before the Court of Appeal.

Court of the Wilayah of West Nouakchott: 5th Investigating Chamber

1178/2021	Lala M/ Boutour and Ali Diadinou	Attempt to sell a person	Law 2015-031	Pending before the 5th Investigating Chamber.
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No cases before the courts of the Wilayahs of North Nouakchott, Trarza, Brakna, Gorgol, Tagant or Inchiri

Table 3: Cases referred to the Specialized Criminal Court of the East with its seat in Nema

Case no.	Defendants	Charges	Articles and Judgment no.	Remarks
88/2018	Hamadi Diawara et al.	Slavery insults	Law 2015-031	By judgment 02/2021 of 20/12/2021, the Court declares the acquittal of the defendants of the charge of slavery insults and declares itself incompetent to judge the acts classified as wilful bodily harm.
114/2019	Koniko Diarra, Kaly Moussa Diarra et al.	Slavery insults	Law 2015-031	By judgment 03/2021 of 20/12/2021, the Court declares the acquittal of the defendants of the crime of slavery insults and declares itself incompetent to judge the acts classified as wilful bodily harm.

Cases referred to the competent courts: Court of the Wilayah of Nema

147/2021	Moulaye Ahmed Sidi	Crime of slavery	Law 2015-031	Settlement: payment of 150,000 MRU, followed by the withdrawal of the complaint at the investigative level.
148/2021	Towoul Oumrou Ahabab	Crime of slavery	Law 2015-031	Defendant placed under judicial supervision. Appealed by the Public Prosecutor. Pending before the Court of Appeal of Kiffa.
271/2021	Khadim Ahmed Koubba	Crime of slavery	Law 2015-031	Ordered the end of investigation.
185/2021	Mohamed Saa'im	Crime of slavery	Law 2015/031	Pending investigation.
144/2020	Oumar O/ Abdi	Crime of slavery	Law 2015/031	Being investigated

Cases referred to the Court of the Wilayah of Aioun

142/2021	Idoumou O. Mahfou	Practice of slavery	Law 2015-031 Order of provisional release by the indictment chamber of Kiffa.	Being investigated.
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Court of the Wilayah of Kiffa

87/2019	–	Work by an unpaid minor	–	Reclassification as work by an unpaid minor, by injunction. The judge orders the issue of civil status papers for the victim and postpones the examination of the merits until the appearance of the witnesses.
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Court of the Wilayah of Sélibaby (no cases)

Case no.	Plaintiff	Charges	Remarks
Minutes no. 99/2018 of 28/05/2018 of the Gendarmerie Brigade of Ould Yengé	Mohamed O/ Mbareck: President of the Section for the Fight against Slavery	Characterizations of Slavery	Dismissal of the minutes by the Public Prosecutor of Sélibaby on 06/07/2018, in accordance with article 36 of the Code of Criminal Procedure, due to the case relating to a land dispute pending before the Court of the Moughata of Ould Yengé.

V Summary: Statistics

A. Implementation of Law 2007-048

Courts	Cases received	Remarks
Wilayah of Nouakchott	6	4 tried
Wilayah of Nouadhibou	5	2 tried
Wilayah of Hodh El Charghi (Nema)	18	14 tried
Wilayah of Hodh El Gharbi (Aioun)	All cases were referred to the Specialized CC of the East (Nema)	–
Wilayah of l'Assaba (Kiffa)	All cases were referred to the Specialized CC of the East (Nema)	–
	29 cases	20 tried

B. Implementation of Law 2015-031

Courts	Cases received	Status
Specialized Criminal Court of the South Seat: Nouakchott	2	2 tried
Court of the Wilayah of South Nouakchott	3	Investigation
Court of the Wilayah of West Nouakchott Criminal Chamber	2	2 tried
Court of the Wilayah of Nouakchott West 5th Chamber	1	Investigation
Court of the Wilayah of North Nouakchott, Trarza, Brakna, Tagant, Gorgol and Inchiri	0	–
Specialized CC of the East	2	2 tried
Court of the Wilayah of Nema	5	5 investigations
Court of the Wilayah of Aioun	2	2 investigations
Court of the Wilayah of Kiffa	1	1 pending judgment
Court of the Wilayah of Sélibaby	1 minutes	1 minutes dismissed
Specialized C.C. of the North NDB	0	–
Court of the Wilayah of TirisZemour	0	–
Court of the Wilayah of Atar	1 minutes of preliminary enquiry	1 minutes relating to the person named Oumoulkhairy, which ended in an amicable settlement following the withdrawal of the complaint.
	18	6 tried

VI Conclusions

The summary table highlights the following observations:

First: The number of cases prosecuted and tried for slavery crimes under the 2007 Law is significantly higher than the number tried under the 2015 Law. This pertinent observation led Mr. El Id O/ Mohamedou, Deputy and Lawyer of SOS-Eslaves to declare: ‘As was the case with the previous one, Law 2015-031 has never been enforced. There has been an improvement in terms of the provisions but, in practice, nothing has changed and justice has failed in its role as a pillar in the fight against slavery...’. He added:

‘The creation of Specialized Criminal Courts was never an essential demand of the people working at SOS-Eslaves but, rather, the pure and simple application of the law, compliance with the deadlines for proceedings, meaning to try and process slavery cases within reasonable timeframes, guaranteeing the protection of victims and supporting them. It should also be noted that the decisions rendered do not satisfy victims as not only have the guilty not been arrested or imprisoned, and thus do not even appear, but also, and above all, judges never make pronouncements on the right of victims to the property acquired by former masters, despite having largely contributed to their acquisition. We should also note that not all facts reported by victims are recorded: the physical, moral and sexual violence suffered by women and girls is not recorded and handled by the judge when mentioned by slavery victims.’

Second: A review of the judgments rendered by the Specialized Criminal Courts reveals the frequent use of disqualifications, which allows judges to impose very light sentences in cases where the defendants are present at the hearing. In absentia, penalties are very severe, as the defendants are not present and it is quite certain that no efforts will be made to search for them and get them to serve their sentences. It is for these reasons that there are no detainees (provisional or serving a prison sentence in Mauritania) for slavery.

Judges do not take any precautionary measures to guarantee the compensation of victims in the event of conviction. Those found guilty and convicted have never

paid anything to victims despite the repeated requests for enforcement, which have never been followed up on.

Third: The length of the proceedings, aggravated by the slowness in processing slavery cases, leads to victims being discouraged and despairing in the face of the legal system. The lack of means and aid for victims who appear before the authorities to file a complaint, sometimes travelling very far from their places of residence, travelling to the courts for inquiries and trials, without receiving support in terms of housing and food, pushes victims into waiving their rights because of the high costs of proceedings and harassment. Those who receive proposals from their former masters to reach an amicable settlement jump at the opportunity since, in any case, they know that not only are judicial proceedings very long and costly but also, and above all, that they never benefit from their rights through the judicial process due to the non-enforcement of court decisions.

Furthermore, according to SOS-Eslaves, some victims advise others to favour amicable settlements, to the detriment of the judicial system. SOS-Eslaves does not generally seek to be part of negotiations. The Coordinator of SOS-Eslaves, who is often in touch with former slaves, told us that discussions with them focused on these points. The slowness and dysfunction of the courts could be fought with the assistance of groups of victims’ lawyers, whose mission would be to get the judicial police to deal with cases submitted to them quickly and make judges issue decisions within reasonable timeframes.

The first conviction under the 2015 Law took place in Nema (judgment no. 01/2016 of 16/05/2016 on case no. 110/2015); it was not until 2018 that other convictions took place at the North and South Specialized Courts.

At this stage, the NGOs in charge of supporting victims need to implement all the prerogatives offered by the law to denounce cases of slavery, follow up on proceedings and ensure their follow-up by professionals after the opening of the cases and until their enforcement: it must act from when the security forces are in charge of the inquiry up to the trial and enforcement courts.

Fourth: By all accounts, the 2015 Law, while meeting international standards, has not had the expected results. This is explained by:

1 **The inaction of public and judicial authorities:** Faced with political inertia, public authorities have not engaged in any awareness campaigns aimed at the population, to explain the contents of the 2015 Law and affirm the real will of the State to punish all those violating the provisions of this law severely. There has also been no awareness-raising among the investigation, prosecution and trial authorities to warn them against refusing to prosecute cases or denying justice to victims. All subsequent governments have continued to deny the existence of this practice and consider that the creation of the Commissioner for Human Rights, the Fight against Poverty and Insertion is enough to show their political will to put an end to what they call the 'legacy of slavery'. This commissioner has never followed up on any slavery or slavery-related cases reported, and has never granted any aid whatsoever to victims or lawyers of NGOs supporting them and defending their cases. It was only in 2013 that the TADAMOUN agency appointed a lawyer to appear at slavery hearings on its behalf. It is not intended to file complaints or denounce cases of slavery but intervenes at hearings through its lawyer. As for the judiciary, following our meeting with the three Presidents of the Specialized Criminal Courts, this lack of results is also explained, in their experience, by:

- A lack of material and financial resources: Some physical premises, some seats of the Specialized

Criminal Courts, are located in rented residential homes that do not meet any sanitary standards, located in working-class neighbourhoods with no official posters showing that the premises are the location of a Court;

- The lack of transportation enabling judges to carry out investigations at the scene of the crime when these are far from the seat of the Court; and
- Insufficient human resources, the absence of permanent advisers and clerical staff, and magistrates lacking training in the handling of slavery cases.

2 **The absence of victims' compensation:** the lack of compensation is made more difficult by judges because no scale is set by the 2015 Law. This leaves the judge the discretionary power to award compensation. As for other offences (murder or terrorist acts, where compensation scales are determined), the State must correct this anomaly by providing an explicit scale of the compensation to be granted to victims of slavery.

To make the system more effective in dealing with slavery cases, it is necessary for all parties involved, the criminal chain (magistrates, judicial police officers), the political authorities, human rights NGOs and their lawyer organizations to join forces and for each to actually play the role they have been assigned.

VII Recommendations

- 1 The Criminal Courts Specialized on the Matter of Slavery should be assigned dedicated Judicial Advisers, well trained in this field. A special criminal procedure for slavery crimes, different from ordinary proceedings, should be suited to the seriousness of this crime and provide for judicial police, prosecutors and special investigative chambers (otherwise, this law cannot be applied – President of the Specialized Criminal Court of the East, Nema).
- 2 Courts in the Wilayahs should be provided with transportation enabling them to reach the scenes to investigate allegations and to transport defendants and plaintiffs to the seats of the Specialized Criminal Courts.
- 3 If these minimum conditions are not met, the Specialized Criminal Courts should be eliminated and the competence to try slavery crimes given back to the ordinary Criminal Courts.
- 4 As the vast majority of victims are female, it is imperative to integrate an approach that protects the rights of women and girls in the fight against slavery, in accordance with Law 2015-031.
- 5 The President of the Specialized Criminal Court of the South recommends the creation of a strong partnership between the National Commissioner for Human Rights, the TAAZOUR delegation and the National Commission for Human Rights, on the one hand, and civil society organizations duly recognized and working in the area of human rights, on the other.
- 6 Boubacar Ould Messaoud (President of the NGO SOS-Esclaves, which fights against slavery) recommends raising awareness of this blight: civil society, judicial professionals and judicial police officers should master all legislative texts in this area and the State should be more involved and punish those who violate or refuse to apply the law. For him, ‘It is the elite who protect the perpetrators of slavery, and it is the elite who are slaveholders’.

Notes

- 1 <https://www.globalslaveryindex.org/2018/data/country-data/mauritania/>
- 2 <https://www.bbc.com/afrique/region-60037714>
- 3 The basic principles of human rights include: universality, interdependence and indivisibility and non-discrimination. They are innate to all human beings, regardless of nationality, location, sex, ethnic or national origin, color, religion, language or other condition. These rights are intimately linked, interdependent and indivisible. The improvement of one right facilitates the progress of others. Similarly, the deprivation of one right has a negative effect on others.
- 4 Universal Declaration of Human Rights, article 1.
- 5 The Constitution of the Islamic Republic of Mauritania of 1991 was revised in 2006, 2012 and 2017. Article 13 was revised to include the enforcement of slavery in 2012. It provides: 'No one shall be subjected to slavery or any other form of human servitude or subjected to torture or other cruel, inhuman or degrading treatment. These practices constitute crimes against humanity and shall be punished as such by law.'
- 6 Slavery Convention (signed on 25 September 1926). Mauritania acceded to it on 6 June 1986. In article 6, this Convention provides: 'Those of the High Contracting Parties whose laws do not at present make adequate provision for the punishment of infractions of laws and regulations enacted with a view to giving effect to the purposes of the present Convention undertake to adopt the necessary measures in order that severe penalties may be imposed in respect of such infractions.'
- 7 Slavery Convention (signed on 25 September 1926), paragraph 1.
- 8 In article 1, it provides: 'Each of the States Parties to this Convention shall take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of the following institutions and practices, where they still exist and whether or not they are covered by the definition of slavery contained in article 1 of the Slavery Convention signed at Geneva on 25 September 1926.'
- 9 Economic and Social Council, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (signed on 30 April 1956).
- 10 This qualifier was already established by the Charter of the International Military Tribunal at Nuremberg (IMT), Title II, art. 6, para. C, London Agreement of 8 August 1945, Charter of the International Military Tribunal, and reiterated in art. 7 of the Statute of the International Criminal Court (Rome Statute).
- 11 Slavery Convention (signed on 25 September 1926), paragraph 6.
- 12 OHCHR, 'Statut de ratification pour Mauritanie', https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=110&Lang=FR
- 13 Zeine Ould Zeidane, Prime Minister of Mauritania in 2007, *Exposé des motifs du projet de loi portant incrimination et répression des pratiques esclavagistes* (Explanatory Statement of the Draft Law on the Criminalization and Punishment of Slavery Practices).
- 14 Human Rights Council, report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2010, mission to Mauritania, A/HRS/15/20/ADD.2).
- 15 A final evaluation of the implementation of the recommendations of the roadmap would have been carried out in December 2017, leading to the finding that a large part (85 per cent) of the recommendations would have been implemented. These relate, among other things, to the amendment of Law 2007-048, the obligation to promote projects for the integration of victims, their compensation by the perpetrators of acts of slavery, access to land ownership, the enforcement of court decisions and the creation of a high-level institution responsible for combating the legacy of slavery (Comments collected by a high-level ILO mission in April 2018).
- 16 Ibid., para. 92.
- 17 Ibid., paras 90–98.
- 18 The time-bar for proceedings is a principle according to which, after a certain period of time, criminal prosecution cannot be initiated and, therefore, this makes any prosecution impossible. However, with the lack of a time-bar provided in article 2 of Law 2015-031, criminal action brought by victims before the courts cannot be time barred by the failure to act or by the passage of time. Therefore, the victim can act at any time.
- 19 Article 1, paragraph a) of the 1926 Convention defines slavery as follows: 'Slavery is the status of condition resulting from the fact that a debtor is required to provide his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined'. Paragraph b) defines serfdom as: 'the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.'

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The application of the 2015 anti-slavery law in Mauritania

Slavery persists to this day in Mauritania, predominantly affecting Haratins, many of whom continue to work as slaves for White Moors or Beidanes. To date, there has been no internal or external official inquiry or study to ascertain even an approximate figure for the number of people still subjected to slavery. What is certain is that there is still a large group of people in this situation, many of whom are in a situation of slavery by descent, sometimes known as ‘traditional slavery’.

However, while the racial dimension is part of the phenomenon, it is also linked to the caste system and the economy. Slavery was abolished in 1980 after a long struggle, through the adoption of an order by Mauritania. However, for 26 years, no criminal law was enacted to enforce this order. This report seeks to explain how the legal system in Mauritania is structured to combat slavery and attempt to analyse the effectiveness of this system through the implementation of Law 2015-031 on the Criminalization of Slavery and the Punishment of Slavery Practices.



Minority Rights Group International 54 Commercial Street, London E1 6LT, United Kingdom
Tel +44 (0)20 7422 4200 Fax +44 (0)20 7422 4201 Email minority.rights@minorityrights.org
Website www.minorityrights.org



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